BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Spire Missouri, Inc. d/b/a Spire (East) Purchased Gas Adjustment (PGA) Tariff Filing	)))	GR-2021-0127

COMMENTS OF ENVIRONMENTAL DEFENSE FUND

Environmental Defense Fund ("EDF") provides comments pursuant to the Missouri Public Service Commission's ("Commission" or "PSC") orders dated May 31 and July 12, 2022 in this docket. EDF takes the position that this docket involves substantial procedural and utility management concerns, both of which necessitate evidentiary hearings, findings, and other Commission actions, including but not limited to the recommendations herein, to address the Company's management decisions.

BACKGROUND

This case involves the Commission setting rates through the Actual Cost Adjustment ("ACA"). The ACA is an adjudicatory process that includes addressing the reasonableness of the "Company's conduct." [1] Any Commission decision must be supported by substantial and competent evidence on the whole record.[2] Such substantial and competent evidence in an adjudicatory proceeding involves, at a minimum, sworn testimony subject to cross-examination.[3]

A fundamental concept of rate regulation is that the utility bears the burden of proving the justness and reasonableness of the costs it proposes to pass on to retail customers.[4] While in

[1] *State ex rel. Associated Nat. Gas Co. v. PSC*, 954 S.W.2d 520, 528-28 (Mo. App. 1997).
[2] *Id.*, at 528.
[3] *State ex rel. Atmos Energy Corp. v. PSC*, 103 S.W.3d 753, 760 (Mo. 2003)(Cross-examination required in adjudication).
[4] *See e.g. In the Matter of Tariffs Filed by Western Resources, Inc., d/b/a Gas Service, a Western Resources Company*, Case No. GR-93-140, 3 Mo. P.S.C. 3d 480 (1995) ("It is well settled that

some circumstances the Commission applies "presumption of prudence" to the utility,[5] the Missouri Supreme Court has held that the presumption of prudence may only be applied to costs incurred through arms-length transactions with non-affiliated companies.[6] In contrast, "whenever a company conducts transactions among its own affiliates, there are inherent issues about the fairness and motivations of such transactions" and the presumption of prudence does not apply.[7] In addition, the Commission has stated that no such presumption exists where "a participant in the proceeding creates a serious doubt as to … prudence".[8]

Central to this docket is the prudence of Spire Missouri, Inc.'s ("Spire" or "Company") actions in pursuing and then relying on affiliate Spire STL Pipeline ("the Affiliate Pipeline") for critical service. Additional prudence issues are raised by Spire deciding to significantly alter its gas intake infrastructure and contracts to rely primarily on the Affiliate Pipeline for supply before federal appeals regarding the Affiliate Pipeline's certification had expired or been exhausted. Parties raised substantive concerns about the proposed Affiliate Pipeline before the Federal Energy Regulatory Commission ("FERC") – including this Commission.[9] The docket contains no comprehensive case by the Company supporting its prudence—despite the Affiliate

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the utility . . . has the burden of showing that the gas costs passed on to ratepayers through operation of the PGA tariff are just and reasonable.")

[5] *Matter of Union Electric*, Case Nos. EO-85-17 and ER-85-160, 27 Mo. P.S.C. (N.S.) 183 (March 29,1985).

[6] *Office of the Pub. Counsel v. Mo. PSC*, 409 S.W.3d 371, 372, 376-79 (Mo. 2013).

[7] *Id.*

[8] *Matter of Union Electric, supra, 192-93.*

[9] The Missouri Commission protested Spire STL's application before the Federal Energy Regulatory Commission in FERC Docket No. CP17-40. The Missouri Commission's protest was provided as Attachment A to November 9, 2020 Comments and Motion to Establish a Procedural Schedule of Environmental Defense Fund, Office of Public Counsel, Missouri Energy Consumers Group and Consumers Council of Missouri. *See also:* Protest of Environmental Defense Fund, FERC Docket CP17-40-000 (May 23, 2017).

Pipeline transaction being one with an affiliate, and the issue of prudence of the Affiliate transaction having been identified early by parties on November 9, 2020—ten days after the docket opened.[10] And there is, of course, no sworn testimony that has been subject to cross-examination.

The parties raising prudence issues requested a procedural schedule whereby the Company would first file its case.[11] The Commission denied this request, stating that the Commission would wait to establish a procedural schedule until after the parties had an opportunity to examine Staff's report and recommendation. Thus, instead of a starting with a Company case for meeting its burden of proof, the Company's filing was a one-page cover letter and tariff sheet.

Staff then pursued information from the Company and took the lead role in the docket, providing the first substantive filings in the case. On July 11, 2022, 20 months into the proceeding, the Company provided comments responsive to Staff with attachments from consultants addressing certain prudence issues.

Despite noting concerns about document destruction and contemporaneous reporting by Spire, reports from Staff and its consultants generally recommended finding that the Company's actions to proceed with Affiliate Pipeline were prudent.[12] A substantial part of Staff's work in reviewing the prudence of the Company's decision to contract with and rely upon the Affiliate Pipeline was the RFP process the Company conducted that occurred prior to contracting with the Affiliate Pipeline. That RFP process addressed in the Staff memo is presumably the same

[10] Comments and Motion to Establish Procedural Schedule of Environmental Defense Fund, Office of Public Counsel, Midwest Energy Consumers Group and Consumers Council of Missouri, filed November 9, 2020.
[11] *Id.*
[12] Staff Official Case File Memorandum, pp. 5-6 (May 27, 2022).

process described in Staff's consultant report indicating the Company issued RFPs in July 2015 and again in January 2016.[13]

Staff recommended findings of prudence for the Company action to contact with Affiliate Pipeline despite Staff initially being told that the Company "could not provide such documents due to [the Company's] agreement to destroy such documents."[14] Based on this, Staff initially concluded there was no documented RFP process, but then then then later received portions of the responses.[15] Staff explicitly did not express an opinion on the Company's prudence in relying on Affiliate Pipeline prior to the exhaustion of appeals, and indicated that those Company actions would be addressed in future proceedings.[16] Staff did not explain why that aspect of prudence was not to be addressed in this proceeding or why it was appropriate for it not to address that aspect of the Company's procurement.

It appears that Staff, its consultant, and Spire all made price comparisons among the options, and then addressed prudence as if the competing options were similar. However, the options were not similar. Unlike other supply options, the Affiliate Pipeline was at risk of being unable to deliver gas due to its Certificate of Public Convenience and Necessity issued by FERC not being final with all appeals expired or exhausted. EDF submits that this issue should be among the issues focused on in evidentiary hearings in this proceeding – not just in future proceedings.

EDF submits these foregoing facts to support the Commission requiring the Company to file an initial case designed to meet its burden of proof for all elements in this case (and in future

[13] Schumaker & Company, Report of the Prudency Review of Spire STL Pipeline for the Missouri Public Service Commission, Case- No. GR-2021-0127 p.8 (May 27, 2022).
[14] Staff Official Case File Memorandum, p. 5 (May 27, 2022).
[15] *Id.,* p. 5.
[16] *Id*., p. 4.

ACA cases), including showing compliance with all affiliate transaction rules. The Commission should, in this and future proceedings, review and hold the Company accountable for its choice to subject its customers to the risk of relying on Affiliate Pipeline's ability to operate prior to exhaustion of appeals, and for the withholding, unavailability, or destruction of documents related to the RFP process. No Commission findings should be made in this docket without evidentiary hearings.

As is further described below, EDF also recommends that the Commission's procedures regarding regulation of affiliate transactions be examined and that the recovery of legal expenses related to the Company's reliance on Affiliate Pipeline be reviewed.

I. THIS PROCEEDING SHOULD ADDRESS THE COMPANY PLACEMENT OF RISK ON ITS CUSTOMERS BY RELIANCE ON AFFILIATE PIPELINE BEFORE IT HAD FINAL CERTIFICATION.

