

148 FERC ¶ 61,189
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Liberty Energy (Midstates) Corp.

Docket No. CP12-42-001

ORDER ON REHEARING

(Issued September 15, 2014)

1. In this order, the Commission addresses Liberty Energy (Midstates) Corporation's (Liberty) request for rehearing of the Commission's order issued on March 30, 2012 (Certificate Order).¹ Specifically, in the Certificate Order, the Commission accepted the rate election of Liberty to adopt the rates of Atmos Energy Corporation (Atmos) on file with the Missouri Public Service Commission (MoPSC) with the exception of Liberty's proposed Infrastructure System Replacement Surcharge (ISRS). For the reasons discussed below, the Commission grants Liberty's request for rehearing. We also direct Liberty to submit a compliance filing within 30 days of the date of this order reflecting its currently effective ISRS on file with the MoPSC.

Background

2. Liberty, a Missouri corporation, is an entity created to purchase and own the Missouri, Illinois, and Iowa regulated natural gas distribution assets of Atmos. On January 4, 2012, Liberty applied to the Commission for a limited jurisdiction blanket certificate for the Missouri-regulated gas distribution assets of Atmos pursuant to section 284.224 of the Commission's regulations.² Liberty elected, pursuant to section 284.123(b)(1)(ii) of the Commission's regulations,³ to use rates on file with

¹ *Liberty Energy (Midstates) Corp.*, 138 FERC ¶ 61,249 (2012).

² 18 C.F.R. § 284.224 (2014). That section authorizes local distribution companies and Hinshaw pipelines to perform the same types of transactions which intrastate pipelines are authorized to perform under section 311 of the Natural Gas Policy Act (NGPA) and subparts C and D of Part 284 of the Commission's regulations.

³ 18 C.F.R. § 284.123(b)(1)(ii) (2014).

MoPSC for its interstate service under section 284.224 of the Commission's regulations.⁴ Specifically, Liberty elected to use the rates contained in Atmos' currently effective MoPSC Tariff under Large Firm General Service Schedule and the Interruptible Large Volume Gas Service Schedule. Those rates consist of a distribution charge of \$0.14356 per hundred cubic feet (Ccf), a delivery charge of \$500 per meter per month, a lost and unaccounted for gas (L&UGF) retention rate of 2.0 percent, and an ISRS of \$8.24 per month.

3. On January 25, 2012, Commission Staff sent an information request (January 2012 Request) for additional information on and clarification of Liberty's certificate application. The January 2012 Request sought, among other things, information from Liberty regarding Atmos' cost-based rates currently on file with and approved by the MoPSC, which Liberty sought to elect as its own rates in this proceeding.

4. On February 8, 2012, Liberty submitted its response to the January 2012 Request (Liberty Data Response), which included Atmos' Natural Gas Transportation Service Schedule (Sheet Nos. 50-57), Large Firm General Service Schedule (Sheet Nos. 28-29), and Interruptible Large Volume Gas Service Schedule (Sheet Nos. 30-33).⁵

5. Subsequently, the Commission issued the Certificate Order that accepted Liberty's rate election, with the exception of the \$8.24 ISRS. Specifically, the Commission found that the proposed ISRS of \$8.24 per month differed from that contained in the MoPSC tariff.⁶ The Commission noted that Tariff Sheet No. 28, which lists the rates for Large Firm General Service, states that "[p]ursuant to [MoPSC] approval, a monthly ISRS charge as provided on Tariff Sheet Number 19 is applicable to this rate."⁷ The Commission then observed that Tariff Sheet No. 19 listed the amount of the ISRS for Large Firm General Service as \$0.00. As a result, the Commission ruled that \$0.00 is the amount the Commission will allow Liberty to charge for its monthly ISRS.⁸

6. On April 4, 2012, Liberty filed a request for rehearing of the Certificate Order. On that same day, Atmos filed a motion in support of Liberty's request for rehearing and

⁴ 18 C.F.R. § 284.224 (2014).

⁵ See Exhibit B of the Liberty Response to the January 2012 Request.

⁶ Certificate Order, 138 FERC ¶ 61,248 at P 37.

⁷ *Id.*

⁸ *Id.*

on April 13, 2012, the MoPSC filed a motion in response to, and in support of, Liberty's request for rehearing.⁹

Request for Rehearing

7. Liberty requests rehearing of the Commission's determination in the Certificate Order that the ISRS rate is \$0.00.¹⁰ Liberty asserts that, although it proposed to elect Atmos' currently effective MoPSC rates as its own, it did not submit Atmos' currently effective ISRS tariff in response to the Commission's January 2012 Request. Instead, Liberty states that it inadvertently submitted a *pro forma* "3rd Revised SHEET NO. 19" in which the ISRS for all services was "reset to zero." Liberty contends, however, that Atmos' currently effective ISRS approved by the MoPSC is reflected on 4th Revised SHEET NO. 19, which shows an ISRS for Large Firm General Service and Interruptible Large Volume Service in the "Southeast" rate zone of \$8.24 per month.¹¹ Therefore, Liberty asserts that its ISRS for customers should be the currently effective \$8.24 per month rate authorized by MoPSC. As a result of this clarification, Liberty requests the Commission grant rehearing and approve its proposal to charge an ISRS of \$8.24 per month in accordance with currently effective MoPSC rates.

8. Upon consideration, the Commission grants Liberty's request for rehearing and accepts Liberty's proposal to charge an ISRS of \$8.24 per month as just and reasonable. Liberty has supplied a copy of the currently effective ISRS tariff sheet on file with the MoPSC. Commission acceptance of this rate election as Liberty's ISRS also satisfies section 284.123(b)(1)(ii), which allows transportation rates to be based on effective transportation rate schedules for intrastate service on file with the appropriate state regulatory agency, which the intrastate pipeline determines covers comparable service. Finally, the Commission also directs Liberty to submit a compliance filing within 30 days of the date of this order reflecting its currently effective ISRS.

⁹ Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2014), prohibits answers to a request for rehearing. Although these filings were styled as "motions in support" by the filers, they are more appropriately considered "answers in support" of the rehearing request; therefore, in accordance with our rules, we reject these filings.

¹⁰ Liberty Rehearing Request at 3-4 (citing Certificate Order, 138 FERC ¶ 61,248 at P 37).

¹¹ Liberty Rehearing Request at 4; *see also* Liberty Rehearing Request, Attachment C, which is a copy of the currently effective tariff sheet.

The Commission orders:

(A) Liberty's request for rehearing is granted as discussed herein.

(B) Liberty shall submit a compliance filing within 30 days of the date of this order reflecting its Infrastructure System Replacement Surcharge.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.