

Exhibit No.:
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Tax Expense
Witness: Benjamin H. Burton
Sponsoring Party: MoPSC Staff
Type of Exhibit: Surrebuttal Testimony
Case No.: GR-2024-0106
Date Testimony Prepared: September 19, 2024

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL & BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

SURREBUTTAL TESTIMONY

OF

BENJAMIN H. BURTON

LIBERTY UTILITIES (Midstates Natural Gas) CORP.,

d/b/a Liberty

CASE NO. GR-2024-0106

Jefferson City, Missouri
September 2024

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1 A. Yes. However, there are multiple drivers to payroll expense, such as the number
2 of employees, portion of an employee’s salary is allocated to a certain affiliate utility, and the
3 salary amount itself. Staff agrees with Liberty Midstates’ witness Emery that payroll expense
4 normally would increase. However, Staff utilized data provided from Liberty Midstates to
5 perform its normal payroll calculation and is willing to update its calculation based on any new
6 information that can be provided.

7 Q. Can you describe how Staff annualized payroll?

8 A. Yes. Staff annualized payroll on an employee by employee basis for employees
9 that directly charged or allocated time to Liberty Midstates. Through data request responses,
10 Staff gathered each employee’s full annual salary as of December 31, 2023,¹ the percentage of
11 time that the employee spent working on capital projects, the percentage of allocation for which
12 each employee allocated payroll expense to Liberty Midstates and the amount of overtime
13 worked if they incurred any; directly or allocated to Missouri. Staff began by taking the given
14 base salary for each employee, applied the appropriate allocation percentage for 2023, based
15 upon which Liberty Utilities entity the employee works for, and then determined the appropriate
16 amount of the salary to be capitalized and expensed utilizing the capitalization rate provided by
17 Liberty Midstates in response to Staff Data Request No. 0108.1. Then, Staff annualized
18 overtime and determined the appropriate delineation of overtime that would be considered
19 capital and expense (O&M portion) using the same information given in Staff Data Request
20 No. 0108.1. Next, the O&M portion of the base salary was added to the O&M portion of
21 the overtime expense and allocated to each Missouri district with the allocations provided in

¹ Staff Data Request No. 0240.

1 Data Request No. 0108.1. The final calculations in each district are the annualizations that Staff
2 has made based on the data provided by Company.

3 Q. Can you describe how Liberty Midstates annualized payroll?

4 A. Yes. Liberty Midstates also annualizes payroll individually on an employee by
5 employee basis, however slightly differently. To begin, Liberty takes the employee's 2023 base
6 salary and multiplies it by the appropriate 2023 CAM² allocation percentage to allocate the
7 correct amount of salary down to Missouri, regardless of whether that was the actual amount
8 allocated for each employee in the test year. This is then multiplied by the overtime
9 percentage rate that Liberty Midstates developed to calculate the overtime annualization also
10 regardless of whether that employee is eligible for or would actually incur overtime. Separately,
11 the total annualized payroll is distributed into FERC³ accounts. The same follows for the
12 overtime amount and the amount that Liberty Midstates added for open positions. The three
13 amounts are then added together and subtracted from the test year. The final number is Liberty
14 Midstates adjustment that is then allocated to FERC accounts that are both expense and
15 capitalized accounts.

16 Q. In its recommended payroll annualization, did Staff include open employee
17 positions as proposed by Liberty Midstates and if not please explain?

18 A. No. Staff believes that open positions should not be added into rates because
19 there is simply no expense incurred. Staff has updated its case to the end of the update period,
20 December 31, 2023, to include all active employee positions. The amounts that Liberty
21 Midstates has included are not known and measurable. If vacant positions are included in the

² Cost Allocation Manual ("CAM").

³ Federal Energy Regulatory Commission (FERC).

1 cost of service, Liberty Midstates would essentially be receiving amounts in rates for possible
2 future employees' salaries that aren't being incurred during the test year or during the update
3 period until filled, if they are ever filled.

