

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

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

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its recommendation states:

**Introduction**

1. On May 15, 2020, Spire Missouri Inc. d/b/a Spire, filed an application requesting a waiver from certain Commission gas safety rules, 20 CSR 4240-40.030(9)(Q), (13)(M), (15)(C), (15)(D), and (15)(E). Spire also requested a waiver from the Commission’s notice provision contained in 20 CSR 4240-4.017(1). Spire stated that as a result of COVID-19-related changes to its work processes and schedules, Spire had been unable to timely complete certain inspections, surveys, and replacements, required by Commission rules and orders.

2. The Commission issued its *Order Directing Notice and Filing* on May 18, 2020, and directed notice be given and applications for intervention be filed no later than May 22, 2020. That same order directed Spire to file a pleading no later than May 22, 2020, addressing compliance with 49 U.S.C. § 60118, as stated in Commission rule 20 CSR 4240-40.030(18), and directed Staff to file a recommendation no later than May 26, 2020, regarding Spire’s application and address compliance with 49 U.S.C. § 60118. No request for intervention was filed in this matter.

3. Spire filed its response on May 22, 2020, addressing compliance with 49 U.S.C. § 60118, as stated in 20 CSR 4240-40.030(18), and indicated that it was Spire's understanding that the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) is expediting review of waiver requests and PHMSA's review period may be less than the 60 days the cited rule requires. Spire requested that if the Commission grants the waiver requests contained in Spire's application, that the Commission act as expeditiously as possible, and (1) allow the waiver to go into effect 60 days after the issuance of the Commission order or (2) allow the waiver to go into effect at the time that PHMSA completes its review and notifies the Commission.

**Staff Recommendation Regarding  
Spire's Application**

4. As further described in the attached Memorandum, Staff reviewed Spire's application, reviewed applicable Commission rules and prior orders, reviewed applicable federal regulations, evaluated the safety implications of Spire's request, and communicated with PHMSA regarding federal pipeline safety requirements.

5. Commission rule 20 CSR 4240-40.030(18) allows the Commission to waive, in whole or part, compliance with any of the requirements contained in 20 CSR 42420-40.030, upon a showing that gas safety is not compromised. Additionally, Commission rule 20 CSR 4240-2.205 allows the Commission to grant a variance from, or waive, any rule promulgated by the Commission upon a finding of good cause. Based on Staff's review and investigation, Staff recommends the following:

1. The Commission order Spire to file a list of any non-compliance with Commission rules and orders that had already occurred by

May 15, 2020, (file date of this application) and such list should contain the elements set forth in the attached Memorandum

2. The Commission approve Spire's request for waiver from **20 CSR 4240-40.030(9)(Q)(1) – Federal regulation is 49 CFR 192.481(a)** (Atmospheric Corrosion Control: Monitoring) with the conditions set forth in the attached Memorandum.
3. The Commission not approve Spire's request for waiver from **20 CSR 4240-40.030(9)(Q)2. or 3. – Federal regulation is 49 CFR 192.481(b) or (c).**
4. The Commission approve Spire's request for waiver from **20 CSR 4240-40.030(13)(M)1. and 2. A. and B. – Federal regulation is 49 CFR 192.723(a) and (b)(1)** (Distribution Systems: Leakage Surveys) with the conditions set forth in the attached Memorandum
5. The Commission not approve Spire's request for waiver from **20 CSR 4240-40.030(13)(M)2.C. or 20 CSR 4240-40.030(13)(M)3. – Federal regulation is 49 CFR 192.723(b)(2).**
6. The Commission approve Spire's request for waiver from **20 CSR 4240-40.030(15)(C)** and Commission orders in Case No. GO-2002-50 and Case No. GO-93-343 as modified by the Unanimous Stipulation and Agreement in Case No. GO-99-155, with the conditions set forth in the attached Memorandum

7. The Commission not approve Spire's request for waiver from 20 CSR 4240-40.030(15)(D) and Commission order in Case No. GO-2002-50 and Case No. GO-91-275 without further clarification from Spire regarding the specific provisions of this rule and orders it is seeking a waiver.
8. The Commission not approve Spire's request for waiver from 20 CSR 4240-40.030(15)(E) because Spire has indicated in past reports it no longer has any unprotected steel transmission lines, feeder lines, or mains.

6. Spire's application contained a request that the Commission waive the 60-day filing notice required by 20 CSR 4240-4.017(1). Spire's application provided a verified declaration that it had not had communication with the office of the commission (as defined by 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issues likely to be in the case, and therefore, Staff agrees good cause exists, pursuant to 20 CSR 4240.017(1)(D), to waive the 60-day notice requirement.

**49 U.S.C. § 60118**

7. As stated in Commission rule 20 CSR 4240-40.030(18), "[i]f a waiver request would waive compliance with a federal requirement in 49 CFR part 192, additional actions shall be taken in accordance with 49 U.S.C. 60118 except when the provisions of subsection (17)(G) apply." Specifically, 49 U.S.C. § 60118(d) pertain to waivers granted by state authorities, and requires that the state authority must give the Secretary written notice of the waiver at least 60 days before its effective date. In practice, the Commission would need to make any order approving a waiver of a requirement in 49 CFR part 192

effective 60 days after such date the Secretary of the Department of Transportation receive notice of such approval.

8. Staff recognizes that should the Commission grant Spire's request for waivers from 20 CSR 4240-40.030(9)(Q)(1) – Federal regulation is 49 CFR 192.481(a) and 20 CSR 4240-40.030(13)(M)1. and 2. A. and B. – Federal regulation is 49 CFR 192.723(a) and (b)(1), 49 U.S.C. § 60118(d) would apply. However, on March 20, 2020, PHMSA issued a notice regarding the National Emergency related to the COVID-19 outbreak.<sup>1</sup>

9. As noted in the attached Memorandum, Staff communicated with PHMSA regarding Spire's request in this matter and was informed by PHMSA that it had no additional input on Spire's application and indicated that should the State approve Spire's request, the State approved waiver would need to be sent to PHMSA for "no objection". Given PHMSA's notice cited above, and PHMSA's statement of the need for a declaration of "no objection", Staff finds Spire's request for the Commission to act as expeditiously as possible permissible and reasonable.

**WHEREFORE**, Staff submits its *Staff Response* and attached *Memorandum* and requests the Commission issue an order as set forth herein, and grant such other and further relief as the Commission considers just in the circumstances.

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<sup>1</sup> See Exhibit 1, source: <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-03/PHMSA%20Notice%20on%20Enforcement.pdf>

Respectfully submitted,

**/s/ Jamie S. Myers**

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served via e-mail on counsel for the parties of record to this case on this 26<sup>th</sup> day of May, 2020.

