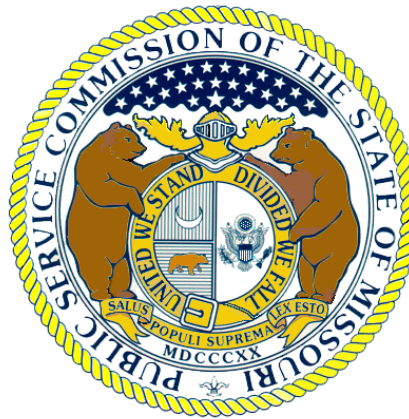


**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its Office in Jefferson City, Missouri on the 20th day of July, 2023.

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



Structural Glass Systems, Inc.,)
)
Complainant)
)
v.)
)
Spire Missouri, Inc. d/b/a Spire,)
)
Respondent)

File No. GC-2023-0143

REPORT AND ORDER

Issue Date: July 20, 2023

Effective Date: August 19, 2023

TABLE OF CONTENTS

APPEARANCES	3
PROCEDURAL HISTORY	4
FINDINGS OF FACT	6
BILLING	7
METERING	8
USAGE REPORTS.....	9
EXPECTED USAGE.....	10
CONCLUSIONS OF LAW	11
DECISION	13
CONSISTENCY OF USAGE	15
RECOVERY AUTHORIZED BY TARIFF	16
ORDERED PARAGRAPHS	18

APPEARANCES

Appearing For Structural Glass Systems, Inc.:

Mark E. Meyer, 2528 SW Wintercreek Drive, Lee's Summit, Missouri, 64081

Appearing for Spire Missouri, Inc. d/b/a Spire:

J. Antonio Arias, 700 Market Street, 6th Floor, St. Louis, Missouri, 63101

Appearing for the Staff of the Missouri Public Service Commission:

Ron Irving, Staff Counsel, Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102-0360.

Regulatory Law Judge: Ross Keeling

REPORT AND ORDER

Procedural History

On October 25, 2022, Structural Glass Systems, Inc. (SGS) filed this complaint alleging that Spire Missouri, Inc. d/b/a Spire charged it the amount of \$7,822.66 due to an undercharge for natural gas, allegedly provided to SGS between November 24, 2021 and April 12, 2022. SGS claims that this undercharge resulted solely from Spire's negligence because Spire installed a meter with an improperly configured automatic index and pressure corrector (PTZ corrector). This resulted in the meter registering six digits of usage while transmitting five digits of usage to Spire for billing. SGS asserts that it cannot be billed or assessed for the undercharge and that it suffered consequential damages due to Spire's negligence, and that Spire violated a statute, tariff or Commission regulation or order.¹

On November 23, 2022 Spire filed its motion to dismiss the complaint, in which it argued that SGS had failed to state a claim on which relief can be granted under the Commission's formal complaint rules, in that (1) Complainant has not alleged any violation of law, rule, or Commission-approved tariff, and (2) Complainant has also not stated sufficient facts to support a finding of negligence or any consequential damages.

On December 19, 2023, Spire filed its answer to SGS's complaint, denying that SGS adequately pled the elements of negligence, admitting that the configuration of its PTZ corrector caused an undercharge to SGS, and explaining that its rebilling for natural gas was required by Commission Rule 20 CSR 4240-13.025, and in accordance with its tariff.

¹ Complaint, pp. 1-2.

On May 3, 2023, Spire filed a stipulation of undisputed facts bearing the signatures of counsel for Spire and SGS. In that filing, Spire and SGS stipulate that: “An incorrect PTZ corrector configuration caused Complainant’s gas meter to register six digits of usage, but only transmit five digits of usage to Respondent’s billing system for the period of November 24, 2021 to April 12, 2022.”

On May 5, 2023, the parties filed a list of issues, witnesses, exhibits, and position statements, presenting the following issues:

- A. From the period of November 24, 2021 to April 12, 2022, did Complainant use the amount of natural gas that Respondent rebilled Complainant for in the amount of \$7,822.66?
- B. To the extent the answers to Issue A is yes, did Respondent violate any law or any commission rule, order or decision?

