

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

In the Matter of the Request of Liberty)	
Utilities (Midstates Natural Gas) Corp.)	<u>File No. GR-2024-0106</u>
d/b/a Liberty to Implement a General Rate)	Tracking No. JG-2024-0111
Increase for Natural Gas Service in the)	
Missouri Service Areas of the Company)	

STAFF’S STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”),
by and through counsel, and for its *Statement of Positions* respectfully states as follows:

1. Cost of Capital:

A. What capital structure should the Commission use in this case to determine a revenue requirement for Liberty?

The Commission should authorize Liberty Midstates a balanced hypothetical capital structure consisting of no more than 50.0% common equity. Staff proposes a capital structure of 50.0% common equity and 50.0% long-term debt.¹

B. What is the appropriate cost of debt that the Commission should apply in this case to determine a revenue requirement for Liberty?

The Commission should authorize Liberty Midstates an embedded cost of debt of 5.58%.²

C. What is the appropriate return on common equity that the Commission should apply in this case to determine a revenue requirement for Liberty?

The Commission should authorize Liberty Midstates a return on common equity of 9.45%, within a reasonable range of 9.00% to 9.90%.³

2. Contract Customers:

A. Has Liberty provided support for determining whether the negotiated flexed rate for customers served under the Negotiated Gas Sales Service tariff is prudent?

No. Liberty’s tariff sheet for Negotiated Gas Sales Service⁴ includes, in part, the following language under the Availability section:

¹ Direct Testimony of Chris Walters, Table CCW-12, Page 58.

² Direct Testimony of Chris Walters, Table CCW-12, Page 58.

³ Direct Testimony of Chris Walters, Table CCW-12, Page 58.

⁴ P.S.C. MO. No. 2 Original Sheet No 34.

The Company will create and retain for use in future rate proceedings a rate lower than the tariff rate. For ratemaking purposes the Company shall have the burden to prove that the negotiated flexed rate was prudent.⁵ (emphasis added)

B. If not, what is the appropriate amount of revenue imputation to offset Liberty's revenue requirement.

Staff currently recommends an adjustment in the amount of approximately ** [REDACTED] ** in rate revenue.⁶

3. Depreciation:

A. What depreciation rates should be ordered by the Commission?

Staff agrees with the depreciation rates listed in the Surrebuttal testimony of Company Witness Dane Watson.

B. Should Staff's proposed adjustments to reallocate negative reserve be included in Liberty Midstates' cost of service?

The Commission should approve Staff's proposed adjustments to reallocate negative reserve balances as listed in the Direct testimony of Staff witness Amanda Coffey, pg 6.

C. Should Liberty Midstates be able to implement General Plant Amortization accounting?

Staff takes no position on this issue.

4. Rate Design and Related Issues:

A. Should the NEMO/WEMO rate district be consolidated with the SEMO rate district?

No. As discussed by Staff witness Michael Stahlman, neither the Company's or Staff's Class Cost of Service studies support consolidating these districts.

B. What is the appropriate rate design, including customer charge and volumetric rates, for each customer class and each district (if applicable)?

The rate design proposed in Staff witness Michael Stahlman's rebuttal testimony. However, the actual final rates will need to account for other Commission orders that can change final billing determinants and revenue requirements relied upon.

⁵ Direct Testimony of Justin Tevie, Page 6, lines 9-14.

⁶ Direct Testimony of Justin Tevie, page 7, line 4.

5. Revenues

A. What normalized revenues and billing determinants are appropriate for establishing rates in this case?

Staff's rate revenue adjustments as filed in Surrebuttal. Staff developed billing determinants resulting from adjustments for the update period, customer growth, rate switchers, weather normalization, and 365 days.⁷

6. Capitalized Transition/Transaction Costs

A. Should capitalized transition and transaction costs stemming from Case No. GM-2012-0337 be removed from the cost of service and written off of Liberty Midstates' books and records?

Yes. Since the merger case, GM-2012-0037, Liberty Midstates' previous rate cases were ultimately settled by Stipulation & Agreement which included certain agreed upon rate base balances reflecting removal of the capitalized transition and transaction costs by the parties and ordered by the Commission. In the current rate case, Liberty Midstates has not written off these transition and transaction costs and thus, Staff must propose to remove the plant costs and updated depreciation reserve amounts associated with that plant.⁸

7. Prepayments

A. Is it appropriate to include the PSC assessment in rate base so that Liberty Midstates' can earn a return on it?

No. Liberty Midstates should not earn a return on the PSC assessment in prepayments while also earning a return in cash working capital.⁹

8. Customer Advances

A. Is it appropriate to include the last known amount or a 13-month average of customer advances in rate base?

The last known amount should be included in rate base. During Staffs analysis, Staff recognized a downward trend in customer advances since February 2023. Consequently, 2023, for each district (WEMO, SEMO, and NEMO).¹⁰

⁷ See Surrebuttal of Marina Stever.