**/s/ Jamie S. Myers**

## MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File,  
Case No. GE-2020-0373, Spire Missouri, Inc., d/b/a Spire

**FROM:** Daniel Fitzpatrick, Utility Engineering Specialist III, Safety Engineering Department  
John D. Kottwitz, Utility Engineering Specialist III, Safety Engineering Department

/s/ Kathleen A. McNelis, PE / 05-26-2020      /s/ Jamie Myers / 05-26-2020  
Safety Engineering Department/ Date      Staff Counsel Division / Date

**SUBJECT:** Staff Recommendation Regarding Spire Missouri Request for Approval of a Waiver from 20 CSR 4240-40.030 (9)(Q); 20 CSR 4240-40.030 (13)(M); 20 CSR 4240-40.030 (15)(C); 20 CSR 4240-40.030 (15)(D); and 20 CSR 4240-40.030 (15)(E)

**DATE:** May 26, 2020

### Executive Summary

Spire Missouri, Inc., d/b/a Spire (“Spire”) is requesting a waiver from the Commission’s pipeline safety rules requiring atmospheric corrosion control monitoring (20 CSR 4240-40.030(9)(Q)), distribution systems leak surveys (20 CSR 4240-40.030(13)(M)), replacement programs for unprotected steel service lines and yard lines (20 CSR 4240-40.030(15)(C)), replacement programs for cast iron pipe (20 CSR 4240-40.030(15)(D)), and replacement programs for unprotected steel mains (20 CSR 4240-40.030(15)(E)).

The Commission’s Safety Engineering Department Staff (“Staff”) performed the following review and analysis to reach its recommendations:

- Reviewed applicable Commission rules;
- Review applicable federal regulations;
- Reviewed past Commission orders;
- Evaluated safety implications if waiver is granted; and
- Communicated with the U.S. Department of Transportation (U.S. DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) regarding federal pipeline safety requirements.

The Application as submitted by Spire lists sections of Commission and federal rules and Commission approved replacement programs that contain multiple requirements. Staff reviewed and analyzed the applicable rules and Commission approved replacement programs in light of Spire’s stated intention in Paragraph 2 of the Application to “...minimize entry into customer premises and associated in-person interaction with customers”. As a result of this analysis, it does not appear to Staff that Spire would need a waiver from the entire scope of each rule and order listed in Paragraph 5 of the Application to minimize entry

into customer premises and associated in-person interaction with customers. Staff is recommending that the Commission approve only specific parts of this temporary waiver application subject to the limitations and conditions listed in Section 7.4 of this memo and summarized below:

With respect to Spire's request for waiver in Paragraph 5 of the application:

- **Atmospheric Corrosion Inspections of inside meter sets – 49 CFR 192.481 and 20 CSR 4240.030 (9)(Q)** - Staff recommends granting the temporary waiver for 49 CFR 192.481(a) and 20 CSR 4240.030(9)(Q)1. pertaining to monitoring facilities inside customer premises for atmospheric corrosion. Staff has recommended additional conditions and limitations to track and mitigate safety risks associated with waiving this requirement in Section 7.4 of this memo.
- **Leak Survey of inside meter sets – 49 CFR 192.723 and 20 CSR 4240.030 (13)(M)** - Staff recommends granting the temporary waiver for 49 CFR 192.723(b)(1)) and 20 CSR 4240-40.030(13)(M)2.A. and B., pertaining to performing leakage surveys inside of customer premises. Staff has recommended additional conditions and limitations to track and mitigate safety risks associated with waiving this requirement in Section 7.4 of this memo.
- **Mandated Cast Iron Replacements – 20 CSR 4240-40.030 (15)(D), Spire Missouri West Case No. GO-2008-0002, Spire Missouri West Case No. GO-2002-50, and Spire Missouri East Case No. GO-91-275** - It was unclear to Staff from which provisions of the Commission rule and approved replacement programs Spire would require a waiver to minimize entry into customer premises and associated in-person interaction with customers. Staff does not recommend that the Commission approve the requested waiver from 20 CSR 4240-40.030(15)(D) and Commission order in Case No. GO-2002-50 and Case No. GO-91-275 without further clarification from Spire regarding the specific provisions of this rule and Commission orders from which a waiver is sought.
- **Unprotected Steel Service Line and Yard Line Replacements – 20 CSR 4240.030 (15)(C), Spire Missouri East Case No. GO-93-343, Spire Missouri East Case No. GO-99-155, Spire Missouri West Case No. GO-91-277, Spire Missouri West Case No. GO-91-239, Spire Missouri West Case No. GO-91-295, Spire Missouri West Case No. GO-99-302, Spire Missouri West Case No. GO-2002-50, and MPSC 20 CSR 4240-40.030 (15)(C)** – Staff recommends that the Commission approve the requested waiver from 20 CSR 4240-40.030(15)(C) and Commission orders in Case No. GO-2002-50 and Case No. GO-93-343 as modified by the Unanimous Stipulation and Agreement in Case No. GO-99-155. Staff has recommended additional conditions and limitations to track and mitigate safety risks associated with waiving this requirement in Section 7.4 of this memo.
- **Unprotected Steel Main Replacement – Spire Missouri West Case No. GO-2002-50 and MPSC 20 CSR 4240-40.030(15)(E)** - Staff recommends that the Commission not approve the requested waiver from 20 CSR 4240-40.030(15)(E) because Spire has indicated in past reports that it no longer has any unprotected steel transmission lines, feeder lines or mains.



## **1.0 Background Information**

Spire states in its application that due to the Coronavirus (COVID-19) Pandemic, and specifically government measures to restrict human contact, it has adapted its work processes to minimize contact with customers and the public. Spire further states that as a result of this it has been unable to complete in a timely manner (1) atmospheric corrosion inspections and leak surveys of inside meter sets, (2) required replacement work associated with cast iron mains, bare steel mains, and unprotected steel services and yard lines. Spire states that all of these require entry into customer premises to perform tie-over work and maintain continuity of service. As a result, Spire is requesting a temporary waiver for the associated regulations.

On March 23, 2020, in response to the national COVID-19 emergency and Executive Order 20-02, Staff filed a motion for application for a waiver from Commission Rule 20 CSR 4240-40.030(12)(S)1.B. (Case No. GE-2020-0297). This rule requires operators of intrastate natural gas pipelines in Missouri to visually inspect accessible customer gas piping and all connected equipment at the time an operator physically turns on the flow of gas to a customer.

The Commission ordered that:

1. Commission Rule 20 CSR 4240-40.030(12)(S)1.B. is waived for all Missouri Natural Gas Distribution Companies and Municipal Gas Distribution Systems.
2. This order shall be effective until May 15, 2020, unless Executive Order 20-02 is extended. If Executive Order 20-02 is extended, then this order shall remain in effect until Executive Order 20-02 expires, or until otherwise ordered by the Commission.
3. This order shall be effective on March 27, 2020.

The waiver granted by the Commission in Case No. GE-2020-0297 does not address the Commission rules requiring operators to enter premises to monitor for atmospheric corrosion (20 CSR 4240-40.030(9)(Q)) or to perform leakages surveys (20 CSR 4240-40.030(13)(M)) of utility equipment installed inside customer premises. Spire has indicated to Staff that the waiver may not be sufficient; therefore, Spire is seeking waivers from additional Commission rules and orders related to pipe replacement programs in this current application so that Spire will not need to perform work that would result in the need to disconnect and reconnect service to customers.