The Company terminated other related transportation and supply arrangements and passed up other options in favor of doing business with Affiliate Pipeline, and relied on service from Affiliate Pipeline prior to the exhaustion of appeals regarding the FERC certificate for the Affiliate Pipeline. When the U.S. Court of Appeals for the D.C. Circuit vacated FERC's certification of the Affiliate Pipeline,[17] the Company and its customers faced this risk head on. The risk was summarized in Company President Carter's affidavit filed at the FERC (Attachment A hereto),[18] as follows:

> Spire Missouri cannot replace its current firm supply from STL Pipeline with any other alternatives to ensure reliable gas service to the St. Louis region. Without supply from STL Pipeline, Spire Missouri would very likely be forced to intentionally curtail natural gas service to many of its customers during the upcoming 2021-2022 winter heating season. In addition, Spire Missouri faces the

[17] *EDF v. FERC*, 2 F.4th 953 (2021).
[18] Affidavit of Scott Carter, July 26, 2021, attached to Application of Spire STL Pipeline LLC for a Temporary Emergency Certificate, or, in the Alternative, Limited-Term Certificate, FERC Docket No. CP17-40-007, p. 2 (July 26, 2021).

> very real threat that despite such mandated curtailments, *its reduced gas supply would lead to low pressure on its distribution system during cold periods and cause uncontrolled loss of service to households and other high priority consumers, such as hospitals, nursing homes, and schools. Loss of natural gas service during cold periods would create the potential for loss of life and severe impacts to essential services relied on by many individuals and communities served by Spire Missouri.*

(Emphasis added.)

Mr. Carter indicated that this was not a remote possibility, but a likely event should that pipeline be unavailable in a winter period:

> After Spire Missouri maximizes its available supplies and issues curtailment orders to minimize use of natural gas by non-essential end users, its customers could begin to lose service due to uncontrolled pressure loss at an average daily temperature of approximately 9 degrees Fahrenheit without natural gas supply from STL Pipeline. These temperatures are not atypical for St. Louis. Spire Missouri has experienced days with average daily temperatures at or below 9 degrees Fahrenheit during four of the last five winters. This temperature threshold for potential loss of service to customers increases to approximately 38 degrees Fahrenheit once Spire Missouri's natural gas storage resource is depleted. Finally, it is important to note that these temperatures are well above Spire Missouri's peak day temperature for planning purposes of -10.6 degrees Fahrenheit.[19]

To summarize the need for the pipeline and the risk, Mr. Carter stated that: "it is essential that STL Pipeline be permitted to maintain … service to its customer Spire Missouri *to avoid imposing severe hardships…, including the potential for loss of life.*" (Emphasis added).[20]

The Company decision to rely on Affiliate Pipeline at that time subjected customers in its service territory to unacceptable risk, a risk described by Mr. Carter. This unacceptable risk was known, foreseeable, and avoidable. The Company comments and consultant reports filed in this docket do not address the reasonableness of abandoning transportation on other pipelines, storage and propane facilities before Affiliate Pipeline had a final FERC certificate not subject to

[19] *Id*., p.9.
[20] Id., p.2.

pending rehearing or judicial appeals. In short, there is nothing in this docket supporting the prudence of abandoning other pipelines, storage and propane facilities before Affiliate Pipeline had a final FERC certificate. And, as noted above, to decide this issue there needs to be sworn testimony subject to cross-examination.

The fact that service has not been interrupted, despite the Company decision to subject its customers to this risk, does not and should not resolve the issue. The fact that service has not been interrupted is no more determinative of prudence than if one successfully drove at 100 miles per hour on Interstate Route 70 across Missouri without incident. Safe arrival after such a drive does not show prudence, just as the lack of service interruption does not show prudence. Both the reliance on Affiliate Pipeline and the hypothetical 100 mph trip reflect imprudence due to the risks such conduct creates for safety and life.

EDF submits that the material in this docket to date indicates that the Company chose to unnecessarily face such risk in order to advance business with the Affiliate Pipeline. Such action appears to reflect grossly imprudent management. EDF suggests a remedy that the Commission may use to address this apparent imprudence is the consideration of a downward adjustment to the Company's allowed rate of return. The Commission has held that it has the authority to adjust the "rate of return to account for management efficiency, or the lack thereof" and provided substantial citations supporting such authority.[21]

EDF suggests that such an adjustment be considered in a current or forthcoming base rate case. This recommendation is consistent with the Staff 's recommendation that the Company

[21] *I/M/O Kansas City Power & Light Company for Authority to File Tariffs Increasing Rates*, Case Nos. ER-83-49, ER-83-72, and EO-82-65 (July 8, 1983). *See also: State ex rel. Nixon v. PSC (State ex rel. Pub. Counsel)*, 274 S.W.3d 569, 575-76 (Mo. App. 2009).

bear the risks of its action "in future Commission proceedings."[22] The evidence relevant to the Company's management and choice to accept gas transportation and delivery risk should be of record in a Company rate case. That case should include all necessary due process protections. Minus the discovery of some to date unknown exculpatory facts in that proceeding, the Company should face a substantial reduction in its allowed rate of return for its apparently imprudent action.

The choice to rely on the Affiliate Pipeline prior to exhaustion of appeals of its certificate matter should also be addressed in this proceeding, as the purchase and risk to service is in this ACA time period. It appears that all parties and consultants that addressed prudence of pursuing the Affiliate Pipeline compared the price of the Affiliate Pipeline and other choices as if they were essentially equal choices. For example, the Staff discussed non-price benefits of the Affiliate Pipeline in supporting its limited prudence opinion but did not address how this non-price detriment fits in, other than to say it should be addressed in future proceedings.[23] EDF submits the supply alternatives are not equal choices, just as driving Interstate 70 across Missouri at a lawful speed versus at 100 mph are not similar choices. Thus, the Company's choice to undertake this riskier and thus inferior service should be explored in evidentiary proceedings in this docket.

II. THE COMMISSION SHOULD INVESTIGATE AND HOLD THE COMPANY RESPONSIBLE FOR THE HANDLING OF RESPONSES TO RFPs AND RELATED DOCUMENTS.

[22] Staff Official Case File Memorandum, at 6 (May 27, 2022).
[23] *Id.*, pp. 4-6. Staff's Consultant also addressed prudence of purchasing from the Affiliate Pipeline and its price without addressing the non-price detriment of purchasing prior to exhaustion of appeals of its certificate, also deferring that concern to a future proceeding. Schumaker & Company, Report of the Prudency Review of Spire STL Pipeline for the Missouri Public Service Commission, Case- No. GR-2021-0127 pp. 2-3, 31, 48. (May 27, 2022).

Key statements in the recommendations of the Staff regarding the Company's RFP process for obtaining new gas supply transportation, are as follows:

> Another Staff concern arises around the general lack of contemporaneous documentation that Spire Missouri initially provided regarding the RFP process to obtain additional gas supplies through new transportation routes implemented in 2015. After Spire Missouri reported that it could not provide such documents due to its agreements to destroy RFP proposals, Staff initially concluded that there was no documented RFP process. Staff continued to press for this information, and Spire Missouri finally provided some relevant RFP documents in early 2022. Even after receiving several key documents, Staff found that Spire Missouri's evaluation process itself was not very transparent as it moved to an ultimate decision in early 2016 to have an affiliated entity, Spire STL Pipeline, construct, own, and operate the pipeline.
>
> Staff notes that over the course of this review there was eventual improvement in the access to documents relating to the decision to have Spire STL Pipeline construct, own and operate the pipeline, along with the Spire Missouri's availability to explain and clarify the decision-making process.

Staff May 27, 2022 Memorandum to Case File, pp. 4-5.

