

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

In the Matter of Liberty Utilities Verified            )  
Application for Approval of PVC Pipe                )  
Replacement Program and Recovery of                )  
Associated Costs Through ISRS Mechanism        )                **File No. GO-2019-0091**

**STAFF’S REQUEST FOR CLARIFICATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and for its *Request for Clarification* states:

1. On September 28, 2018, Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty” or “Company”) filed a verified application for approval of a PVC pipe replacement program and recovery of the associated costs through an ISRS mechanism (“Application”).

2. On October 1, 2018, the Commission issued its Order Directing Notice and Setting an Intervention Date, in which any person wishing to intervene was ordered to file an application to intervene no later than October 31, 2018; no applications to intervene were filed.

3. On November 13, 2018, the Commission issued its Order Directing Filing of Staff Recommendation, in which Staff was ordered to review and file its recommendation regarding the Application no later than December 28, 2018.

4. With respect to the procedural history surrounding this Application, Paragraph 9 of Company’s Application provides:

Ultimately, the parties agreed in Paragraph 17 of the Unanimous Stipulation and Agreement approved by the Commission in that case, that Liberty Utilities could submit an application requesting that the Commission approve a safety-related replacement program for PVC pipes. Paragraph 17 also provided that the Liberty Utilities could propose that such replacement costs be included in and recovered through the

Company's ISRS mechanism. All parties reserved the right, of course, to challenge such a request, other than on the grounds that such a request should have been submitted in a general rate case or ISRS proceeding.

5. The Company's Application refers to Paragraph 17 of the Unanimous Stipulation and Agreement (Stipulation) in Company's recent general rate case, Case No. GR-2018-0013. Paragraph 17 of that stipulation provided:

17. The Company may file, *within 3 months of the effective date of the Commission's Report and Order in this case*, an application requesting that the Commission approve a safety-related replacement program for PVC pipes and may propose that such replacement costs be included in and recovered through the Company's ISRS mechanism. Parties reserve their rights to challenge such proposals other than on the grounds that they should have been submitted in a general rate case or ISRS proceeding. (Emphasis added).

6. The Order Approving Stipulation and Agreement had an effective date of June 16, 2018; thus, the Application filed September 28, 2018, is untimely as contemplated by Paragraph 17 of the Stipulation.

7. Setting aside for the moment this procedural defect, Company's Application seeks, in part, approval of a ten year replacement program for PVC piping and a determination that the costs associated with the approved replacement program are eligible for recovery through the Company's ISRS mechanism, so long as other conditions for a proper ISRS filing are met.<sup>1</sup> In other words, the Company is seeking a pre-determination by the Commission of the ISRS eligibility of these costs before the replacements are made or the costs incurred.

8. Based on this, Staff views the application as two separate, but interrelated, requests; namely, the Company first seeks to have its Replacement Plan

---

<sup>1</sup> It is not clear from the Application what the Company means by the phrase "assuming other conditions for a proper ISRS filing are met."

approved and then seeks to have costs associated with that plan be deemed eligible (*i.e.*, pre-approved) for recovery through the Company's ISRS mechanism.

9. To the extent Company is seeking determination of ISRS eligibility, Staff requests clarification regarding the timeline to be followed.

10. Staff respectfully requests a Commission order clarifying that the instant proceeding is not subject to the 60 day and 120 day time frames contained within Section 393.1015, RSMo, and 4 CSR 240-3.265, despite the relief requested in Company's Application, for the simple reason that this proceeding is not an ISRS proceeding as contemplated by Section 393.1015, RSMo, and 4 CSR 240-3.265 as shown by the following:

(a) The Company's Application refers to Paragraph 17 of the Unanimous Stipulation and Agreement in Company's recent general rate case, Case No. GR-2018-0013, as contemplating the instant filing.<sup>2</sup> Paragraph 17 of that stipulation provided:

17. The Company may file, within 3 months of the effective date of the Commission's Report and Order in this case, an application requesting that the Commission approve a safety-related replacement program for PVC pipes and may propose that such replacement costs be included in and recovered through the Company's ISRS mechanism. Parties reserve their rights to challenge such proposals *other than on the grounds that they should have been submitted in a general rate case or ISRS proceeding*. (Emphasis added)

That paragraph of the stipulation clearly recognized that a case filed thereunder would not constitute an ISRS proceeding.

(b) Section 393.1015.1(1), RSMo, states "At the time that a gas corporation files a petition with the commission seeking to establish or change an ISRS, *it shall submit proposed ISRS rate schedules and its supporting documentation regarding the*

---

<sup>2</sup> See, for example, Paragraphs 9, 18 and 22 of the Company's Application.

*calculation of the proposed ISRS with the petition.*” (Emphasis added) No proposed ISRS rate schedules or supporting documentation were filed with the Company’s Application, indicating that this proceeding is not subject to the 60 day and 120 day time frames contained within Section 393.1015, RSMo, and 4 CSR 240-3.265.

(c) Similar to (b) above, 4 CSR 240-3.265(20) provides that “At the time that a natural gas utility files a petition with the commission seeking to establish, change or reconcile an ISRS, *it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, . . . .* The subject utility’s supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information: [Required information set forth in subsections (A) through (L)].” (Emphasis added) Again, no proposed ISRS rate schedules or documentation required by the rule to be filed at the time a company files a petition seeking to establish, change or reconcile an ISRS were filed with the Company’s Application, indicating that this proceeding is not subject to the 60 day and 120 day time frames contained within Section 393.1015, RSMo, and 4 CSR 240-3.265.

11. Staff does not believe that the 60 day and 120 day time frames contained within Section 393.1015, RSMo, and 4 CSR 240-3.265 apply to this proceeding. However, out of an abundance of caution and to avoid potential surprise, Staff requests that the Commission issue an order to that effect.

**WHEREFORE**, Staff respectfully requests the Commission issue an order clarifying that the instant proceeding is not subject to the 60 day and 120 day time

frames contained within Section 393.1015, RSMo, and 4 CSR 240-3.265, and making such further orders as the Commission deems just and reasonable.

Respectfully submitted,

**/s/ Jeffrey A. Keevil**

Jeffrey A. Keevil

Deputy Counsel

Missouri Bar No. 33825

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 526-4887 (Telephone)

(573) 751-9285 (Fax)

Email: [jeff.keevil@psc.mo.gov](mailto:jeff.keevil@psc.mo.gov)

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record this 19<sup>th</sup> day of November, 2018.

**/s/ Jeffrey A. Keevil**