At the evidentiary hearing on May 10, 2023, the Commission heard the testimony of five witnesses and received 22 exhibits into the record. SGS filed its post-hearing brief on May 31, 2023. Staff, Spire, and the Office of the Public Counsel (OPC) filed post-hearing briefs on June 7, 2023.

Customer specific information is confidential under Commission Rule 20 CSR 4240-2.135(2); however, the Commission may waive this provision under Commission Rule 20 CSR 4240-2.135(19) for good cause. Good cause exists to waive confidentiality as to SGS’s bills and gas usage because the Commission would be unable to write findings of fact or a decision that did not use some of its customer specific information. The confidential information disclosed in this Report and Order is the minimal amount necessary to support the Commission’s decision.

Findings of Fact

The Commission, having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and arguments of all parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position, or argument of any party does not indicate the Commission has failed to consider relevant evidence, rather that the omitted material was not dispositive of this decision. Any finding of fact reflecting that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. Spire is a public utility that renders gas services to customers in Missouri.²
2. Spire provided and continues to provide gas service to the Complainant, at the address at issue in this case, 9700 East 56th Street C, Raytown, Missouri.³

Billing

3. SGS began large general commercial service on November 24, 2021, and received and paid bills for service in December 2021, and in January, February, March, and April, 2022.⁴
4. In October of 2021, Spire installed a Romet rotary gas meter at SGS's warehouse with a PTZ electronic index and pressure corrector connected to it.⁵

² Answer, para. 4 (filed December 19, 2022).

³ Transcript, p. 70:1-4; Exhibits 1-5.

⁴ Exhibit 200C, Staff Report and Recommendation, p. 2.

⁵ Transcript, p. 76:12 – 77:9.

5. Spire discovered that the PTZ corrector configuration was incorrectly set on SGS's meter in January of 2022. The incorrect configuration caused the meter's usage readings to be conveyed to Spire's billing department with one digit missing.⁶

6. On May 2, 2022, SGS received a letter from Spire indicating that the meter was "faulty". The letter stated that SGS would receive a billing adjustment on the next bill and that Spire would be offering the customer the ability to make payment arrangements to spread out the additional costs over time. The letter did not provide any details on the specific problems associated with the billing.⁷

7. SGS received a bill from Spire dated April 12, 2022, showing charges for the service period from March 11, 2022, to April 12, 2022. The April 12, 2022 statement indicates the present reading of usage by SGS at that time to be 702 hundred cubic feet (CCFs).⁸

8. SGS received a bill from Spire dated May 11, 2022, showing charges for the service period from April 13, 2022 to May 10, 2022, and including an additional charge of \$6,801.60 for bill correction during the period of November 24, 2021 to April 12, 2022.⁹ When added to the present charges for the month the total bill amounted to \$7,168.65.¹⁰ The May 11, 2022 statement indicates the present reading of usage by SGS at that time to be 7189 CCFs.¹¹

9. SGS received a bill from Spire dated September 29, 2022, showing an

⁶ Exhibit 200C, Staff Report and Recommendation, p. 2.

⁷ Exhibit 200C, Staff Report and Recommendation, pp. 3-4.

⁸ Exhibit 5, Spire Statement April 12, 2022.

⁹ Exhibit. 6, Spire Statement May 11, 2022; Transcript, p. 41:15-17.

¹⁰ Exhibit. 6, Spire Statement May 11, 2022; Exhibit 200C, Staff Report and Recommendation, p. 2.