Contemporaneous documentation of decision making is the preferred method to show and investigate prudence.[24] Staff has in a past ACA proceeding recommended denial of recovery of 100% of contracted costs not supported by contemporaneous documentation.[25] The Commission accepted 50% of the adjustment proposed in that case.[26]

It is unclear what Staff's opinion is on whether there is contemporaneous documentation of the Company's actions after its eventual receipt of some documents from the RFP process. Staff stated that Spire had agreements to destroy RFP responses and that Spire did not produce of at least some of the responses.[27]

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[24] *Gulf States Utils. Co. v. Pub. Util. Comm'n*, 841 S.W.2d 459, 476 (Tex. App. 1992).
[25] *I/M/O Associated Natural Gas Company of Fayetteville, Arkansas*, Case No. GR-90-38 (July 14, 1995).
[26] *Id.*
[27] Staff Official Case File Memorandum, at 4-5 (May 27, 2022)

In lieu of contemporaneous documentation and analysis, a second, less reliable method is analyzing the prudence of the decision after-the-fact.[28] EDF submits it is unclear how much of Staff's opinion in recommending a finding of Company prudence in its transaction with Affiliate Pipeline is based on contemporaneous documentation or how complete the documentation was.

In the past, the Commission has addressed the utility destruction of documents important to regulatory review. In one case, it found that, while Staff could not prove the intentional destruction of documents, the utility company's destruction of them and their unavailability was "at least grossly incompetent."[29]

With regard to the Company (and its predecessor Laclede) there have been substantial expressions of concern regarding its maintenance of records related to affiliate rules, which adds support to investigating the Company's handling of documents in this matter. In Spire's 2017 rate case, Staff and the Office of Public Counsel addressed such concerns:[30]

- Staff repeatedly expressed concerns that Laclede's 2004 CAM – which a gas utility can use to demonstrate compliance with Affiliate Transaction Rules – did not comply with those rules. Eventually, Staff filed a complaint on October 6, 2010 (Case No. GC-2011-0098), alleging that Laclede's CAM failed to comply with the Commission's Affiliate Transaction Rules; that Laclede failed to obtain Commission approval of its CAM; and that Laclede failed to annually submit its CAM to Staff."[31]

- Testifying for the Office of Public Counsel, Mr. Charles Hyneman, a member of Staff's Auditing Department from 1993 to 2015, noted that during his time in the department "Staff had serious concerns with Laclede's failure to adhere to its transparency

[28] *Gulf States Utils. Co.*, *supra*.
[29] *Staff of the MPSC v. Missouri Pipeline Company, LLC*, Case No. GC-2006-0491 (issued Oct. 11, 2007).
[30] *See e.g.*, GR-2017-0215 Exhibit No. 425 (Hyneman Surrebuttal Testimony), Schedule CRH-S-7 at page 28; GR-2017-0215 Tr. at page 1885:7-10; Tr. at page 1910:2-8; GR-2017-0215 Schedule CRH-S-7 at page 23.
[31] GR-2017-0215 Exhibit No. 425 (Hyneman Surrebuttal Testimony), Schedule CRH-S-7 at page 28.

commitments made to the Commission related to its transactions with Laclede's affiliates…."[32]

- Mr. Hyneman also explained Staff's concerns regarding Laclede's refusal or inability to provide affiliate invoices for gas, including in GR-2005-0203.[33]

- In Laclede's 2010 general rate case, GR-2010-0171, Staff raised "Staff's Revenue Requirement Cost of Service Report in Laclede's 2010 general rate case, Case No. GR-2010-0171, Staff raised "serious concerns that the Company's policies, procedures and methods for its allocation of costs to its various affiliates is inadequate to prevent Laclede Gas' customers from paying expenses that are related to affiliates."[34]

- In Staff's Investigation Report in Case No. GM-2016-0342, Staff found that, among other violations, Spire and its family of corporation had not complied with the condition to "maintain records supporting its affiliated transactions for at least five years."[35]

- Staff witness Ms. Crowe detailed concerns regarding Laclede's documentation of the gas supply procured from their marketing affiliate at the time, LER.[36]

The facts behind agreements to destroy RFP responses and the actual destruction (and belated provision of some responses) should be investigated. There is no question that these are the type of records that contemporaneously document this major transaction and thus are important records for a regulated company.

The Staff report indicates that some documents were unavailable. The details are not in the Staff report. In contrast, the Company claims there is no problem, except for publicity in the media, as follows:

> The Company needed additional time to retrieve these documents before they could be produced to Staff. Since these documents further demonstrate the prudence of the transaction, there was no reason for the Company to delay their production. Importantly, these RFP documents and negotiated term sheets were

[32] *Id*. at page 28, lines 6-11.
[33] GR-2017-0215 Tr. at page 1910:2-8.
[34] GR-2017-0215 Exhibit No. 425 (Hyneman Surrebuttal Testimony) at page 28:12-16, *citing* GR-2010-0171 at page 53.
[35] *Id.*, Schedule CRH-S-7 at page 23.
[36] GR-2017-0215, Tr. at page 1885:7-10.

> actually provided to Staff for review. They were not permanently destroyed or lost, as suggested in certain media outlets.[37]

This explanation conflicts with the Staff report, and demands investigation to determine the veracity of Spire's assertions in their comments.

Based on these circumstances. EDF recommends a formal investigation regarding the status of the documents that Staff was seeking. EDF submits that there are probably multiple people involved in the handling of these documents. EDF suggests the formal investigation should include deposing the people involved in handling the documents.

In the past, in response to allegations of improper termination of service by a utility to an entire multi-family building due to non-payment of one customer the Staff deposed seven utility personnel and took statements from others.[38] Those formal actions enabled the Commission to determine the true facts in that case -- unhindered by the utility's representation as to what the facts were or might have been. No less is required here.

EDF suggests the Company's actions regarding these important documents may be, as in the case described above, "grossly incompetent." If the handling of documents was inappropriate and there is a lack of exculpatory facts, EDF again submits that the Company should be held accountable and that the tool of a downward adjustment to its allowed rate of return addressed in a rate case may be appropriate. Further, to the extent the specifics of the destruction or failure to maintain documents violates the Commission rule on maintaining documents, 20 CSR 4240-10.010, penalties should be pursued.

III. THE ACA PROCEDURE SHOULD BE RECOGNIZED AS INADEQUATE AND CHANGED.

[37] Spire Response to Staff ACA Review Recommendation and Report July 11, 2022, at 6.
[38] *The Staff of the Missouri Public Service Commission, Complainant v. Laclede Gas Company*, Case No. GC-85-124 (March 7, 1986).

The method of proceeding in this matter and future ACA dockets should be reformed. Although the Company has the burden of proof, and there were substantial issues of imprudence regarding the Affiliate Pipeline raised at the initiation of this docket,[39] Staff, not the Company, was tasked with first addressing the issues of prudence and conduct by the Company. Rather than having the Company file first, and all parties review, do discovery on, and work from the Company case, it was the Staff alone working on this for well over a year. The Company's first substantive filing addressing the prudence of its actions were in the July 11, 2022 comments responding to the Staff and its consultant's report.

The Staff appears to have encountered Company misrepresentations regarding the availability of documents, and actual unavailability of other documents, as well as a lack of sworn discovery responses by the Company and a filed Company case. Furthermore, no other parties were able to participate in this initial review process by Staff. EDF submits that this method of proceeding lacks transparency and that there is simply insufficient explanation of Staff's prudence recommendation. There is not a thorough explanation of the records the Staff sought to review, what types of formal interviews or other actions were a part of its investigation, or exactly which records it actually reviewed.

Thus, EDF suggests the material in the record to date on its face—i.e., prior to the required cross-examination and receipt of evidence from other parties—lacks the necessary basis for a prudence finding. The Commission should pursue reformation of this case and subsequent ACA cases by requiring that the Company provide a thorough pre-filed case – especially for all issues in which the Affiliate Pipeline or other affiliates are involved. Discovery should then

[39] Comments and Motion to Establish Procedural Schedule of Environmental Defense Fund, Office of Public Counsel, Midwest Energy Consumers Group and Consumers Council of Missouri, filed November 9, 2020.

proceed. While EDF appreciates the substantial efforts of Staff initially addressing the facts and making a prudence recommendation, requiring the Company to file up front and meet its burden of proof would present a more workable and appropriate regulatory approach.

