

**STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION
BEFORE THE IOWA UTILITIES BOARD**

IN RE: Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities	IOWA ADMIN. CODE 199-31.3(476)
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REVISED REQUEST FOR CONFIDENTIAL TREATMENT

COME NOW Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty Midstates”), and hereby moves the Iowa Utilities Board (“Board”) pursuant to Iowa Code §22.7(3) and (6) and 199 IAC 1.9, and requests that the documents further described herein, filed in support of Liberty Midstates’ Application for Revisions of Rates, all of which have been filed confidentially herewith, be kept confidential by the Iowa Utilities Board (the “Board”). In support of its Application for Confidential Treatment (“Application”), Liberty Midstates states as follows:

1. Simultaneously herewith, Liberty Midstates has filed an Application for Revision of Rates (“Rate Case”). In support of its Rate Case, Liberty Midstates has filed the following documents (the “Confidential Documents”) under seal with this Application:

- a. Magee Direct Exhibit 2, Schedule 12 (containing Algonquin Power and Utilities Co. (“APUC”) capital structure information);
- b. Liberty Utilities Company capital structure (Filing Requirement 26.5(5)e(3));
- c. Liberty Utilities Company Proposed Capital Structure (Filing Requirement 26.5(5) e (4));

- d. Liberty Midstates Financial and Operating Reports to Management (Filing Requirement 26.5(5)e(10));
- e. Liberty Midstates Debt and Preferred Stock Discount, Premium and Expense (Filing Requirement 26(5)e(13));
- f. APUC Financial Statements (Filing Requirement 26.5(5)e(19));
- g. Liberty Midstates 2013 and 2014 Federal and State Tax Returns (Filing Requirement 26.5(5)e(6));
- h. Schwartz Direct Testimony (containing customer billing information);
- i. Schwartz Exhibit 3, Schedule 3 (containing customer billing information);
- j. Schwartz Exhibit 3 Workpapers 4-16 (containing customer billing information);
- k. Liberty Midstates Customer Agreements.

(The documents identified in subparagraphs 1(a) through 1(f) above are hereafter referenced as the “Liberty Midstates Confidential Documents”). The documents referenced in subparagraphs b through g above are required to be filed by Board Rule 26.5(5) *et. seq.*. The documents referenced in subparagraphs h through k above contain billing and/or usage information about an individual customer or customers which is confidential and a matter of individual privacy and are required to be kept confidential pursuant to Iowa Code § 22.7(6) (“Customer Confidential Documents”). Liberty Midstates requests that the Board maintain the confidentiality of the Confidential Documents for the reasons set forth in the remainder of this Application.

2. The tax returns identified in subparagraph g are entitled to confidential treatment pursuant to Iowa Code § 422.20 and Board rule 199 IAC 1.9(5)b(1), which specifies that tax returns are to be kept confidential.

3. The Liberty Midstates Confidential Documents are also entitled to be maintained as confidential by the Board pursuant to Iowa Public Records Law, Iowa Code §22.7(3) and (6).

4. The Public Records Law protects from public disclosure “[t]rade secrets which are recognized and protected as such by law,” as well as “[r]eports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.” Iowa Code § 22.7(3), (6). Iowa Code § 550.2(4) defines “trade secret” to mean “information . . . that . . . [d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use . . . [and] [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” The Iowa Supreme Court has given §550.2(4) a broad reading and has found that business information in many forms may also fall within the definition of trade secret. *Economy Roofing & Insulating Co. v. Zumaris*, 538 N.W.2d 641, 646-47 (Iowa 1995) (acknowledging the Court’s broad interpretation of the kinds of information which can legally constitute trade secrets).

5. The information contained in the Liberty Midstates Confidential Documents is information that Liberty Midstates, and its parent corporations, Liberty Utilities Co. and APUC, make every effort to protect from public disclosure. The Liberty Midstates Confidential Documents contain financial data for Liberty Midstates’ parent companies Liberty Utilities, Co. and APUC. These financial data are treated as *highly confidential* information by both companies in practice and are *extremely* limited in availability within both the Liberty Utilities Co. and APUC organizations. Furthermore,

because APUC is publically-traded, even an inadvertent or accidental disclosure of this information likely would obligate APUC to make the information available to the general public, in accordance with securities laws. Therefore, Liberty Midstates Confidential Documents satisfy the requirements for confidentiality under both Iowa Code § 22.7(3) and 22.7(6).

6. Further, the Customer Confidential Documents contain cost and usage information for Liberty Midstates' customers which, if released to the general public, would give an unfair advantage to existing and potential competitors of Liberty Midstates and constitutes an invasion of the right of privacy for Liberty Midstates' customers. *National Parts and Conservation Ass'n v. Morton*, 498 F.2d 765, 768 (U.S.C.A. 1974) (holding that one purpose for exceptions to open record laws is to "protect[] persons who submit financial or commercial data to government agencies from the competitive disadvantages which would result from its publication"). Specifically, here, release of the Customer Confidential Documents would give an unfair advantage to potential companies seeking to negotiate contracts with Liberty Midstates customers and would serve no public purpose. *Id.* Therefore, the Customer Confidential Documents qualifies for an exclusion to the general rule of public access to reports made to governmental agencies, as allowed by Iowa Code § 22.7(6).

7. For all of these reasons, the Board should maintain the confidentiality of the Confidential Documents filed under seal with this Application.

8. Attached hereto is the Affidavit in support of this Application executed by an officer of Liberty Midstates, as required by 199 IAC 1.9(6)(b).

WHEREFORE, Liberty Midstates respectfully requests that the Board enter an

order granting Liberty Midstates' Application for Confidential Treatment and directing that the Confidential Documents filed under seal herewith be withheld from public inspection pursuant to Iowa Code §§ 22.7(3) and (6) and 199 IAC 1.9(5)a(1).

Dated: July 25, 2016.

Respectfully submitted,

/s/ Rachel T Rowley

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