4 Q. Can you explain how Staff annualized overtime expense?

5 A. Yes. Staff received information in response to Staff Data Request Nos. 0108
6 and 0111 that initially contradicted each other. Staff reached out to Liberty Midstates
7 and determined the correct overtime amounts. After analyzing the information, Staff agrees
8 with part of Liberty Midstates' proposed overtime annualization calculation in that
9 Staff's recommendation should be based on a three-year average of overtime hours worked
10 (2021, 2022, & 2023). However, Staff disagrees on how the overtime rate, which is applied to
11 the three-year average of overtime hours, was calculated. Staff recommends using the average
12 overtime rate that occurred in 2023 (amount paid/overtime hours), while Liberty Midstates'
13 methodology simply applied the rate that occurred in December 2022. Staff disagrees with
14 using this rate because this only reflects one month that experienced a high amount of overtime
15 hours and thus high overtime dollars were expensed.

16 Staff then analyzed each employee that actually incurred overtime in 2023 and utilized
17 a pro-rata formula to distribute the overtime expense between employees who incurred
18 overtime. Liberty Midstates utilized a calculation that includes every employee's base salary,
19 then divided that by the entire annualized amount of overtime, developing a percentage that
20 was then applied to all employees. This reflects an assumption of an increase in overtime for
21 every employee, including employees that did not actually incur overtime.

22 Q. Is Staff using a unique approach to annualizing payroll expense in this case?

1 A. No. Liberty Midstates incurs costs for payroll expense from different
2 Liberty Utilities' affiliates, including 100% from some employees that perform work for only
3 Liberty Midstates in Missouri. Some entities allocate a portion of their employee payroll
4 expense directly or indirectly to Liberty Midstates, and the portion allocated is determined by
5 which affiliate entity the employee works for. The percentage of payroll expense that is
6 allocated to Liberty Midstates for any certain affiliate is determined through the CAM.⁴
7 In Liberty Midstates' last rate case, Staff's outside consultant reviewed the allocated cost and
8 proposed some disallowance adjustments to allocated payroll while another Staff member
9 annualized the payroll expense at the Liberty Midstates level. Staff's methodology for
10 annualizing payroll in this case is consistent with previous Liberty Midstates rate cases with
11 one exception. In this case Staff performed an employee by employee annualization calculation
12 utilizing all levels of employees (with the exception of Algonquin Power Utility Corp.
13 employee payroll that is indirectly charged and allocated) rather than just performing an
14 annualization of Liberty Midstate's employees only and accepting unadjusted allocated payroll
15 that comes down to Liberty Midstates. Staff uses the same test year that Liberty Midstates
16 adjusts against, and uses data that is known and measurable per Liberty Midstates' response to
17 Staff's data requests.

18 Q. Liberty Midstates witness Emery states in her rebuttal testimony on page 13,
19 lines 20-23, that Staff disregards the amount of payroll and associated costs included in the test
20 year and attempts to recalculate an annual amount of payroll associated costs. Did Staff
21 disregard the 2022 test year payroll and associated costs?

⁴ For a complete discussion regarding the Liberty Utilities affiliate entities and cost allocation methodology, please see the direct testimony of Staff witness Lisa M. Ferguson.

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1 A. No. Staff’s annualization of payroll includes the actual payroll salaries as of
2 December 31, 2023, for all active employees at their appropriate allocated and expensed
3 amount. By utilizing the “annual” salaries at December 31, 2023, the salaries should, by
4 default, include the salaries that existed during the test year for employees who are still
5 employed as of December 31, 2023, and that salary should also include any payroll increases
6 that occurred during 2023. When the annualized amount is adjusted against test year, the
7 adjustment is the increase or decrease in the overall annual payroll that occurred between test
8 year and the update period.

9 Q. Beginning on page 13 line 23 of Liberty Midstates witness Emery’s rebuttal
10 testimony, she states that Staff appears to apply capital rates as well as estimated allocations of
11 time to employee’s estimated wages. Did Staff “estimate” allocations of time and “estimate”
12 wages in its payroll calculations?

13 A. No. Staff applied the allocation factors and capitalization rates that were
14 provided in response to Staff Data Request No. 0108.1 as well as used the known and
15 measurable salaries provided in response to Staff Data Request No. 0240. All of the allocation
16 percentages utilized by Staff are known and measurable since Staff asked for allocations of time
17 that Liberty Utilities employees actually spent on Liberty Midstates activities for the period of
18 January 1, 2022, through December 31, 2023. However, after filing its direct testimony, Staff
19 had discussions with Liberty Midstates personnel who expressed concern that the portion of
20 some of the Central Region and Liberty Midstates employee’s payroll expense that was being
21 allocated to Liberty Midstates, was not accurate. Staff explained that the calculation reflects
22 the response given to Staff through Data Request No. 0108.1, but the Company relayed that the
23 information should be refined for a handful employees. Staff obtained timesheets for these

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1 certain employees who demonstrated a percentage of payroll that is now included in Staff's cost
2 of service. Staff did not estimate wages. Staff relied on data directly from the response to
3 Data Request No. 0240 that listed each employee by employee number, name, district, and their
4 base salary prior to capitalization as of December 31, 2023, along with the number of annual
5 hours the employee worked. Therefore, the data utilized by Staff is known and measurable.

