

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 2nd day of December, 2020.

In the Matter of the Request of Spire)	
Missouri Inc. d/b/a Spire for a Temporary)	
Waiver from Commission Rules 20 CSR)	<u>File No. GE-2020-0373</u>
4240-40.030 (9)(Q), (13)(M), (15)(C),)	
(15)(D) and (15)(E) and Orders Pertaining)	
to Inspections and Replacements)	

**ORDER MODIFYING TEMPORARY WAIVER
AND DIRECTING WRITTEN NOTICE**

Issue Date: December 2, 2020

Effective Date: February 1, 2021

On October 16, 2020, Spire Missouri Inc. d/b/a Spire filed a motion to modify the Commission's *Order Approving Application for Temporary Waiver and Directing Written Notice* issued in this case on June 11, 2020.¹ The Commission's order granted conditional, temporary waiver of compliance with certain gas safety rules that apply to Spire's operating units, Spire Missouri East and Spire Missouri West. The order temporarily waives compliance with some provisions of Commission rules governing the frequency of inspections to monitor atmospheric corrosion, 20 CSR 4240-40.030(9)(Q), and surveys to control leakage in distribution systems, 20 CSR 4240-40.030(13)(M).² Spire requested waivers in May 2020 to accommodate COVID-19 social distancing orders and guidelines that may interfere with access to customer premises.

¹ The Commission's June 16, 2020 *Order Nunc Pro Tunc* corrected citations and a footnote in the June 11, 2020 order. All references to the June 11, 2020 order incorporate those corrections.

² Spire's May 15, 2020 application also sought temporary waiver of compliance with portions of Commission Rule 20 CSR 4240-40.030(15) that concern minimum requirements for pipeline replacement programs. That portion of Spire's application was addressed in a separate order: *Order on Application for Temporary Waivers*, also issued on June 11, 2020. Spire's October 16, 2020 motion taken up here does not address that separate order or requirements under 20 CSR 4240-40.030(15).

The Commission's order requires that all facilities be brought into compliance no later than December 31, 2020, and that no facility be out of compliance for more than one year from the date the facility became noncompliant because of a missed inspection or survey. The one-year limitation under the June 11, 2020 order requires inspection at some facilities before the December 31, 2020 deadline, while all facilities are required to be compliant no later than December 31, 2020.

Spire's motion requested the Commission extend the deadline to March 31, 2021, and reported some customers have refused the company entry to their homes because of the COVID-19 pandemic. Spire also requested the Commission either remove the one-year limitation or extend the period to allow an additional year. Spire requested expedited treatment, with a Commission order by November 1, 2020, to allow for at least 60 days' notice to the U.S. Secretary of Transportation, as required by federal law.³

In response to Spire's motion, the Commission directed the Staff of the Commission (Staff) to file an expedited recommendation or a status report stating when it expected to file a recommendation. On October 22, 2020, Staff requested shortened data request response times to facilitate a prompt review of Spire's motion and advised it could provide a recommendation no later than November 20, 2020. After allowing time for Spire to respond, the Commission shortened data request time limits and directed Staff to file its recommendation as anticipated.

On November 20, 2020, Staff recommended that the Commission grant conditional approval of Spire's request to modify the temporary waiver. Staff recommended the Commission deny the request to eliminate or extend the requirement that inspections of noncompliant facilities be completed no later than one year after a missed inspection or

³ 49 U.S.C. § 60118(d).

survey. Staff advised that, based on Spire's response to a data request, Spire no longer sought elimination or extension of the one-year limit.

Staff recommended the Commission modify its previous order and extend the waiver period through March 31, 2021. Staff recommended the extended waiver period be limited to "residential customers who refuse entry to the home due to the coronavirus pandemic."⁴ Staff recommended the waiver should apply after December 31, 2020, only when residential customers refuse to make an appointment for inspection or refuse to allow Spire technicians or contractors to enter the premises. Staff advised such refusals should be documented, which Staff noted is consistent with requirements adopted by the Commission in File No. GE-2020-0297.⁵ That case concerns statewide temporary waiver of an inspection requirement applying to Missouri natural gas distribution companies and municipal gas distribution systems in response to COVID-19.

Staff recommended the Commission grant the modification request, noting the "relatively small number" of facilities expected to be eligible for an extended waiver.⁶ Staff reported Spire has documented 165 residential customers who, as of October 27, 2020, referenced the COVID-19 pandemic as a reason for declining to schedule an inspection.⁷ However, Staff also reported that as of October 21, 2020, Spire reported a large number of customers who have failed to respond to requests for entry; service may be disconnected for customers who do not respond to inspection requests.⁸ Staff's recommendation acknowledged that as additional customers respond, more customers may ask to defer inspection because of COVID-19.⁹

⁴ *Staff Recommendation*, p. 3 (Nov. 20, 2020).

⁵ *Staff Recommendation, Appendix A: Memorandum*, p. 6.

⁶ *Id.* at p. 2.

⁷ *Id.*

⁸ *Id.* According to Staff's recommendation, as of October 29, 2020, Spire indicated 7,290 customers had not responded to company inspection requests. *Id.* at p.3.