## **2.0 Applicable Commission Rules**

### **2.1 Rules from which Spire is Requesting a Waiver**

#### **A. Atmospheric Corrosion Monitoring (20 CSR 4240-40.030(9)(Q))**

On May 15, 2020, Spire Missouri filed an Application for Waiver, requesting a waiver of compliance from the provisions of 20 CSR 4240-40.030(9)(Q), which requires:

20 CSR 4240-40.030(9)(Q) Atmospheric Corrosion Control – Monitoring. (192.481)

1. Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, at least once every three (3) calendar years, but with intervals not exceeding thirty-nine (39) months.
2. During inspections the operator must give particular attention to pipe at soil-to air interfaces, under thermal insulation, under disbanded coatings, at pipe supports, at deck penetrations, and in spans over water.
3. If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by subsection (9)(P) within twelve (12) months unless otherwise approved by designated commission personnel.

#### **B. Leakage Survey – Distribution System (20 CSR 4240-40.030(13)(M))**

On May 15, 2020, Spire Missouri filed an Application for Waiver, requesting a waiver of compliance from the provisions of 20 CSR 4240-40.030(13)(M), which requires:

1. Each operator of a distribution line or system shall conduct periodic instrument leakage surveys in accordance with this subsection.
2. The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions but it must meet the following minimum requirements:
  - A. An instrument leak detection survey must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer and water system manholes, at cracks in pavement and sidewalks and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding fifteen (15) months but at least once each calendar year;
  - B. Except as provided for in subparagraph (13)(M)2.C., instrument leak detection surveys must be conducted outside of business districts as frequently as necessary, but at intervals not exceeding:

- (I) Fifteen (15) months, but at least once each calendar year, for unprotected steel pipelines and unprotected steel yard lines;
  - (II) Thirty-nine (39) months, but at least once each third calendar year, for all other pipelines and yard lines; and
  - (III) Thirty-nine (39) months, but at least once each third calendar year, for buried fuel lines operating above low pressure at residential, small commercial and public buildings, and for all buried fuel lines at institutional buildings, such as hospitals and schools. Instrument leak detection surveys of buried fuel lines may be conducted around a portion of the perimeter of the building. This perimeter-type survey shall be conducted along the side of the building nearest the meter location (or the fuel line entrances in the case of multiple buildings) and along the closest adjacent side; and
- C. For yard lines and buried fuel lines that are required to be leak surveyed under subparagraph (13)(M)2.B., but are located within high security areas such as prisons, notifications to the customer as described in paragraph (13)(M)3. may be conducted instead of a leak survey.

3. The operator must notify large commercial/industrial customers with buried fuel lines operating above low pressure at one or more buildings, that are not leak surveyed in accordance with part (13)(M)2.B.(III), that maintenance is the customer's responsibility and leak surveys should be conducted. Notification must be provided once each third calendar year, at intervals not exceeding thirty-nine (39) months.

4. Recordkeeping requirements for leak surveys and notifications are contained in subsection (13)(F).

**C. Replacement Program - Unprotected Steel Service Lines and Yard Lines (20 CSR 4240-40.030(15)(C))**

On May 15, 2020, Spire Missouri filed an Application for Waiver, requesting a waiver of compliance from the provisions of 20 CSR 4240-40.030(15)(C), which requires:

At a minimum, each investor-owned, municipal or master meter operator shall establish instrument leak detection survey and replacement programs for unprotected operator-owned and customer owned steel service lines and yard lines. The operator shall choose from the following options, unless otherwise ordered by the commission, and shall notify the commission by May 1, 1990, of which option or combination of options the operator will implement:

- 1. Conduct annual instrument leak detection surveys on all unprotected steel service lines and yard lines and implement a replacement program where all unprotected steel service lines and yard lines will be replaced by May 1, 1994;
- 2. Conduct annual instrument leak detection surveys on all unprotected steel service lines and unprotected steel yard lines. The operator shall compile a historical summary listing the cumulative number of unprotected steel service lines and yard lines installed, replaced

or repaired due to underground leakage and with active underground leaks in a defined area. Based on the results of the summary, the operator shall initiate replacement, to be completed within eighteen (18) months, of all unprotected steel service lines and yard lines in a defined area once twenty-five percent (25%) or more meet the above repair, replacement and leakage conditions. At a minimum, ten percent (10%) of the customer-owned unprotected steel service lines in the system as of December 15, 1989, must be replaced annually. Beginning with calendar year 1994, a minimum of five percent (5%) of the unprotected steel yard lines, and operator-owned and installed unprotected steel service lines in the system as of December 15, 1989, must be replaced annually; and

3. Conduct annual instrument leak detection surveys on all unprotected steel service lines and unprotected steel yard lines and implement a replacement program. The program must prioritize replacements based on the greatest potential for hazards. At a minimum, ten percent (10%) of the customer-owned unprotected steel service lines in the system as of December 15, 1989, must be replaced annually. Beginning with calendar year 1994, a minimum of five percent (5%) of the unprotected steel yard lines, and operator-owned and installed unprotected steel service lines in the system as of December 15, 1989, must be replaced annually.

Spire currently has Commission-approved replacement programs for Unprotected Steel Service Lines and Yard Lines in Case No. GO-2002-50 (for Spire Missouri West) and Case No. GO-93-343 as modified by the Unanimous Stipulation and Agreement in Case No. GO-99-155 for Spire Missouri East (See Section 3.0 – Commission Orders).

#### **D. Replacement Program – Cast Iron (20 CSR 4240-40.030(15)(D))**

On May 15, 2020, Spire Missouri filed an Application for Waiver, requesting a waiver of compliance from the provisions of 20 CSR 4240-40.030(15)(D), which requires:

1. Operators who have cast iron transmission lines, feeder lines or mains shall develop a replacement program to be submitted with an explanation to the commission by May 1, 1990, for commission review and approval. This systematic replacement program shall be prioritized to identify and eliminate pipelines in those areas that present the greatest potential for hazard in an expedited manner. These high priority replacement areas would include, but not be limited to:

- A. High-pressure cast iron pipelines located beneath pavement which is continuous to building walls;
- B. High-pressure cast iron pipelines located near concentrations of the general public such as Class 4 locations, business districts and schools;
- C. Small diameter cast iron pipelines;

- D. Areas where extensive excavation, blasting or construction activities have occurred in close proximity to cast iron pipelines;
  - E. Sections of cast iron pipeline that have had sections replaced as a result of requirements in subsection (13)(Z) [192.755];
  - F. Sections of cast iron pipeline that lie in areas of planned future development projects, such as city, county or state highway construction/relocations, urban renewal, etc.; and,
  - G. Sections of cast iron pipeline that exhibit a history of leakage or graphitization.
2. A long-term, organized replacement program and schedule shall also be established for cast iron pipelines not identified by the operator as being high priority.
  3. Operators who have cast iron service lines shall replace them by December 31, 1991.

Spire currently has Commission-approved replacement programs for Cast Iron Mains in Case No. GO-2002-50 for Spire Missouri West and Case No. GO-91-275 for Spire Missouri East.

