

Exhibit No.:

Issue(s): *Property Taxes,
Property Tax Tracker,
Employee Healthcare,
401(k) Match Expense,
Incentive
Compensation,
Pensions & OPEBs*

Witness: *Jane C. Dhority*

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 AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

SURREBUTTAL TESTIMONY

OF

JANE C. DHORITY

LIBERTY UTILITIES (Midstates Natural Gas) CORP.,

d/b/a Liberty

CASE NO. GR-2024-0106

*Jefferson City, Missouri
September 2024*

**** Denotes Confidential Information ****

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JANE C. DHORITY
LIBERTY UTILITIES (Midstates Natural Gas) CORP.,
d/b/a Liberty
CASE NO. GR-2024-0106**

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1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **JANE C. DHORITY**

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 Jane C. Dhority, and my business address is 111 North 7th Street,
9 Suite 105, St. Louis, MO 63101.

10 Q. Are you the same Jane C. Dhority who prepared and filed direct and rebuttal
11 testimony in this case?

12 A. Yes, I am.

13 **EXECUTIVE SUMMARY**

14 Q. What is the purpose of your surrebuttal testimony?

15 A. The purpose of this testimony is to respond to rebuttal testimonies filed by
16 Liberty Midstates witnesses Charlotte Emery (property taxes and tracker, employee benefits,
17 401(k) match expense), Jill Schwartz (incentive compensation), and James Fallert (pensions
18 and other post-employment benefits (“OPEBs”)).

19 **PROPERTY TAXES AND PROPERTY TAX TRACKER**

20 **Property Tax Expense**

21 Q. What is Staff’s recommended amount of annualized property tax expense?

22 A. Staff recommends including an annualized amount of property tax expense
23 equal to actual property tax expenses incurred during the 12 months ending December 31, 2023.

1 Staff further recommends that this annualized level of property taxes serve as the baseline for
2 a property tax tracker to begin in this case.

3 Q. Ms. Emery states that Liberty Midstates does not agree with Staff's calculation
4 of the Company's property tax expense. One of the reasons cited is that:

5 Due to a significant amount of capital investment in the Update Period,
6 the Company will undoubtedly experience an increase in Property Tax
7 Expense that can be estimated. The Company has revised its Property
8 Tax Expense adjustment to reflect a reasonably expected level of
9 expense based upon plant in service through the Update period...¹

10 How does Staff respond to Ms. Emery's statement?

11 A. Ms. Emery's position is inappropriate, as it is not based on known and
12 measurable amounts. Furthermore, any capital investment made by Liberty Midstates during
13 the update period in this case would be reflected in the Company's property tax bill due
14 December 31, 2024, **12 months after the cutoff date for the update period in this case.**²

15 Furthermore, Staff reviewed Ms. Emery's workpapers for this adjustment that
16 accompanied Liberty Midstates' direct filing to those she prepared for her rebuttal filing, and
17 the amount of annualized property tax expense she included in Liberty Midstates' revised
18 rebuttal filing is \$1,752,960 less than Liberty Midstates' original amount.

19 Q. What are the drivers of this significant decrease in Liberty Midstates' requested
20 annualized property tax expense?

21 A. Staff submitted Data Request ("DR") 0355 on August 29, 2024, which asked
22 Liberty Midstates to provide an explanation for differences between Liberty Midstates' direct

¹ Charlotte Emery Rebuttal, pg. 15, ll. 22 through pg. 16, ll. 2

² Property taxes for a given year are assessed on property owned on January 1 of that year. Generally, assessments are received in April of the given tax year, and are payable on December 31 of that year.

1 position and its revised rebuttal filing. The response provided by Liberty Midstates on
2 September 6, 2024, stated that:

3 Upon review of the Company’s adjustment, it was determined that the
4 Company inadvertently included intangible plant in the calculation for
5 estimated property tax. While the methodology for the calculation
6 largely remained the same, two slight adjustments were made: 1) The
7 Company excluded non-taxable plant and 2) The Company used net
8 plant for the basis of its calculation as opposed to gross plant.

9 Q. Ms. Emery’s rebuttal testimony mentions additional differences in property tax
10 expenses between Staff and Liberty Midstates. Has Staff addressed these differences?

11 A. Yes. Staff’s rebuttal filing included a correction which Staff believes resolves
12 the differences discussed in Ms. Emery’s rebuttal testimony.

