

(E) Commission Rule 4 CSR 240-2.090's requirement that a party must seek a telephone conference with the presiding officer before filing a discovery motion is waived.

Therefore, no telephone conference with the presiding judge is required prior to the filing of this Motion, and Staff would respectfully request that this Motion be ruled upon no later than the May 15 discovery conference (or earlier if possible).

2. On March 5, 2014, Staff submitted data request number 157 to Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty") (see attached data request and public response cover). Pursuant to Commission Rule 4 CSR 240-2.090 and paragraph 8 of the Order referenced above, the response to this data request was due within 20 days, *i.e.* March 25. On March 17, 2014, Liberty sent a letter to Staff advising that it would be unable to respond within 20 days and that it intended to respond by April 15, 2014.

3. On March 11, 2014, Staff submitted data request numbers 162, 164, and 166 to Liberty (see attached data requests and public response covers). Pursuant to Commission Rule 4 CSR 240-2.090 and paragraph 8 of the Order referenced above, the responses to these data requests were due within 20 days, *i.e.* March 31. On March 21, 2014, Liberty sent a letter to Staff advising that it would be unable to respond within 20 days and that it intended to respond to these requests by April 15, 2014, also.

4. The Commission and/or presiding judge may recall that data request numbers 157, 162, 164, and 166 were among several data requests which were the subject of the April 3 discovery conference in this case. Copies of the letters from Liberty advising of when it intended to respond to these data requests were attached to

Staff's *Statement Regarding Discovery Concerns* filed on March 28, 2014, in advance of the April 3 discovery conference.

5. Each of these data requests requested specific information for each month of the test year ending September 30, 2013. The information is necessary for Staff to properly set revenues at a level reflecting weather normalized usage per customer at an annualized level of customers, which in turn is needed to properly calculate normalized revenues for the test year. Liberty did not object to the data requests.

6. Staff received Liberty's initial response to data request 157 on April 11, 2014. In that response, Liberty stated: "Please note that the Company only has this data for March 2013 through September 2013. Prior to March 2013, the Company's billing function was performed by Atmos as part of the Continuation Services Agreements." (see attached response) In other words, Liberty's response only provided data for seven months of the test year.

7. Staff received Liberty's initial responses to data requests 162, 164, and 166 on April 14, 2014. In each of those responses, Liberty stated: "Please note that the Company has all of the data requested for the periods of March 2013 through September 2013, however it does not have the same level of detail for October 2012 through February 2013 due to Atmos providing billing services on behalf of the Company." (see attached responses) In other words, once again, Liberty's responses only provided the requested data for seven months of the test year.

8. Despite providing only seven months of the requested test year data due to Atmos providing billing services on behalf of Liberty during the other five months of the test year, apparently Liberty did not request the data from Atmos until after receiving

an email from Staff on April 17, 2014 (see attached email string), in which Staff noted that Liberty did not indicate what efforts it took, if any, to obtain the missing data from Atmos. Since April 18 was Good Friday, Liberty was apparently unable to contact Atmos about the missing data until after Easter (April 20) weekend. Remember that these data requests were submitted on March 5 and 11; yet it apparently took until after April 20 for Liberty to request Atmos provide it with the missing data for the test year. Had Liberty contacted Atmos about providing the missing data in a more timely fashion, this entire discovery issue could have been avoided.

9. Staff met with Liberty on April 29 to discuss the missing data, and was informed that, after receiving Staff's email, Liberty had contacted Atmos about providing Liberty with the missing test year data and was informed that Atmos would provide the data but that it would take Atmos two to three weeks to do so. Staff's Revenue Requirement Direct testimony/report is due to be filed on June 6, 2014, pursuant to the procedural schedule in this case. Receiving the missing test year data two to three weeks from April 29 (*i.e.*, May 20) would/will not allow sufficient time for Staff to analyze and normalize the data and then take the normalized data and compute test year revenues for a June 6 filing.

10. In an effort to come up with a temporary measure which will allow Staff to file its Revenue Requirement Direct testimony/report on June 6, Staff and Liberty had a phone call on April 30. During that phone call, Liberty agreed to provide Staff with certain data by May 2 which will allow Staff to file its direct case on June 6. However, Staff made clear that it still needed the missing Atmos data and Liberty agreed to provide that data when received from Atmos.