**E. Replacement Program - Unprotected Steel Mains (20 CSR 4240-40.030(15)(E))**

On May 15, 2020, Spire Missouri filed an Application for Waiver, requesting a waiver of compliance from the provisions of 20 CSR 4240-40.030(15)(E), which requires: Operators who have unprotected steel transmission lines, feeder lines or mains shall develop a program to be submitted with an explanation to the commission by May 1, 1990, for commission review and approval. This program shall be prioritized to identify and cathodically protect or replace pipelines in those areas that present the greatest potential for hazard in an expedited manner. These high priority areas should include, but not be limited to:

1. High-pressure unprotected steel pipelines located beneath pavement which is continuous to buildings walls;
2. High-pressure unprotected steel pipelines near concentrations of the general public such as Class 4 locations, business districts and schools;
3. Areas where extensive excavation, blasting or construction activities have occurred in close proximity to unprotected steel pipelines;
4. Sections of unprotected steel pipeline that lie in areas of planned future development projects, such as city, county or state highway construction/relocations, urban renewal, etc.;
5. Sections of unprotected steel pipeline that exhibit a history of leakage or corrosion; and,
6. Sections of unprotected steel pipeline subject to stray current.

With respect to replacement/cathodic protection of unprotected steel transmission lines, feeder lines and mains required by Commission Rule 20 CSR 4240-40.030(15)(E), PHMSA annual reports submitted by Spire Missouri East and Spire Missouri West indicate that it has no unprotected steel transmission lines, feeder lines or mains. Therefore it does not appear to Staff that a waiver is needed from this rule.

## **2.2 Additional Applicable Commission Rules**

### **A. Public Awareness (20 CSR 4240-40.030(12)(K))**

20 CSR 4240-40.030(12)(K) states that each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP). In addition, the program must provide for notification of the intended groups on the following schedule:

- A. Appropriate government organizations and persons engaged in excavation related activities must be notified at least annually;
- B. The public must be notified at least semiannually; and
- C. Customers must be notified at least semiannually by mailings or hand-delivered messages and at least nine (9) times a calendar year by billing messages.

### **B. Odorization of Gas -- (20 CSR 4240-40.030(12)(P))**

20 CSR 4240-40.030(12)(P) states that a combustible gas in a transmission line or distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth (1/5) of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell. However, for transmission lines in operation before May 28, 1995, the section of transmission line between the supplier's delivery point and the odorizer need not meet the requirements of this paragraph.

20 CSR 4240-40.030(12)(P)6. requires that to assure the proper concentration of odorant in accordance with this subsection, each operator must conduct, at least monthly, odor intensity tests with an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. ...

### **C. Protecting or Replacing Disturbed Cast Iron Pipelines (20 CSR 4240-40.030(13)(Z))**

Although Spire did not specifically list this rule in its application, it is referenced in 20 CSR 4240-40.030(15)(C), and may be applicable to work Spire seeks to delay.

20 CSR 4240-40.030(13)(Z) states:

When an operator has knowledge that the support for a segment of a buried cast iron pipeline is disturbed or that an excavation or erosion is nearby, the operator shall determine if more than half

the pipe diameter lies within the area of affected soil. For the purposes of this subsection, “area of affected soil” shall refer to the area above a line drawn from the bottom of the excavation or erosion, at the side nearest the main, at a forty-five degree (45°) angle from the horizontal (a lesser angle should be used for sandy or loose soils, or a greater angle may be used for certain consolidated soils if the angle can be substantiated by the operator). If more than half the pipe diameter lies within the area of affected soil, the following measures/precautions must be taken –

1. That segment of the pipeline must be protected, as necessary, against damage during the disturbance by -
  - A. Vibrations from heavy construction equipment, trains, trucks, buses or blasting;
  - B. Impact forces by vehicles;
  - C. Earth movement;
  - D. Water leaks or sewer failures that could remove or undermine pipe support;
  - E. Apparent future excavations near the pipeline; or
  - F. Other foreseeable outside forces which may subject that segment of the pipeline to bending stress;
  
2. If eight inches (8") or less in nominal diameter, then as soon as feasible, this segment of cast iron pipeline, which shall include a minimum of 10 feet beyond the area of affected soil, must be replaced, except as noted in paragraph (13)(Z)4.;
  
3. If greater than eight inches (8") in nominal diameter, then as soon as feasible, appropriate steps must be taken to provide permanent protection for the disturbed segment from damage that might result from external loads, including compliance with applicable requirements of [ §§192.317(a), 192.319, and 192.361(b)—(d)] subsection (7)(J) (192.319) and paragraph (7)(I)1. (192.317[a]); and
  
4. Replacement of cast iron pipelines would not necessarily be required if -
  - A. The support beneath the pipe is removed for a length less than ten (10) times the nominal pipe diameter not to exceed six feet (6');
  - B. For parallel excavations, the pipe lies within the area of affected soil for a length less than ten (10) times the nominal pipe diameter not to exceed six feet (6');
  - C. The excavation is made by the operator in the course of routine maintenance, such as leak repairs to the main or service line installation, where the exposed portion of the main does not exceed six feet (6'), and the backfill supporting the pipe is replaced and compacted by the operator; or
  - D. Permanent or temporary shoring was adequately installed to protect the cast iron pipeline during excavation and backfilling.

**D. Waivers of Compliance (20 CSR 4240-40.030(18))**

20 CSR 4240-40.030(18) states that upon written request to the secretary of the commission<sup>1</sup>, the commission, by authority order and under such terms and conditions as the commission deems appropriate, may waive in whole or part compliance with any of the requirements contained in this rule<sup>2</sup>. Waivers will be granted only on a showing that gas safety is not compromised. If the waiver request would waive compliance with a federal requirement in 49 CFR part 192, additional actions shall be taken in accordance with 49 U.S.C. 60118 except when the provisions of subsection (17)(G)<sup>3</sup> apply.

**3.0 Commission Orders**

**3.1 – Commission Orders Subject to this Application**

**A. Case No. GO-99-155**

With respect to replacement of unprotected steel service lines and yard lines required by Commission Rule 20 CSR 4240-40.030(15)(C), the program approved by the Commission in Case No. GO-99-155 extended the time period to complete the replacement of unprotected steel service and yard lines to December 31, 2020 for Spire Missouri East. Staff anticipates that the December 31, 2020 date may be extended through May 31, 2021 if the current waiver application is granted. Staff also notes that Spire has another waiver application filed in a case pending before the Commission, Case No. GE-2020-0294, which if granted would extend the deadline to replace some specific yard lines further into the future.

**B. Case No. GO-91-275**

With respect to replacement of cast iron required by Commission Rule 20 CSR 4240-40.030(15)(D), the program approved by the Commission in Case No. GO-91-275 requires replacement based on several factors such as fractures, graphitization and angle-of-repose, and certain cast iron mains are required to be replaced by the end of Fiscal Year 2020 (9/30/2020). Since Spire states in paragraph 11 of its current waiver application: “Company anticipates it can clear its backlog of mandated replacement work for cast iron mains ...by May 31, 2021 for Spire Missouri East...”. Staff anticipates that the September 30, 2020 date may be extended through May 31, 2021, if the current waiver application is granted.

**C. Case No. GO-2002-50**

In its application for approval of ongoing replacement programs for cast iron mains and unprotected steel service/yard lines, the predecessor Company to Spire Missouri West (Missouri Gas Energy) summarized work already begun and completed to address Commission rule requirements 20 CSR 4240-40.030(C),

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<sup>1</sup> As defined by 20 CSR 4240-40.030(1)(B)6., commission means the Missouri Public Service Commission.

