

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

In the Matter of the Application of Spire Missouri Inc., for)
Permission and Approval and a Certificate of Convenience and)
Necessity to Construct, Install, Own, Operate, Maintain, and)
Otherwise Control and Manage a Natural Gas Distribution)
System to Provide Gas Service in Buchanan)
County, Missouri as an Expansion of its)
Existing Certificated Areas.)

Case No. GA-2021-0259

SPIRE’S RESPONSE TO STAFF’S RECOMMENDATION

COMES NOW Spire Missouri Inc., d/b/a Spire (“Spire” or “Company”) and submits this response to the Recommendation and Memorandum filed by the Staff of the Missouri Public Service Commission (“Staff”) in the above captioned matter on June 16, 2021. In support thereof, Spire states as follow:

1. On February 15, 2021, Spire filed an Application for a certificate of convenience and necessity (“CCN”) for expansion of its existing certificated area in Buchanan County, specifically for a residential development of Paradise Lake Estates (“Application”).

2. On April 19, 2021, the Staff filed its Recommendation and Memorandum (hereinafter “Staff Recommendation”) relating to its review of Spire’s application in the proceeding. In its Recommendation, Staff recommends the Commission reject the Company’s application. Alternatively, if the Commission approves the CCN, Staff recommends the Commission approve the requested CCN with three specific conditions.

3. Staff’s Memorandum provides its summary of its analysis of the Tartan Energy Criteria,¹ which is the criteria upon which the Commission has previously relied upon in

¹ In Re Tartan Energy, GA-94-127, 3 Mo.P.S.C. 3d 173, 177 (1994)

determining whether or not an application is “necessary or convenient” for public service. The Commission is not bound by past precedent and may consider other factors within its discretion in making this determination along with consideration of the Tartan factors. Those factors, include in sum:

- * a need for the facilities and service;
- * whether the applicant is qualified to own, operate, control and manage the facilities and provide the service;
- * the applicant has the financial ability for the undertaking;
- * proposal is economically feasible; and
- * the facilities and service promote the public interest.

In its Memorandum, Staff asserts that there is not a need for the service and that the applicant’s proposal is not economically feasible, and therefore it is not in the public interest.²

4. Spire provides its response to the Staff Recommendation and Memorandum below.

NEED FOR THE FACILITIES AND SERVICES

5. In its Application, Spire informed the Commission that a developer had approached the Company with a need for a distribution extension to provide service to 34 single-family residential lots. Spire stated that the proposed project will result in additional customers within the developer’s planned subdivision, which is Spire’s focus for this request, but also acknowledged that there might be an opportunity to add additional customers along the route in the future. When the developer approached Spire for natural gas service to the residential development of Paradise Lake Estates, the developer asserted the need for this project. Spire responded to that need by filing this

² Staff’s Memorandum page 4.

Application to meet the requirements to extend its service to Missourians who desire natural gas service. Attached as confidential Exhibit A is correspondence from the developer for the need for the service and the desire to have natural gas available to the residential subdivision.

6. Additionally, the Buchanan County Commission approved a right of away for this project, which was attached to Spire's Application as Appendix 4.

7. Staff's Memorandum acknowledges that the developer wants natural gas service to be available to the homes, but asserts that it is unclear if the homes will be required to use natural gas or if the potential homeowners will be able to use alternative energy sources, so therefore Staff concludes that there is no need for the service. Spire disagrees with Staff's conclusion. It is not unusual for customers to have access to both electric utility options and natural gas options, nor is it unusual for customers to only have access to one type of utility over another. Spire stated that natural gas service is not currently offered by another unregulated or regulated entity in any of the requested areas for this project in its initial application³. The Company believes that therefore, upon request, that natural gas as the utility type is "required". Staff's Recommendation appears to make a recommendation that results in stalling economic development unless and until all future questions are answered. It also seems to suggest that one utility service option is all that is needed for customers. Even if the customers were to have access to an alternative fuel source, the availability of natural gas as a safe, reliable and affordable option is undoubtedly in the public interest. Staff's conclusions do not promote the public interest and are contrary to the facts of this case. Spire has demonstrated a clear need for this service.

³ 4 CSR-240-3.205(1)(A)1

ECONOMIC FEASIBILITY

8. Staff also asserts that the CCN for service to Paradise Lake Estates does not appear to be an economically feasible extension absent a customer contribution.⁴

9. Spire provided its economic analysis as part of its initial filing, which shows that service to Paradise Lake Estates *is* economically feasible and asserted that no customer contribution was necessary for this project and that the Company would finance the project with internal funds. Per the Company's economic analysis, a customer contribution is only required if the internal rate of return without a customer contribution is ** _____ **. Here, the ROR was determined to be ** _____ **, therefore not requiring a customer contribution. In addition, the Company's economic analysis shows that the Company's revenues for the three-year period exceeds the Company's expenses, which further supports the Company's position that the project is economically feasible.

