Exhibit No.: _____
Issues: Pension, OPEB
Witness: James A. Fallert
Type of Exhibit: Direct Testimony
Sponsoring Party: Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty
Case No.: GR-2024-0106
Date Testimony Prepared: February 2024

**Before the Public Service Commission**
**of the State of Missouri**

**Direct Testimony**

**of**

**James A. Fallert**

**on behalf of**

**Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty**

**February 9, 2024**

Liberty™

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# I. INTRODUCTION

**Q. Please state your name and business address.**

A. My name is James A. Fallert. My business address is 3507 Burgundy Way Dr., St. Louis, MO, 63129.

**Q. By whom are you employed and in what capacity?**

A. I am an independent consultant doing business as James Fallert Consultant LLC.

**Q. On whose behalf are you testifying in this proceeding?**

A. I am testifying on behalf of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty ("Liberty" or "Company").

**Q. Please describe your educational and professional background.**

A. I graduated from Southeast Missouri State University in 1976 with a Bachelor's degree in Business Administration, majoring in administrative management. I received a Master's in Business Administration in 1981 from Saint Louis University, with a major in Finance.

I was employed by Laclede Gas Company (now known as Spire Missouri Inc.) from 1976 until February 2012, when I retired as Controller of the Company. In this position, I was responsible for the Company's Generally Accepted Accounting Principles ("GAAP") accounting (including pension accounting), budgeting, management information reporting, and financial planning functions. Following my retirement from Laclede, I founded James Fallert Consultant LLC and now provide consulting services regarding regulatory matters.

**Q. Have you previously testified before the Missouri Public Service Commission ("Commission" or "MPSC") or any other regulatory agency?**

A. Yes. While employed at Laclede Gas Company, I testified before the Commission in numerous rate cases and other matters. As a consultant, I have provided testimony before the Commission on behalf of Liberty Utilities (Midstates Natural Gas) Corp., The Empire District Electric Company ("EDE"), The Empire District Gas Company ("EDG"), and Laclede Gas Company. Also, I have provided testimony on behalf of EDE in Kansas, Oklahoma, and Arkansas, and on behalf of Liberty Utilities (Midstates Natural Gas) Corp. in Illinois.

**Q. What is the purpose of your Direct Testimony in this proceeding?**

A. I support the Company's request for the amount of Pension and Other Post-Employment Benefit ("OPEB") costs to be included in the revenue requirement in this case. Additionally, I support the inclusion in rate base of the prepaid pension and OPEB assets. I also support the amortization of tracker balances accumulated pursuant to the tracker authorized in the Company's previous rate case (File No. GR-2018-0013) and the inclusion of these balances in rate base.

I also support continuation of the Pension and OPEB trackers previously authorized in File No. GR-2014-0152 and renewed in File No. GR-2018-0013.

## II. PENSION AND OPEB EXPENSE

**Q. What is the amount of pension expense that Liberty is requesting in this case?**

A. This case includes total annual Missouri pension expense of $687,839 (of which $361,871 is applicable to SEMO, and $325,968 is applicable to WEMO and NEMO). This amount is based on 2023 net periodic benefit cost provided by the Company's actuary, reduced for allocations to construction and other jurisdictions, of $492,819, plus amortization of the accumulated tracker balance of $195,020.

**Q. What is the amount of OPEB expense that Liberty is requesting in this case?**

A. This case includes total annual Missouri OPEB credits of $232,871 (of which $122,514 is applicable to SEMO, and $110,357 is applicable to WEMO and NEMO). This amount is based on amortization of the accumulated tracker balance. I have included zero for net projected benefit cost.

**Q. Why have you proposed zero OPEB net projected benefit costs?**

A. Negative OPEB expense was recorded in 2023. The Company's proposal would instead set rates at zero but accumulate the difference in a regulatory liability to be returned to customers via reductions as expense becomes positive. This treatment is consistent with Paragraph 9.G. of the Stipulation and Agreement in File No. GR-2018-0013 which states:

> In the event that the ASC 715 OPEB expense becomes negative, the Company shall set up a regulatory liability to offset the negative expense. In future years, when such expense becomes positive again, the amount in rates will remain zero until the prepaid asset, if any, which was created by the negative expense, is reduced to zero. The regulatory liability will be reduced by the same rate as the prepaid asset. The regulatory liability is a non-cash item and should be excluded from rate base in future years.

**Q. Are these the final expenses for both pension and OPEB costs?**

A. The pension and OPEB costs are based on the actuarial calculations of the 2023 costs. To the extent that an updated calculation of pension and OPEB costs becomes available during the pendency of this case, it would be appropriate to consider this valuation and update the figures accordingly.

**Q. Have there been any noteworthy changes to accounting for the plans of which the Commission should be aware?**

A. Yes. In regard to pension expense, beginning in 2021 certain of the employees who provide services to multiple Liberty entities were reclassified into a separate group termed "Midstates2" in order to expedite the appropriate allocations of the associated expenses.

**Q. What are the implications of these changes on calculation of the appropriate expense for ratemaking purposes?**

A. The actuaries track and report the Midstates2 employees separately. It is simply necessary to include in the adjustment both the amounts directly charged to Liberty and the portion of Midstates2 employees allocated to Liberty.