Minus putting the Company back in the lead to meet its burden of proof in this and other ACA proceedings, parties active on the prudence issue would be required to do discovery on Staff, including perhaps depositions of those who authored the Staff filing, to determine what they reviewed, who they interviewed, and how they came to their opinion of prudence in these unusual circumstances. EDF suggests that continuing to put Staff, rather than the Company, in the lead to develop and present relevant and sufficient facts in this case is inappropriate, inefficient, and costly. The only way to reverse this is for the Company to file its comprehensive case.

IV. THE COMMISSION MUST CONSIDER COMPLIANCE WITH AFFILIATE TRANSACTION RULES AND SHOULD CONSIDER POTENTIAL REFORMS OF REGULATING AFFILIATE ACTIVITY.

The PSC's affiliate transaction rules require, among other things, that a gas utility shall not provide an "unfair advantage" or "preferential service, information or treatment" to an affiliated entity.[40] The Affiliate Transaction Rules also set forth minimum evidentiary standards required in order for the Company to meet its burden under the rules. For example, the Company must demonstrate that it:

1) Sought competitive bids, or demonstrate why competitive bids were neither necessary nor appropriate;

2) Documented the fair market price of goods or services received by an affiliated entity

[40] 20 C.S.R. § 4240-40.015 (2)(B)&(H).

(or the cost to the utility to provide those goods or services for itself); and

3) Considered all costs to complete the transactions; calculated the costs at times relevant to the transaction; appropriately allocated all joint and common costs; and adequately determined the fair market price for the goods or services obtained.

4) Alternatively, use of a Commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods can constitute compliance.[41]

The Company has not presented sufficient evidence to demonstrate that it fulfilled these standards. The rules further require "the regulated gas corporation [to] use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods."[42] Spire should be required to submit this and other material required by the rule in its case. EDF submits that in this circumstance the determination of the "market valuation" should include consideration of how the market would discount the value of service that is legally vulnerable and could be terminated as a result of non-exhausted administrative appeals and/or judicial review regarding its FERC certificate. Furthermore, the additional system investments required to receive supply from the new service should be considered, *in addition to* the costs of maintaining existing sources of supply, when the new service is being touted as a pathway to increase reliability with supply from multiple regions.

The facts in this docket at this demonstrate the need for full review of the affiliate transaction with Affiliate Pipeline in this docket. According to Staff, the Company, through a "not very transparent" selection process, made "an ultimate decision in early 2016 to have an affiliated entity, Spire STL Pipeline, construct, own, and operate the pipeline."[43] Further, it is

[41] 20 C.S.R. § 4240-40.015 (3)(C).
[42] 20 C.S.R. § 4240-40.015 (3)(D).
[43] *Id.*

undisputed that the Company went ahead and purchased the Affiliate Pipeline's with its service subject to it termination as a result of non-exhausted administrative appeals and/or judicial review regarding its FERC certificate.

The Company's case, when presented, should answer the question as to why such action is not an "unfair advantage" or "preferential …treatment." Would the Company have contracted with a non-affiliate whose service was subject to being legally required to terminate service because the service it offers is prior to the exhaustion of appeals regarding its FERC certificate? The Company's case should answer that question.

The affiliate transaction rules also require actions by the affiliates, including: "[e]valuations of the effect on the reliability of services provided by the regulated gas corporation resulting from the access to regulated contracts and/or facilities by affiliated entities."[44] Under this rule, the Affiliate Pipeline was required to maintain its evaluation of how providing service, including providing service prior to the exhaustion of appeals regarding its FERC certificate, impacted reliability of services provided by the Company. This material, if not provided in the Company's case, will presumably be pursued though discovery in this docket.

This history and the facts of this proceeding may also suggest that reexamination of the Commission's utility affiliate regulations and oversight is appropriate. While EDF does not presuppose what additional tools the Commission might use to improve regulation of affiliate transactions, the Commission could include explicit limits on procurement from affiliates, consideration of whether penalties for pursuit of affiliate transactions are sufficient, and identify potential affiliate purchases early on so they can be addressed before they are transacted and providing critical components of utility service.

[44] 20 CSR 4240-40.016

V. EXPENSES ASSOCIATED WITH PURSUING THE AFFILIATE PIPELINE TRANSACTION SHOULD NOT BE RECOVERED FROM RATEPAYERS

Also, it is apparent the Company has had and may continue to have substantial litigation costs related to its 2016 decision to pursue this business with Affiliate Pipeline, despite the risks, as described above. EDF submits that these costs should be accounted for and reviewed for the appropriate allocation under the Company's cost allocation manual. To the extent the Commission finds the pursuit of service with the Affiliate Pipeline is imprudent, disallowance of the associated legal costs should also be considered.

CONCLUSION

For the reasons expressed herein, EDF submits that the Commission should require the Company to file a case supporting prudence of its action in this matter regarding the Affiliate Pipeline, including how its actions comply with the affiliated transaction rule. No conclusions should be made prior to full hearings in this matter. EDF further submits that if the Commission finds imprudence, it should consider reducing the Company allowed rate of return in a base rate case.

In light of the conflicting, incomplete information on the Company's handling of and provision of RFP responses and other related documentation, a formal investigation of the handling of that documentation should proceed and should include depositions of the Company persons involved. Further, the ACA process should be reformed, consistent with the Company taking the lead in presenting evidence. The Commission should also, as part of this case, review the Company's and Affiliate Pipeline's compliance with the Commission's rules on utility affiliate transactions, and look into whether the Company's business with Affiliate Pipeline constitutes an unfair advantage or preferential treatment for its affiliate. The Commission should

also review accounting recovery in rates of the costs of litigating the Company's reliance on Affiliate Pipeline.

Dated: August 1, 2022

Respectfully submitted,

ROTHFELDER STERN, L.L.C.

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Certificate of Service

The undersigned certifies I have caused a true and correct copy of the foregoing to be served on Spire Missouri, Inc., Midwest Energy Consumers Group, and Consumers Council of Missouri, the General Counsel of the Staff of the Missouri Public Service Commission and the Office of Public Counsel by United States mail, hand- delivery, email or facsimile on this 1st day of August, 2022.

Martin C. Rothfelder

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Spire STL Pipeline LLC **)** **Docket No. CP17-40-___**

AFFIDAVIT OF SCOTT CARTER

1. My name is Scott Carter, and I am President of Spire Missouri Inc. ("Spire Missouri"). Spire Missouri is the natural gas utility serving the St. Louis, Missouri metropolitan area and is a local distribution company ("LDC") regulated by the Missouri Public Service Commission. My business address is 700 Market St., Saint Louis, MO 63101. I have decades of experience in the natural gas utility industry, both at Spire Missouri and other utilities throughout the United States. I am very familiar with Spire Missouri's natural gas supply portfolio, distribution system and natural gas supply requirements.

Purpose of Affidavit and Summary of Conclusions

2. The purpose of this Affidavit is to inform the Federal Energy Regulatory Commission ("FERC"), the courts, and the public of the potential impacts on the retail customers and communities served by Spire Missouri in the event Spire STL Pipeline LLC ("STL Pipeline") were to cease operations due to a loss of certificate authority.
3. As I will explain in detail below, loss of service from STL Pipeline would severely jeopardize Spire Missouri's ability to provide needed energy to a large portion of the 650,000 households and businesses that Spire Missouri serves in Eastern Missouri, in

addition to other potentially severe consequences. This energy is needed to fuel the economy, in addition to sustaining life through heating homes and cooking food.

4. Spire Missouri cannot replace its current firm supply from STL Pipeline with any other alternatives to ensure reliable gas service to the St. Louis region. Without supply from STL Pipeline, Spire Missouri would very likely be forced to intentionally curtail natural gas service to many of its customers during the upcoming 2021-2022 winter heating season. In addition, Spire Missouri faces the very real threat that despite such mandated curtailments, its reduced gas supply would lead to low pressure on its distribution system during cold periods and cause uncontrolled loss of service to households and other high priority consumers, such as hospitals, nursing homes, and schools. Loss of natural gas service during cold periods would create the potential for loss of life and severe impacts to essential services relied on by many individuals and communities served by Spire Missouri.
5. Therefore, it is essential that STL Pipeline be permitted to maintain adequate service to its customer Spire Missouri during the upcoming winter season and beyond, in order to avoid imposing severe hardships on the people of eastern Missouri, including the potential for loss of life.

