

Exhibit No.:
Issue(s): Advertising Expense,
Payroll & Payroll Tax Expense,
Severance Fuel Expense,
Dues and Donations
Witness: Benjamin H. Burton
Sponsoring Party: MoPSC Staff
Type of Exhibit: Direct Testimony
Case No.: GR-2024-0106
Date Testimony Prepared: July 18, 2024

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL & BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

DIRECT TESTIMONY

OF

BENJAMIN H. BURTON

LIBERTY UTILITIES (Midstates Natural Gas) CORP.,

d/b/a Liberty

CASE NO. GR-2024-0106

Jefferson City, Missouri
July 2024

**** Denotes Confidential Information ****

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BENJAMIN H. BURTON
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1 **DIRECT TESTIMONY**

2 **OF**

3 **BENJAMIN H. BURTON**

4 **LIBERTY UTILITIES (Midstates Natural Gas) CORP.,**

5 **d/b/a Liberty**

6 **CASE NO. GR-2024-0106**

7 Q. Please state your name and business address.

8 A. My name is Benjamin H. Burton, and my business address is 111 North 7th
9 Street, Suite 105, St. Louis, MO, 63101.

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

11 A. I am employed by the Missouri Public Service Commission (“Commission”) as
12 a Utility Regulatory Auditor.

13 Q. Have you previously filed testimony before this Commission?

14 A. Yes, I filed testimony as part of Case No. EA-2023-0286.

15 Q. Please describe your education.

16 A. As reflected in Schedule BHB-d1, attached to this testimony, I graduated from
17 Lindenwood University with a Bachelor of Science in Finance. I am currently enrolled in
18 Lindenwood University’s Master’s program pursuing my Masters in Business Administration
19 with an emphasis in Accounting.

20 Q. What is the purpose of your direct testimony?

21 A. The purpose of this testimony is to provide a detailed explanation for Staff’s
22 recommendations regarding fuel, advertising, payroll and payroll tax, severance, and dues and
23 donations expenses.

1 **ADVERTISING**

2 Q. Does Staff have a process and precedent for allowing recovery of advertising
3 costs?

4 A. Yes, Staff reviews each advertisement issued by the company during the
5 test year, in this case the twelve month period ending December 31, 2022. The ads are
6 examined and classified into one of the five categories defined within Case No. EO-85-185¹.

7 They include;

- 8 • Institutional/Goodwill- promote the name of the utility and boost a positive
9 image of the company to the public.
- 10 • Promotional- encourages customers to use more of the utility's product or
11 purchase additional services offered by the utility.
- 12 • Safety- these ads encourage the safe use of the utility's product, in this case gas.
- 13 • General- information to the general public such as open hours for an office and
14 peak use warnings.

15 If there are no benefits to the rate payer, then the cost incurred will be disallowed from
16 the advertising expense.

17 Q. Are there any specific costs incurred that Staff disallowed?

18 A. Yes. Staff disallowed any advertisement that was considered
19 institutional/goodwill or promotional, based on the standards set within Case No. EO-85-185.
20 Staff also disallowed all rebranding costs that were booked above-the-line, which means that
21 the costs are added into the revenue requirement that are then charged to customers. Rate payers
22 should not pay for the costs associated with rebranding as the decision to rebrand is within the

¹ In The Matter Of Kansas City Power & Light Company Of Kansas City, Missouri, For Authority To File Tariffs Increasing Rates For Electric Service Provided To Customers In The Missouri Service Area Of The Company. (Public Service Commission Reports Vol. 28 Pages 269-276).

1 utility's control and does not change the service that is ultimately provided to customers and
2 thus should not be recovered by customers.

3 **PAYROLL**

4 Q. Please explain Staff's examination of payroll expense in this case.

5 A. Staff's examination involved many steps in order to calculate payroll expense
6 for Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty's ("Liberty Midstates").
7 In summary, Staff analyzed a list of employees for both the test year period, 12 months ending
8 December 31, 2022 and the update period, 12 months ending December 31, 2023, that directly
9 charge or allocate time to Liberty Midstates. This information included which Liberty entity
10 the employee reports to, whether the employee is union or non-union, the last known date of
11 employment, the base salary, and the percentage of time that the employee spent working on
12 capital projects. Then, Staff calculated an annualized payroll level that included all active
13 employees at their most current salary as of December 31, 2023.