⁹ *Id.*

On November 24, 2020, Spire filed a response stating it agrees with Staff's recommendation. Spire also confirmed it has withdrawn its request to eliminate or extend the one-year limit.¹⁰ With Spire's request regarding the one-year limit withdrawn without objection from any party,¹¹ the Commission will take up the remaining request in Spire's motion to modify the Commission's order: the request to extend the temporary waiver to March 31, 2021.

Spire's motion requests the Commission modify its previous order, which granted a temporary and conditional waiver of compliance with Commission rules in 20 CSR 4240-40.030 governing atmospheric corrosion inspections¹² and leakage surveys.¹³ The Commission may waive compliance with any of the requirements of Rule 20 CSR 4240-40.030 upon a showing that gas safety is not compromised, pursuant to 20 CSR 4240-40.030(18). The Commission has reviewed and considered Spire's motion, Staff's recommendation and Spire's response and determines extension of the temporary waiver period for residential facilities, with appropriate limitations and conditions, will not compromise gas safety.

The extension of the waiver period is limited to three months and applies only to residential facilities where the company documents customer refusal to allow inspections because of COVID-19 concerns. Spire will be required to provide notice of inspection delays, conduct weekly odorant intensity tests in affected areas and bring all residential facilities eligible for waiver into compliance no later than March 31, 2021. The requirement that no incident of noncompliance remain uncorrected for more than one year is not

¹⁰ *Response of Spire Missouri to Staff's Recommendation*, ¶3 (Nov. 24, 2020).

¹¹ The Commission ordered expedited responses to Staff's recommendation to be filed no later than November 24, 2020. No other party responses were received.

¹² 20 CSR 4240-40.030(9)(Q)1.

¹³ 20 CSR 4240-40.030(13)(M)1, 20 CSR 4240-40.030(13)(M)2.A and 20 CSR 4240-40.030(13)(M)2.B.

changed by this order. Therefore, Spire remains obliged to complete inspection of each facility within one year after the date the facility became noncompliant because of a missed inspection or survey.

Finally, Spire's waiver request includes gas safety rules under federal regulation. As noted by the parties and stated in Commission rule,¹⁴ 49 U.S.C. § 60118(d) requires at least 60 days' written notice to the U.S. Secretary of Transportation before the effective date of a state commission order approving waiver of a requirement under federal gas safety regulations found at 49 C.F.R. part 192.¹⁵ As noted in the Commission's previous orders in this case, the U.S. Department of Transportation now requests electronic communications rather than correspondence by mail because of the COVID-19 pandemic.¹⁶ The Commission will direct immediate written notice of this order to the Secretary of the U.S. Department of Transportation by email to the address provided on the department's website. To accommodate the notice requirement, the Commission will make this order effective 61 days after the date of issuance.

THE COMMISSION ORDERS THAT:

1. Spire's request to extend through March 31, 2021, the period of waiver under the Commission's June 11, 2020 *Order Approving Application for Temporary Waiver and Directing Written Notice*, is granted, subject to the following limitations and conditions:

a. The last day of the extended waiver period shall be March 31, 2021;

¹⁴ 20 CSR 4240-40.030(18).

¹⁵ Staff advised waiver of 20 CSR 4240-40.030(9)(Q)1 requires waiver of 49 C.F.R. 192.481(a) and waiver of 20 CSR 4240-40.030(13)(M)1, 20 CSR 4240-40.030(13)(M)2.A and 20 CSR 4240-40.030(13)(M)2.B require waiver of 49 C.F.R. 192.723(a) and (b)(1). *Staff Recommendation, Appendix A: Memorandum*, p. 3.

¹⁶ Assistance to the Public During COVID-19, U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (Mar. 27, 2020), <https://www.phmsa.dot.gov/news/assistance-public-during-covid-19> (visited Nov. 23, 2020) (requests electronic correspondence and provides a list of email addresses; email addresses listed at link under "related documents").

- b. The extended waiver period applies only to residential facilities occupied or controlled by customers who, because of COVID-19 concerns, either refuse Spire entry for inspection or refuse to schedule an appointment for inspection;
- c. Spire shall document each instance of refused entry or refusal to schedule an appointment for inspection because of COVID-19 concerns;
- d. Beginning January 1, 2021, Spire shall document all noncompliant facilities eligible for extended waiver pursuant to this order and shall provide a monthly report to the Commission, by submission directly to Staff, listing all noncompliant facilities and providing documentation required by provision (c) above;
- e. Spire shall conduct additional public awareness efforts to notify customers when inspection of facilities is delayed pursuant to this temporary waiver;
- f. Spire shall conduct weekly odorant intensity tests, in accordance with the test requirements of 20 CSR 4240-40.030(12)(P)6, in areas where atmospheric corrosion monitoring or leakage surveys are delayed pursuant to this temporary waiver.

2. The Commission's June 11, 2020 *Order Approving Application for Temporary Waiver and Directing Written Notice* is modified by this order only to extend the period of waiver for eligible residential facilities as stated above.

3. By no later than 5 p.m. on December 2, 2020, the Commission's data center shall provide written notice of this order to the U.S. Secretary of Transportation by attaching a copy of this order in an email message addressed to PHMSA.Pipelinesafety@dot.gov with "Notice to Secretary of Transportation" indicated in

the subject line.

4. This order shall be effective on February 1, 2021.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Jacobs, Regulatory Law Judge