

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 23rd day of August, 2023.

In the Matter of the Application of Spire)
Missouri Inc. d/b/a Spire 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 Cass County, Missouri as an)
Expansion of its Existing Certificated)
Areas)

File No. GA-2023-0389

**ORDER APPROVING APPLICATION AND GRANTING
A CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: August 23, 2023

Effective Date: September 2, 2023

Procedural History

On May 16, 2023,¹ Spire Missouri Inc. d/b/a Spire filed an application seeking a certificate of convenience and necessity (CCN) regarding a natural gas distribution system in Cass County, Missouri, as a further expansion of Spire's existing certificated area. Spire also requested waiver of the Commission's rule requiring sixty days' notice prior to filing an application.

Spire's request is for a service area CCN to provide gas to a single facility. The request to serve that facility comes from an existing customer.² Natural gas distribution

¹ All dates refer to 2023 unless otherwise indicated.

² The identity of the customer is confidential, and will not be stated in this order.

service is not currently offered in the area for which a CCN is being requested; however, Spire has Commission-approved certificated areas surrounding the requested section. Spire has also received requests from two residential customers along the route who want natural gas service.

The Commission issued notice of the application and set a deadline for the filing of applications to intervene, but no applications to intervene were received.

On August 8, the Staff of the Commission (Staff) filed its Recommendation with an attached Memorandum. Staff recommended the Commission grant Spire the requested CCN subject to three recommended conditions.

Time was allowed, but no other responses or objections to the application, to Staff's Recommendation, or to Staff's three recommended conditions were received.³ The requirement for a hearing is met when the opportunity for a hearing has been provided.⁴ No party requested a hearing. Thus, the Commission will rule on the application.

Discussion

Certificate of Convenience and Necessity

Section 393.170, RSMo (Supp. 2022), in subsection 2, requires Spire to have a CCN, which is granted by the Commission, prior to providing natural gas distribution service in the requested Cass County service area. Subsection 393.170.3, RSMo, requires that the Commission determine that the services are "necessary or convenient for the public service." The term "necessity" does not mean "essential" or "absolutely

³ Commission Rule 20 CSR 4240-2.080(13).

⁴ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

indispensable," but rather that the proposed project "would be an improvement justifying its cost," and that the inconvenience to the public occasioned by lack of the proposed service is great enough to amount to a necessity.⁵ It is within the Commission's discretion to determine when the evidence indicates the public interest would be served by the award of the certificate.⁶ Subsection 393.170.3 permits the Commission to impose the conditions it deems reasonable and necessary for the grant of a CCN.

The Commission has articulated specific criteria when evaluating applications for utility CCNs as follows:

- (1) there must be a need for the service;
- (2) the applicant must be qualified to provide the proposed service;
- (3) the applicant must have the financial ability to provide the service;
- (4) the applicant's proposal must be economically feasible; and
- (5) the service must promote the public interest.⁷

These criteria are known as the Tartan Factors.⁸

There is a need for the service, as the customers have requested such and will need continuing service. Spire is qualified to provide the service, as it is an existing large natural gas distribution public utility and gas corporation, subject to the Commission's jurisdiction.⁹ Spire has the financial ability to construct the system, as no external financing is needed. The proposed transaction is economically feasible as the effect on

⁵ *State ex rel. Intercon Gas, Inc., v. Pub. Serv. Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. App. 1993), citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216, 219 (Mo. App. 1973), citing *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

⁶ *State ex rel. Ozark Electric Coop. v. Public Service Commission*, 527 S.W.2d 390, 392 (Mo. App. 1975).

⁷ *Report and Order*, In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994), 1994 WL 762882, *3 (Mo. P.S.C.).

⁸ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

⁹ Section 386.020 (Supp. 2022).

Spire's revenue requirement indicates that the impact of granting this CCN will not be detrimental to either new, or existing customers. The proposal promotes the public interest as an existing customer and two new customers have requested service and the cost impact is not a detriment.

Based on the application and Staff's Recommendation and Memorandum, the Commission concludes that the Tartan factors for granting a CCN to Spire have been satisfied. Therefore, the Commission will grant Spire the CCN to provide natural gas distribution service within the proposed service area subject to the three unopposed conditions described by Staff.

Spire also sought a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D). Spire verified that it had no communication with the office of the Commission regarding any substantive issue likely to be in this case during the preceding 150 days. The Commission finds good cause to waive the notice requirement.

So that the customers requesting service may timely begin receiving service, the Commission finds it reasonable to make this order effective in fewer than 30 days.

THE COMMISSION ORDERS THAT:

1. Spire's request for waiver from the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D) is granted.
2. Spire is granted a CCN to install, acquire, build, construct, own, operate, control, manage, and maintain a natural gas distribution system in area specified area in the application in Cass County, subject to the conditions contained in Staff's recommendation, as follows:
 - a) Spire shall initiate an internal audit of its processes and procedures regarding compliance with Commission Rule 20 CSR 4240-3.205

Filing Requirements for Gas Utility Applications for Certificates of Convenience and Necessity to ensure all of its regulated area of operation has been certified by the Commission. The report shall also include steps taken to avoid constructing and/or operating in uncertified areas in the future.

- b) Spire shall provide its internal audit report to the Commission prior to filing for its next general rate case.
- c) Spire shall file an updated tariff sheet incorporating Section 18, Township 46 North, Range 31 West for Cass County.

3. The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters in any later proceeding.

4. This order shall become effective on September 2, 2023.



BY THE COMMISSION

A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, Kolkmeier
and Hahn CC., concur.

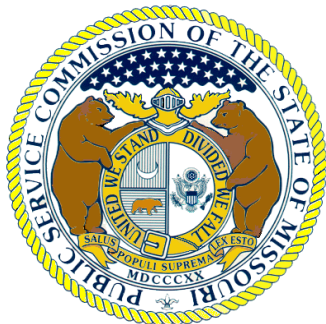
Hatcher, Senior Regulatory Law Judge.

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 23rd day of August, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 23, 2023

File/Case No. GA-2023-0389

**Missouri Public Service
Commission**
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@opc.mo.gov

**Missouri Public Service
Commission**
Ron Irving
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Ron.Irving@psc.mo.gov

Spire
Matthew Aplington
700 Market Street
Saint Louis, MO 63101
matt.aplinton@spireenergy.com

Spire
J. Antonio Arias
700 Market Street, 6th Floor
St. Louis, MO 63101
antonio.arias@spireenergy.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.