<sup>2</sup> Rule in this context refers to 20 CSR 4240-40.030.

<sup>3</sup> Code requirement 20 CSR 4240-40.030(17)(G) applies to an operator’s gas distribution integrity management program and the requirement defines when an operator may deviate from required periodic inspections.



(D) and (E) in Case Nos. GO-91-277, GO-91-239, GO-91-295 and GO-99-302. The replacement/cathodic protection of unprotected steel mains had already been completed under Case No. GO-91-277 to address Commission rule requirements in 20 CSR 4240-40.030(15)(E). The application submitted in Case No. GO-2002-50 provided Missouri Gas Energy's plan to address the outstanding requirements of Commission Rules 20 CSR 4240-40.030(15)(C) and (D), plus an additional replacement program for cathodically-protected bare steel mains. The Commission approved the application in Case No. GO-2002-50 effective September 30, 2001.

In the current waiver application before the Commission, Case No. GE-2020-0373, Spire does not indicate which specific elements of the approved Case No. GO-2002-50 program it anticipates will be delayed. Staff reviewed the program outlined in Case No. GO-2002-50, and has summarized below the potential impacts, if any, the approval of the application would have with respect to meeting the requirements of the respective Commission rules and order:

- With respect to replacement of unprotected steel service lines and yard lines required by Commission Rule 20 CSR 4240-40.030(15)(C), the program approved by the Commission in Case No. GO-2002-50 extended the time period to complete the replacement of unprotected steel service and yard lines to June 30, 2020. Staff anticipates that the June 30, 2020 date may be extended through December 31, 2020 for Spire Missouri West if the current waiver application is granted. Staff also notes that Spire has another waiver application filed in a case pending before the Commission, Case No. GE-2020-0294, which if granted would extend the deadline to replace some specific yard lines further into the future.
- With respect to replacement of cast iron required by Commission Rule 20 CSR 4240-40.030(15)(D), the program approved by the Commission in Case No. GO-2002-50 requires replacement of a minimum of 5 miles of cast iron main per year, with reports to the Commission Staff and based on Missouri Gas Energy's fiscal year (July through June). The program also includes some cast iron main replacement deadlines based on discovery date of a cast main fracture or when coupons taken from pipe segments exhibit varying degrees (beginning at 50%) of graphitic corrosion.. Spire states in paragraph 11 of its current waiver application: "Company anticipates it can clear its backlog of mandated replacement work for cast iron mains, bare steel mains, and unprotected steel services and yard lines by December 31, 2020 for Spire West...". Spire does not explain for which of the deadlines (minimum replacement of 5 miles or replacement due to fracture/graphitization) it is requesting a waiver.
- With respect to replacement/cathodic protection of unprotected steel transmission lines, feeder lines and mains required by Commission Rule 20 CSR 4240-40.030(15)(E), PHMSA annual reports submitted by Spire Missouri West indicate that it has no unprotected steel transmission lines, feeder lines or mains. Therefore it does not appear to Staff that Spire Missouri West would require a waiver for this rule.

- The program approved by the Commission in Case No. GO-2002-50 also requires replacement of a minimum of 5 miles of cathodically-protected bare steel main, with reports to the Commission Staff based on Missouri Gas Energy's fiscal year (July through June). To the extent that replacement of bare steel main is a part of Spire's Distribution Integrity Management Program (DIMP) plan, Spire should evaluate the risks associated with delayed replacement, and consider what additional actions may be implemented to mitigate these risks.

#### **4.0 Applicable Federal Regulations**

Spire lists the Commission rules it is seeking a temporary waiver from as 20 CSR 4240-40.030(9)(Q), (13)(M), (15)(C), (15)(D), and (15)(E). The list below indicates the corresponding federal regulation (where applicable):

- 20 CSR 4240-40.030(9)(Q) – Federal regulation is 49 CFR 192.481 (Atmospheric Corrosion Control: Monitoring)
- 20 CSR 4240-40.030(13)(M) – Federal regulation is 49 CFR 192.723 (Distribution Systems: Leakage Surveys) Note - the Missouri rule 20 CSR 4240-40.030(13)(M) is more stringent than federal 49 CFR 192.723 in certain aspects, for example the maximum interval between leak surveys outside of business districts in Missouri rules is once every 3 years at intervals not exceeding 39 months.
- 20 CSR 4240-40.030(15)(C) – No corresponding federal regulation (replacement program for unprotected steel service lines and yard lines)
- 20 CSR 4240-40.030(15)(D) - No corresponding federal regulation (replacement program for cast iron pipe)
- 20 CSR 4240-40.030(15)(E) - No corresponding federal regulation (replacement program for unprotected steel mains)

#### **4.1 49 CFR 192.481 - Atmospheric Corrosion Control: Monitoring**

In paragraph 5 of its application, Spire indicates that a waiver is requested from the federal requirements of 49 CFR 192.481. The applicable federal regulation is as follows:

- (a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

| <b>If the pipeline is located</b> | <b>Then the frequency of inspection is:</b>                                      |
|-----------------------------------|--|
| Onshore                           | At least once every 3 calendar years, but with intervals not exceeding 39 months |
| Offshore                          | At least once each calendar year, but with intervals not exceeding 15 months     |

- (b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.
- (c) If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by Section §192.479.

Staff concurs that a waiver of 49 CFR 192.481 will need to be requested from PHMSA regarding this regulation per the requirements of 49 U.S.C. 60118.

#### **4.2 49 CFR 192.723 - Distribution systems: Leakage surveys**

In paragraph 5 of its application, Spire indicates that a waiver is requested from the federal requirements of 49 CFR 192.723. As with the Missouri rule (20 CSR 4240-40.030(13)(M)), leakage surveys are required at different frequencies for different types of facilities based on location. The applicable federal regulation is as follows:

- (a) Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this section.
- (b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:
  - (1) A leakage survey with leak detector equipment must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year.
  - (2) A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months. However, for cathodically unprotected distribution lines subject to §192.465(e) on which electrical surveys for corrosion are impractical, a leakage survey must be conducted at least once every 3 calendar years at intervals not exceeding 39 months.

## **5.0 Staff Coordination with PHMSA**

The Commission has an annual certification from the U.S. DOT under 49 U.S.C. Section 60105 of 49 U.S. Code to implement its pipeline safety program. 49 U.S.C. 60118 addresses waivers of pipeline safety standards by state authorities. 49 U.S.C. 60118 (d) requires that:

If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

On March 20, 2020, PHMSA issued a “NOTICE TO GAS AND HAZARDOUS LIQUID PIPELINE, UNDERGROUND NATURAL GAS STORAGE AND LIQUEFIED NATURAL GAS FACILITY OPERATORS AND PHMSA STATE PARTNERS REGARDING THE NATIONAL EMERGENCY RELATING TO THE NOVEL CORONAVIRUS DISEASE (COVID-19) OUTBREAK”.<sup>4</sup> This document states: “For intrastate operators regulated by State authorities, PHMSA will not object to waivers, special permits, stays of enforcement or similar measures granted by State authorities to pipeline operators for noncompliance due to COVID-19 with State regulations equivalent to the Federal regulations.”