⁸ Ferguson Surrebuttal page 5, lines 11-15.

⁹ Direct Testimony of Blair Hardin, page 7, lines 3-4.

¹⁰ Direct Testimony of Blair Hardin, page 8, lines 14-16.

9. Cash Working Capital

A. Should a 37-day expense lag or 365-day expense lag be used in calculating the cash working capital requirement for both federal and state income taxes?

365 days. Liberty Utilities (America) Corp. and Liberty Midstates Gas are both in net operating loss positions for the tax years 2022 and 2023, and there was no income tax liability for those years and thus an estimated income tax payment calculation was not necessary. Cash working capital measures the amount of cash necessary for a utility to pay its day to day expenses that are incurred to provide service to its ratepayers. No cash was necessary for Liberty Midstates to pay to the affiliate group and thus the increase in the expense lead is consistent with prior case precedent established by the Commission¹¹. This position is consistent with the Commission's decision in the Spire Missouri rate case, GR-2021-0108.¹²

B. Should a 168.5-day expense lead or 14.13-day expense lead be adopted for the PSC Assessment?

Staff recommends a 168.5-day lead that aligns with how Liberty Midstates actually pays its PSC Assessment (a yearly rather than monthly payment).¹³

C. Should a 159.31-day expense lag or 293.53-day expense lag be adopted for property taxes?

As cash working capital leads/lags are based upon test year expenses, Staff recommends a 159.3 day lag that reflects exclusion of 2021 tax payments and other state tax payments in the property tax expense lag calculation.¹⁴

D. Should gas costs be included in the Cash Working Capital calculation?

No. Liberty Midstates Gas has a purchased gas adjustment mechanism that reflects the increase or decrease in gas cost that is reflected separately on customers' bills. Since the gas costs themselves are not reflected in base rates, nor should the gas costs be included in the CWC.¹⁵

¹¹ Ferguson Surrebuttal, Page 14 lines 4-23 and page 15, lines 1-6.

¹² Ferguson Direct, Page 65, lines 4-26.

¹³ Amenthor Direct, Page 7, Lines 14-20.

¹⁴ Amenthor Direct, Page 7, Lines 21-23; Page 8, Lines 1-5.

¹⁵ Direct Testimony of Paul Amenthor, page 2, lines 16-23, and page 3, lines 1-4.

10. Property Tax Tracker Regulatory Asset

A. What amount should Liberty Midstates' be permitted to include as the property tax tracker base to measure against actual property tax expense, that will be recovered as a regulatory asset in rate base and over what period of time should the regulatory asset be amortized?

Liberty Midstates' most recently completed general rate case was resolved in a black box baseline for a property tax tracker. Therefore, no property tax regulatory asset can be included in this case. Staff recommends setting an ongoing level of property tax expense of expense serve as a baseline for a property tax tracker and regulatory asset to be established in this case.¹⁶

11. Payroll and Payroll Tax Expense

A. What is the amount of payroll expense that should be included in Liberty Midstates' cost of service and how should the annualized level of overtime expense be calculated?

The annualized level of overtime expense should be calculated by using a method that includes the average overtime hours worked from the past three years (2021, 2022, & 2023). Then multiply that by the average 2023 overtime rate (amount paid/overtime hours).¹⁷

B. Should certain Liberty Utilities employee salaries be excluded from the cost of service?

Yes, business development employees should be excluded from rates.¹⁸

C. What capital percentage should be applied to annualized payroll expense?

The capital percentages that should be applied to annualize payroll expense should be based on the actual individual employee capitalization rates that were provided by the company through a data request response.¹⁹

D. What amount of payroll tax expense should be included in the cost of service?

The amount of payroll tax expense that should be included into rates should be calculated by applying 2023 payroll tax rates to Staff's annualized level of payroll.²⁰

¹⁶ Dhority Direct Testimony, pg. 15, ll. 22 through pg. 16, ll. 3

¹⁷ Surrebuttal Testimony of Benjamin H. Burton, page 4, lines 5-15.

¹⁸ Surrebuttal Testimony of Benjamin H. Burton, page 7, lines 18-23 and page 8, lines 1-2.

¹⁹ Direct Testimony of Benjamin H. Burton, page 4, lines 2-5.

