

Exhibit No.:
Issue: Policy/Overview
Witness: David Swain
Type of Exhibit: Direct Testimony
Sponsoring Party: Liberty Utilities (Midstates
Natural Gas) Corp.
d/b/a Liberty Utilities
Case No.: GR-2014-0152
Date Testimony Prepared: February 6, 2014

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: GR-2014-0152

DIRECT TESTIMONY

OF

DAVID SWAIN

ON BEHALF OF

**LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.
D/B/A LIBERTY UTILITIES**

February 6, 2014

**DIRECT TESTIMONY
OF
DAVID SWAIN**

CASE NO. GR-2014-0152

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1 **DIRECT TESTIMONY**

2 **OF**

3 **DAVID SWAIN**

4 **CASE NO. GR-2014-0152**

5
6 **INTRODUCTION AND QUALIFICATIONS**

7 **Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

8 A: My name is David Swain. My business address is 2370 N. High Street, Suite 1, Jackson,
9 Missouri 63755.

10 **Q: BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

11 A: I am employed by Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities
12 (“Company” or “Liberty Utilities”) as State President.

13 **Q: PLEASE DESCRIBE YOUR PROFESSIONAL AND EDUCATIONAL**
14 **BACKGROUND.**

15 A: I have worked in the Natural Gas Distribution industry for the past thirty-four years. Prior
16 to my position as State President with Liberty Utilities, I was the Operations Manager for
17 Atmos Energy and lived in Paducah, Kentucky, where I had responsibilities that included
18 oversight of twelve operations in four states. My duties and experience have included
19 oversight and direction of financial planning, regulatory and ratemaking, operations,
20 engineering and customer care. I have been involved in many facets of the industry with a
21 passion for improving and enhancing the safety and reliability of natural gas distribution
22 systems. Presently, I hold a certification from the National Association of Corrosion
23 Engineers as a Cathodic Protection Specialist.

1 **Q: WHAT ARE YOUR PRINCIPAL RESPONSIBILITIES AS STATE PRESIDENT**
2 **OF THE COMPANY?**

3 A: As State President of Liberty Utilities, I have overall responsibility for the regulatory,
4 financial, operations and customer care aspects of our business. Specifically, I insure that
5 we comply with all regulations and rules that concern safety, reliability and rates while
6 being financially responsible. I must insure that our business is able to perform these
7 tasks strategically and responsibly.

8 **Q: HAVE YOU PREVIOUSLY TESTIFIED IN A PROCEEDING BEFORE THE**
9 **MISSOURI PUBLIC SERVICE COMMISSION (“MPSC” OR “COMMISSION”)**
10 **OR BEFORE ANY OTHER UTILITY REGULATORY AGENCY?**

11 A: Yes, I testified before this Commission in Case Nos. GM-2012-0037 and GO-2014-0006.
12 I also have made presentations to the Illinois Commerce Commission pursuant to Docket
13 11-0559.

14 **PURPOSE OF TESTIMONY**

15 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

16 A: The purpose of my testimony is to provide an overview of the Company’s rate case filing.
17 First, I will provide background information and discuss some of the relevant prior
18 regulatory activities regarding Liberty Utilities and its predecessor-in-interest for these
19 purposes, Atmos Energy Corporation ("Atmos"). Second, I will discuss the Company’s
20 continued focus on providing high quality customer service. Third, I will summarize
21 some of the major factors contributing to the Company’s need to seek rate relief and the
22 resulting rates to be implemented, both in terms of amount and in terms of rate design.
23 Finally, I will introduce the Company witnesses.

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BACKGROUND AND RECENT REGULATORY ACTIVITY

Q. PLEASE PROVIDE A BRIEF BACKGROUND ON LIBERTY UTILITIES’ NATURAL GAS OPERATIONS IN MISSOURI.

A. By its Order Approving Unanimous Stipulation And Agreement issued March 14, 2012 in File No. GM-2012-0037, the Commission approved the Unanimous Stipulation and Agreement (“Stipulation”) entered in that proceeding and authorized Atmos to sell, and Liberty Utilities to purchase, substantially all of the assets of Atmos used to provide natural gas and transportation services in Missouri. The Commission further issued new certificates of convenience and necessity to Liberty Utilities for the service areas formerly served by Atmos.

