

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 6<sup>th</sup> day of  
November, 2019.

In the Matter of the Application of Spire )  
Missouri, Inc. to Change its Infrastructure ) **File No. GO-2019-0356**  
System Replacement Surcharge in its Spire ) Tracking No. YG-2020-0069  
Missouri East Service Territory )

In the Matter of the Application of Spire )  
Missouri, Inc. to Change its Infrastructure ) **File No. GO-2019-0357**  
System Replacement Surcharge in its Spire ) Tracking No. YG-2020-0070  
Missouri West Service Territory )

**ORDER APPROVING TARIFF IN COMPLIANCE WITH COMMISSION  
ORDER AND GRANTING EXPEDITED TREATMENT, IN PART**

Issue Date: November 6, 2019

Effective Date: November 16, 2019

The Commission issued its Report and Order on October 30, 2019, authorizing Spire Missouri Inc. (Spire Missouri) to submit tariff sheets setting a different infrastructure system replacement surcharge (ISRS). On that same date, Spire Missouri filed its compliance tariffs (Tariff Nos. YG-2020-0069 and YG-2020-0070), bearing a 30-day effective date of November 29, 2019. Spire Missouri also requested expedited treatment of its compliance tariffs so that they become effective on November 12, 2019, the same date the Report and Order becomes effective.

The Commission issued an order directing the Staff of the Commission (Staff) to file a recommendation regarding the tariffs no later than November 5, 2019, and directing that any objections to the motion for expedited treatment also be filed by November 5, 2019. Staff filed its recommendations indicating that the tariffs as filed were in compliance with the Commission's Report and Order. Staff recommended that the

tariffs be approved. Staff did not object to an expedited effective date so long as the tariffs become effective on the same day the order approving the tariffs becomes effective. No other responses were filed.

Spire Missouri argues in its motion that the Commission is required to approve the tariffs to become effective by the 120<sup>th</sup> day (November 12, 2019) after the filing of its ISRS filing that started this case. However, the Commission cannot issue an order approving the compliance tariffs with a less than ten-day effective date as requested by Spire Missouri. 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.” However, the ISRS statute does not require a compliance tariff to become effective by a specified date.

The deadline for the effective date of the Commission’s order described in Section 393.1015 is November 12, 2019. The Report and Order rejected the previously-filed tariffs and authorized Spire Missouri to file new tariffs to recover appropriate revenue under the ISRS approved by the Commission. Therefore, the Commission complied with Section 393.1015 when it issued its Report and Order, which will be 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>1</sup>

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<sup>1</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

Under Section 386.490.2, RSMo. 2016, Commission orders will become effective after 30 days, unless otherwise provided. The Western District Court of Appeals stated, in a case regarding the approval of a compliance tariff, 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>2</sup> While Spire Missouri has 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 has reviewed the tariff filings and Staff's recommendation and concludes that the tariffs should be approved and the unopposed motion for expedited treatment should be granted to permit the tariff sheets to become effective on less than 30 days’ notice. However, the Commission determines that the earliest date that the Commission can make the tariff sheets effective is November 16, 2019.

**THE COMMISSION ORDERS THAT:**

1. Spire Missouri Inc’s Motion for Expedited Treatment filed on October 30, 2019, is granted to the extent described in the body of this order.

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and Order are orders issued in a non-contested case merely implementing the previous decision of the PSC.”

<sup>2</sup> *State ex rel. Office of the Public Counsel v. Public Service Commission*, 409 S.W.3d 522, 529 (Mo. App. 2013).

2. The tariff sheets, bearing Tariff No. YG-2020-0069, filed on October 30, 2019, by Spire Missouri Inc. for its Spire Missouri East service territory, are approved to become effective on November 16, 2019.

3. The tariff sheets, bearing Tariff No. YG-2020-0070, filed on October 30, 2019, by Spire Missouri Inc. for its Spire Missouri West service territory, are approved to become effective on November 16, 2019.

4. This order shall become effective on November 16, 2019.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff  
Secretary

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

Dippell, Senior Regulatory Law Judge