Pertinent Background

6. In order to provide the context for these projections, I will first address the background that led to the current supply situation and constraints.
7. Spire Missouri serves approximately 650,000 households and businesses in Eastern Missouri. Historically, Spire Missouri was heavily dependent on a single interstate natural gas pipeline – the Enable Mississippi River Transmission ("MRT") system – to

supply Eastern Missouri. However, in the normal course of the utility's prudent system planning efforts, the MRT system was identified as presenting a heightened supply diversity and reliability risk for Spire Missouri customers because (1) MRT derived its supplies from the traditional Midcontinent and Gulf Coast natural gas basins, whereas, by the mid-2010s, alternative supplies from the developing Appalachian Basins were providing better access to more diverse, reliable, abundant, and environmentally friendly natural gas, and (2) MRT's system runs through the seismically unstable New Madrid fault zone. Additionally, during these planning efforts, Spire Missouri's liquid propane peaking facilities were flagged as being problematic for its gas supply operations and needing to be removed, as outlined in this affidavit.

8. Consequently, to mitigate the identified risks from prudent system planning analyses, discussions were had with pipeline developers to improve critical infrastructure for gas supply into the St. Louis region that could optimize opportunities to access new prolific supplies from the Appalachian Basins and allow Spire Missouri to remove its liquid propane peaking facilities from its supply stack. But those discussions did not lead to any definitive agreements to construct new capacity. Accordingly, Spire Inc. formed STL Pipeline and proposed a project which satisfied all of Spire Missouri's critical infrastructure needs. STL Pipeline proposed to build and operate a new 65-mile long pipeline to bring gas from the Rockies Express Pipeline ("REX"), which would provide Spire Missouri with improved access to natural gas supplies from the Rockies and Appalachian Basins, bringing new supply diversity, reliability and cost competitiveness to the region.

Changes to Spire Missouri's Facilities and Operations Post-STL

9. Once STL Pipeline was placed into service in 2019, it provided Spire Missouri with 350,000 Dth/day of new firm pipeline capacity. Because of this new firm capacity, Spire Missouri undertook several steps to diversify and optimize its natural gas supply portfolio, which resulted in replacing preexisting sources, and maximize the benefits of the new pipeline connection. Specifically, Spire Missouri took the following steps: (1) allowed approximately 180,000 Dth/day of firm capacity contracts on MRT, as well as 170,000 Dth/day of firm capacity on upstream pipelines that fed into MRT's East Line, to expire; and (2) retired its obsolete propane peaking facilities, which previously had the ability to supply 160,000 Dth/day of peak demand.

10. In addition, Spire Missouri was later able to take advantage of the high-pressure deliveries available from the STL Pipeline system in other ways, providing additional benefits to those presented by Spire Missouri in the STL Pipeline certificate proceeding.

11. First, Spire Missouri was able to use the higher pressure STL Pipeline supply to improve injections into its on-system (behind city-gate) Lange storage field. The high-pressure supply allows for direct injection into the field without having to rely on compression to do so. Given the ability to direct-inject into the Lange storage field from STL Pipeline, Spire Missouri retired and removed three compressors that had been used for injection into Lange storage prior to STL Pipeline. The changes to the operations at Spire Missouri's Lange storage facility resulted in more than an 80% reduction in greenhouse gas emissions (GHG) from the Lange storage facility.[1] However, it is important to

[1] Spire Missouri is committed to sustaining the environment and the reduction of greenhouse gas (GHG) emissions STL Pipeline provides the most environmentally friendly gas to Spire Missouri and the St Louis region through access to the Appalachian Basin According to the EPA, the carbon intensity of gas sourced from the Appalachian Basin is nearly four times lower than the average of all other basins

recognize that even aside from the pressure issues that are created without STL Pipeline, there is insufficient supply available to replenish the Lange storage field without STL Pipeline. The Lange storage field has a high yield deliverability of up to 357,000 Dth/day, and Spire Missouri typically reinjects throughout the winter heating season to maintain its inventory level for late season cold weather events. Spire Missouri relies heavily on its Lange natural gas storage facility to meet its customer's needs, and now relies solely on the high-pressure supply of STL Pipeline to replenish that storage inventory. Without the high-pressure supply from STL Pipeline, Spire Missouri may be unable to operate the Lange storage once it is depleted. In this scenario, Spire Missouri could face a lack of inventory availability, as it will not be able to replenish inventory from time to time as needed throughout the winter months. Accordingly, there is a potential for significant disruptions to service and the potential loss of up to an additional 357,000 Dth/d of deliverability (if the Lange storage facility is depleted) into our distribution system. This deliverability shortfall, combined with the loss of 350,000 Dth/d from STL Pipeline, creates an overall deficit of over half of our planned peak day supply. Without the high pressure supply available from STL Pipeline, Spire Missouri would likely not be able to maintain ongoing replenishment of the Lange facility over the winter, thus jeopardizing the availability of the asset to serve its customers at temperatures as high as approximately 38 degrees Fahrenheit. As an example, this past February following the Winter Storm Uri, Spire Missouri reinjected into its Lange storage facility for nine days, February 20-28, 2021, in order to replenish inventory in the event of another late cold during that winter season. If the high pressure supply from STL Pipeline would not have been available for this purpose, Spire Missouri would not

have been able to replenish that level of inventory and would have been at risk for customer outages throughout the rest of the winter season if there had been another cold snap. The high-pressure supply from STL Pipeline is absolutely critical to the operation of Spire Missouri's on-system (behind city-gate) storage and cannot be replaced with anything other than high pressure flowing supply, which is not available without STL Pipeline.

12. Second, and not contemplated during the certificate application process, higher pressure deliveries from STL Pipeline into MoGas (via a new interconnect) allowed Spire Missouri to forego making certain costly reinforcements to its own distribution system, which would have been absorbed by customers. Spire Missouri was able to secure a 12-year contract for additional capacity on MoGas (because MoGas interconnected with STL Pipeline), and the high pressures from STL Pipeline provided incremental delivered capacity on MoGas. This capacity, which is more than double what Spire Missouri was able to secure before STL Pipeline was placed into operations, benefited the west and southwest portions of our distribution system that are served by MoGas This permitted Spire Missouri to avoid making certain costly reinforcements of its facilities to ensure adequate supply into these areas of its distribution system. Without the additional deliveries from MoGas, reinforcements would have been required and would have involved building additional high-pressure pipelines in very populated areas. Based on engineering estimates, it would take years to install such reinforcements, putting the company at risk of not being able to serve its customers during the construction period. Even with these reinforcements, without STL Pipeline, Spire Missouri would lack

reliable supply to serve this area, which is the largest growth area in Spire Missouri's Eastern service territory, and is expected to continue growing.

13. The net result of all of Spire Missouri's actions to improve reliability and reduce costs to customers resulted in a radical change to its distribution operations and supply situation. Consequently, if STL Pipeline were to cease functioning, Spire Missouri would no longer have the firm capacity that it needs to meet winter season demand for household, industrial, commercial, and other uses. The following chart shows the current supply capabilities of Spire Missouri, both with and without STL Pipeline.

Table 1

Pipeline	Current Portfolio w/ STL Pipeline City Gate Capacity (Dth/day)	Winter 21/22 w/out STL Pipeline City Gate Capacity (Dth/day)	Winter 21/22 w/out STL Pipeline and Lange City Gate Capacity (Dth/day)
Enable MRT	550,779	*473,547*[1]	*473,547*[1]
Mogas Pipeline	145,600	*62,800*[2]	*62,800*[2]
Southern Star Central	30,300	30,300	30,300
Spire STL Pipeline	190,000	-	-
Spire MO Underground Storage	357,000	*357,000*[3]	-[3]
Total	**1,273,679**	**923,647**	**566,647**

[1] Assumes the following. (1) 7,800 Dth/day of the 550,779 Dth/day now becomes upstream capacity utilized to feed MoGas (2) 70,000 Dth/d of capacity from STL Pipeline is no longer available to feed a southbound contract on MRT in the market area, and (3) Spire Missouri is able to contract for the 568 Dth/day of MRT Main Line capacity currently available.