13 Property Tax Tracker

14 Q. Provide a brief explanation of the Senate Bill 745 (“SB 745”) property
15 tax tracker.

16 A. SB 745, which codified section 393.400.2, RSMo, and became effective on
17 August 28, 2022, states that utilities must defer to a regulatory asset or liability account any
18 difference in state or local property tax expenses actually incurred, and **those on which the**
19 **revenue requirement used to set rates in the utility’s most recently completed general rate**
20 **proceeding was based.** The regulatory asset or liability account balances must be included in
21 rate base in the utility’s next general rate case and recovered or returned to customers via an
22 amortization. (Emphasis added).³

³ § 393.400.2, RSMo, states as follows: “Electrical corporations, gas corporations, sewer corporations, and water corporations shall defer to a regulatory asset or liability account any difference in state or local property tax expenses actually incurred, and those on which the revenue requirement used to set rates in the corporation’s most recently completed general rate proceeding was based. The regulatory asset or liability account balances shall be included in the revenue requirement used to set rates through an amortization over a reasonable period of time in such corporation’s subsequent general rate proceedings. The commission shall also adjust the rate base used to establish the revenue requirement of such corporation to reflect the unamortized regulatory asset or liability

Surrebuttal Testimony of
Jane C. Dhority

1 Q. Ms. Emery states:

2 Staff's position appears to be that the Company should not have begun
3 deferring/tracking under the new mechanism on the date the statute
4 became effective, and instead, should wait until new general rates
5 become effective in this case going forward. See Staff witness
6 Lisa M. Ferguson's direct testimony, at p. 12, l. 20 – p. 13, l.2.⁴

7 Is this, in fact, Staff's position regarding property tax deferrals?

8 A. No, this is not Staff's position. Furthermore, Staff cannot reconcile how
9 Ms. Emery made that determination based on the portion of Staff testimony to which she
10 is responding.

11 Q. Please summarize Liberty Midstates' position regarding the property tax tracker.

12 A. Liberty Midstates' witness Ms. Emery seeks to include a property tax regulatory
13 asset balance and amortization in this case for actual property tax expenses incurred for the
14 period beginning on the date the statute became effective (August 28, 2022) through the end of
15 the update period in this case (December 31, 2023). Liberty Midstates is recommending the
16 property tax regulatory asset balance be amortized over a three-year period.

17 Q. Does Staff agree with that position?

18 A. No.

19 Q. Please explain.

20 A. Without a stated amount of property tax expense being recovered by the utility
21 in rates, there is no way to compare it to actual property taxes incurred to determine the amount
22 of over-collected or under-collected property tax expense. Liberty Midstates' most recently

account balances in such general rate proceedings. Such expenditures deferred under the provisions of this section are subject to commission prudence review in the next general rate proceeding after deferral.”

⁴ Charlotte Emery Rebuttal, pg. 7, ll. 10 - 14

1 completed general rate proceeding in 2018, Case No. GR-2018-0013, was resolved in a black
2 box settlement; no stated amount of property tax expense was contemplated.

3 Q. Ms. Emery’s rebuttal testimony regarding the property tax tracker states that
4 “the largest gas, water and electric public utilities in the state have been allowed to employ the
5 statutory mechanism when the statute became effective instead of being required to wait until
6 after a subsequent general rate proceeding.”⁵ How does Staff respond?

7 A. Staff’s position in this case is consistent with its position in other rate case
8 proceedings. Ms. Emery’s assertion that other utilities have been “allowed” to begin deferring
9 property taxes as of the statute’s effective date while Liberty Midstates is required to wait
10 is incorrect.

11 Q. In her rebuttal testimony, Ms. Emery cites three cases as support that Liberty
12 Midstates is receiving different treatment than other large utilities with regard to the SB 745
13 property tax tracker. Please explain the aspects of each case which Ms. Emery believes supports
14 her assertion that Liberty Midstates is receiving disparate treatment.

15 A. The cases Ms. Emery relies upon to support inclusion of a property tax
16 regulatory asset and amortization in Liberty Midstates’ revenue requirement in this case are
17 summarized below:

18 1. In Spire’s rate case, No. GR-2022-0179, the Commission approved a
19 *Full Unanimous Stipulation and Agreement*. As part of that agreement, Spire was to reflect a
20 property tax deferral from January 1, 2022, through the effective date of rates in that case.

