

**SCHEDULE DS-1**

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the matter of the verified application and )  
petition of Liberty Energy (Midstates) ) **File No. GO-2014-\_\_\_\_\_**  
Corp. d/b/a Liberty Utilities to ) Tariff Tracking No. \_\_\_\_\_  
Change Its Infrastructure System )  
Replacement Surcharge. )

**VERIFIED APPLICATION AND PETITION  
OF LIBERTY UTILITIES TO CHANGE ITS  
INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE**

COMES NOW Liberty Energy (Midstates) Corp. d/b/a Liberty Utilities (“Liberty” or “Company”), pursuant to Sections 393.1009, 393.1012 and 393.1015 RSMo. and Missouri Public Service Commission (“Commission”) Rules 4 CSR 240-2.060, 2.080 and 3.265 and, for its Verified Application and Petition To Change its Infrastructure System Replacement Surcharge, respectfully states as follows:

**BACKGROUND**

1. On August 28, 2003, Sections 393.1009, 393.1012 and 393.1015 of the Revised Statutes of Missouri became effective. These statutory provisions and Commission Rule 4 CSR 240-3.265 authorize eligible gas corporations to recover certain infrastructure replacement costs through the implementation of an infrastructure system replacement surcharge (“ISRS”). Prior to implementing or changing an ISRS, the gas corporation must file a petition with the Commission for review and approval before its rates and charges can be adjusted to provide for the recovery of the ISRS costs. To that end, Liberty submits this Verified Application and Petition to adjust the ISRS rate elements in its established ISRS rate schedule.

## THE APPLICANT

2. By its Order Approving Unanimous Stipulation And Agreement (“Order”) issued on March 14, 2012 and effective March 24, 2012, in File No. GM-2012-0037, *In the Matter of the Joint Application of Liberty Energy Corporation and Liberty Energy (Midstates) Corp. for Authority to Sell Certain Missouri Assets to Liberty Energy (Midstates) Corp. and, in Connection Therewith, Certain Other Related Transactions*, the Missouri Public Service Commission (“Commission”) approved the Unanimous Stipulation and Agreement (“Stipulation”) entered in said proceeding and authorized Atmos Energy Corporation to sell, and Liberty Energy (Midstates) Corp. to purchase, the Missouri assets identified in the Joint Application in Case No. GM-2012-0037, and the Commission further issued new certificates of convenience and necessity to Liberty Energy (Midstates) Corp. for the service areas formerly served by Atmos Energy Corporation. Liberty has no pending actions against it involving customer service or rates having occurred within three (3) years, nor does it have any annual reports or assessment fees that are overdue.

3. On July 2, 2012, Liberty filed a tariff adoption notice and request for name change to (1) adopt Atmos Energy Corporation’s tariffs, including its ISRS tariffs, and (2) authorize the use of the fictitious name “Liberty Utilities.” A Certificate of Good Standing from the Office of Secretary of State was filed at that time, and is incorporated herein by reference. (GM-2012-0037 and GN-2013-0001) By its *Order Recognizing Name Change and Approving Tariff Sheets*, the Commission approved the adoption of the tariffs and recognized the fictitious name, effective August 1, 2012. As a result of these approvals by the Commission, Liberty is a “gas corporation” and a “public utility” as those terms are defined in Section 386.020 of the Revised Statutes of Missouri and as such is subject to the jurisdiction of the Commission as provided by law.

4. Communications in regard to this Application should be addressed to:

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## **ISRS APPLICATION**

5. With this application, Liberty requests an adjustment to its ISRS rate schedule that provides for the recovery of costs incurred in connection with ISRS-eligible infrastructure system replacements made during the period beginning June 1, 2012 through May 31, 2013. In accordance with the provisions of Sections 393.1009-1015 and 4 CSR 240-3.265, the revised ISRS rate schedule reflects the appropriate pre-tax ISRS revenues necessary to produce net operating income equal to the weighted cost of capital multiplied by the net original cost of the requested infrastructure replacements during this period that are eligible for the ISRS, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that were included in Liberty's currently effective

ISRS. Liberty also seeks to recover all state, federal and local income or excise taxes applicable to such ISRS income and to recover all other ISRS costs such as depreciation expense and property taxes due within 12 months of this filing.