[2] Assumes the historical contract capacity Spire Missouri held pre-STL Pipeline given the STL Pipeline interconnect will no longer be available.

[3] Spire Missouri's on-system underground storage is a finite resource. As Spire Missouri's underground storage is depleted, our ability to withdraw at max rates – 357,000 Dth/d – and support peak loads will also decline STL is currently the sole source of supply for winter re-injections and annual summer storage

refill. Without access to STL Pipeline, the Company may not be able to sustain the max withdrawal rate long term, eliminating the city gate capacity represented by underground storage.

14. Table 1 shows a shortfall of 350,032 Dth/day in the absence of STL's deliveries, and up to 707,032 Dth/day once Spire Missouri's Lange storage field is depleted.

Loss of STL Pipeline Would Cause Severe Harm, and Potentially Loss of Life

15. Without STL Pipeline's firm, high pressure deliveries into its distribution system, Spire Missouri would face significant shortfalls of the natural gas needed to serve its customers during the winter season. Winter weather increases demand, and it does so during a period when natural gas is critically needed by households, businesses, hospitals, nursing homes, schools, and other consumers to provide space and water heat.

16. If STL Pipeline is not in service during the upcoming winter heating season, depending on availability of Lange storage, approximately 175,000-400,000 Spire Missouri customers may be without gas service for periods of time, based on Spire Missouri's extreme cold weather planning scenarios.

17. Spire Missouri undertakes a planning process, consistent with industry standards and audited by the Missouri Public Service Commission, which outlines how it will meet a planned peak day (i.e. peak customer demand) during the winter heating season. Based on its planning estimates, Spire Missouri would require nearly 1,300,000 Dth of capacity for a planned peak day.

18. Without STL Pipeline's 350,000 Dth/d of supply, Spire Missouri estimates that as many as 175,000, or 27%, of its customers could be without gas service on a planned peak day assuming Lange storage is still available.

19. A large portion of Spire Missouri's peak day is served by its on-system (behind city-gate) Lange natural gas storage, which as discussed above allows reinjections following

withdrawals. Without supply from STL Pipeline, the Lange storage field will be depleted much earlier in the winter than normal, and therefore the inability to reinject during the winter months will be even more impactful. Given that Spire Missouri will not be able to replenish the Lange storage inventory during the winter months without STL Pipeline, and once the inventory is fully depleted, as many as 400,000, or close to 62%, of Spire Missouri's customers could be without gas service on a planned peak day.

20. After Spire Missouri maximizes its available supplies and issues curtailment orders to minimize use of natural gas by non-essential end users, its customers could begin to lose service due to uncontrolled pressure loss at an average daily temperature of approximately 9 degrees Fahrenheit without natural gas supply from STL Pipeline. These temperatures are not atypical for St. Louis. Spire Missouri has experienced days with average daily temperatures at or below 9 degrees Fahrenheit during four of the last five winters. This temperature threshold for potential loss of service to customers increases to approximately 38 degrees Fahrenheit once Spire Missouri's natural gas storage resource is depleted. Finally, it is important to note that these temperatures are well above Spire Missouri's peak day temperature for planning purposes of -10.6 degrees Fahrenheit.

21. The geographical impact of such gas supply outages is illustrated broadly in the map attached as Appendix A, which is entitled "Missouri East Projected Outages" ("Outage Map"). The Outage Map is based on two scenarios.

    Scenario 1:

    Estimated outages on a peak day without STL Pipeline (yellow polygon region): This is the area that Spire Missouri expects to have insufficient pressure to provide

natural gas service should the following occur: (the total expected outages in this scenario is as many as 175,000 customers)

a. STL Pipeline is no longer in service.

b. St. Louis experiences its peak planning scenario, with an average daily gas day temperature of -10.6 degrees Fahrenheit.

Scenario 2:

Estimated outages on a peak day without Lange underground storage and STL Pipeline (red and yellow polygon regions): This is the area that Spire Missouri expects to have insufficient pressure to provide natural gas service should the following occur: (the total expected outages in this scenario is as many as 400,000 customers)

a. Spire Missouri depletes its Lange underground storage facility.

b. STL Pipeline is no longer in service.

c. St. Louis experiences its peak planning scenario, with an average daily gas day temperature of -10.6 degrees Fahrenheit.

Both scenarios were run in an industry-leading hydraulic model maintained by Spire's system planning department, and both scenarios assume peak conditions. It is important to note, however, that customer outages can occur at temperatures well above our peak planning temperature of -10.6 degrees Fahrenheit, as I referenced earlier in this Affidavit.

22. The practical impacts of a loss of natural gas service would be dire. In the event of a mass outage, customers will remain without heat, hot water, and the ability to cook for a

prolonged period of time due to the time and complexity required to reestablish service. Loss of heat during extreme cold weather sometimes results in death.

23. Loss of natural gas service is considerably more difficult to restore, and is more hazardous, than the more familiar loss of electric service. By contrast, Missouri state pipeline safety regulations[2], company operating standards, and sound safety practices require that, to restore natural gas service, a utility technician must visit each impacted home or business to physically shut-off the meter prior to re-establishment of gas into the system. When gas flow is re-established to the company's facilities, a utility technician must then return later to physically turn-on the meter for the customer, purge the customer's fuel lines of any air, complete a shut-in pressure test, and re-light all gas appliances. Moreover, natural gas outages caused by uncontrolled pressure loss present an even more dangerous scenario. When pressure is lost to a customer's premise, the lack of flowing gas can extinguish gas appliance pilot lights. If pressure is restored prior to the customer's meter being physically shut-off, there is a risk of explosion created by uncontrolled gas escaping into customer homes through the unlit gas appliance pilot orifice.

24. Even under a controlled curtailment scenario, mass restoration of natural gas service is a formidable challenge. For every 100,000 customers who lose gas service, even with 100 technicians working on addressing the outage, Spire Missouri estimates that it would take roughly 25 days before all customers would have service re-established. It is important to note that gas flow typically cannot be re-established until after the cold weather subsides and overall demand on the system decreases, potentially leaving customers without service for an even longer period of time during extreme and sustained cold weather.

[2] See 20 CSR 4240-40 030 (12)(S)1A

25. Based on these assumptions, if Spire Missouri were to lose gas service to 400,000 customers, it may take up to 100 days to re-establish service for all customers in the region, depending on how many technicians are available to work on the outage.

26. As discussed in more detail below, the widespread impact of a mass outage during the winter could therefore result in loss of life and property similar to, or even worse than, that seen in Texas during Winter Storm Uri in February 2021.

27. In addition to loss of service to households, in the above scenarios, gas service could be lost to more than 320 schools and nearly 20 hospitals, as well as nursing homes, churches and government facilities.

28. In addition to the impact on human needs, another consequence of losing service from STL Pipeline, even assuming replacement supply was available, which we know it is not, would be increased gas costs given a lack of supply availability to the St. Louis region. This effect almost certainly would be higher gas utility bills for customers in Eastern Missouri.

29. In St. Louis, research shows that energy costs are a higher burden on poor communities and communities of color. The detrimental impacts of taking STL Pipeline out of service will therefore have a disproportionate impact on these communities.

Winter Storm Uri, in January 2021, Demonstrates Both the Need for STL Pipeline and the Potential Impacts of Losing Its Supplies

30. The discussion above regarding loss of service involves projections based on the known supplies remaining after loss of STL Pipeline, as well as the historical demand within Spire Missouri's service territory, and is likely to be accurate, but does represent an effort to foresee future events. It is not, however, necessary to engage in predictions in order to conclude that STL Pipeline is an essential source of supply. The experience of Spire Missouri during Winter Storm Uri in February 2021 powerfully demonstrates that STL

Pipeline has already provided dramatic benefits, without which Spire Missouri's customers would have likely experienced gas service outages and far higher costs.