11. At the present time, Staff intends to file its direct case, which is due June 6, with the substitute data from Liberty, and to file supplemental revised direct testimony (or report) at a later date with the missing test year data from Atmos. However, due to the other procedural schedule dates this will not work if the missing Atmos data is not received within two to three weeks from April 29 (no later than May 20). In fact, given that Staff's Rate Design direct is due June 26, it may later become necessary to move the Rate Design filing date. Hopefully this will not be needed.

12. Furthermore, in order to file its supplemental direct testimony/report, according to Commission Rule 4 CSR 240-2.130(10) Staff needs an order from the Commission or presiding judge permitting a supplemental filing. That rule provides as follows:

No party shall be permitted to supplement prefiled prepared direct, rebuttal, or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing. This provision does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results.

13. If Liberty is unable to provide the missing Atmos data to Staff by no later than May 20 it will be necessary to explore other alternatives; *perhaps* one alternative would be for Liberty to voluntarily significantly extend the proposed effective date of the tariffs it filed to initiate the current case, which would allow a new procedural schedule to be established for this case. However, Staff is willing, at this time, to try to make the supplemental direct revenue requirement filing approach set forth in the preceding

paragraphs work if it receives the necessary approval and receives the necessary data by May 20, 2014.

14. If additional discovery concerns arise between the filing of this Motion and the discovery conference, Staff will raise them at the discovery conference.

WHEREFORE Staff respectfully requests an order from the Commission or presiding judge by no later than the May 15 discovery conference (1) compelling Liberty to provide to Staff the test year data missing from Liberty's responses to data request numbers 157, 162, 164, and 166 no later than May 20, 2014; (2) permitting Staff to file supplemental revised direct testimony (or a revenue requirement report) with the missing test year data no later than June 18, 2014, contingent upon Staff receiving the missing test year data no later than May 20, 2014; and (3) making such further orders as seem reasonable under the circumstances.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel for all parties of record this 6th day of May 2014.

/s/ Jeffrey A. Keevil

Missouri Public Service Commission

Respond Data Request

Data Request No.	0157
Company Name	Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)
Case/Tracking No.	GR-2014-0152
Date Requested	3/5/2014
Issue	Revenue - Weather Normalization
Requested From	Chris Krygier
Requested By	Jeff Keevil
Brief Description	Customer usage by bill cycle & revenue class
Description	Please provide the billed Ccfs and customer numbers by sales district, revenue class, and billing cycle number for each of the twelve months of the test year ending September 30, 2013. Please organize the data in Excel as follows: By billing year and month (ex:201201), billing cycle number, number of bills, total billed gas (Ccfs), revenue class (Residential, Small General Service, Medium General Service, Large General Service), and sales district. Data request submitted by Joel McNutt (joel.mcnutt@psc.mo.gov)
Response	Please see the attached PROPRIETARY schedule labeled "0157 - Test Year Data by Billing Cycle (volume & customers)". Please note that the Company only has this data for March 2013 through September 2013. Prior to March 2013, the Company's billing function was performed by Atmos as part of the Continuation Services Agreements.
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **GR-2014-0152** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA

Missouri Public Service Commission

Respond Data Request

Data Request No.	0162
Company Name	Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)
Case/Tracking No.	GR-2014-0152
Date Requested	3/11/2014
Issue	Revenue - Other Revenue Issues
Requested From	Chris Krygier
Requested By	Jeff Keevil
Brief Description	Billed meters and volumes – Interruptible Large Volume Service customers
Description	For any customers who took service under the Interruptible Sales Service rate code at any time during the test year, please provide the following information: the name on the account(s), account number, account address/district/bill cycle identifier, and the rate code on which customer was served (each month). 1. For each customer identified above, please provide, on a monthly basis, for the test year ending September 30, 2013: a) total revenues per month, split into PGA & margin components (if possible); b) number of meters serving customer at that location (if a meter is of any type other than standard (e.g., EGM) please specify); c) number of billed meters associated with account, and d) Ccf or Mcf (please specify) volumes. 2. For each of the customers identified in (1), please provide monthly Ccf/Mcf volumes for the test year ending September 30, 2013, regardless of the rate code under which the customer was served during those months. DR requested by Kim Cox (Kim.Cox@psc.mo.gov)
Response	Please see the attached HIGHLY CONFIDENTIAL files labeled "0162 - billcount_interrupible" and "0162 - Oct thru Feb Billings from Atmos". Please note that the Company has all of the data requested for the periods of March 2013 through September 2013, however it does not have the same level of detail for October 2012 through February 2013 due to Atmos providing billing services on behalf of the Company. The Atmos detail, referenced in the file above, contains aggregated detail for each customer class but not at each customer level. Please note that if the data is updated, any use in the billing determinant study could create unusual results due to the different time periods (test year for all other customers versus different periods for other customers).
Objections	NA