¹¹ Exhibit. 6, Spire Statement May 11, 2022.

amount due of \$7,822.66. This bill includes the May 11, 2023 bill, plus the applicable charges accrued from May 10, 2022 through September 29, 2022.¹²

10. Spire continued to rebill SGS for the entire \$6,801.60 that it under billed SGS for the service period from November 24, 2021 to April 21, 2022.¹³

Metering

11. The meter installed at SGS's service address was a Romet rotary meter with a PTZ electronic index and pressure corrector connected to it.¹⁴ The meter installed at SGS's service address registers usage in six digits.¹⁵

12. Readings taken from the meter installed at SGS's facility begin at zero CCF usage, when the meter was new and newly installed in November of 2021, and proceed to 7022 CCF on April 12, 2022, which is the end of the period in question.¹⁶

13. A PTZ corrector is an electronic index that goes on the meter that also has a pressure and temperature sensor. It is continuously measuring the gas flowing through the meter and correcting it in real time for both pressure and temperature.¹⁷ The PTZ corrector collects information from the movement of the meter.¹⁸ On a monthly basis, the PTZ corrector sends the current readings through a communication module to Spire's billing system.¹⁹

14. Prior to installing the PTZ technology, Spire used a billing system that recorded usage using mechanical indexes on the meters. Information from the meter

¹² Exhibit 10, Spire Statement September 29, 2022; See Exhibits 6, 7, 8, & 9.

¹³ Transcript, pp. 40:12-22; 41:13-18; 58: 20-25.

¹⁴ Transcript, p. 77:5-9.

¹⁵ Transcript, p. 77:13-19.

¹⁶ Transcript, p. 67:2-22.

¹⁷ Transcript, p. 63:11-16.

¹⁸ Transcript, pp. 77:13 – 78:1.

¹⁹ Transcript, p. 63:20-25.

required a configuration within the billing system to automatically disregard the first digit of the reading sent by the meter because the meter provided more detail than was necessary for billing purposes.²⁰

15. The PTZ corrector was a new system, and the errors in billing were caused by a legacy issue in Spire's billing system.²¹

16. The PTZ corrector does not require any correction to provide accurate readings to the billing system, so once PTZ technology was in use it was no longer necessary to correct the digital read provided by the PTZ corrector. However, the billing system continued to disregard the first digit of information after the PTZ corrector was put into use, causing the reading to be moved one digit to the left.²²

17. On August 15, 2022, Spire conducted an on-site differential pressure test on the meter, showing that the meter is accurate at three different flow rates.²³ The meter registered natural gas usage properly and the meter reads that were taken directly from the meter were accurate.²⁴

Usage Reports

18. In addition to its billing system, Spire maintains records of usage in a separate report called an "Out Of Route Reads Report."²⁵

19. The Out Of Route Reads Report shows a record of readings collected over time for a particular meter.²⁶ The Out Of Route Reads Report shows the raw read of the

²⁰ Transcript, p. 64:6-11.

²¹ Transcript, pp. 72:23 – 73:9.

²² Transcript, p. 64:12-16.

²³ Transcript, p. 75:19 – 76:2; Exhibit 201, Differential Meter Test.

²⁴ Transcript, p. 65:4-9.

²⁵ Exhibit 102, Out of Route Reads Report; Transcript, p. 65:13-23.

²⁶ Transcript, p. 66:3-4.

meter. The raw read shows what the meter was registering at the customer's service address. The Out Of Route Reads Report also shows what the read should be if it was a four-dial meter, a five-dial meter, a six-dial meter, and what the read should be for a PTZ corrector.²⁷

20. The Out Of Route Reads Report for the meter at SGS's billing address shows that on December 10, 2021, the raw read was 0000000171, the 6 dial read lists a value of 000017, and the PTZ corrector column shows a read of 000171.²⁸

21. The Out Of Route Reads Report for the meter at SGS's billing address shows that on April 12, 2022, the raw read was 0000007022, the 6 dial read was 000702, and the PTZ corrector read was 007022.²⁹

Expected Usage

22. The total square footage of SGS's facility at the service address was 15,204 Square Feet.³⁰

23. The expectation for the usage in warehouses for the purposes of heat is at least 250 CCF for every 3,000 square feet of warehouse space, per month.³¹

24. The estimated usage for heating SGS's facility would be at least 1500 CCF.³²

25. When SGS initially applied for natural gas service, Spire was supplied with a list of equipment that totaled nearly 1.6 million BTUs, requiring 2 lbs. of delivery

²⁷ Transcript p. 66:1-17; Exhibit 102, Out of Route Reads Report.