**A. Eligibility of Costs**

6. The infrastructure system replacements for which Liberty seeks ISRS recognition are set forth on Appendix A, which is attached hereto and made a part hereof for all purposes. The infrastructure system replacements listed on Appendix A are eligible gas utility plant projects in that they are either: a) mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition; or b) main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; or c) unreimbursed infrastructure facility relocations due to the construction or improvement of a highway, road, street, public way or other public work required by or on behalf of the United States, the State of Missouri, a political subdivision of the State of Missouri, or another entity having the power of eminent domain.

7. Capital data used for the ISRS filing was reported directly from Liberty's plant accounting system. Liberty's plant accounting is project based. Each project placed in service in Missouri was reviewed to ensure that it was an eligible "gas utility plant project" as defined in Section 393.1009 of the Missouri Revised Statutes. This review was facilitated through the use of several data elements maintained for each project in the plant accounting system. The In Service Date was used to eliminate any projects that did not fall within the filing window of the ISRS. The Budget Category field was used to eliminate projects that did not fall into the

categories of System Integrity, System Improvements, Public Improvements, and Maintenance. The Project Description was reviewed to ensure that the project was consistent with the intent of the ISRS. The Business Segment field was used to assign the cost to the appropriate rate division. And finally, the FERC Activity Code determined whether the costs were for an addition or a retirement.

8. The data for additions is presented in Appendix A Schedule 1, and for retirements in Appendix A Schedule 2. In each schedule the data by project is summarized for each rate division at the utility account level, with the in service date and addition amount provided for the project. The Accumulated Depreciation is calculated by multiplying the Monthly Depreciation Rate by the number of Months the asset has been in service. The Depreciation Expense column contains the annual depreciation expense for the asset. Sub-total rows are provided for each rate division and class of assets.

9. The assets selected were assigned a 15 year MACRS class life. According to the Internal Revenue Code, these assets are permitted to be depreciated over 15 years, 150%, double declining balance, half year convention.

10. In addition to meeting the foregoing criteria, the infrastructure system replacements listed on Appendix A are also eligible for ISRS treatment because they: a) did not increase revenues by directly connecting to new customers; b) are currently in service and used and useful; c) were not included in rate base in the most recently completed general rate case, and d) replaced and/or extended the useful life of existing infrastructure.

11. Finally, the infrastructure system replacements listed on Appendix A are eligible for ISRS treatment in accordance with the Unanimous Stipulation and Agreement (“Stipulation”)

approved in the Joint Application of Atmos Energy Corporation and Liberty for Authority to Sell Certain Missouri Assets To Liberty, Case No. GM-2012-0037.

**B. Rate Schedules, Calculations and Supporting Documentation**

12. Attached hereto as Appendix B is the rate schedule, with supporting documents, proposed by Liberty in order to establish the ISRS to reflect the additional ISRS eligible investments that were not included in the previous ISRS filing. This proposed rate schedule, on an annualized basis, will produce ISRS revenues of at least one-half of one percent of the base revenue level approved by the Commission in the most recent general rate proceeding, but not in excess of ten percent of the base revenue level.

13. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes current local, state, and federal income tax rates through a combined income tax rate conversion factor of 1.64103.

14. In determining the appropriate pre-tax ISRS revenues, and in accordance with the Stipulation in Case No. GR-2010-0192, the proposed rate schedule utilizes a Return on Equity of 10.0 percent and a capital structure and debt costs as filed by the Commission's Staff in that proceeding.

15. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes depreciation rates currently applicable to the eligible infrastructure system replacements as found in the Partial Non-Unanimous Stipulation and Agreement, Attachment B, dated November 29, 2006, Case No. GR-2006-0387 and the Unanimous Stipulation And Agreement in Case No. GM-2012-0037.

16. Section 393.1015.5(1), RSMo. provides:

5. (1) The monthly ISRS charge may be calculated based on a reasonable estimate of billing units in the period in which the charge will be in effect, which shall be conclusively established by dividing the appropriate pretax revenues by the customer numbers reported by the gas corporation in the annual report it most recently filed with the commission pursuant to subdivision (6) of section 393.140, and then further dividing this quotient by twelve. Provided, however, that the monthly ISRS may vary according to customer class and may be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class. (Emphasis added).