14 Q. How was overtime expense calculated?

15 A. Staff calculated overtime by reviewing a history of overtime hours actually
16 experienced and utilized a three-year average of years 2021, 2022, and 2023. Staff then
17 reviewed a history of cost incurred for the overtime hours on a historical basis and determined
18 that utilizing an average overtime rate was appropriate to apply to the normalized level of
19 overtime hours. The normalized amount of overtime was applied for each employee who
20 directly charged or allocated overtime costs to Liberty Midstates during 2023. The normalized
21 overtime amount was then added to base payroll to determine a total level of payroll expense.

1 Q. How did Staff know what capitalization rates to apply to each employee?

2 A. Staff received capitalization rates² that were broken down by each employee
3 separately, who directly charges or allocates a charge to Liberty Midstates'. This differs with
4 the calculation that Company uses in which each employee from the same allocation level
5 utilizes the same capital rate.

6 Q. Did Staff exclude employee labor related to lobbying from Staff's proposed
7 payroll expense?

8 A. Yes. In Liberty Midstates' response to Staff data request³, it states that a certain
9 employee had no time allocated to Missouri. However, after further research, Staff discovered
10 that the employee's salary related to lobbying work was included into payroll expense, so Staff
11 has removed the whole base salary of the employee.

12 Q. Does Staff agree with Company that vacant positions should be recovered
13 in rates?

14 A. No, Staff believes that the filling of vacant position salaries are not known and
15 measurable and no cost has been expensed. Therefore they are not recoverable.

16 Q. Have any other employee's labor costs been removed from Staff's payroll
17 calculation?

18 A. Yes. Staff has removed three employees for business development. Business
19 development's⁴ ** [REDACTED] **. ** Those costs should not be recovered by the
20 ratepayer because ** [REDACTED]
21 [REDACTED] **. **

² Confidential Response to Staff Data Request No. 0108.1.

³ Confidential Response to Staff Data Request No. 0102.

⁴ Confidential Response to Staff Data Request No. 0330.

1 **PAYROLL TAXES**

2 Q. Did Staff annualize payroll tax expense?

3 A. Yes. Staff utilized the 2023 payroll tax rates and applied them to Staff's
4 annualized payroll to determine the annualized payroll tax expense.

5 **SEVERANCE**

6 Q. What is severance and how does Staff examine severance costs for possible
7 inclusion in customer rates?

8 A. Severance is a compensation package that can be paid to an employee who has
9 been discharged from employment. When considering whether to include severance costs in
10 customer rates, Staff must determine if the "savings" the utility experiences from discharge of
11 the employee (i.e. the payroll, payroll taxes, employee benefits that are no longer being paid)
12 since the time of the employee's discharge through the effective date of new rates, exceeds the
13 cost of the severance paid out. If it does, the utility is believed to have recovered the severance
14 costs and any inclusion in rates would be considered double recovery. If the "savings" does
15 not exceed the severance amount paid out, Staff would need to determine the excess severance
16 amount (i.e. the amount over severance that exceeds "savings") and determine an appropriate
17 amount to include in rates, if any.

18 Q. Has Liberty Midstates incurred severance expense since its last rate case?

19 A. Yes. Liberty incurred severance for several employees whose labor cost was
20 allocated and direct charged to Liberty Midstates.

21 Q. What is Staff's recommendation on severance in this case?

1 A. Staff's position is to remove severance since it has been fully recovered in
2 savings as described above.

3 Q. Has the Commission ruled on severance in past general rate cases?

4 A. Yes, in its Report and Order in Case No. ER-2012-0166 the Commission
5 recognized that utilities benefit from the cost savings associated with severance outside of a
6 general rate case.⁵

7 **FUEL EXPENSE**

8 Q. Please explain fuel expense?

9 A. Fuel expense is the cost of gasoline and diesel fuel incurred by a utility for
10 owning their own fleet of vehicles.