## III. <u>RATE BASE</u>

**Q. What is the amount of rate base related to pensions and OPEBs that the Company is requesting in this case?**

A. This case includes total rate base related to pensions and OPEBs of $1,283,236 (of which $675,110 is applicable to SEMO, and $608,126 is applicable to NEMO and WEMO). This amount includes (1) the prepaid pension asset of $899,877 (2) the prepaid OPEB asset of $572,613 (3) pension regulatory asset of $975,101 and (4) OPEB regulatory liability of $1,164,355. The regulatory assets and liabilities are related to the trackers authorized in prior cases. The pension regulatory asset consists of $986,398 accumulated pursuant to the tracker authorized in File No. GR-2018-0013, partially offset by a reduction of $11,297 related to over-amortization of the balance from File No. GR-2014-0152. The OPEB regulatory liability consists of $1,125,684 accumulated pursuant to the tracker authorized in File No. GR-2018-0013 and a liability of $38,671 related to over-amortization of the balance from File No. GR-2014-0152.

**Q. Are these the final rate base amounts for both pension and OPEB costs?**

A. Since these amounts are balances based on actuarial calculations estimated for December 31, 2023, it would be appropriate to update these calculations to actual balances when available.

**Q. Do you have any additional comments regarding the amounts included in rate base?**

A. Yes. I provide additional explanation regarding the prepaid pension and OPEB assets in the following section of my Direct Testimony.

## IV. PREPAID PENSION AND OPEB ASSETS

**Q. Please provide a definition of the prepaid pension and OPEB assets.**

A. These prepaid assets are the difference between the cumulative amount that the Company has contributed to the trusts and cumulative pension and OPEB costs.

**Q. Why have you included these assets in rate base?**

A. Customer rates have been based on pension and OPEB costs. Since Liberty has contributed cash into the trusts in excess of the amount collected through rates, it is appropriate that this excess be included in rate base. This treatment is consistent with Paragraphs 9.A. and 9.D. of the Stipulation and Agreement in File No. GR-2018-0013. The last sentence of Paragraph 9.A. states:

> The difference between the amount of pension expense included in Liberty Utilities' rates after allocating to construction and the

> amount funded by Liberty Utilities during the rate-effective period of stipulated rates from this case shall be included in the Company's rate base in future proceedings.

Similar language is included in Paragraph 9.D. in regard to OPEBs and in the Stipulation and Agreement from File No. GR-2014-0152 as well.

**Q. Why has Liberty contributed amounts to the trusts greater than net periodic benefit cost?**

A. The expense included in rates is based on net periodic benefit cost actuarially determined in accordance with GAAP. However, the Stipulation and Agreements from the 2014 and 2018 rate cases specify that funding be based on an alternative regulatory calculation. Specifically, Paragraph 9.H. of the Stipulation and Agreement in File No. GR-2018-0013 requires use of an alternative calculation of amortization of gains and losses. The agreement in the 2014 case had similar language. This alternative regulatory calculation of net periodic benefit cost has resulted in the Company funding the trusts in amounts greater than the GAAP calculation. The agreements also permit funding of amounts greater than the regulatory calculation under certain circumstances.

**Q. Has the Company made contributions to the trusts in excess of the regulatory calculation of net periodic benefit cost?**

A. Yes. One of the aforementioned circumstances permits increasing the pension contribution in order to avoid payment of Pension Benefit Guarantee Corporation ("PBGC") variable premiums. The Company made excess pension contributions in 2015, 2016, and 2017 for this reason. Pension contributions subsequent to 2017 and OPEB contributions in all years have matched the regulatory net periodic benefit cost.

**Q. Please provide an explanation of the PBGC variable premiums.**

A. The PBGC is a government entity that provides benefits to participants in pension plans where the sponsor is unable to continue the plan and liabilities exceed assets. Plans are required to pay premiums to the PBGC for this protection. Premiums consist of a payment per participant in the plan, plus a possible variable premium. The variable premium is payable if the plan has unfunded vested benefits for the premium year and is a percentage of those liabilities. The Company's actuaries determined that there would be unfunded vested liabilities in 2015, 2016, and 2017 in the absence of additional contributions so the Company made the decision to increase contributions to avoid these premiums.

**Q. What were the potential savings resulting from the contributions made in excess of regulatory net periodic benefit cost?**

A. Excess contributions applicable to Missouri were $195,419 in 2015, $181,142 in 2016, and $199,705 in 2017. The PBGC variable premium rates in these years were 2.4%, 3.0%, and 3.4%, respectively. Therefore, variable premium savings amounted to $4,690, $5,434, and $6,790, respectively, for a total of $17,008.

**Q. Are these savings the only benefit derived from the excess contributions?**

A. Not at all. The greater benefit is the security achieved for the Company's employees by eliminating the unfunded vested liability. A healthy pension plan is a key requirement to attract and retain the right workers needed to safely and efficiently operate the Company. Also, the additional funds in the trust lead to higher investment returns which serve to reduce expense in subsequent years. The pension expense that is included in this case is significantly lower than it would have been in the absence of these contributions.

**V. PENSION AND OPEB TRACKERS**

**Q. Please describe the pension and OPEB trackers currently being employed by Liberty.**

A. These trackers were ordered by the Commission in prior cases, most recently in File No. GR-2018-0013. The trackers defer the difference between pension and OPEB expense as recorded and expense allowed in rates. This difference is accumulated in a regulatory asset or liability account, as appropriate, and is included in rates in a subsequent rate case via a five-year amortization.

**Q. Why were these trackers established?**

A. Pension and OPEB costs are subject to considerable volatility due to forces outside of the Company's control. The trackers ensure that the costs associated with these employee benefits are neither over- nor under-recovered in rates. The Company believes that the trackers are beneficial to all parties and should be continued in this case.

**VI. CONCLUSION**

**Q. Does this conclude your Direct Testimony at this time?**

A. Yes.

# VERIFICATION

I, James A. Fallert, under penalty of perjury, on this 9th day of February, 2024, declare that the foregoing is true and correct to the best of my knowledge and belief.

/s/ James A. Fallert