²⁰ Direct Testimony of Benjamin H. Burton, page 5, lines 3-4.

12. Uncollectible Expense

A. What amount of uncollectible expense should be included in the cost of service in this case?

The Commission should include Liberty Midstates' actual net write-offs for the months ending December 31, 2022, in the cost of service as proposed by Staff.²¹

B. Should an additional amount of uncollectible expense be included in the cost of service for possible bad debt associated with the incremental revenue requirement increase requested in this case?

No. Uncollectible expense should not include an additional estimated amount for the revenue requirement and an increase in bad debt expense and thus that amount is not be known and measurable.

13. Fuel Expense

A. What amount of fuel expense should be included in the cost of service?

The amount of fuel expense that should be included in the cost of service consists of the average price of gasoline per gallon in 2023 multiplied by the actual 2023 gallons used. This amount is then taken by the O&M percentage to calculate Staff's adjustment.²²

14. Miscellaneous Expense

A. Is it appropriate for Liberty Midstates' to include promotional items in their cost-of-service calculation?

No. It is not appropriate for Liberty Midstates' to include promotional items in their cost of service calculation because they are not beneficial to ratepayers.²³

15. Rate Case Expense

A. What amount of rate case expense should be excluded from Liberty Midstates' revenue requirement?

Staff recommends including a normalized level of rate case expense based on rate case expenses incurred in this case.²⁴

²¹ Amenthor Direct, Page 1, Lines 22-23; Page2, Lines 1-15.

²² Direct Testimony of Benjamin H. Burton, page 7, lines 1-3.

²³ Direct Testimony of Blair Hardin, page 2, lines 20-21.

²⁴ Dhority Direct Testimony, pg. 12, ll. 13 - 14

B. What amount of customer notice costs should be included in Liberty Midstates' revenue requirement?

Staff recommends including actual costs incurred by Liberty Midstates for customer notices.²⁵

C. What amount of depreciation study costs should be included in Liberty Midstates' revenue requirement?

Staff recommends including the full cost of the depreciation study, amortized over a five-year period.²⁶

D. Should rate case expense be subject to a 50/50 sharing mechanism?

Staff recommends including a normalized amount of rate case expense in Liberty Midstates' revenue requirement based on actual rate case expenses incurred in this rate case, and subject to a 50/50 sharing mechanism.²⁷

E. Should rate case expense be normalized or amortized and over what period of time?

Staff recommends that the portion of rate case expense included in the revenue requirement is to be normalized over a three-year period.²⁸

16. Training and Travel Expense

A. What amount of training and travel costs should be included in Liberty Midstates' cost of service in this case?

Staff recommends including an amount of training and travel expense based on actual recoverable expenses incurred during the twelve-months ending December 31, 2022.²⁹

17. Employee Benefits Expense

A. What amount of 401(k) match expense should be included in Liberty Midstates' cost of service in this case?

Staff recommends including an amount of 401(k) match expense equal to the actual amount of expense incurred during the twelve-months ending December 31, 2023.³⁰

²⁵ Dhority Direct Testimony, pg. 15, ll. 7 - 8

²⁶ Dhority Direct Testimony, pg. 15, ll. 3 - 4

²⁷ Dhority Direct Testimony, pg. 12, ll. 13 - 14

²⁸ Dhority Direct testimony, pg. 12, ll. 14 - 16

²⁹ Dhority Direct Testimony, pg. 2, ll. 8 - 9

³⁰ Dhority Direct Testimony, pg. 3, ll. 5 - 7

18. Customer First Operations & Maintenance Expense

A. What is the appropriate amount of operations & maintenance expense to include in Liberty Midstates' cost of service for hosting and maintenance agreements related to the new Customer First software transition?

The appropriate amount of operations & maintenance to include is an annualized level of \$655,254 based upon actual recorded costs that are known and measurable. The amount cited by witness Preston is a budgeted amount and is not known and measurable.³¹

19. Business Development Costs

A. Should labor and non-labor costs associated with business development activities be included in the cost of service?

No. During the time period under review, the business development team incurred labor and non-labor costs to perform activities related to renewable natural gas (RNG) development and utility acquisitions.³²

If the labor and non-labor business development costs would be included in rates, Liberty Midstates stands to benefit from recovery of the costs of business development and possibly an increase in rate base if new customers are onboarded. If new customers are not onboarded and the non-labor business development costs would be included in rates, then the Company still recovers the business development cost with no new customers to spread that increase in costs to. Existing customers would more than likely not benefit either way if the costs are included.³³

20. Allocations

A. Test Year Expense Disallowance: Should allocated costs such as late fees, advertising expenses, car and housing allowances, and awards/gifts be included in the cost of service?