31. Without STL Pipeline, Spire Missouri estimates that as a result of Winter Storm Uri up to 133,000 customers would have been without gas service, and customers overall would have experienced a combined increased gas cost of up to $300 million (assuming Spire Missouri would have been able to serve all of its customers). This translates to Spire Missouri customers, on an individual basis, saving between $170 and $345 in a year, as a result of STL Pipeline service during Winter Storm Uri.

32. Spire Missouri's ability to avoid that disastrous outcome was a direct result of STL Pipeline's access to more diverse supplies than Spire Missouri's traditional supply basins. During Winter Storm Uri, natural gas production in the U.S. declined by roughly 25%, mostly driven by declines in Oklahoma, Texas, and Louisiana, but production in the Rockies and Appalachian Basins that STL Pipeline accessed saw little to no impact. As a result, Spire Missouri was able to provide reliable service to its customers during this weather event with minimal cost impact to customers.

33. Without STL Pipeline, Spire Missouri expects that customers would have lost gas service on eight of the nine days from February 11, 2021 to February 19, 2021, with a peak of roughly 133,000 customers without service on February 15, 2021. The average daily temperature on this day was 2 degrees Fahrenheit, which is approximately 13 degrees Fahrenheit warmer than Spire Missouri's planned peak day of -10.6 degrees Fahrenheit.

34. Spire Missouri customers realized up to an estimated $300 million in gas cost savings over the course of nine days during Winter Storm Uri because STL Pipeline delivered gas supply sourced from the Rockies and Appalachian Basins, instead of the significantly higher

priced gas from the Midcontinent producing basins, around Texas and Oklahoma, that suffered from major operational impediments due to the Winter Storm Uri extreme weather. These price differentials are illustrated in Appendix B. The map very clearly illustrates the extremely high prices that were experienced in the Midcontinent region around Texas and Oklahoma (red circle) relative to those experienced from trading points that had access to the Appalachian Basins (green circle).

35. Winter Storm Uri provides concrete historical evidence of the supply security and cost benefits that STL Pipeline provides by allowing Spire Missouri to maintain a portfolio consisting of diverse supplies of natural gas. Those benefits would be lost if STL Pipeline were forced to cease operations.

Spire Missouri Cannot Timely Re-Establish the Supply Sources that STL Pipeline Replaced, for Both Technical and Contractual Reasons

36. As discussed above, Spire Missouri faces a high risk of significant loss of natural gas service to large areas of its service territory if STL Pipeline ceases operation, because of changes to its supply portfolio, system, and operations leading up to, and since, STL Pipeline commenced service. Specifically, those changes were: (1) allowing contracts on MRT and upstream pipelines to expire; (2) retiring the antiquated propane peaking facilities; (3) making changes to the operations at the Lange storage facility to allow reliance on high pressure supply from STL Pipeline; and (4) foregoing system reinforcements for service to the western and southwestern areas because of the new supplies by STL Pipeline.

37. None of those steps can be reversed, and none of these sources of gas can be accessed before the upcoming winter season or beyond, as is explained in more detail below.

38. **MRT is not available to replace the STL Pipeline supply.** As noted above, Spire Missouri allowed 180,000 Dth/day of firm transportation contract rights on MRT to expire, as well as the nearly 170,000 Dth/day of firm upstream contracts that fed its MRT East Line capacity via NGPL and Trunkline. These quantities of firm entitlements are no longer available, for several reasons

39. Other shippers have subsequently contracted for the pipeline capacity that Spire Missouri allowed to expire on those pipelines. For example, MRT has capacity available on two distinct segments, its Mainline and its East Line, but neither can adequately replace STL Pipeline for the 2021-2022 heating season.

40. MRT now only has 568 Dth/day of capacity available on its Main Line, a negligible quantity compared to the 350,000 Dth/day contracted on STL Pipeline.

41. Although MRT's bulletin board shows that capacity is available on the East Line for this winter, MRT's delivery point into Spire Missouri's distribution system at Chain of Rocks has been abandoned, so this capacity is not a viable option for Spire Missouri to use in place of STL Pipeline. In addition to the delivery point being out of service, due to the changing flow dynamics associated with the Appalachian Basins gas flowing south to the Gulf Coast area, driven in part by increased LNG exports, upstream flows can no longer reliably deliver into the East Line at the pressures MRT needs to reliably deliver the gas downstream markets. Since STL Pipeline was placed into service, MRT has physically abandoned its delivery infrastructure at Chain of Rocks. That station was replaced by the new Chain of Rocks interconnect between MRT and STL Pipeline, which is an authorized facility under the STL Pipeline FERC Certificates issued in Docket No. CP17-

42. At present, any East Line deliveries from MRT must be made through STL Pipeline to get into this area of Spire Missouri's distribution system. The facilities needed to connect MRT with Spire Missouri's distribution system cannot be constructed in time for the upcoming 2021-2022 winter season, and would lack the higher pressures that STL Pipeline provides, which is crippling for Spire Missouri's operations. Moreover, even if it were to be connected to Spire Missouri's system at some point in the future, deliveries into the East Line have had significant pressure reliability problems for years, making it an unreliable and consequently unacceptable supply source to serve customers when they need it the most. For example, based on its market intelligence, Spire Missouri knows that firm shippers experienced interruptions of service on their East Line volumes during Winter Storm Uri. While MRT was able to deliver quantities actually received from upstream pipelines on its East Line, interruptions occurred due to the inability of MRT to receive all scheduled gas from the upstream pipelines, thus leaving shippers with deliveries less than their nominated quantities. Spire Missouri is exploring availability on upstream pipelines, NGPL and Trunkline, to feed into the East Line. However, recent pressure issues have been acknowledged by the upstream pipelines, and Spire Missouri has not received a firm delivery pressure commitment from either upstream pipeline, making transportation capacity on the East Line even less dependable. Finally, even if – contrary to fact – Spire Missouri could access the East Line capacity, it would be far from adequate to meet the overall shortfall that Spire Missouri faces, as shown by Table 1 above.

43. Overall, Spire Missouri may only be able to secure an incremental 568 Dth/day (MRT Main Line) of available pipeline capacity, resulting in a deficit of more than 350,032

Dth/day of contracted supply to meet customer demand during extreme cold weather, as outlined in Table 1 above.

44. **The propane peaking facilities are no longer available.** Spire Missouri's propane injection facilities, which historically were utilized to meet 160,000 Dth/d of customer demand on a planned peak day, were old and inefficient, and therefore decommissioned after the STL Pipeline went into service, and are no longer available. The injection facilities have been removed and disconnected from the propane pipeline, and the vaporizers have been repurposed. Physically reassembling these facilities cannot be done before the 2021-2022 winter season, or for some time beyond, and would involve substantial costs. Additionally, Spire Missouri made a strategic decision to remove propane from its supply stack; does not intend to rely on propane in the future to meet customer demand; and does not believe it would be prudent to do so. There are many reasons for this, but in particular, vaporizing propane is more complicated and introduces more risk than flowing natural gas supply; it requires Spire Missouri to notify large industrial customers prior to propane injection as higher percentages of propane can damage equipment due to the higher Btu content it introduces to the system; and the Spire Missouri system was the only system of its kind in the U.S., and therefore knowledge and expertise of how to maintain and operate the equipment is a long-term risk. Moreover, although the propane cavern and pipeline still exist (though not functional for Spire Missouri to utilize), Spire Missouri no longer has priority access to propane supply even if, contrary to fact, Spire Missouri could rebuild and reconnect its facilities, because Spire Missouri terminated its priority propane service contract following the commencement of STL Pipeline service.