21 2. Missouri American Water (“MAWC”) case No. WR-2022-0303 was also settled
22 via a *Stipulation and Agreement*. This agreement allowed the MAWC to reflect a property tax

⁵ Charlotte Emery Rebuttal, pg. 9, ll. 1 - 3

1 deferral from September 1, 2022, through the effective date of rates, even though the utility's
2 most recently completed general rate proceeding concluded in a black box settlement in which
3 no stated amount of property tax expense was contemplated.

4 3. In Ameren Missouri's most recently completed rate case, No. ER-2022-0337,
5 the Commission approved a *Stipulation and Agreement* between the parties. The parties to that
6 *Stipulation* agreed that Ameren Missouri was to reflect a property tax deferral for the period
7 beginning September 1, 2022, through the effective date of rates in that case. Similar to the
8 MAWC case discussed above, Ameren Missouri's most recently completed general rate case
9 prior to the 2022 case also concluded in a settlement with no stated property tax expense amount
10 to use as a baseline in the tracker.

11 Q. Does Staff agree with Ms. Emery that the utility companies that were party to
12 the rate cases referenced above received different treatment than what Liberty Midstates is
13 receiving in this current case?

14 A. No. What Ms. Emery fails to recognize is that Staff's recommendation
15 regarding property tax tracker balances is consistent across all three cases cited in her testimony,
16 as well as this instant case. Furthermore, inclusion of a regulatory asset in each utility's cost of
17 service was permitted as part of the agreement between the signatories of the respective
18 *Stipulation and Agreements*. Commission approval of the agreements in those rate cases does
19 not constitute a ruling on the issue. In fact, the Commission did not issue a report and order in
20 any of the cases mentioned above that specifically contemplated inclusion of a property tax
21 tracker balance that was not based on the stated amount of property tax expense set in a utility's
22 previous rate case.

1 Q. In her rebuttal testimony, Ms. Emery compares Liberty Midstates' position on
2 the property tax tracker to the *Stipulation and Agreement* filed in Case No. WR-2022-0303.
3 She states that the *Stipulation and Agreement* in MAWC's rate case is "nearly identical with
4 the Company's position to track and record property tax deferrals beginning the effective date
5 of the statute and demonstrates that there is no need for the Commission to have explicitly set
6 a property tax base in its last case order for the Company."⁶ Does Staff agree with Ms. Emery?

7 A. Not at all. The terms of the *Stipulation and Agreement* filed in Case
8 No. WR-2022-0303 were the product of negotiations between the parties to that case. There is
9 no correlation between the agreement in MAWC's rate case and the amount of property tax
10 expense used to set rates in Liberty Midstates' most recently completed general rate case.

11 Q. Ms. Emery refers to the *Stipulation and Agreement* in Case No. ER-2022-0337
12 and states "the Commission authorized Ameren Missouri, who also did not have a stated
13 property tax amount ordered by the Commission in its immediately preceding general rate case,
14 to reflect the property tax deferral from September 1, 2022. Case No. ER-2022-0337, filed
15 April 7, 2023, Exhibit C."⁷ How does Staff respond?

16 A. Again, the terms of the *Stipulation and Agreement* in Ameren Missouri's 2022
17 rate case are irrelevant in setting a baseline for a property tax tracker as part of this instant
18 rate case.

⁶ Charlotte Emery Rebuttal, pg. 9, ll. 19 - 23

⁷ Charlotte Emery Rebuttal, pg. 10, ll. 1 - 6

EMPLOYEE HEALTHCARE AND 401(K) MATCH EXPENSE

Employee Healthcare

Q. Does Liberty Midstates agree with Staff's recommended amount of employee healthcare expense in this case?

A. There were inaccuracies in both Liberty Midstates' and Staff's calculation to annualize employee healthcare expenses. After discussions with the Company on the matter, Staff believes the issue has been resolved.

401(k) Match Expense

Q. Does Liberty Midstates agree with Staff's recommended amount of 401(k) match expense in this case?

A. No. Liberty recommends using the annualized amount of 401(k) match expense shown in its rebuttal revenue requirement.⁸

Q. Please describe Liberty Midstates' Missouri's EXP ADJ 9 that supports its proposed level of employee benefits.

A. According to Ms. Emery's rebuttal workpapers for EXP ADJ 9 - Employee Benefits, the purpose of the adjustment is to

** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] ⁹ **

Ms. Emery made three pro forma adjustments to employee benefits to arrive at Liberty Midstates requested annualized level of these expenses. One adjustment is to employee health

⁸ Charlotte Emery Rebuttal, pg. 18, ll. 7 - 8

⁹ ** [REDACTED] **

1 care expense, which Staff has addressed earlier in this testimony. The remaining adjustments
2 pertain to 401(k) match expense.