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mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security : Public
Rationale : NA

Missouri Public Service Commission

Respond Data Request

Data Request No.	0164
Company Name	Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)
Case/Tracking No.	GR-2014-0152
Date Requested	3/11/2014
Issue	Revenue - Other Revenue Issues
Requested From	Chris Krygier
Requested By	Jeff Keevil
Brief Description	Billed meters and volumes – Large Volume Service Transport customers
Description	For any customers who took service under the Large Volume - Transport rate code at any time during the test year, please provide the following information: the name on the account(s), account number, account address/district/bill cycle identifier, and the rate code on which customer was served (each month). 1. For each customer identified above, please provide, on a monthly basis, for the test year ending September 30, 2013: a) total revenues per month, split into PGA & margin components, if possible (if the customer is paying a per Ccf rate other than the tariffed maximum transportation charge, please specify); b) number of meters serving customer at that location (if a meter is of any type other than standard (e.g., EGM) please specify); c) number of billed meters associated with account; d) Ccf or Mcf (please specify) volumes, broken down into Sales and Transportation volumes; e) unauthorized use Ccfs/Mcfs, and associated monthly revenues (please specify whether these volumes are included in the Sales volumes provided in (d), above); and f) contract demand levels and revenues 2. For each of the customers identified in (1), please provide monthly Ccf/Mcf volumes and Contract Demand volumes for the test year ending September 30, 2013, regardless of the rate code under which the customer was served during those months. DR requested by Kim Cox (Kim.Cox@psc.mo.gov)
Response	Please see the attached HIGHLY CONFIDENTIAL files labeled "0164 - billcount_transport" and "0162 - Oct thru Feb Billings from Atmos". Please note that the Company has all of the data requested for the periods of March 2013 through September 2013, however it does not have the same level of detail for October 2012 through February 2013 due to Atmos providing billing services on behalf of the Company. The Atmos detail, referenced in the file above contains aggregated detail for each customer class but not at each customer level. Please note that if the data is updated, any use in the billing determinant study could create unusual results due to the different time periods (test year for all other customers versus different periods for other customers).
Objections	NA

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undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **GR-2014-0152** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security : Public
Rationale : NA

Missouri Public Service Commission

Respond Data Request

Data Request No.	0166
Company Name	Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)
Case/Tracking No.	GR-2014-0152
Date Requested	3/11/2014
Issue	Revenue - Other Revenue Issues
Requested From	Chris Krygier
Requested By	Jeff Keevil
Brief Description	Billed meters and volumes – Large Firm General customers
Description	For any customers who took service under the Large General Service rate at any time during the test year, please provide the following information: the name on the account, account address/district/bill cycle identifier, and the rate code on which customer was served (each month) 1. For each customer identified above, please provide, on a monthly basis, for the test year ending September 30, 2013: a) total revenues per month, split into PGA & margin components (if possible); b) number of meters serving customer at that location (if a meter is of any type other than standard (e.g. EGM) please specify); c) number of billed meters associated with account; d) Ccf or Mcf (please specify) volumes; and e) unauthorized use Ccfs/Mcfs, and associated monthly revenues. Please specify whether the volumes in (e) are included in the Sales volumes provided in (d), above 2. For each of the customers identified in (1), please provide monthly Ccf/Mcf volumes and Contract Demand volumes for the test year ending September 30, 2013, regardless of the rate code under which the customer was served during those months. DR requested by Kim Cox (Kim.Cox@psc.mo.gov)
Response	Please see the attached HIGHLY CONFIDENTIAL files labeled "0166 - billcount_large general service" and "0162 - Oct thru Feb Billings from Atmos". Please note that the Company has all of the data requested for the periods of March 2013 through September 2013, however it does not have the same level of detail for October 2012 through February 2013 due to Atmos providing billing services on behalf of the Company. The Atmos detail, referenced in the file above contains aggregated detail for each customer class but not at each customer level. Please note that if the data is updated, any use in the billing determinant study could create unusual results due to the different time periods (test year for all other customers versus different periods for other customers).
Objections	NA