²⁸ Exhibit 102, Out of Route Reads Report.

²⁹ Exhibit 102, Out of Route Reads Report.

³⁰ Transcript, p. 70:1-8.

³¹ Transcript, p. 71:9-14.

³² Transcript, p. 71:15-18.

pressure, an estimate that would likely yield a bill in excess of 2,000 CCF of usage on a normal winter month.³³

26. The natural gas appliances in SGS's facility were two Reznor heaters rated at 250,000 BTUs each.³⁴

27. The natural gas appliances in SGS's facility were too small for the facility.³⁵

28. A heating unit will produce heated air to fill a volume of space to the temperature to which the thermostat is set. If the heating equipment installed is insufficient to move enough heat into a space to reach the desired temperature a thermostat is set to, the equipment will just run more, and run inefficiently, and burn more gas.³⁶

29. Gas Usage at SGS's facility was measured at 1995 CCFs for the period of January 12, 2022 (9:34:36 AM) to February 10, 2022 (1:04:06 AM).³⁷

30. Gas usage at SGS's facility was measured at 1523 CCFs for the period of January 10, 2023 to February 7, 2023.³⁸

Conclusions of Law

A. Spire is a Missouri corporation and a "gas corporation" and "public utility" as defined by Section 386.020, RSMo, and is authorized to provide gas service to portions of Missouri.

B. Section 386.390.1, RSMo, states that a person may file a complaint against a utility, regulated by this Commission, setting forth violations of any law, rule or

³³ Transcript, p. 81:10-22.

³⁴ Transcript, p. 82:8-14.

³⁵ Transcript, pp. 81:10 – 83:17

³⁶ Transcript, p. 83:4-17.

³⁷ Exhibit 102, Out of Route Reads Report.

³⁸ Exhibit 101, p. 19.

order of the Commission. Therefore, the Commission has jurisdiction over this complaint.

C. Commission Rule 20 CSR 4240-13.020(2), requires that each billing statement rendered by a utility shall be computed on the actual usage during the billing period.

D. Commission Rule 20 CSR 4240-13.025(1) provides that for all billing errors, the utility will determine from all related and available information the probable period during which the condition causing the errors existed and shall make billing adjustments for that period.

E. Spire's Commission-approved tariff, P.S.C. Mo. No. 9 Original Sheet No. R-8.1, defines the period during which Spire may make adjustments for a period of undercharge to be limited to a 60 billing periods prior to and including the date of discovery, inquiry or actual notification of the company. The relevant portion reads as follows:

Customers Other Than Residential:

In the event of an undercharge: An adjustment shall be made for the entire period that the undercharge existed not to exceed sixty consecutive billing periods, calculated from the date of discovery, inquiry or actual notification of the Company, whichever was first.

F. A tariff has the same force and effect as a statute, and it becomes law.³⁹

³⁹ *State ex rel Missouri Gas Energy v. Public Service Com'n*, 210 S.W.3d 330, 337 (Mo. App. W.D. 2006).

G. SGS, as the complainant, bears the burden of proof to show by a preponderance of evidence that Spire has violated a law subject to the Commission's authority, a Commission rule, or an order of the Commission.⁴⁰

H. The determination of witness credibility is left to the Commission, "which is free to believe none, part, or all of the testimony."⁴¹

Decision

Issue A – From the period of November 24, 2021 to April 12, 2022, did Complainant use the amount of natural gas that Respondent rebilled Complainant for in the amount of \$7,822.66?

Prior to the evidentiary hearing in this matter the parties stipulated that an incorrect PTZ corrector configuration caused Complainant's gas meter to register six digits of usage, but only transmit five digits of usage to Respondent's billing system for the period of November 24, 2021 to April 12, 2022. With that decided, the remaining issue is to determine which digit was omitted for billing purposes.