3 According to her confidential workpapers, Ms. Emery's first adjustment to ** [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED] . **

13 The second pro forma adjustment to ** [REDACTED]

14 [REDACTED] 10 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED] . **

20 Q. Does Staff agree with Ms. Emery's revised annualized amount of 401(k)
21 match expense?

10 ** [REDACTED] **

1 A. No. Ms. Emery’s open position adjustment is inappropriate as it is not based on
2 known and measurable amounts. Staff witness Benjamin Burton addresses Liberty Midstates
3 proposal to include payroll related costs for open position in his surrebuttal testimony filed in
4 this case. Additionally, Ms. Emery’s adjustment to annualize 401(k) match expense
5 contemplates a 2024 merit increase as well as a 2024 401(k) employer match percentage,
6 both of which occurred after the December 31, 2023, update cutoff in this case.

7 *Error Corrections*

8 Q. In her rebuttal testimony, Ms. Emery states that Liberty Midstates disagrees with
9 Staff’s adjustment to capitalized benefit expense due to an error in Staff’s calculation of the
10 adjustment.¹¹ How does Staff respond?

11 A. Staff has addressed the error in its capitalization adjustment for employee
12 benefits as part of its rebuttal filing and believes the matter has been resolved.

13 **INCENTIVE COMPENSATION**

14 Q. Liberty Midstates witness Jill Schwartz states that Staff did not provide a
15 detailed explanation of the basis for its proposed adjustments.¹² How does Staff respond?

16 A. Ms. Schwartz is incorrect. Ms. Schwartz included the explanation Staff
17 provided in its direct testimony within the same paragraph in which she states Staff did not
18 provide detail¹³.

19 Q. Did Liberty Midstates make any attempts to obtain further detail regarding
20 Staff’s position on this issue?

¹¹ Charlotte Emery Rebuttal, pg. 16, ll. 14 - 18

¹² Jill Schwartz Rebuttal, pg. 3, ll. 12 - 13

¹³ Jill Schwartz Rebuttal, pg. 3, ll. 13 - 17

Surrebuttal Testimony of
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1 A. No.

2 Q. In her rebuttal testimony, Ms. Schwartz states, “In addition, Ms. Dhority
3 proposes to remove all capitalized short-term incentive compensation paid out in 2018 and 2019
4 because they were unable to determine how much of the amounts pertained to each incentive
5 compensation plan.”¹⁴ Is this Staff’s proposal?

6 A. No. Staff did not recommend removing *all* of the payouts for short-term
7 incentive compensation for the years in question. Staff’s adjustment to short-term incentive
8 compensation payouts removed the portion of those payouts tied to earnings-based Key
9 Performance Indicators (“KPIs”).

10 With regard to capitalized short-term incentive compensation paid out in 2018 and 2019,
11 Staff was unable break down the payments by plan because the information provided by Liberty
12 Midstates pertaining to these payouts did not include detail sufficient for Staff to adjust each
13 plan individually for each year. In order to ensure ratepayers were not shouldered with the costs
14 of the short-term earnings-based incentives paid out by Liberty Midstates, Staff removed the
15 total short-term payout amounts tied to earnings-based KPIs for both years as a whole.

16 Q. Does Liberty Midstates agree with Staff’s recommendation?

17 A. No.

18 Q. What is Staff’s understanding of Liberty Midstates’ position regarding incentive
19 compensation in this rate case?

¹⁴ Jill Schwartz Rebuttal, pg. 3, ll. 18 - 20

Surrebuttal Testimony of
Jane C. Dhority

1 A. Liberty Midstates believes that incentive compensation paid to employees and
2 included in the Company's revenue requirement is reasonable and provides balance and benefits
3 for customers.¹⁵

4 Q. What reasons does Ms. Schwartz offer in support of Liberty Midstates' position
5 regarding incentive compensation?

6 A. In her rebuttal testimony, Ms. Schwartz explains that incentive compensation
7 plans are a common mechanism for motivating employees, and a compensation element has
8 become necessary in order to retain and attract new employees.¹⁶

9 Additionally, Ms. Schwartz states that incentive compensation based on operation or
10 service goals can benefit ratepayers by improving the quality of the service they receive.
11 Ms. Schwartz also states that ratepayers can also benefit when employees respond positively to
12 financial-based incentives.¹⁷

13 Q. Does Staff agree with Ms. Schwartz's position?

14 A. Staff agrees with Liberty Midstates' position that incentive compensation plans
15 are important tools for motivating employees and attracting and maintaining talent. Staff also
16 agrees with Liberty Midstates that incentives tied to operational or service goals can benefit
17 ratepayers through improved services. However, Staff does not agree with Ms. Schwartz's
18 statement that ratepayers can benefit from rewarding Company employees for increasing
19 Liberty Midstates' earnings.