Liberty is using the customer numbers and classes utilized to set rates in Case No. GR-2010-0192.

17. In determining the appropriate monthly ISRS charge, the proposed rate schedule is based on a reasonable estimate of billing units in the period in which the charge will be in effect, which is derived by dividing the appropriate pre-tax revenues, as calculated above, by the customer numbers used to set rates in the most recently completed general rate proceeding, and then further dividing this quotient by twelve. (See Appendix B, Schedule 4). The monthly ISRS charge is apportioned between customer classes and the rate districts in the same manner utilized in setting rates in the most recently completed general rate proceeding (Stipulation, Appendix A, Case No. GR-2010-0192).

#### **ADDITIONAL INFORMATION**

18. Appendix C Attachment 2 provides a copy of the one-time customer notice notifying customers of the ISRS charge to be sent with the initial bills containing the ISRS, as well as a copy of the annual notice Liberty will provide to affected customers each year explaining the ISRS and what it is designed to recover.



19. Updated information informing customers of the ISRS will be posted on Liberty's website and an example of the text is provided in Appendix C Attachment 3. The information on this page of the website will reflect the information provided in the bill inserts.

20. Talking points and scripts for the customer call center employees are provided in Appendix C Attachment 4.

21. An example customer bill showing how the ISRS is described on affected customers' bills is provided in Appendix C Attachment 5.

### **CONTINGENT MOTION FOR WAIVER**

22. Liberty does not believe this matter would be considered a "contested case" under 4 CSR 240-4.020 (Ex Parte and Extra Records Communications Rule). However, to the extent that a 60-day Notice of Filing would otherwise be required under 4 CSR 240-4.020(2), Liberty respectfully requests that the notice requirement contained in 4 CSR 240-4.020(2) be waived for good cause, since it was not known that it would be filing this Application sixty (60) days prior to the date that this Application and Petition is being filed. 4 CSR 240-4.020(2)(B). Additionally, the ISRS process is authorized by Sections 393.1009, 393.1012 and 393.1015, RSMo, and Commission Rule 4 CSR 240-3.265. Its goal is to provide eligible gas corporations with the ability to recover, on a timely basis, certain infrastructure replacement costs outside of a formal rate case filing via the ISRS. The purpose of these statutes would not be served by the imposition of a 60 day waiting period and, therefore, good cause exists for a waiver. (See, also, *Order Regarding Adjusted ISRS Rates*, File No. GO-2013-0048 (October 18, 2012).

**WHEREFORE**, pursuant to 393.1015.2(3) and Commission Rule 3.265(12), Liberty Energy (Midstates) Corp. d/b/a Liberty Utilities respectfully requests that the Commission issue an Order, effective as soon as reasonably possible, approving Liberty's ISRS rate schedules in order to provide for the recovery of the eligible infrastructure system replacement investments made from June 1, 2012 through May 31, 2013, and granting such other relief as may be necessary and appropriate to accomplish the purposes of Sections 393.1009 through 393.1015.

Respectfully submitted,

**/s/ Larry W. Dority**

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Attorneys for Liberty Energy (Midstates) Corp.  
d/b/a Liberty Utilities

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Application and Petition was served on the General Counsel of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel on this 2<sup>nd</sup> day of July, 2013 by hand-delivery, fax, electronic or regular mail.

**/s/ Larry W. Dority**  
Larry W. Dority

VERIFICATION

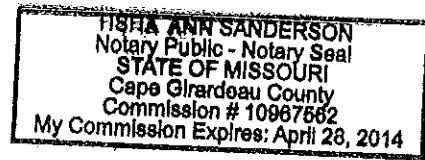
State of Missouri )  
County of Cape Girardeau ) SS

I, Victor Edwards, being of lawful age state: that I am Director, Regulatory and Governmental Affairs for Liberty Energy (Midstates) Corp. d/b/a Liberty Utilities, that I have read the foregoing Application and Petition and the documents attached thereto; that the statements and information set forth in such Application and Petition and attached documents are true and correct to the best of my information, knowledge and belief; and, that I am authorized to make this statement on behalf of Liberty Utilities.

Victor Edwards

Subscribed and sworn to before me on this 2<sup>nd</sup> day of July, 2013.

Juska Ann Sanderson  
Notary Public



My Commission expires: 4-28-14