Q. WHAT PARTIES WERE SIGNATORIES TO THAT STIPULATION?

A. The Stipulation was signed and supported by Atmos, Liberty Utilities, the Commission Staff, the Office of the Public Counsel (“OPC”) and IBEW Local No. 1439.

Q. DID THE STIPULATION ADDRESS THE ISSUE OF TARIFFS AND THEIR ADOPTION?

A. Yes, Paragraph 9 of the Stipulation provided:

9. Tariffs
Atmos has Commission approved tariffs. Liberty-Midstates shall formally adopt in whole Atmos’ tariffs verbatim upon closing of the transaction. These tariffs shall remain in effect until changed by Order of the Commission or by operation of law.

On July 2, 2012, Liberty Utilities filed a tariff adoption notice and request for name change to (1) adopt Atmos Energy Corporation’s tariffs, and (2) authorize the use of the fictitious name “Liberty Utilities.” By its *Order Recognizing Name Change and*

1 *Approving Tariff Sheets*, the Commission approved the adoption of the tariffs and
2 recognized the fictitious name, effective August 1, 2012.

3 Subsequently, by its *Order Granting Application* issued in Case No. GN-2014-
4 0090 and effective November 1, 2013, the Commission granted the Company's
5 application and recognized its name change from Liberty Energy (Midstates) Corp. d/b/a
6 Liberty Utilities to Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities.

7 **Q. PLEASE DESCRIBE LIBERTY UTILITIES' CORPORATE STRUCTURE.**

8 A. Liberty Utilities is a corporation duly organized and existing under the laws of the State
9 of Missouri. As a result of the above-referenced approvals, it is a "gas corporation" and a
10 "public utility" as those terms are defined in Missouri statutes and, as such, it is subject to
11 the jurisdiction of the Commission as provided by law. The Company is engaged in the
12 business of distributing and selling natural gas in the States of Missouri, Illinois and
13 Iowa, serving approximately 85,000 customers. The majority of those customers,
14 approximately 55,000, are located in Missouri.

15 Liberty Utilities' ultimate corporate parent, Algonquin Power and Utilities Corp.
16 ("Algonquin"), is a Canadian corporation whose stock is traded on the Toronto Stock
17 Exchange. Algonquin has two business units: (a) a power generation unit that owns or
18 has interests in renewable energy facilities and thermal energy facilities representing
19 more than 1100 MW of installed capacity, and (b) a utility services unit that owns and
20 operates thirty regulated utilities located in ten states that provide retail water, sewer,
21 electric and natural gas service. The Company's corporate structure was thoroughly set
22 forth and discussed in Case No. GM-2012-0037.

1 On July 30, 2013, a “Notice of Corporate Reorganization” was filed in Case No.
2 GM-2012-0037, whereby the Company advised the Commission of a non-substantive
3 corporate reorganization involving the merger of its corporate parents, Liberty Energy
4 Utilities Co. and Liberty Utilities Co. (both Delaware corporations), with Liberty Utilities
5 Co. being the surviving entity and the owning the Company directly. The “Staff
6 Response to Notice of Corporate Reorganization” reflected Staff’s opinion that the
7 change was non-substantive because the ultimate ownership and control of the Company
8 would not change, thus requiring no further action by the Commission.

9 **Q. COULD YOU PLEASE DESCRIBE THE TRANSITION PROCESS FROM**
10 **ATMOS TO LIBERTY UTILITIES?**

11 A. As the key corporate officers appearing on behalf of the Company testified during the
12 “On-the-Record” presentation held November 28, 2012 in Case No. GM-2012-0037, we
13 consider the transition from Atmos to Liberty Utilities to be a very successful seamless
14 transition. Given the extensive exchange of information during the transition’s critical
15 phases -- progress reporting, quarterly update meetings, conference calls with Staff and
16 OPC, on-the-record presentation and requisite filings per the Stipulation -- I can’t
17 imagine a more transparent and informative process for keeping the Commission and the
18 parties informed as to the successful completion of a seamless transition of utility
19 services without disruption to Missouri ratepayers. Underscoring that observation, I’m
20 not aware of any regulatory complaints filed by customers as a result of the transition
21 and, as I referenced during the on-the-record presentation, we also have completed
22 several successful safety audits by the Commission during the process.