¹⁵ Jill Schwartz Rebuttal, pg. 5, ll. 18 - 19

¹⁶ Jill Schwartz Rebuttal, pg. 3, ll. 22 through pg. 4, ll. 6

¹⁷ Jill Schwartz Rebuttal, pg. 4, ll. 9-15

1 Q. What reason did Ms. Schwartz provide in support of her statement
2 that ratepayers can benefit when Liberty Midstates' employees respond positively to
3 financial-based incentives?

4 A. According to her testimony, Ms. Schwartz believes that "customers can also
5 benefit when employees respond positively to financial-based incentives. Whether that
6 response results in increased revenues or decreased costs, producing better earnings in the
7 short-term, customers ultimately reap the benefits through lower rates when such increased
8 revenues or reduced costs are captured in the cost of service."¹⁸

9 Q. How does Staff respond to the rationale provided by Ms. Schwartz in support of
10 earnings-based incentive compensation?

11 A. Staff does not see how Ms. Schwartz arrived at her conclusion. Staff submitted
12 DR 0360, attached as schedule JCD-s2 which asked Liberty Midstates to provide all
13 documentation which supports Ms. Schwartz's statement above. DR 0360 also asked whether
14 Liberty Midstates had conducted any studies to determine what benefits (if any) its ratepayers
15 receive as a result of the Company's employees responding positively to financial-based
16 incentives, and to list and describe all direct and quantifiable benefit received by ratepayers that
17 are the result of positive employee responses to earnings-based incentive compensation.

18 Q. How did Liberty Midstates respond to DR 0360?

19 A. The documentation provided by Liberty Midstates in support of Ms. Schwartz's
20 statement consisted of a single excel file with "illustrative and hypothetical" examples that
21 purportedly demonstrate that higher revenues and lower expenses result in lower overall
22 revenue requirements. Ms. Schwartz's response also stated that Liberty Midstates had not

¹⁸ Jill Schwartz Rebuttal, pg. 4, ll. 14 - 18

1 conducted any studies pertaining to benefits realized by its Missouri gas ratepayers as a result
2 of positive employee response to earnings-based incentives, and that the Company has not
3 specifically tracked and quantified the effects of financial-based scorecard goals to
4 Missouri customers.

5 Q. Did Ms. Schwartz offer any additional reasons why she believes it is appropriate
6 to include financial-based incentive compensation in rates?

7 A. Yes. Ms. Schwartz states that incentive compensation plans should emphasize
8 a “balanced scorecard.” This scorecard should promote both service-related and cost-related
9 goals, rather than only focus on only one goal to the exclusion of the other.

10 Ms. Schwartz argues that to incent only service-related goals, improved service may be
11 achieved, but the improvements may be accompanied by exorbitant costs including the cost of
12 service. Conversely, Ms. Schwartz states that should a company only focus on financial goals,
13 costs may be lower but service may deteriorate to unacceptable levels. Ms. Schwartz states that
14 having a “balanced scorecard,” which focuses on service-related and cost-related goals is
15 critical to avoid distortions such as those described above.

16 Q. How does Staff respond to Ms. Schwartz’s statements regarding a
17 “balanced scorecard?”

18 A. Staff agrees with Ms. Schwartz that incentivizing financial goals to the exclusion
19 of others may negatively impact service. Staff has not made any recommendations pertaining
20 to the structure of Liberty Midstates incentive compensation plans, but instead, excludes costs
21 that do not benefit the ratepayers.

22 Q. What is Staff’s recommendation with regards to earnings-based incentive
23 compensation in this case?

1 A. Staff’s position is that it is not appropriate to burden ratepayers with costs that
2 provide no benefit, but could be detrimental to them. Earnings-based incentive compensation
3 creates a perverse incentive for employees to reduce costs which could have a negative impact
4 on the provision of safe and adequate service at just and reasonable rates.