10. It appears Staff's position is based solely on a three-year financial analysis submitted as a requirement to fulfill the CCN application. Staff seems to believe that because the investment appears to not be recovered in three years, the project is not economically feasible. Spire disagrees with this position as a 3-year rate of return is not a specific requirement for extending service as required by Rule 20 CSR 4240-3.305 (1)(A) 5, and using complete recoverability of an investment in three years is not an appropriate basis by which to determine economic feasibility. Paradise Lake Estates is a residential subdivision that will be housing residents well beyond three years, and in consideration of the Company's economic study and the long-term use of these assets, the Company again reiterates that the project is economically feasible. Furthermore, Spire's tariffs (Sheet R-15.1) allow for free extensions of Company facilities for a prospective customer whose

⁴ *Id.* at page 3-4

annual consumption is less than 6,000 therms/ccf, of up to 175 feet of main and 75 feet of service line. Had the Application for service fallen within Spire's existing service territory, this Application would have qualified for 'free extensions' under this tariff.

11. Staff cites Spire's tariff sheet P.S.C. MO. No. 8, Sheet No. R-15.1, Section 19. D, paragraph 3, "In no case, however, shall the Company be obligated to invest more than \$1,000 per customer in the aggregate for both the main extension and service extension." Simply because the Company is not obligated to invest a certain amount above what the tariff allows, that does not prevent Spire from making an informed business decision to invest more than the minimum tariffed amount.

12. Staff is relying solely on the economic analysis of the utility system for the first three years of construction that was provided in the Application, as required by Rule 20 CSR 4240-3.305 (1)(A) 5. The Company again asserts that this is not an appropriate basis to determine economic feasibility and urges the Commission to instead consider and rely on the Company's Economic Analysis showing the economic feasibility of extending service to Paradise Lake Estates.

PUBLIC INTEREST

13. Staff concludes that because it does not appear to be an economically feasible extension of Spire's service territory, the project is not in the public interest.⁵

14. The Company disagrees with Staff, as per the Company's own economic study, the project is economically feasible. Furthermore, an evaluation of the public interest requires consideration of several factors beyond financial viability. In this case, a Missouri developer wants to build a new residential subdivision, which demonstrates a need for the project and promotes

⁵ *Id.* at page 4.

economic development and growth in the state. The County Commission has given its blessing for this request presumably because it sees the development as a good sign of growth for the county. The ability for customers to access affordable and reliable and safe utility service is in the public interest. This project promotes the public interest.

STAFF'S CONDITIONS

15. Staff's Memorandum includes an alternative proposal, one where the Commission approves Spire's Application. In that proposal, Staff recommends the Commission impose three conditions with its approval: (1) Hold customers receiving service outside of the requested CCN area harmless of any expenses and investments in excess of billed non-gas revenues; (2) Require Spire to specifically identify in its plant records all investment related to the Company's expansion in the requested area; and (3) Require Spire to file to an updated tariff sheet to incorporate Sections 36 and 31, Township 55 North, Ranges 34 and 35 West.

16. Spire agrees with the third condition that updated tariff sheets will need to be filed upon Commission approval of the Application.

17. In response to the other two conditions, Spire does not agree with these conditions at this time. Those conditions are not necessary and require additional steps that are not practical and are highly burdensome to achieve from the Company's perspective. However, Spire plans to discuss those conditions with Staff in the near future in hopes that those concerns can be addressed, and that Spire can provide the information in a format that is more aligned with our current record keeping.

18. Additionally, Spire opposes Staff's assertion that Spire should "ensure" certain information is included in its feasibility study for all future CCN applications.⁶ Staff does not have the authority to required items to be included in a CCN application. There is no statute or Commission rule that requires that additional information. The filing requirements for what the Company is required to file are clearly established and enumerated in Commission Rule 20 CSR 4240-3.305. The Company will continue to work with Staff on enhancing reports or pre-file or accelerate standard data requests.

WHEREFORE, Spire requests, that the Commission accept this Response to Staff's Recommendation, approve the Company's Application in order to allow the Company to provide natural gas service to additional areas of Buchanan County, and grant such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Rachel L. Niemeier

Matthew Aplington MoBar #58565
General Counsel
Spire Missouri Inc.
700 Market Street, 6th Floor
St. Louis, MO 63101
(314) 342-0785 (Office)
Email: matt.aplington@spireenergy.com

Goldie T. Bockstruck MoBar #58759
Director, Associate General Counsel
Spire Missouri Inc.
700 Market Street, 6th Floor
St. Louis, MO 63101
314-342-0533 Office
314-421-1979 Fax

⁶ *Id.*

Email: Goldie.Bockstruck@spireenergy.com

Rachel Lewis Niemeier MoBar #56073

Regulatory Counsel

Spire Missouri Inc.

700 Market Street, 6th Floor

St. Louis, MO 63101

314-390-2623 Office

Email: rachel.niemeier@spireenergy.com

ATTORNEYS FOR SPIRE MISSOURI INC

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 28th day of June, 2021.

General Counsel's Office
Missouri Public Service Commission
staffcounsel@psc.mo.gov

Office of the Public Counsel
opcservice@ded.mo.gov

/s/ Rachel L. Niemeier