In its order denying Spire's motion to dismiss, the Commission determined that SGS's complaint sufficiently states a cause of action that can be addressed by the Commission because it alleges that Spire billed SGS for gas service that it did not provide, and that cannot be billed or assessed to it. This matter went to an evidentiary hearing for a determination of whether that allegation is true. SGS presented no evidence showing that either the meter or the PTZ corrector were incorrect or inaccurate.

⁴⁰ *State ex rel. GS Technologies Operating Co., Inc. v. Public Service Comm'n*, 116 S.W.3d 680, 693 (Mo. App. 2003). Stating that in cases "complainant alleges that a regulated utility is violating the law, its own tariff, or is otherwise engaging in unjust or unreasonable actions, . . . the burden of proof at hearing rests with the complainant."

⁴¹ In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service and Midwest Energy Consumers' Group v. Missouri Public Service Commission, 509 S.W.3d 757, ~~763~~ **764** (Mo. App. W.D. 2016).

Spire's witness, Mr. James Rieske, testified that the PTZ corrector was a new system, and that the errors in billing were caused by a legacy issue in its billing system. Mr. Rieske explained that the system used to process the data sent by the PTZ connector was configured to disregard the last digit submitted by the device, moving the decimal one place to the left, and showing a value only one tenth the amount actually registered by the meter. This occurred because the system was still configured to accommodate the previous reporting system, which disregarded the last digit of readings received from the meter.

The evidence shows that this is true. Spire maintains a parallel record, the "Out Of Route Reads Report," that shows what the actual reading of the meter was on certain dates during the time in question, called the "raw read." This record also indicates what the reading should be in the billing system for the differently formatted meters, and for meters with an installed PTZ corrector. Those records show that the readings taken from the meter installed at SGS's facility begin at zero CCF usage, when the meter was new and newly installed in November of 2021, and proceed to 7022 CCF on April 12, 2022, which is the end of the period in question. This confirms the total usage claimed by Spire during the period in question.

The Out Of Route Reads Report also supports Spire's claim that, during the time in question, its billing system disregarded the first digit of its usage readings, resulting in billing for only one tenth of SGS's usage. The Out Of Route Reads Report shows that, for each timestamped reading recorded, the raw read and the readings for meters with an installed PTZ corrector show equivalent values. But the values indicated for six-digit meters show a value one tenth of that amount because the first number in a six-digit meter

reading is disregarded by the system, shifting the decimal point to the left. In his testimony, Mr. Rieske explained that, in this case, the data received from the PTZ corrector was treated as though it was a six-digit meter reading, and the first digit was improperly disregarded in the billing record. This caused SGS to be under billed for its gas usage from November 24, 2021 to April 12, 2022.

The full amount of under billing is \$6,801.60. Spire's statement dated September 29, 2022, shows an amount due of \$7,822.66. This bill includes the May 11, 2023 bill, plus the applicable charges accrued from May 10, 2022 through September 29, 2022. SGS offered no evidence of its own refuting Spire's factual evidence.

Consistency of usage

At the evidentiary hearing, SGS argued that the volume of gas billed to its facility was inconsistent with the size of the facility and the gas powered equipment installed. Spire's witness, Mr. Rieske, testified that the size of SGS's facility was consistent with the gas volume it was billed for, and that using heating equipment that is rated for lower BTU production does not reduce overall gas usage. Heating a warehouse with gas typically requires at least 250 CCF for every 3,000 square feet of warehouse space. SGS's facility is 15,204 square feet, which according to Mr. Resike requires about 1,500 CCF of gas to heat in a normal winter month. Records of usage during the winter months of both 2022 and 2023 are consistent with normal usage for a facility of that size. For example, usage in January 12 to February 10, 2022 was 1995 CCF, where usage from January 10 to February 7, 2022 was 1523 CCF.