In guidelines provided by PHMSA to state pipeline safety programs, PHMSA encourages state programs to coordinate review of waiver requests with PHMSA prior to finalizing state approval. Staff therefore submitted a copy of the Spire Application in Case No. GE-2020-0373 to PHMSA on May 18, 2020. PHMSA responded that it had no additional input on this application, and indicated that should the State approve this waiver request, send the State approved waiver to PHMSA for “no objection”.

## **6.0 Current Compliance**

Spire stated in Paragraph 3 of the application: “...the company has been unable to timely complete (1) atmospheric corrosion inspections and leak surveys of inside meter sets, and (2) required replacement work associated with cast iron mains, bare steel mains, and unprotected steel services and yard lines (all of which require entry into customer premises to perform tie-over work and maintain continuity of service), as required under certain Commission Rules and Orders”. It therefore appears that Spire may already be out of compliance with Commission rules and orders.

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<sup>4</sup> <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-03/PHMSA%20Notice%20on%20Enforcement.pdf> and attached as Exhibit 1.

## **7.0 Staff Analysis and Recommendations**

The Standard for granting a waiver of Commission pipeline safety rules is in 20 CSR 4240-40.030(18) – Waivers of Compliance:

Waivers of Compliance. Upon written request to the secretary of the commission, the commission, by authority order and under such terms and conditions as the commission deems appropriate, may waive in whole or part compliance with any of the requirements contained in this rule. Waivers will be granted only on a showing that gas safety is not compromised. If the waiver request would waive compliance with a federal requirement in 49 CFR part 192, additional actions shall be taken in accordance with 49 U.S.C. 60118 except when the provisions of subsection (17)(G) apply.

### **7.1 General Observations**

1. Based on wording from the application, it appears that Spire may already be non-compliant with one or more Commission rules or orders.
2. The waiver previously granted by the Commission in Case No. GE-2020-0297 does not address the requirements for an operator to monitor its facilities located inside of premises for atmospheric corrosion (20 CSR 4240-40.030(9)(Q)), or to perform leakage surveys of company-owned facilities (20 CSR 4240-40.030(13)(M)).
3. A waiver of federal regulation 49 CFR 192.481 would be required if the Commission grants the waiver of Commission Rule 20 CSR 4240-40.030(9)(Q).
4. A waiver of one or more parts of federal regulation 49 CFR 192.723 may be required if the Commission grants the waiver of 20 CSR 4240-40,030(13)(M), however the application is not specific enough for Staff to determine with certainty how many of the provisions of 49 CFR 192.723 would need to be waived.
5. The application is not specific enough to determine which specific provisions of 20 CSR 4240-40.030(15)(C) or (D) the Company is seeking waivers from.
6. Spire has previously reported to the Commission Staff and to the U.S. DOT that it does not have unprotected steel transmission lines, feeder lines or mains, therefore Staff does not understand the need to grant a waiver from the requirements of 20 CSR 4240-40.030(15)(E).

## **7.2 Safety Considerations:**

### **A. Monitoring for Atmospheric Corrosion (20 CSR 4240-40.030(9)(Q) and 49 CFR 192.481**

Both Commission and federal rules require inspection of each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but at intervals not exceeding 39 months (20 CSR 4240-40.030(9)(Q)1. and 49 CFR 192.481(a)). Both Commission and federal rules require that if atmospheric corrosion is found during and inspection, the operator must provide protection against the corrosion (20 CSR 4240-40.030(9)(Q)3. and 49 CFR 192.481(c)). The Commission rule additionally specifies that this protection must be provided within twelve months unless otherwise approved by designated commission personnel.

Because Spire's application only refers to monitoring for atmospheric corrosion (Paragraph 5 of the application lists Atmospheric Corrosion Inspections of inside meter sets), Staff has assumed that Spire is only seeking a waiver from the requirements to inspect piping (20 CSR 4240-40.030(9)(Q)1. and 49 CFR 192.481(a)), and not a waiver to provide protection against corrosion when found (20 CSR 4240-40.030(9)(Q)3. and 49 CFR 192.481(c)).

A risk involved with delayed monitoring for atmospheric corrosion is the potential for corrosion related leaks on the facilities. Since the waiver request is specific to facilities located inside customer premises, this risk will need to be tracked and mitigated. In order to address potential safety concerns related to delayed monitoring for signs of atmospheric corrosion on inside facilities, Staff is proposing additional limitations and conditions in the recommendation section of this Memorandum.

### **B. Distribution System – Leakage Surveys (20 CSR 4240-40.030(13)(M) and 49 CFR 192.723)**

Spire did not specify in its application from which specific requirements of 20 CSR 4240-40.030(13)(M) and 49 CFR 192.723 Spire is requesting a waiver. Staff reviewed and analyzed the applicable Commission and federal rules in light of Spire's stated intention in Paragraph 2 of the application to: "...minimize entry into customer premises and associated in-person interaction with customers". Staff also took into consideration that Spire stated in Paragraph 7 of the application that the "Company anticipates it can clear its backlog of atmospheric corrosion inspections and leak surveys of inside meters, and return to compliance by December 31, 2020."

Both the Commission and federal rules require leakage surveys to be performed in business districts at intervals of 15 months but at least once each calendar year (20 CSR 4240-40.030(13)(M)2.A. and 49 CFR 192.723(b)(1)).

Both the Commission and federal rules require leakage surveys at specified intervals outside of business districts, however specific intervals vary somewhat:

Commission Rule 20 CSR 4240-40.030(13)(M)2.B.(I) requires leakages surveys at intervals not exceeding 15 months but at least once each calendar year for unprotected steel pipelines and steel yard lines located outside of business districts, however the federal rule at 49 CFR 192.723(b)(2) requires leakage surveys for cathodically unprotected steel distribution lines at least once every 3 calendar years at intervals not exceeding 39 months. Because Spire is requesting an extension only through December 31, 2020, it does not appear to Staff that Spire would require a waiver from the longer interval allowed in 49 CFR 192.723(b)(2).

Commission Rule 20 CSR 4240-40.030(13)(M)2.B.(II) requires leakages surveys at intervals not exceeding 39 months but at least once each third calendar year for all other pipelines and yard lines located outside of business districts, however the federal rule at 49 CFR 192.723(b)(2) requires leakage surveys for these types of distribution lines at least once every 5 calendar years at intervals not exceeding 63 months. Because Spire is requesting an extension only through December 31, 2020, it does not appear to Staff that Spire would require a waiver from the longer interval allowed in 49 CFR 192.723(b)(2).

Commission Rule 20 CSR 4240-40.030(13)(M)2.C. (no federal equivalent) provides that for yard lines and buried fuel lines that are required to be leak surveyed under subparagraph (13)(M)2.B., but are located within high security areas such as prisons, notification to the customer may be conducted instead. Spire did not indicate in its application that it was unable to provide notifications to customers.