1 **Q. AS ADDITIONAL BACKGROUND ON REGULATORY ACTIVITY, WOULD**
2 **YOU PLEASE ADDRESS ATMOS' LAST GENERAL RATE PROCEEDING**
3 **BEFORE THIS COMMISSION?**

4 A. Yes. Atmos' last general rate proceeding was in 2010 in Commission Case No. GR-
5 2010-0192. The Unanimous Stipulation and Agreement ("Rate Case Stipulation")
6 entered in that case was approved by the Commission's Order effective August 27, 2010,
7 with new rates effective September 1, 2010. The Rate Case Stipulation was signed and
8 supported by Atmos, Staff, OPC, Missouri Department of Natural Resources and
9 Noranda Aluminum, Inc. In that case, Atmos was authorized to increase its annual non-
10 gas, Missouri jurisdictional revenues by \$5,650,000, which included approximately
11 \$1,000,000 in Infrastructure System Replacement Surcharge ("ISRS") revenues that had
12 been previously authorized by the Commission and was being collected through a
13 surcharge. Also a part of the Rate Case Stipulation, the parties agreed, and the
14 Commission so ordered, that Atmos should maintain the three (3) rate districts –
15 Northeast (NEMO), Southeast (SEMO) and West (WEMO) – that were approved in
16 Atmos' 2006 rate case, Case No. GR-2006-0387.

17 **Q. HAS THE COMPANY MAINTAINED THOSE SAME THREE RATE**
18 **DISTRICTS FOR THIS FILING?**

19 A. Yes.

20

21

1 CUSTOMER SERVICE

2 **Q. PLEASE DESCRIBE LIBERTY UTILITIES’ OPERATING PHILOSOPHY.**

3 A. Our business model emphasizes local presence, and with our local approach to
4 management, service and support, we deliver efficient, dependable services to meet the
5 needs of our customers. We measure our performance in terms of service reliability, an
6 enjoyable customer experience, and an unwavering dedication to public and workplace
7 safety. As we testified during the on-the-record presentation, we like to coin the tag
8 phrase: “Local and responsive. We care,” as something that is part of our corporate
9 DNA. One reflection of that, as we previously advised the Commission and various
10 stakeholders, is the choice of Jackson, Missouri as our new regional headquarters
11 location, and that new facility will be opening very soon.

12 **Q. COULD YOU PLEASE ELABORATE ON LIBERTY UTILITIES’ CUSTOMER
13 SERVICE APPROACH?**

14 A. Liberty Utilities provides a superior customer experience through walk-in customer
15 centers, locally focused conservation and energy efficiency initiatives, and programs for
16 businesses and residential customers. We also are conducting “Customer Focus Groups”
17 and recently held three, 2-hour focus groups (24 customers) in Hannibal, Missouri;
18 Sikeston, Missouri and Marion, Illinois. In addition, we recently concluded a Customer
19 Service Survey utilizing the third-party research firm Luth Research (with approximately
20 800 customers being surveyed by telephone or online), which reflects that overall
21 customer satisfaction with Liberty Utilities is high among our Mid-States customers.

1 REASONS FOR FILING A RATE CASE

2 Q. HAS LIBERTY UTILITIES EVER FILED A RATE CASE?

3 A. The Company has never filed a rate case in Missouri.

4 Q. ARE THERE REGULATORY/LEGAL FACTORS INFLUENCING THE
5 SPECIFIC TIMING OF THIS RATE CASE FILING?

6 A. Yes. The Stipulation entered into by the parties and approved by the Commission in the
7 asset sale case, Case No. GM-2012-0037, contains a specific condition regarding a Rate
8 Moratorium: "Liberty-Midstates shall not file a general rate case for non-gas costs prior
9 to December 31, 2013, unless there is the occurrence of a significant, unusual event that
10 has a major impact on any of its Missouri service territories. . . ." (Paragraph II.A.1
11 titled Rate Moratorium, page 4).