5 Q. Ms. Schwartz refers to a Commission decision in a past Ameren rate case and
6 states “In a 2009 decision (Ameren rate case, Case No. ER-2008-0318), the Commission
7 appropriately recognized that it was reasonable and appropriate to permit recovery of
8 earnings-based incentive payments as long as they were made pursuant to a balanced scorecard
9 that included a combination of operational, service and earnings-based goals.”¹⁹ How does
10 Staff respond?

11 A. Staff does not agree with Ms. Schwartz’s interpretation of the Commission’s
12 Report and Order. The Commission’s ruling on the matter of incentive compensation in the
13 2008 AmerenUE case had three components. The rulings pertained to the Company’s
14 long-term and short-term incentive plans, and an additional bonus plan. The order related to
15 this final plan is not relevant to the issues in this case; therefore, Staff will limit its summary to
16 the decisions regarding the Company’s long-term and short-term incentive plans.

17 With regard to AmerenUE’s long-term incentive plan, the Commission found that
18 because payouts for the long-term compensation plans offered by the Company were based on
19 measures of the financial return achieved by the utility, the cost of those plans should fall
20 on shareholders.

21 Staff recommended disallowing most of the costs related to the short-term program as
22 it disagreed with the design of the program offered by Ameren.

¹⁹ Jill Schwartz Rebuttal, pg. 5, ll. 7 - 10

1 The Commission disagreed with Staff and stated that it would not attempt to manage
2 the details of the programs. The Commission stated, “So long as the overall program does not
3 contain incentives that could be harmful to ratepayers, such as the purely financial incentives
4 that caused the Commission to disallow recovery of AmerenUE’s long-term compensation
5 plan, AmerenUE should be able to recover the costs of incentive compensation through rates.”²⁰

6 The Commission determined that the KPI system utilized by the Company in its short-term
7 incentive plan was likely to bring improvements that would benefit both AmerenUE’s
8 ratepayers as well as the its shareholders, the Commission would allow recovery of its
9 associated costs.

10 Q. Has Staff made any recommendations in this case regarding the structure of the
11 incentive compensation plans offered by Liberty Midstates?

12 A. No.

13 Q. Does Staff take issue with the structure of any of the incentive compensation
14 plans it reviewed as part of this case?

15 A. No. Liberty Midstates is free to structure the incentive plans offered to its
16 employees as it sees fit.

17 Q. What is the basis of Staff’s recommended disallowance of incentive
18 compensation payout amounts in this case?

19 A. Staff’s recommendation is to disallow the portion of incentive compensation
20 payouts tied to earnings-based KPIs. This is consistent with Commission rulings on the matter.
21 The *Report and Order* in Case No. ER-2008-0318, filed on January 27, 2009, and referred to
22 by Ms. Schwartz in her rebuttal testimony states that: “The Commission has frequently

²⁰ Report and Order, Case No. ER-2008-0318, pg. 90 - 91

1 disallowed costs relating to incentive programs that are based on measures of the financial
2 return achieved by the utility. It has done so because such measures are based on the level of
3 profits the utility can achieve. At best, a utility's level of profitability may be harmful to
4 ratepayers if that profitability is obtained by cutting customer service or system maintenance to
5 cut costs and thereby increase earnings per share."²¹

6 **PENSIONS AND OPEBS**

7 Q. In his rebuttal testimony, Mr. Fallert states that Liberty Midstates disagrees with
8 Staff's calculation of expense for Pension and OPEBs.²² How does Staff respond?

9 A. Staff agrees with Mr. Fallert that Staff's calculation of a portion of these costs
10 allocated to capital accounts was incorrect. Staff's rebuttal filing included adjustments to
11 correct errors in its calculation of pensions and OPEBs expense. Staff believes it has addressed
12 the concerns raised by Liberty Midstates, and that this issue has been resolved.

13 Q. Mr. Fallert also discusses an error in Staff's rate base adjustments for pensions
14 and OPEBs.²³ How does Staff respond?

15 A. Staff agrees with Mr. Fallert that Staff's rate base calculations for pensions and
16 OPEBs was incorrect. Staff's surrebuttal filing includes adjustments to correct errors in its rate
17 base calculation of pensions and OPEBs. Staff believes it has addressed the concerns raised by
18 the Liberty Midstates, and that this issue has been resolved.