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make arrangements with requestor to have documents available for inspection in the **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Liberty Utilities (Midstates Natural Gas) Corp.-Investor(Gas)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security : Public
Rationale : NA

Keevil, Jeff

From: Keevil, Jeff
Sent: Thursday, April 24, 2014 9:07 AM
To: 'Larry Dority'
Subject: FW: Incomplete DR 157 response in GR-2014-0152

Larry –

What's the latest on the issue described below? I haven't heard anything from you on this since last Thursday.

Jeff

From: Larry Dority [<mailto:lwdority@sprintmail.com>]
Sent: Thursday, April 17, 2014 12:04 PM
To: Keevil, Jeff
Cc: Borgmeyer, John; Cox, Kim; Imhoff, Tom; McNutt, Joel; lwdority@sprintmail.com
Subject: RE: Incomplete DR 157 response in GR-2014-0152

Jeff:
I have forwarded your message to Chris Krygier and we will get back to you (and/or staff members cc'd above) asap; however, it may be Monday due to the three-day holiday weekend. Thanks for your continued cooperation.
Larry

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From: Keevil, Jeff [<mailto:Jeff.Keevil@psc.mo.gov>]
Sent: Thursday, April 17, 2014 9:39 AM
To: 'Larry Dority'
Cc: Borgmeyer, John; Cox, Kim; Imhoff, Tom; McNutt, Joel
Subject: Incomplete DR 157 response in GR-2014-0152

Larry –

Staff's data request Number 157 to Liberty Utilities in Case No. GR-2014-0152 requested certain information for each of the twelve months of the test year ending September 30, 2013. Specifically, this DR requested: Please provide the billed Ccfs and customer numbers by sales district, revenue class, and billing cycle number for each of the twelve months of the test year ending September 30, 2013. Please organize the data in Excel as follows: By billing year and month (ex:201201), billing cycle number, number of bills, total billed gas (Ccfs), revenue class (Residential, Small General Service, Medium General Service, Large General Service), and sales district.

Liberty's response stated: Please see the attached PROPRIETARY schedule labeled "0157 - Test Year Data by Billing Cycle (volume & customers)". **Please note that the Company only has this data for March 2013 through September 2013. Prior to March 2013, the Company's billing function was performed by Atmos as part of the Continuation Services Agreements.** (emphasis added)

You will recall that this data request was one of the DRs which the Company notified Staff would take over 20 days to answer; according to EFIS, the response that was received was received in 37 days rather than the 20 days allowed by the Commission's rules and the scheduling order. However, the response which was received was still missing several months of important data.

Obviously, Staff needs a full test year's worth of data. If this information was in the possession of Atmos, Liberty should have seen that Atmos turned this data over to Liberty, at least at the conclusion of the CSA. I would think that would have been a condition of the stipulation in the acquisition case. Liberty's response does not indicate what efforts it took, if any, to obtain this information from Atmos after receiving the data request.

Please let me know as soon as possible if Liberty is pursuing obtaining this data from Atmos and when it will be provided to Staff, or if Staff will need to pursue other avenues of discovery for obtaining this information. Thank you for your attention to this matter.

Jeff Keevil



This email is free from viruses and malware because avast! Antivirus protection is active.

Keevil, Jeff

From: Keevil, Jeff
Sent: Monday, April 28, 2014 10:12 AM
To: 'Larry Dority'
Cc: 'Jim Fischer'
Subject: Liberty rate case

Larry -

I see Liberty filed an updated response to DR 48, which made me wonder: what's the latest on (1) Liberty's efforts to get information from Atmos to complete the response to DR 157 (the billing information requested by Joel McNutt) and (2) revising KPMG outside auditor letter? Time is running short on both of these items, as you know. Do you know whether Atmos plans to provide the missing information for item (1) above, and if so, when it will be available?

Jeff