12 In addition, Paragraph 11 of the Rate Case Stipulation approved in Case No. GR-
13 2010-0192, addressed "ISRS Calculations" specifically, as follows:

14 11. ISRS Calculations. As required by Commission rules, **the**
15 **Company's current ISRS shall be reset to zero upon the effective date**
16 **of new rates in this case.** The Signatories further agree that, for any ISRS
17 filings implemented between the date new rates are established in this
18 proceeding and the effective date of new rates established in the
19 Company's next general rate case proceeding, the Return On Equity
20 (ROE) to be used in ISRS calculations shall be 10.0%, and the capital
21 structure and debt costs shall be the capital structure and debt costs as filed
22 by Staff in this case. The ROE and capital structure specified herein for
23 use in future ISRS filings does not reflect the level of ROE included in the
24 overall revenue requirement agreement in the Stipulation. Plant in service
25 additions for inclusion in a future ISRS shall be limited to qualifying
26 additions subsequent to February 28, 2010. (Emphasis added).
27

28 After the ISRS was zeroed out effective with new rates on September 1, 2010, Atmos
29 filed for a new ISRS in November 2010, **which became effective February 14, 2011**, in
30 Commission File No. GO-2011-0149. Having adopted the Atmos rates, this is the ISRS

1 that was the subject of Liberty Utilities' subsequent change requests filed in Case Nos.
2 GO-2013-0048 (Order effective November 2, 2012) and GO-2014-0006 (Order effective
3 October 30, 2013).

4 Section 393.1012.3, RSMo. provides:

5 In no event shall a gas corporation collect an ISRS for a period exceeding
6 three years unless the gas corporation has filed for or is the subject of a
7 new general rate proceeding; provided that the ISRS may be collected
8 until the effective date of new rate schedules established as a result of the
9 new general rate proceeding, or until the subject general rate proceeding is
10 otherwise decided or dismissed by issuance of a commission order without
11 new rates being established.
12

13 Identical language is contained in Commission Rule 4 CSR 240-3.265(6). Accordingly,
14 since Liberty Utilities' ISRS became effective February 14, 2011, the potential loss in
15 ISRS revenue clearly contributed to our filing a general rate proceeding at this time.

16 **Q. WHAT OTHER FACTORS ARE CONTRIBUTING TO THE COMPANY'S**
17 **REQUEST FOR INCREASED GENERAL RATE RELIEF?**

18 A. As discussed above, the Company is making substantial investments in furthering our
19 local approach to management, service and support. Liberty Utilities has constructed
20 significant new facilities that will facilitate our local emphasis in providing more
21 responsive service to our customers. Such investments include accounting and billing
22 software and the new regional headquarters in Jackson, as well as the continued
23 investments in distribution facilities. Furthermore, Atmos' last rate case included an
24 updated period of February 28, 2010, nearly four years ago. While the Company
25 maintains a strong focus on cost control, it is not immune to increasing operating and
26 maintenance expenses which need to be reflected in rates if the Company is to have an
27 opportunity to earn a reasonable return on its investment.

1 **Q. WHAT TEST YEAR HAS THE COMPANY USED FOR THE DEVELOPMENT**
2 **OF THIS RATE CASE?**

3 A. The Company has used a 12 month test year ending September 30, 2013, with a proposed
4 update period through April 30, 2014 to reflect known and measurable changes. In
5 addition, the Company's union employees will receive a wage increase on June 1, 2014
6 pursuant to the currently existing labor contract, and we are requesting a true-up in order
7 to take account of this significant event.

8 **Q. WOULD YOU PLEASE DESCRIBE THE COMPANY'S RATE REQUEST?**

9 A. In this case, the Company is seeking an increase of approximately \$7.6 million. As
10 discussed above, a portion of this request is being driven by rebasing approximately \$1.3
11 million in current ISRS amounts. Once the existing ISRS charges already being collected
12 are excluded, the increase will be around \$6.3 million on an incremental basis.

13 **Q. IS THE COMPANY PROPOSING ANY MODIFICATIONS TO ITS EXISTING**
14 **RATE DESIGN IN THIS CASE?**

15 A. No, not in this case. The Stipulation in the GM-2012-0037 case, Paragraph 19(d),
16 Miscellaneous Conditions, provides:

17 If in its first general rate proceeding related to the acquired Atmos
18 properties, Liberty-Midstates proposes to alter the existing rate districts,
19 alter the existing rate classifications or to apply rate increases to customer
20 classes within a rate district in a manner other than as an equal percentage
21 increase to all customer classes and all rate elements, Liberty-Midstates
22 will prepare and submit to Staff and OPC a class cost of service study
23 together with detailed work papers for each district and customer class.
24 The class cost of service study work papers will be provided in electronic
25 format to Staff and Public Counsel at the time of Liberty-Midstates' direct
26 testimony filing.