11 Q. What is Staff's recommendation for fuel expense?

12 A. Staff recommends an adjustment to normalize fuel expense due to the levels of
13 increase in costs seen in 2022 by Liberty Midstates. The level of cost experienced during the
14 test year was the highest year recorded since 2018.

15 Q. What was the process that Staff utilized in order to determine its
16 recommendation for fuel expense?

17 A. Staff analyzed the number of vehicles owned and utilized by the utility,
18 number of gallons by fuel type used and the amount of dollars spent on fuel by month from
19 January 1, 2018 through December 31, 2023. Staff analyzed the price and gallons of fuel,
20 and found that calendar year 2022 was the highest amount recorded during the time period
21 under review. In order to normalize fuel expense to include in the cost of service,

⁵ Case No. ER-2012-0166, Commission Report and Order, page 61.

1 Staff determined the average price of a gallon of each fuel type for each month over the
2 five year period examined was appropriate. That price was then applied to the normalized
3 amount of gallons experienced in 2023. This methodology was applied to regular and diesel
4 fuel, since the data tends to fluctuate.

5 **DUES AND DONATIONS**

6 Q. Did Staff disallow a portion of Liberty Midstates' dues expense?

7 A. Yes. Staff disallowed a portion of dues for American Gas Association (AGA)
8 incurred during the test year for Liberty Midstates because a portion of the costs are attributed
9 to lobbying activities.

10 Q. What percentage of the dues go to lobbying?

11 A. 5.1 % of AGA dues are identified as lobbying costs. That is the amount that
12 Staff proposes be disallowed.

13 Q. Does this conclude your direct testimony?

14 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

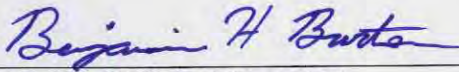
In the Matter of the Request of Liberty)
Utilities (Midstates Natural Gas) Corp.) Case No. GR-2024-0106
d/b/a Liberty to Implement a General Rate)
Increase for Natural Gas Service in the)
Missouri Service Areas of the Company)

AFFIDAVIT OF BENJAMIN H. BURTON

STATE OF MISSOURI)
) ss.
CITY OF St. Louis)

COMES NOW BENJAMIN H. BURTON and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Direct Testimony of Benjamin H. Burton*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



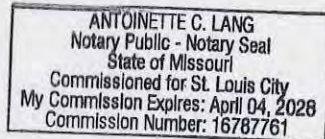
BENJAMIN H. BURTON

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the City of St. Louis, State of Missouri, at my office in St. Louis, MO, on this 16th day of July 2024.



Notary Public



Benjamin H. Burton

Present Position:

I am a Utility Regulatory Auditor, Auditing Department, Financial & Business Analysis Division of the Missouri Public Service Commission. As a Utility Regulatory Auditor, I assist in research and analysis of the financial aspects of public utility operations.

Educational Credentials and Work Experience:

I received a Bachelor of Science degree in Finance from Lindenwood University in May 2023, and currently enrolled in Lindenwood University's Masters of Business Administration (MBA) degree program working toward an MBA with an emphasis in Accounting. I have been employed by the Missouri Public Service Commission since June 2023.

Prior to my present position I worked part-time as an intern for the Commission's St. Louis Unit from March 2023 through June 2023. My duties during this time period primarily consisted of compiling large volumes of data into Microsoft Excel spreadsheets for review and analysis as part of a large formal water and sewer rate case. From June 2022 through August 2022 I also completed an internship as a data analytics consultant with New York Life Insurance Company while working in New York City, NY. My duties as an intern included creating Microsoft Excel documents that were presented to a New York Life management team on a daily, monthly and quarterly basis.

Past Rate Case Proceedings:

<u>Company Name</u>	<u>Case No.</u>	<u>Issue(s)</u>
Union Electric Company dba Ameren Missouri	EA-2023-0286	General Ledger and Recordkeeping (Renewable Solutions Program and Boomtown Order)