Mr. Rieske also testified about the size and adequacy of the equipment at SGS's facility, which is smaller than typically required for a facility of that size. With its initial

application for gas service, SGS provided a list of equipment to Spire totaling nearly 1.6 million BTUs, requiring 2 lbs. of delivery pressure. The SGS facility had two gas heaters totaling 500,000 BTUs. According to Mr. Rieske, SGS's heaters were too small for the facility. The amount of gas required to heat a given space depends on how often the heating units run. He stated that smaller heating units do not conserve energy, but require the heaters to run longer and use more fuel to heat the same space. This is inefficient and increases the gas usage and the cost of heating. As a result, the smaller equipment at the SGS facility did not result in any savings, and the gas usage was consistent with the size of the facility. SGS did not present evidence rebutting Spire's claims regarding its records or claims regarding the consistency of usage with the size of its facility.

SGS has failed to produce evidence sufficient to satisfy its burden to demonstrate that from the period of November 24, 2021 to April 12, 2022, SGS did not use the amount of natural gas that Spire rebilled it for in the amount of \$7,822.66.

Issue B – To the extent the answers to Issue A is yes, did Respondent violate any law or any Commission rule, order or decision?

Recovery Authorized by Tariff

In their Briefs, both SGS and OPC argued that Spire discovered the under billing issue in January of 2022, but did not address it until May of 2022. SGS and OPC argue that the applicable tariff provides that billing for under billed usage may only run through the date that it is "discovered." OPC argues that Spire can only rebill SGS for under charged amounts from November 2021 through January, 2022 because SGS did not inform customers of the undercharge issue for five months, during which Spire knew about the misconfigured PTZ corrector but chose not to fix. And that Spire incurred most

of the undercharged amount without any communication or warning to SGS, preventing SGS from mitigation efforts that could have reduced its bills.

The applicable tariff is P.S.C. MO. No. 9 Original Sheet No. R-8.1. The relevant portion reads as follows:

Customers Other Than Residential:

In the event of an undercharge: An adjustment shall be made for the entire period that the undercharge existed not to exceed sixty consecutive billing periods, calculated from the date of discovery, inquiry or actual notification of the Company, whichever was first.

In their post hearing briefs, both Spire and Staff state that Spire's Commission approved Tariff Sheet No.R-8.1, allows Spire to make billing adjustments for over or under billing situations. Neither Spire nor Staff address the limits of the period during which Spire may recover, as it is defined in the tariff.

The Commission finds that the tariff language defines a period beginning on the date of discovery, inquiry, or actual notification of the company, and extends backwards in time for up to 60 months. Here, Spire discovered the misconfigured PTZ corrector in January of 2022. The Commission finds that Spire is in violation of its tariff because it rebilled SGS for a period that is not provided for in its tariff. Thus, the Commission will limit Spire's recovery to under billed amounts from November 2021, through its February 9, 2022 billing.

THE COMMISSION ORDERS THAT:

1. SGS's claim that it did not use the amount of natural gas from November 24, 2021 to April 12, 2022, that Spire rebilled it for in the amount of \$7,822.66, is denied.
2. Spire's recovery of funds from SGS due to its under billing during the period not provided for in its tariff from November 24, 2021 to April 12, 2022 shall be no greater than its calculation of service provided November 24, 2021 to February 9, 2022.
3. This order shall be effective August 19, 2023.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, Kolkmeier
and Hahn CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).

Keeling, 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 20th day of July, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

July 20, 2023

File/Case No. GC-2023-0143

**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

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

**Missouri Public Service
Commission**

Ron Irving
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Ron.Irving@psc.mo.gov

Spire

Matthew Aplington
700 Market Street
Saint Louis, MO 63101
matt.aplington@spireenergy.com

Spire

J. Antonio Arias
700 Market Street, 6th Floor
St. Louis, MO 63101
antonio.arias@spireenergy.com

Structural Glass Systems, Inc.

Mark E Meyer
2528 SW Wintercreek Dr.
Lee's Summit, MO 64081
meyerlaw78@yahoo.com

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

Sincerely,



**Nancy Dippell
Secretary**

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