

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

In the Matter of Spire Missouri, Inc.’s d/b/a)	
Spire Request for Authority to Implement a)	
General Rate Increase for Natural Gas)	File No. GR-2021-0108
Service Provided in the Company’s)	
Missouri Service Areas)	

**SPIRE MISSOURI’S RESPONSE TO THE OFFICE OF THE PUBLIC COUNSEL’S
APPLICATION FOR REHEARING OR RECONSIDERATION**

COMES NOW Spire Missouri Inc., d/b/a Spire (“Spire” or “Company”), by and through counsel, and for its *Response to the Office of the Public Counsel’s (“OPC”) Application for Rehearing or Reconsideration* (“Response”) in this matter, hereby states as follows:

BACKGROUND

1. On November 5, 2021, OPC filed its *Application for Rehearing or Reconsideration* (“OPC Application”) in this matter. OPC’s Application requests Rehearing or Reconsideration as to four items:

- (1) Capital Structure, specifically the Commission’s calculation regarding the determination of Spire’s short-term and long-term debt as it pertains to Winter Storm Uri costs;
- (2) Incentive Compensation;
- (3) Net Operating Loss (“NOL”) tracker; and
- (4) Affiliate Transaction Rule – burden of proof.

2. On November 9, 2021, the Missouri Public Service Commission (“Commission”) issued an *Order Shortening Time for Responses*, allowing Parties until November 10 to Respond to both Spire and OPC’s Application for Rehearing and Reconsideration.

RESPONSE

3. The Company disagrees with OPC's Application in its entirety, however, does not wish to relitigate its case as to these matters in this Response. Spire will however, briefly respond to certain points made by the OPC for the Commission's consideration:

4. Capital Structure. On the issue of short-term and long-term debt and what is included in the Company's ordered capital structure, OPC ignores that which is plainly evident from the Commission's October 27, 2021 Report and Order ("the Order"), that "**it is not appropriate to include debt associated with Winter Storm Uri in the capital structure**" [emphasis added]. Report and Order, pp. 88-89. Nowhere does the Commission imply that Winter Storm Uri debt should be reallocated, only that it be excluded. The Commission's decision to exclude Winter Storm Uri debt from Spire's capital structure should be upheld. OPC's request is clearly contrary to the Commission's decision and further would result in the Company being penalized for debt associated with the Winter Storm Uri event. OPC's request as to removal of the sentence from page 88 of the Order, stating "[o]nce OPC's recommendation is recalculated to remove the Winter Storm Uri costs, then that short-term debt amount should be deducted from the amount of long-term debt in Spire Missouri's capital structure" should be rejected. This sentence is integral in supporting the Commission's intent of excluding Winter Storm Uri costs from Spire's capital structure.

5. Incentive Compensation. OPC's Application attempts to relitigate the issue of incentive compensation in its entirety. The Order states that it found the witness for Staff of the Commission "more credible than that of OPC". The Commission went further and found, "OPC's theory is unworkable when a company designs an employee incentive program that focuses on non-monetary aspects such as customer service or safety training. The AIP bonuses rewarding employees for attaining non-monetary goals under OPC's position would not be recoverable in

rates.” Report and Order, pp. 33-34. The Commission clearly decided which witness was more credible on this issue and provided further analysis of the errors in OPC’s arguments. The evidence shows that metrics used in Spire’s AIP plan are designed to deliver benefits to customers that are not strictly monetary. OPC’s Application on this issue should be denied.

6. NOL Tracker. OPC relies on the argument that an NOL tracker should be reconsidered by the Commission because it is OPC’s opinion that paragraphs 53 and 55 of the Order contradict themselves. OPC states that “[t]he information sought by the tracker proposed by OPC cannot simultaneously “not factor into the ADIT component of rate base” and still be “accounted for through the ADIT offset.” OPC Application, p. 22. This red herring is of no consequence as it is clear that the Commission has already considered the evidence of record, finding that Staff and Spire witnesses to be more credible than that of OPC and has determined that a NOL tracker is not necessary. Given the clarity on what the Commission has ultimately determined as to the NOL tracker (that no tracker is necessary), rehearing or clarification should be denied as to this issue.

7. Affiliate Transactions. The basis of OPC’s entire argument relies upon the false assumption that Spire is in violation of the affiliate transaction rules. Nowhere does the Commission’s Order find that such violation occurred. Rather, the Order further correctly finds that Spire is in compliance with its Commission-approved CAM, based on the evidence presented. OPC cannot simply impute findings that do not exist to support its claim that there has been a violation of burden of proof. Instead, OPC attempts to confuse the issue by reference to the statement in Office of the Public Counsel v. Missouri Public Service Commission, 409 S.W3d 371 (Mo. banc 2013) that there is no presumption of prudence for affiliate transactions. While that is a correct statement of law in the abstract, that case involved the propriety of standalone RFP bids for gas supply among two Atmos affiliates. That case did not involve routine back office

corporate allocations subject to a Commission-approved CAM, which are the costs challenged by OPC in this case. In fact, the Atmos case did not involve a CAM at all. The case is therefore fully distinguishable, and rehearing as to this point should also be rejected by the Commission.

WHEREFORE, Spire respectfully requests the Commission consider and accept Spire's Response to OPC's Application for Rehearing and Reconsideration and deny OPC's request for the reasons stated herein and any other relief it deems appropriate.

Respectfully Submitted,

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ATTORNEYS FOR SPIRE MISSOURI INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing pleading was served on all parties to this case on 10th day of November 2021 by electronic mail.

Lew Keathley