6 Q. Did Staff address the Central Region and Liberty Midstates supplemented Data
7 Request No. 0108.1 in rebuttal testimony?

8 A. Yes, in rebuttal testimony I updated the allocation levels of a number of Central
9 Region and Liberty Midstates employees after verifying that the supplemented information was
10 correct with the timesheet information that was provided.

11 Q. On page 14, lines 9-16, of Charlotte T. Emery's rebuttal testimony, she states
12 that Liberty Midstates agrees with the removal of labor cost associated with government
13 relations in the cost of service. Did Liberty Midstates reflect this removal in their rebuttal cost
14 of service?

15 A. Yes.

16 Q. Regarding business development labor costs, why does Staff believe that the
17 payroll costs for these employees should not be included in rates?

18 A. Liberty Midstates provided a job description for the director of business
19 development as part of the response to Staff Data Request No. 0330. The job description itself
20 explains that the employee positions are to "create new business opportunities in the regulated
21 and unregulated utility environment," as well as "enhance existing offerings to improve overall
22 profitability, earnings, and strategic positioning." These employees are also paid to work on
23 acquisitions and growth. While part of this could benefit customers, it also benefits

1 shareholders. For further discussion regarding business development cost removal, please see
2 the surrebuttal testimony of Lisa M. Ferguson.

3 Q. From Staff's perspective, what differences in position exist between Staff and
4 Liberty Midstates payroll expense?

5 A. Since Staff and Liberty Midstates have the same goal of annualizing employee
6 payroll at December 31, 2023, there may be slight differences but the ending point should be
7 similar. The position differences that Staff is aware of that should exist as of this Surrebuttal
8 filing, is the difference in payroll expense annualization with regard to removal of business
9 development employees, not including vacant job openings, the calculation of overtime, and
10 the capitalization rates applied to the annualized payroll salaries.

11 Q. Did Staff make any corrections to payroll expense and payroll tax for Surrebuttal
12 testimony?

13 A. Yes. After discussions with Liberty Midstates and an effort to stay consistent,
14 Staff excluded the payroll of an employee whose job deals with the North American Electric
15 Reliability Corporation ("NERC"). In previous testimony, Staff agreed with Company that
16 these employee's salaries do not get recovered in rates. Previously, this employee's title was
17 not a NERC job title and therefore was not excluded.

18 **PAYROLL TAXES**

19 Q. Similar to payroll expense, did Staff "estimate" any allocation percentages to
20 calculate payroll tax expense?

21 A. No. The same allocation percentages that were used to develop payroll
22 expense were utilized to calculate payroll tax expense. These allocations were provided in Data
23 Request No. 0108.1.

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1 Q. Were there any other points of interest on payroll taxes?

2 A. No. Payroll tax expense is tied directly to payroll expense and will change as
3 the annualized payroll expense changes.

4 Q. Does this conclude your surrebuttal testimony?

5 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.)
d/b/a Liberty to Implement a General Rate)
Increase for Natural Gas Service in the)
Missouri Service Areas of the Company)


Case No. GR-2024-0106

AFFIDAVIT OF BENJAMIN H. BURTON

STATE OF MISSOURI)
)
COUNTY OF ST LOUIS) ss.

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 *Surrebuttal 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.

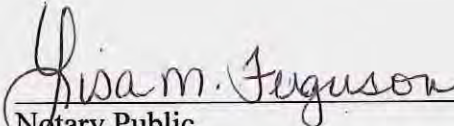


BENJAMIN H. BURTON

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of St. Louis, State of Missouri, at my office in ST. LOUIS, on this 17th day of September 2024.

LISA M. FERGUSON
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: June 23, 2028
Commission Number: 16631502



Notary Public