19 Q. Does this conclude your Surrebuttal testimony?

20 A. Yes, it does.

²¹ Report and Order, Case No. ER-2008-0318, pg. 86

²² James Fallert Rebuttal, pg. 1, ll. 15 - 18

²³ James Fallert Rebuttal, pg. 1, ll. 8 - 16

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

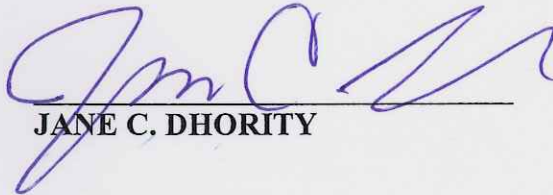
In the Matter of the Request of Liberty)
Utilities (Midstates Natural Gas) Corp.) Case No. GR-2024-0106
d/b/a Liberty to Implement a General Rate)
Increase for Natural Gas Service in the)
Missouri Service Areas of the Company)

AFFIDAVIT OF JANE C. DHORITY

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

COMES NOW JANE C. DHORITY and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Surrebuttal Testimony of Jane C. DhORITY*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

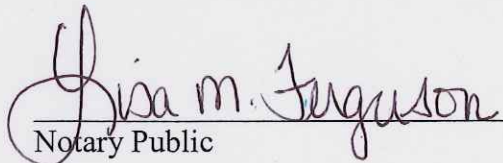


JANE C. DHORITY

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



Liberty Utilities (Midstates Natural Gas) Corp. d.b.a. Liberty
Case No. GR-2024-0106
Missouri Public Service Commission Data Request - 0355

Data Request Received: 2024-08-29

Response Date: 2024-09-04

Request No. 0355

Witness/Respondent: Charlotte Emery

Submitted by: Jane Dhority, Jane.Dhority@psc.mo.gov

REQUEST:

Please see Charlotte Emery's direct EXP ADJ 12 workpapers. Please see Charlotte Emery's rebuttal EXP ADJ 12 workpapers. Please provide a detailed explanation for the decrease in Liberty's requested amount of annualized property tax expense from the amount requested in Company's direct filing.

RESPONSE:

Upon review of the Company's adjustment, it was determined that the Company inadvertently included intangible plant in the calculation for estimated property tax. While the methodology for the calculation largely remained the same, two slight adjustments were made. 1) The Company excluded non-taxable plant and 2) The Company used net plant for the basis of its calculation as opposed to gross plant.



Liberty Utilities (Midstates Natural Gas) Corp. d.b.a. Liberty
Case No. GR-2024-0106
Missouri Public Service Commission Data Request - 0360

Data Request Received: 2024-09-04

Response Date: 2024-09-12

Request No. 0360

Witness/Respondent: Jill Schwartz

Submitted by: Jane Dhority, Jane.Dhority@psc.mo.gov

REQUEST:

Please see Jill Schwartz rebuttal testimony, pg. 4, ll. 14 - 18.

1. Please provide all documentation which supports Ms. Schwartz's statement that "customers can also benefit when employees respond positively to financial-based incentives. Whether that response results in increased revenues or decreased costs, producing better earnings in the short-term, customers ultimately reap the benefits through lower rates when such increased revenues or reduced costs are captured in the cost of service."
2. Has Liberty conducted any studies to determine what benefits, if any, Liberty Missouri ratepayers receive when employees respond positively to financial-based incentives? If yes, please provide all documentation pertaining to studies conducted by Liberty utilities to determine the ratepayer benefits of earnings-based incentive compensation plans offered to the Company's employees.
3. For all studies described in item 2, please provide the findings of each study.
4. Please list and describe each and every direct and quantifiable benefit received by Liberty Missouri ratepayers that is the result of positive responses on the part of its employees to financial-based incentives.
5. Please provide a detailed narrative explaining how positive employee responses to financial-based incentives are captured in Liberty's cost of service.

RESPONSE:

1. Please see "[GR-2024-0106 MPSC DR 0360 Attachment.xlsx](#)" for an illustrative and hypothetical example demonstrating that higher revenues (Scenario 1) and lower expenses (Scenario 2) result in lower overall revenue requirements that would need to be collected from customers through rates.
2. No.
3. Not applicable.
4. The Company has not specifically tracked and quantified the impacts of financial-based scorecard goals to Missouri customers.
5. Please refer to the statement in Ms. Schwartz's rebuttal testimony that is cited part 1 of Staff's request above.