

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: LIBERTY UTILITIES CORP.	DOCKET NO. EEP-2016-0002 WRU-2016-0004-0222
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**ORDER DOCKETING PLAN, ESTABLISHING PROCEDURAL SCHEDULE,
AND GRANTING WAIVER**

(Issued March 16, 2016)

On September 17, 2010, Atmos Energy Corporation (Atmos) filed with the Utilities Board (Board) a notice of intent to begin a rebate pilot program, which offered appliance rebates (furnaces, boilers, and hot water heaters) that were similar to those offered by other investor-owned utilities (IOUs). The pilot program was expected to end in 2013. In 2011, Liberty Utilities Corp. (Liberty) acquired all of the natural gas assets of Atmos Energy Corporation (Atmos) located in Iowa, Illinois, and Missouri. Due to the transition in ownership from Atmos to Liberty, the pilot program and other energy efficiency programs were continued under Atmos' original energy efficiency plan,¹ but no new plan was filed.

In 2014, Liberty met with the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and Board staff to discuss the development of a new energy efficiency plan that would include an appliance rebate program that would no longer be considered a pilot program. On February 17, 2016, Liberty filed an application for approval of its new four-year energy efficiency plan.

¹ See Docket No. EEP-2003-0003.

Liberty's plan contains a description and additional information about the energy efficiency measures and programs to be offered, including low-income weatherization, appliance rebate and school-based energy education, a summary of cost-effectiveness, and a high-level yearly budget. A new feature included in Liberty's plan involves an agreement to partner with Green Iowa AmeriCorps (GIAC) to provide energy evaluations to its low-income residential customers at no cost. GIAC will work with the community action agency that provides the low-income weatherization program in Liberty's service territory. In addition, the school-based education program will be supplemented to provide three professional development workshops for the teachers delivering the education program. The appliance rebate program has also been revised so the rebates are more consistent with those offered by the other IOU gas utilities and allows both residential and small commercial customers to apply for rebates. Liberty's proposed annual budget is approximately \$90,000.

The Board has reviewed Liberty's filing and finds that it substantially complies with 199 IAC chapter 35. Considering both Atmos' and Liberty's history of compliance and the size of its operations in Iowa, the Board will docket Liberty's proposed energy efficiency plan without requesting additional information at this time and establish a procedural schedule. If Liberty and OCA are unable to avoid litigating the plan, the Board may ask Liberty to provide additional information; if the parties reach a settlement, additional information may not be necessary.

Also on February 17, 2016, Liberty filed with the Board a request for a waiver of 199 IAC 35.4(4), 35.8(2)(d), and 35.10, which discuss specific filing requirements for energy efficiency plans. OCA filed a response to Liberty's waiver requests on March 4, 2016, and concurred with Liberty's rationale for the requests and did not object to the requests.

Board rule 199 IAC 35.4(4) requires Liberty to notify all affected customers no more than 62 days prior to filing its energy efficiency plan. In support of its request to waive this rule, Liberty states that its new plan does not propose a substantial change in the budget and will have little impact on the customer's bills or rates. Liberty also states that the cost of compiling and mailing the notice would be high given its small Iowa customer base and would pose a hardship for Liberty.

Board rule 199 IAC 35.8(2)(d) requires that a budget for each year of a five-year plan be included. Liberty asks to be allowed to submit a four-year plan, which would help align its next energy efficiency plan with the other IOUs' energy efficiency planning process and may ease Liberty's regulatory burden by allowing Liberty to participate with the other IOUs in future energy efficiency studies.

Board rule 199 IAC 35.10 identifies specific information that is to be included in an energy efficiency plan including, but not limited to, demand and transportation volume forecasts, projected capacity surpluses and shortfalls, new supply options, and avoided capacity and energy costs. Liberty states that compliance with this rule

would pose an undue hardship on Liberty because it would add expense not supported by Liberty's customer base in Iowa.

To grant the waiver requests, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rules.

The Board finds that a waiver of 199 IAC 35.4(4), 35.8(2)(d), and 35.10 should be granted, based on the Board's review of the information provided by Liberty. Liberty's Iowa customer base is relatively small and the costs of complying with these rules would be disproportionately burdensome to Liberty and its customers. The Board also finds that granting Liberty's waiver request will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded under the circumstances.

IT IS THEREFORE ORDERED:

1. The energy efficiency plan filed by Liberty Utilities Corp. on February 17, 2016, is docketed pursuant to 199 IAC 35.6(2) and an investigation is instituted to determine the reasonableness of Liberty's proposed energy efficiency plan. This matter will be identified as Docket No. EEP-2016-0002, a formal contested

case proceeding. The expenses reasonably attributable to this investigation shall be assessed to Liberty in accordance with Iowa Code § 476.10.

2. The request for waiver filed by Liberty Utilities Corp. on February 17, 2016, identified as Docket No. WRU-2016-0004-0222, is granted. The requirements of 199 IAC 35.4(4), 35.8(2)(d), and 35.10 are waived as described in this order.

3. The following procedural schedule is established:

a. The parties shall notify the Board prior to April 11, 2016, if they desire a prehearing conference.

b. OCA and any intervenors shall file prepared direct testimony, with underlying workpapers and exhibits, on or before May 9, 2016. If a party references a data request in its prepared testimony, the data request shall be filed as an exhibit.

c. If OCA and any intervenors find it necessary to file testimony in rebuttal to each other's direct testimony, they may file rebuttal testimony on or before June 6, 2016.

d. Liberty Utilities Corp. shall file its rebuttal testimony, with underlying workpapers and exhibits, on or before June 27, 2016.

e. The parties shall file a joint statement of the issues on or before July 18, 2016.

f. All parties may file prehearing briefs on or before August 1, 2016.

g. A hearing shall be held beginning at 9 a.m. on Tuesday, August 30, 2016, for the purpose of receiving testimony, the cross-examination of all testimony, and responding to questions by the Utilities Board. The hearing shall be held in the Board's Hearing Room, 1375 E. Court Avenue, Des Moines, Iowa. The parties shall appear thirty minutes before the start of the hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 725-7331 at least five days in advance of the scheduled hearing.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 16th day of March 2016.