

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 3<sup>rd</sup> day of October, 2018.

In the Matter of the Application of Spire Missouri Inc. to Change its Infrastructure System Replacement Surcharge in its Spire Missouri East Service Territory	)	
	)	<b><u>File No. GO-2018-0309</u></b>
	)	YG-2019-0047
	)	

In the Matter of the Application of Spire Missouri Inc. to Change its Infrastructure System Replacement Surcharge in its Spire Missouri West Service Territory	)	
	)	<b><u>File No. GO-2018-0310</u></b>
	)	YG-2019-0048
	)	

**ORDER DENYING MOTION FOR RECONSIDERATION**

Issue Date: October 3, 2018

Effective Date: October 3, 2018

On September 20, 2018, the Commission issued a *Report and Order* in this case, which became effective on October 1, 2018. The *Report and Order* rejected tariff sheets previously filed by Spire Missouri Inc. (“Spire Missouri”) and authorized Spire Missouri to file new tariffs to recover the appropriate revenues specified by the Commission for its infrastructure system replacement surcharges (“ISRS”). On September 21, 2018, Spire Missouri filed new tariff sheets in compliance with the Commission’s *Report and Order* for its Spire Missouri East and Spire Missouri West service territories and requested expedited treatment so the tariff sheets become effective on less than 30 days’ notice on October 5, 2018. On September 27, 2018, the Commission’s Staff filed a recommendation that the Commission approve the compliance tariffs and grant the motion for expedited treatment. No other party filed a response or objected to approving the tariff sheets or granting the motion.

On September 28, 2018, the Commission issued an *Order Granting Expedited Treatment and Approving Tariff Filings in Compliance with Commission Order* (“Order”). This Order approved Spire Missouri’s compliance tariffs in Tariff Tracking Nos. YG-2019-0047 and YG-2019-048 to become effective on October 8, 2018.

On October 1, 2018, Spire Missouri filed a *Motion for Reconsideration* (“Motion”). The Motion asks the Commission to reconsider its Order and determine that Spire Missouri’s compliance tariffs should be effective on October 5, 2018 rather than October 8. Spire Missouri asserts that the ISRS statutes require that new or changed ISRS rates must go into effect by October 5, 2018, and that there are no legal or other barriers to this requirement. Spire Missouri argues that the Commission reached a similar result in previous ISRS cases.

The Commission is not bound by its past decisions, so the fact that past ISRS tariffs may have been approved by an order with an effective date of less than ten days is not dispositive.<sup>1</sup> Further, the controlling ISRS statute does not require that a compliance tariff be allowed to go into effect by a specified date. Section 393.1015.2(3), RSMo 2016, states that “[t]he commission may hold a hearing on the petition and any associated rate schedules and shall issue an order to become effective not later than one hundred twenty days after the petition is filed.” Subsection 4 of that statute also states that if the Commission determines that the company’s petition complies with the ISRS law, “the commission shall enter an order authorizing the corporation to impose an ISRS that is sufficient to recover appropriate pretax revenue.”

The deadline for the effective date of the Commission’s order described in Section 393.1015 is October 5, 2018. The *Report and Order* rejected the previously-filed tariffs and authorized Spire Missouri to file new tariffs to recover appropriate revenue under the ISRS

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<sup>1</sup> *State ex rel. AG Processing, Inc. v. Public Serv. Comm’n*, 120 S.W.3d 732, 736 (Mo. banc 2003).

approved by the Commission. Therefore, the Commission complied with Section 393.1015 when it issued its *Report and Order*, which was effective before the 120-day deadline. That deadline does not apply to subsequent compliance tariffs filed by the company to implement the *Report and Order*.<sup>2</sup>

Moreover, if the Commission were to issue an order approving the compliance tariff sheets on the specific date requested by Spire Missouri, that order would not have ten days prior to October 5, 2018 for such an order to become effective. The Western District Court of Appeals, in a case regarding the approval of a compliance tariff, has stated that “any shortening of the date on which PSC orders will become effective to less than ten days is presumptively unreasonable and, if challenged, would require the PSC to demonstrate that the circumstances surrounding the case are so extraordinary as to clearly warrant further encroachment on the time provided to the parties in which to exercise their right to apply for rehearing and/or appeal and that the time allowed was reasonably sufficient.”<sup>3</sup>

While Spire Missouri established good cause for the compliance tariffs to become effective on less than 30 days’ notice, Spire Missouri has not demonstrated sufficient extraordinary circumstances that would permit the Commission to shorten the date on which the Order will become effective to less than ten days. The Commission concludes that Spire Missouri’s Motion should be denied.

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<sup>2</sup> See, *In Matter of Kansas City Power & Light Co.'s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Missouri Pub. Serv. Comm'n*, 509 S.W.3d 757, 786 (Mo. App. 2016), “The Report and Order of the PSC is the culmination of the hearing required by law and is the order of the PSC establishing new rates or charges for public utilities. Subsequent orders by the PSC ensuring compliance with the Report and Order are orders issued in a non-contested case merely implementing the previous decision of the PSC.”

<sup>3</sup> *State ex rel. Office of the Public Counsel v. Public Service Commission*, 409 S.W.3d 522, 529 (Mo. App. 2013).

**THE COMMISSION ORDERS THAT:**

1. Spire Missouri Inc.'s *Motion for Reconsideration* filed on October 1, 2018, is denied.
3. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and  
Coleman, CC., concur.

Bushmann, Senior Regulatory Law Judge

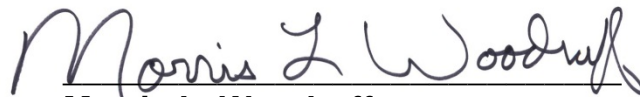
**STATE OF MISSOURI**

**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 3<sup>rd</sup> day of October 2018.



  
Morris L. Woodruff  
Secretary

**MISSOURI PUBLIC SERVICE COMMISSION**

**October 3, 2018**

**File/Case No. GO-2018-0309 and GO-2018-0310**

**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**

Hampton Williams  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@ded.mo.gov

**Missouri Public Service  
Commission**

Mark Johnson  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
mark.johnson@psc.mo.gov

**Spire**

Michael C Pendergast  
423 Main Street  
St. Charles, MO 63301  
mcp2015law@icloud.com

**Spire**

Rick E Zucker  
14412 White Pine Ridge Ln  
Chesterfield, MO 63017-6301  
zuckerlaw21@gmail.com

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

*Sincerely,*



**Morris L. Woodruff  
Secretary**

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