Commission Rule 20 CSR 4240-40.030(13)(M)3. (no federal equivalent) requires operators to notify large commercial/industrial customers with buried fuel lines operating above low pressure at one or more buildings, that are not leak surveyed in accordance with part (13)(M)2.B.(III), that maintenance is the customer's responsibility and leak surveys should be conducted. Spire did not indicate in its application that it was unable to provide notifications to customers.

Based on these considerations, Staff is recommending that the Commission approve the requested waiver from 20 CSR 4240-40.030(13)(M)2.A. and B., and 49 CFR 192.723(b)(1), subject to conditions and limitations discussed in Section 7.4 of this memo, but not 20 CSR 4240-40.030(13)(M)2.C., 20 CSR 4240-40.030(13)(M)3., or 49 CFR 192.723(b)(2).

### **C. Replacement Program of Unprotected Steel Service Lines and Yard Lines (20 CSR 4240-40.030(15)(C))**

Staff's understanding is that Spire is seeking additional time to complete the replacement of Unprotected Steel Service Lines and Yard Lines.

The program approved by the Commission in Case No. GO-2002-50 requires completion by June 30, 2020. Staff anticipates that the June 30, 2020 date may be extended through December 31, 2020 for Spire Missouri West if the current waiver application is granted.

The program approved by the Commission in Case No. GO-99-155 extended the time period to complete the replacement of unprotected steel service and yard lines to December 31, 2020 for Spire Missouri East. Staff anticipates that the December 31, 2020 date may be extended through May 31, 2021 if the current waiver application is granted.

Staff also notes that Spire has another waiver application filed in a case pending before the Commission, Case No. GE-2020-0294, which if granted would extend the deadline to replace some specific yard lines further into the future.

A risk associated with delayed replacement of Unprotected Steel Service Lines and Yard Lines would be leaks or failures of those lines.

**D. Replacement Program - Cast Iron (20 CSR 4240-40.030(15)(D))**

Spire currently has Commission approved replacement programs for cast iron mains in Case No. GO-2002-50 for Spire Missouri West, and Case No. GO-91-275 for Spire Missouri East (See Section 3.0 – Commission Orders). However, it is unclear to Staff for which of the specific requirements of these orders Spire is seeking a waiver.

**E. Replacement Program – Unprotected Steel Mains (20 CSR 4240-40.030(15)(E))**

Staff reviewed the annual reports submitted by Spire Missouri East and Spire Missouri West to the U.S. DOT as required by Commission Rule 20 CSR 4240-40.020. These reports indicate that neither Spire Missouri East nor Spire Missouri West currently have unprotected steel transmission lines, feeder lines or mains in their Missouri transmission or distribution systems.

**7.4 Staff Recommendations**

1. Staff recommends that the Commission order Spire to file a list of any non-compliances with Commission rules and orders that had already occurred by May 15, 2020 (file date of this application). The list should include:
  - a. Commission rule or order number
  - b. Specific non-compliance
  - c. Location (e.g. address) of non-compliance
  - d. Date the action was required to be taken
2. Staff recommends that the Commission approve the requested waiver from 20 CSR 4240-40.030(9)(Q)1. with the following limitations and conditions:
  - a. The effective date of this waiver will end December 31, 2020.



- b. The waiver associated with atmospheric corrosion monitoring as required by 20 CSR 4240-40.030(9)(Q)1. applies only to Spire facilities located inside customer premises. The waiver does not apply to atmospheric corrosion monitoring of facilities located outside of customer premises.
  - c. Spire shall document the number of non-compliances and provide the Commission an update monthly.
  - d. Spire shall make every effort to identify inside facilities that could be safely inspected (e.g., schools, buildings closed to public access) and conduct inspections on those facilities.
  - e. Spire shall conduct additional public awareness to customers whose inspection of inside facilities will be delayed.
  - f. Spire shall begin conducting weekly odorant intensity tests in accordance with test requirements in 20 CSR 4240-40.030(12)(P)6. in areas of its system where atmospheric corrosion monitoring has been delayed in accordance with this temporary waiver.
  - g. Spire shall begin inspecting non-compliances with the oldest identified population of facilities first, and shall complete this work no later than January 1, 2021.
  - h. The waiver does not become effective until PHMSA provides notice to the Commission that PHMSA has no objection to waiving 49 CFR 192.481(a). Staff further recommends that the Commission Order be sent on an expedited basis (e.g., overnight mail) to PHMSA for review.
3. Staff recommends the Commission not approve the waiver 20 CSR 4240-40.030(9)(Q)2. or 3., or 49 CFR 192.481(b) or (c).
4. Staff recommends that the Commission approve the requested waiver from 20 CSR 4240-40.030(13)(M)1. and 20 CSR 4240-40.030(13)(M)2.A. and B .with the following limitations and conditions:
  - a. The effective date of this waiver will end December 31, 2020.
  - b. The waiver associated with leakage surveys as required by 20 CSR 4240-40.030(13)(M) applies only to Spire facilities located inside customer premises. The waiver does not apply to leakage surveys of facilities located outside of customer premises.
  - c. Spire shall document the number of non-compliances and provide the Commission an update monthly.

- d. Spire shall make every effort to identify inside facilities that could be safely leakage surveyed (e.g., schools, buildings closed to public access) and conduct leakage surveys on those facilities.
  - e. Spire shall conduct additional public awareness to customers whose leakage survey of inside facilities will be delayed.
  - f. Spire shall begin conducting weekly odorant intensity tests in accordance with test requirements in 20 CSR 4240-40.030(12)(P)6. in areas of its system where leakage surveys have been delayed in accordance with this temporary waiver.
  - g. Spire shall begin leak surveying non-compliances with the oldest identified population of facilities first, and shall complete this work no later than January 1, 2021.
  - h. Should the Commission approve a waiver of 20 CSR 4240-40.030(13)(M)1. and 20 CSR 4240-40.030(13)(M)2.A. and B., such waiver should not become effective until PHMSA provides notice to the Commission that PHMSA has no objection to waiving corresponding federal requirements in 49 CFR 192.723(a) and (b)(1). Staff further recommends that the Commission Order be sent on an expedited basis (e.g., overnight mail) to PHMSA for review.
5. Staff recommends the Commission not approve the waiver 20 CSR 4240-40.030(13)(M)2.C., 20 CSR 4240-40.030(13)(M)3., or 49 CFR 192.723(b)(2).
  6. Staff recommends that the Commission approve the requested waiver from 20 CSR 4240-40.030(15)(C) and Commission orders in Case No. GO-2002-50 and Case No. GO-93-343 as modified by the Unanimous Stipulation and Agreement in GO-99-155 with the following limitations and conditions:
    - a. The effective date of this waiver will end December 31, 2020 for Spire Missouri West and May 31, 2021 for Spire Missouri East.
    - b. Spire shall provide a comprehensive list of unprotected steel service and yard line replacements to be delayed to the Commission within 10 days of the effective date of the Commission order.
    - c. Spire shall make every effort to identify facilities that could be safely replaced (e.g., schools, buildings closed to public access) and conduct replacements on those facilities.
    - d. Spire shall conduct additional public awareness to customers where replacement of unprotected steel service lines and yard lines will be delayed.