45. **The high-pressure supply from STL Pipeline cannot be replaced for Lange storage injection.** As noted above, the operations of the Lange storage field changed with the advent of STL Pipeline to allow the benefit of relying on the higher-pressure supply from STL Pipeline to direct inject. Given the ability to direct inject into the Lange storage field from STL Pipeline, Spire Missouri retired and removed three compressors that had been used prior to STL Pipeline, as needed, for injection into storage prior to STL Pipeline. Any resumption of service from MRT (which is purely hypothetical because there is no longer an MRT delivery location other than STL Pipeline at Chain of Rocks) would still not address the lack of high pressure supply for direct injection into the field, and would leave Spire Missouri with inadequate supply and pressure to operate its storage field during the winter heating season to meet customer demand.

46. **Reinforcements to the Spire Missouri distribution system cannot be completed in time to allow continued adequate service to the western and southwestern service areas that have relied on the new supplies from STL Pipeline**. As noted above, STL Pipeline's service allowed Spire Missouri to forego certain reinforcements on its own system in order to serve demand in the west and southwest areas of its Eastern Missouri service territory. Instead, the greatly improved pressure on MoGas due to its interconnection with STL Pipeline has rendered these reinforcements unnecessary. As I mentioned before, to construct these reinforcements would take years, making that option unavailable for the 2021-2022 heating season, and beyond.

47. In sum, even if Spire Missouri were to attempt to replace STL Pipeline with the pre-existing alternatives, which would involve numerous risks and costs even if completed, it cannot do so in time for the upcoming 2021-2022 heating season.

Conclusion: Continued Operation of STL Pipeline Remains Essential to Continued Service by Spire Missouri to its Customers

48. Spire Missouri is attempting to make contingency plans to ensure customers have continued access to affordable, reliable gas supply in the event STL Pipeline is taken out of service, including discussions with Enable MRT, MoGas and Southern Star Central regarding available capacity. But today, **there currently is no viable alternative to replace the energy supply delivered by STL Pipeline to ensure reliable service to customers**.

49. For the reasons discussed above in detail, if STL Pipeline ceases service, Spire Missouri does not have sufficient natural gas supply to meet the demands of the St. Louis region during the upcoming winter season, and faces the prospect of major losses in natural gas service during cold weather events, with attendant hardships to the residents of Missouri – particularly the most vulnerable – including a significant potential for loss of life.

50. For all of the foregoing reasons, it is critically important that STL Pipeline continue its current operations for the upcoming 2021-22 winter heating season.

51. I declare under penalty of perjury that the foregoing is true and correct. This concludes my affidavit.

Scott Carter

STATE OF MISSOURI)
) SS
CITY OF ST LOUIS)

Subscribed and Sworn to before me this 26th day of July, 2021.

Notary Public

LANA K SCHNEIDER
Notary Public - Notary Seal
STATE OF MISSOURI
Commissioned for Saint Louis City
My Commission Expires. October 29, 2022
Commission # 18005093

Spire Missouri East Projected Outages

Appendix A

STL to MoGas

MRT to MoGas

UGS

STL Lange

STL Chain of Rocks

Wentzville

Algana

Southpoint

Ivory

Scenario 1:

Estimated outages on a peak day without STL Pipeline (yellow polygon region): This is the area that Spire Missouri expects to have insufficient pressure to provide natural gas service should the following occur: (the total expected outages in this scenario is as many as 175,000 customers)

a. STL Pipeline is no longer in service.
b. St. Louis experiences its peak planning scenario, with an average daily gas day temperature of -10.6º F.

Scenario 2:

Estimated outages on a peak day without Lange underground storage and STL Pipeline (red and yellow polygon regions): This is the area that Spire Missouri expects to have insufficient pressure to provide natural gas service should the following occur: (the total expected outages in this scenario is as many as 400,000 customers)

a. Spire Missouri depletes its Lange underground storage facility.
b. STL Pipeline is no longer in service.
c. St. Louis experiences its peak planning scenario, with an average daily gas day temperature of -10.6º F.

Both scenarios were run in an industry-leading hydraulic model maintained by Spire's system planning department, and both scenarios assume peak conditions. It is important to note, however, that customer outages can occur at temperatures well above our peak planning temperature of -10.6º F.

Legend

- UGS
- Interconnect
- City Gates
- Supply Feeder
- Distribution
- Outages on Peak Day
- Outages on Peak Day w/o UGS

Interstate Pipelines

Company

- Enable MRT
- MoGas Pipeline
- Southern Star Central
- Spire STL Pipeline

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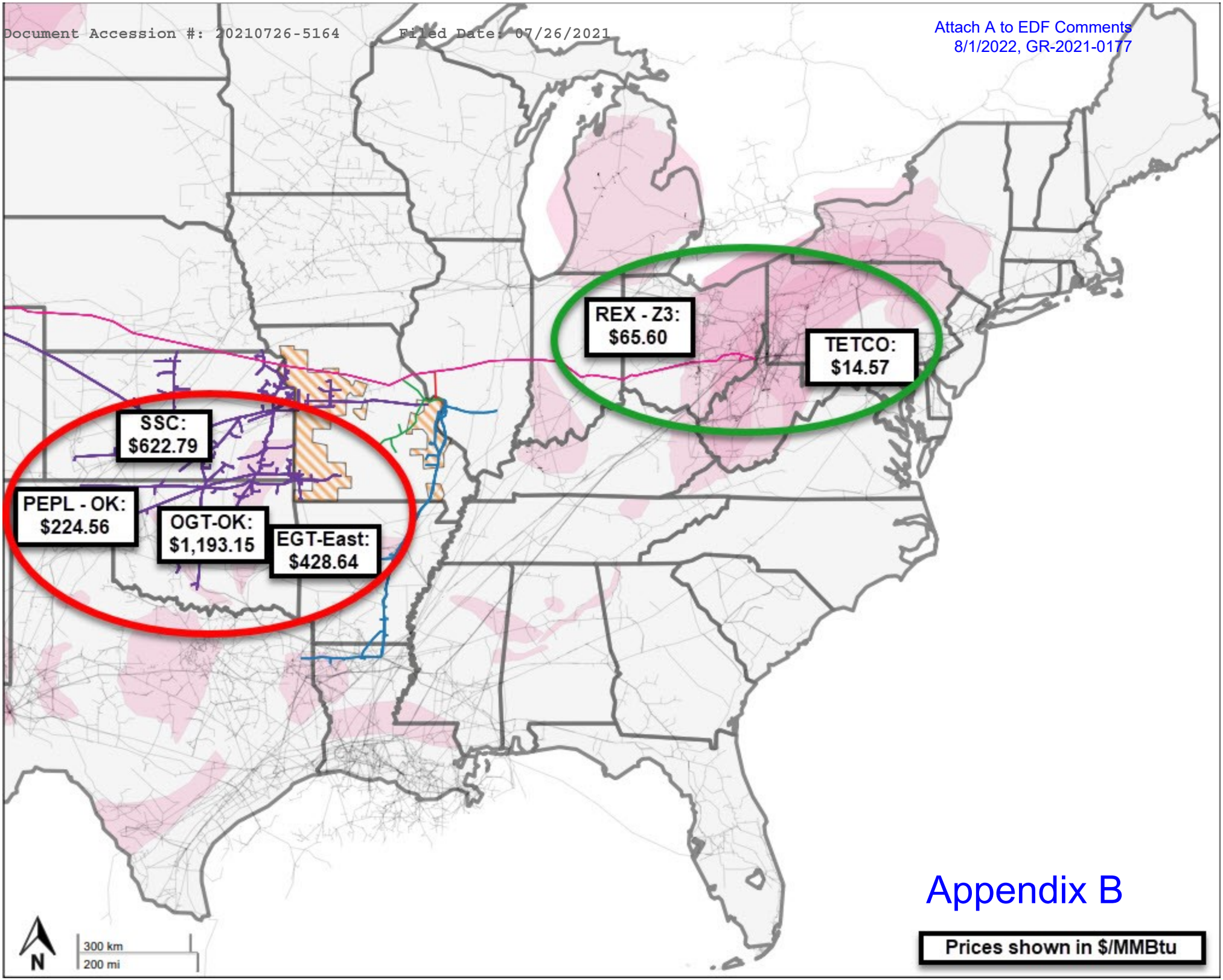

Appendix B

Prices shown in $/MMBtu