No. The allocated costs consist of late fees, advertising expenses, car/housing allowances and awards/gifts. Outside of employee service awards, these costs should not be borne by ratepayers for the various reasons Staff cites in testimony.³⁴

B. Allocation Factor Update: Should the 2022 or 2023 corporate allocation factors be used in determining the appropriate amount of cost to allocate to Liberty Midstates?

³¹ Ferguson Surrebuttal page 26, lines 12-15.

³² Ferguson Surrebuttal page 6, line 22 and page 7 lines 1-2.

³³ Ferguson Surrebuttal Page 6, lines 1-21.

³⁴ Ferguson Surrebuttal Page 16, lines 16-25, Page 17, lines 1-29 and Page 18, lines 1-28.

The 2023 allocation factors should be utilized. Liberty's allocation factors are developed based upon costs that were actually incurred through May to April of any given year (allocation factors are reset annually in April unless a material change occurs), the costs are simply used to develop allocation factors that are representative of the cost drivers. The costs included in rates moving forward should represent the levels of costs that are expected to occur when rates are in effect. That would mean reflecting allocation factors that are the most representative of how the Company is structured and how costs are incurred when rates are in effect.³⁵

21. State Income Tax Stub Period and ADIT

A. What amount of accumulated deferred income tax (ADIT) should be included as an offset to rate base?

Staff's proposed ADIT balance as of December 31, 2023, including both plant-related and non-plant related tax timing differences should be included.³⁶ This balance should also include the deferred tax impacts for fuel and commodity cost adjustments, derivative assets and the rate adjustment mechanism for Winter Storm Uri.³⁷

B. Should Liberty Midstates defer the revenue requirement difference based on the change in state tax rate, for the period of January 1, 2020 through the effective date of rates in this case, to be returned to customers in Liberty Midstate's next rate case?

Yes. Customers have been paying the higher state income tax rate since January 1, 2020 in rates. That higher tax rate will be included in customer rates until rates change in this case. Since Staff inadvertently omitted this value from direct, out of respect for all parties' abilities to have time to analyze and determine if there is agreement on the amount of the reduction to include in rates, Staff proposes Liberty Midstates calculate and defer the entire state income tax stub amount for the period of January 1, 2020 through the effective date of rates in this case, to be determined in the next rate proceeding.³⁸

C. What is the appropriate amount of net operating loss to apply to the federal and state excess accumulated deferred income tax for return to customers?

Staff's proposed amount reflecting the net operating loss utilizing the "with or without method" but treating the loss for tax years 2012-2016 due to accelerated depreciation as included in COGS rather than a separate deduction from gross income for Liberty Midstates. Staff believes the treatment of the accelerated depreciation as COGS

³⁵ Ferguson Surrebuttal page 19, lines 7-13.

³⁶ Ferguson Direct page 58, lines 6-8.

³⁷ Ferguson Rebuttal page 7, lines 10-19.

³⁸ Ferguson Surrebuttal page 13-14.

creates a distinction between how the depreciation is treated in creation of the NOL and ultimately the amount of the loss that is related to depreciation for offsetting the EADIT.³⁹

22. Non-Revenue Requirement Related Items:

A. Should Liberty Midstates continue to provide the same type of quarterly surveillance and actual earnings information related to their natural gas operations, separately by the rate divisions that are ultimately determined as part of this case?

Yes. Staff requests the Commission order that Liberty Midstates continue to provide the same surveillance information as was requested in the last rate case separately for the rate divisions that are ultimately determined as part of this case. Due to its implementation of Customer First, the general ledger currently does not include unitized plant in service and accumulated depreciation reserve by FERC account. Staff recommends that Liberty Midstates provide the unitized plant in service and unitized accumulated depreciation reserve for each month on an annual basis.⁴⁰

This information assists Staff with monitoring allocations changes due to utility acquisitions and actual earned ROE in between Liberty Midstates' rate cases and allow Staff to better inform the Commission in certain circumstances where Liberty Midstates' earnings may need to be reviewed in more detail. Given that Liberty Midstates typically has filed rate cases in intervals that are three years or longer, providing the surveillance data will assist Staff in monitoring Liberty Midstates' earnings during these intervals.⁴¹

B. Should Liberty Utilities periodically perform compensation studies for all employees, including those at the director level and above?