27
28 The Company has not prepared a class cost of service study for this proceeding and, thus,
29 it is proposing that the revenue increases to customer classes within the existing rate

1 districts be applied on an across-the-board equal percentage basis to all customer classes
2 and all rate elements.

3 **Q. WHAT INCREMENTAL IMPACT WOULD THE PROPOSED INCREASE**
4 **HAVE ON THE COMPANY'S CUSTOMERS?**

5 A. After deducting ISRS charges already being collected, the approximate incremental
6 portion of the increase for a residential customer with average usage would be as follows:
7 NEMO -- \$9 a month; SEMO -- \$6 a month; and WEMO -- \$12 a month.

8 **INTRODUCTION OF WITNESSES**

9 **Q. PLEASE IDENTIFY THE OTHER COMPANY WITNESSES PRESENTING**
10 **DIRECT TESTIMONY IN SUPPORT OF THIS RATE PROCEEDING.**

11 A. In addition to my testimony, Liberty Utilities will present the direct testimony and
12 exhibits of three witnesses.

13 Christopher D. Krygier, Director, Regulatory & Government Affairs for Liberty
14 Utilities, is presenting testimony to explain how the Company has satisfied the
15 Commission's minimum filing requirements; to sponsor the Billing Determinants Study
16 for this case; to support the rates and tariff changes proposed; to address the Acquisition
17 Stipulation compliance; to sponsor special contracts with two industrial customers; and to
18 address the Company's policy proposals.

19 James Fallert, James Fallert Consultant, LLC, is presenting testimony addressing
20 the Company's Missouri jurisdictional revenue deficiency and cost of service, rate base
21 calculations and the calculation of depreciation expense.

22 Robert Hevert, Sussex Economic Advisors, is presenting testimony in support of
23 the Company's capital structure and return on equity.

1 CONCLUSION

2 **Q. DO YOU HAVE ANY CLOSING REMARKS?**

3 A. Liberty Utilities is dedicated to providing safe and reliable natural gas distribution
4 service, and we are confident that our operational philosophy of being local and
5 responsive will serve our customers and other stakeholders very well. I believe that the
6 rates requested in this filing are just, reasonable and in the public interest, and will allow
7 the company to meet its obligations to provide safe and reliable service and to earn a
8 reasonable return on its investment. As noted above, while the Company maintains a
9 strong focus on cost control, it is not immune from increasing costs, and the last general
10 rate case order was issued approving rates effective September 1, 2010.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes, it does.
13
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15

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

In the Matter of Liberty Utilities)
(Midstates Natural Gas) Corp. d/b/a)
Liberty Utilities' Tariff Revisions Designed)
To Implement a General Rate Increase)
For Natural Gas Service in the Missouri)
Service Areas of the Company.)

Case No. GR-2014-0152

AFFIDAVIT OF DAVID SWAIN

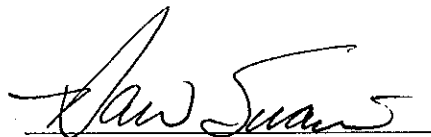
STATE OF MISSOURI)
) ss
COUNTY OF CAPE GIRARDEAU)

David Swain, being first duly sworn on his oath, states:

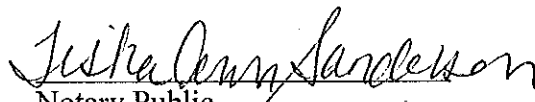
1. My name is David Swain. I am employed by Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty Utilities") as State President. My business address is 2370 N. High Street, Suite 1, Jackson, Missouri 63755.

2. Attached hereto and made a part hereof for all purposes is my Direct Testimony on behalf of Liberty Utilities, consisting of twelve (12) pages, all of which having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.


David Swain

Subscribed and sworn before me this 6th day of February, 2014.


Notary Public

My commission expires: 4-28-14