- e. Spire shall begin conducting weekly odorant intensity tests in accordance with test requirements in 20 CSR 4240-40.030(12)(P)6. in areas where unprotected steel service lines and yard lines will be delayed in accordance with this temporary waiver.
  - f. Spire shall begin unprotected steel service and yard line replacements with the oldest identified population of facilities first, and shall complete this work no later than January 1, 2021 for Spire Missouri West and May 31, 2021 for Spire Missouri East.
7. Staff recommends that the Commission not approve the requested waiver from 20 CSR 4240-40.030(15)(D) and Commission order in Case No. GO-2002-50 and Case No. GO-91-275 without further clarification from Spire regarding the specific provisions of this rule and Commission orders from which a waiver is sought.
8. Staff recommends that the Commission not approve the requested waiver from 20 CSR 4240-40.030(15)(E) because Spire has indicated in past reports that it no longer has any unprotected steel transmission lines, feeder lines or mains. In the event Spire indicates that it has discovered previously unreported unprotected steel transmission lines, feeder lines or mains, this can be addressed by a separate waiver request that includes a schedule for replacement.

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

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

**AFFIDAVIT OF DANIEL FITZPATRICK, JOHN D. KOTTWITZ**

|                   |   |     |
|-------------------|---|-----|
| STATE OF MISSOURI | ) |     |
|                   | ) | ss. |
| COUNTY OF COLE    | ) |     |

**COME NOW** Daniel Fitzpatrick, John D. Kottwitz, and on their oath declares that they are of sound mind and lawful age; that they contributed to the foregoing *Staff Recommendation* in memorandum form; and that the same is true and correct according to their best knowledge and belief, under penalty of perjury.

Further the Affiants sayeth not.

/s/ Daniel Fitzpatrick  
Daniel Fitzpatrick

/s/ John D. Kottwitz  
John D. Kottwitz

**NOTICE TO GAS AND HAZARDOUS LIQUID PIPELINE, UNDERGROUND  
NATURAL GAS STORAGE AND LIQUEFIED NATURAL GAS FACILITY  
OPERATORS AND PHMSA STATE PARTNERS REGARDING THE NATIONAL  
EMERGENCY RELATING TO THE NOVEL  
CORONAVIRUS DISEASE (COVID-19) OUTBREAK**

**RE: Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators  
Affected by the Coronavirus (COVID-19) Outbreak**

In light of the March 13, 2020, the President’s Declaration of a National Emergency (National Emergency) Relating to the Novel Coronavirus Disease (COVID-19) Outbreak, the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety, recognizes that operators (including hazardous liquid and gas pipeline, underground natural gas storage and liquefied natural gas operators) impacted by recent events may be faced with resource constraints due to COVID-19. Limited personnel resources and the ongoing need to meet operational and maintenance needs may necessitate actions by personnel that may not fully meet federal operator qualification (OQ), control room management (CRM), and employment drug testing requirements.

Federal regulations in Title 49 Code of Federal Regulations (C.F.R.) Subpart N of Part 192, Subpart H of Part 193, and Subpart G of Part 195, require operators to ensure, through evaluation or training, that each worker performing operation or maintenance activities is either qualified under the operator's written OQ program or has demonstrated capability to perform assigned functions. Sections 192.631(d)(4) and 195.446(d)(4) and (h) of the regulation also require operators with controllers working in control rooms to implement programs to establish and follow certain hours-of-service and to conduct specialized training programs for pipeline controllers. Furthermore, Part 199 of the regulation requires pre-employment and random drug testing for workers who perform certain activities known as “covered functions.” See 49 C.F.R. § 199.105(a) and (c).

PHMSA understands that some pipeline operators are finding it extremely difficult to meet one or more of these regulatory requirements because of personnel and resource constraints due to the National Emergency and have sought temporary relief as they develop strategies and alternatives for maintaining normal operations and protecting the health and safety of their personnel and the public.

This Notice advises operators affected by the National Emergency that PHMSA does not intend to take any enforcement action with regard to OQ and CRM requirements, and will consider exercising its enforcement discretion with regard to Part 199 drug testing requirements. PHMSA is taking into consideration the exigent circumstances that may drive operators regulated by PHMSA to be unable able to comply with the following: (1) OQ requirements found in 49 C.F.R. §§ 192.801-192.809, 193.2707-2709, 193.2713-2717, and 195.501-195.509; and (2) control room requirements found in 49 C.F.R. §§ 192.631(d)(4) and 195.446(d)(4) and (h) due to COVID-19.

Operators are encouraged to fully use the flexibilities already afforded by part 199 regarding pre-employment and random drug testing. Operators are permitted under the part 199 regulations to schedule the date, time, and location of the pre-employment drug test. Moreover, the regulations allow for random drug testing to be spread reasonably throughout the calendar year. PHMSA will consider using its enforcement discretion with regard to requirements found in 49 C.F.R. § 199.105(a) and (c). Operators who are unable to comply with these regulations should maintain documentation explaining what specific requirements are not being met, how the non-compliance is related to COVID-19, and what alternative measures are being taken to ensure safety. Operators should also communicate with their regulator as indicated in this notice.

In addition to these three specific areas, PHMSA realizes there may be other regulatory requirements under the Federal pipeline safety laws in 49 C.F.R. Parts 190 through 199 that pose compliance challenges for operators during this National Emergency. In such cases, it is important that operators adequately document any such issues and communicate promptly with their regulator about them. PHMSA will exercise discretion in its overall enforcement of other parts of the pipeline safety regulations with the intent of providing operators with the flexibility to maintain normal operations while ensuring public safety and protection of the environment.

For intrastate operators regulated by State authorities, PHMSA will not object to waivers, special permits, stays of enforcement or similar measures granted by State authorities to pipeline operators for noncompliance due to COVID-19 with State regulations equivalent to the Federal regulations.

Operators who determine that they cannot comply with the regulations described in this Notice because of challenges due to COVID-19 should promptly notify the following:

- For operators Regulated by PHMSA: Please contact PHMSA's Office of Pipeline Safety by email at [Pipeline-COVID-19-notices@dot.gov](mailto:Pipeline-COVID-19-notices@dot.gov); and
- For Intrastate operators Regulated by State Authorities: Please contact your State Program Manager – State Program Manager contacts available at: <http://www.napsr.org/state-program-managers.html>.

This Notice is effective on March 20, 2020, and will remain in effect until further notice or modification by the Associate Administrator for Pipeline Safety, PHMSA. Nothing in this Notice prohibits PHMSA from rescinding this stay of enforcement or enforcing the regulations outline above if it determines that a significant safety issue or other circumstance warrants doing so.

Please be advised that this Notice applies only to operators faced with limited resources as a result of the impacts of the National Emergency and does not relieve them from complying with any other applicable provisions of the Federal pipeline safety regulations and acting reasonably to use trained, non-impaired workers to perform operations, maintenance and control-room tasks. Furthermore, pipeline operators subject to this Notice remain fully responsible for the safe operation of their systems and maintaining the capability to detect and respond to critical pipeline safety issues and adequately respond to pipeline emergencies.

ISSUED THIS 20th DAY OF MARCH, 2020, IN WASHINGTON, D.C.



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Alan K. Mayberry  
Associate Administrator for Pipeline Safety