Yes. Liberty Midstates records direct and allocated labor costs from multiple Liberty affiliates on its books and records, including APUC "indirect" labor costs allocated to Liberty Midstates. However, Liberty currently only performs compensation studies for employees below the director level. Liberty Utilities should periodically perform compensation studies for employees that are director level and above (in addition to those performed for the other employees) to ensure employee compensation is reasonable.⁴²

C. Should Liberty Utilities periodically perform internal audits regarding time reporting to ensure compensation levels allocated to Liberty Midstates are appropriate?

Yes. Liberty Utilities should perform periodic internal audits regarding time reporting to ensure that the compensation levels allocated from APUC to the lower Liberty entities are reasonable and accurate.⁴³ Staff believes much of the difference in the operating expense

³⁹ Ferguson Surrebuttal Page 24, lines 4-7.

⁴⁰ Ferguson Direct Page 15, lines 21-23 and Page 16, lines 1-4.

⁴¹ Ferguson Direct Page 16, lines 5-22 and Page 17, lines 1-9.

⁴² Ferguson Rebuttal page 5, lines 28-32.

⁴³ Ferguson Rebuttal Page 5, line 33 and Page 6, lines 1-2.

is due to the data Liberty Midstates has provided that is different than the data the Company is itself using to annualize certain large costs.⁴⁴

D. Should Liberty Midstates maintain its SAP general ledger with detail similar to that of the legacy Great Plains general ledger with minor accounts and certain coding?

Yes. Liberty should maintain as much detail in its major and minor account coding within the general ledger as was maintained in the legacy Great Plains software.⁴⁵

23. Customer Service:

A. Should the Commission order Liberty Midstates to change its IVR to prompt callers to select their state? If so, should the Commission order Liberty Midstates to include Missouri-specific metrics in the existing Monthly Performance Report?

Yes. Currently, Liberty Midstates is unable to distinguish the origin of customer calls between its Missouri, Illinois, and Iowa service territories. This is a missed opportunity for Liberty Midstates; such data collection would enable Liberty Midstates to perceive distinctions between customers for targeted customer service interventions. It would also provide Staff with insight regarding the status of Missouri-specific customers that it does not currently possess. Staff recommends making a change to Liberty Midstates' IVR so customers who call Liberty Midstates are prompted to select their state. Further, Staff would recommend the Monthly Performance Report provide Missouri-specific metrics while also continuing to report the combined statistics.⁴⁶

B. Should the Commission order Liberty Midstates to investigate and resolve the issue(s) causing an increase in the number of estimated bills it generates per month?

Yes. Through the Monthly Performance Reports provided to Staff by Liberty Midstates, Staff has observed a significant increase in the number of estimated bills that Liberty Midstates has issued monthly since its conversion to Customer First in October 2023. In March 2023, Liberty Midstates identified an ERT⁴⁷ number issue and subsequently resolved one cause of these estimated bills, which resulted in a partial reduction. In rebuttal testimony, Liberty Midstates identified a second issue causing estimated bills regarding vacant accounts. According to Liberty Midstates, this issue would be corrected by the end of November 2024 and estimations would decrease as manual corrections were made. However, after a small decline to 147 in July 2024, the number of

⁴⁴ Ferguson Surrebuttal Page 2, lines 10-18.

⁴⁵ Ferguson Surrebuttal Page 27, lines 7-19

⁴⁶ Direct Testimony of Tyrone Thomason, page 9, lines 4-5 and lines 12-13.

⁴⁷ Encoder Receiver Transmitter ("ERT") is a packet radio protocol developed for automatic meter reading and is used to transmit data from utility meters over a short range so a utility vehicle or handheld can collect meter data without a worker physically visiting each meter. The issue was a mismatch between the ERT numbers in the billing system and those in the handheld meter reader devices.

estimated bills increased once again in August 2024 to 241, which is higher than any month since the ERT issue was resolved and far above pre-Customer First transition levels. Staff recommends that Liberty Midstates investigate the cause(s) of the increase in the number of estimated bills and develop a solution to reduce the number of estimated bills per month back to pre-transition levels.⁴⁸

24. Weather Normalization Adjustment Rider (“WNAR”):

A. Should the Commission approve the continuation of Liberty Midstates’ WNAR, with modifications?

Staff takes no position.

B. If so, what modifications should be made?

As mentioned by Staff witness Michael Stahlman, the WNAR should be updated to match the weather normalization process used to determine final billing determinants.

WHEREFORE, Staff respectfully submits this *Statement of Positions* for the Commission’s knowledge and consideration.

Respectfully submitted,

/s/ J. Scott Stacey

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**ATTORNEY FOR STAFF OF THE
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⁴⁸ Direct Testimony of Tyrone Thomason, page 6, lines 14-16.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to counsel of record this 4th day of October, 2024.

/s/ J. Scott Stacey