BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Spire Missouri Inc. d/b/a Spire's Request to Decrease Its WNAR	))	**Case No. GO-2019-0058**
In the Matter of Spire Missouri Inc. d/b/a Spire's Request to Increase Its WNAR	))	**Case No. GO-2019-0059**

STAFF'S POST-HEARING BRIEF

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), by and through the undersigned counsel, and for its *Brief*, states as follows:

Background

This case involves Spire Missouri Inc.'s, d/b/a Spire ("Spire"), first tariff filings under its Weather Normalization Adjustment Rider ("WNAR") tariffs, approved by the Commission in its most recent rate cases.[1] In those cases, Spire sought a Revenue Stabilization Mechanism ("RSM"), under Section 386.266.3, RSMo, for both its Spire Missouri East ("Spire East") and Spire Missouri West ("Spire West") operating units. However, the Commission rejected Spire's proposed RSM, finding that it was not consistent with the statute as it would have made rate adjustments based upon all variations in average usage per customer; not adjustments for variations due only to weather, conservation, or both.[2] In addition, the Commission found that Spire's proposed RSM would not provide rate stability, that it was not necessary because neither Spire East nor Spire West were having difficulty meeting their revenue

[1] Case Nos. GR-2017-0215 (Spire Missouri East) and GR-2017-0216 (Spire Missouri West).
[2] Amended Report and Order, Case Nos. GR-2017-0215 and GR-2017-0216, p. 83.

requirements, and Spire's proposed mechanism was not shown to be a good mechanism to incentivize conservation.[3]

However, during the hearing for those rate cases, Staff presented a sample tariff sheet with a WNAR for the Commission's consideration.[4] No party objected to the document, with the exception of three proposed modifications submitted by Spire that do not relate to the issues currently before the Commission.[5] The Commission found that because annual natural gas usage is 95% correlated with annual Heating Degree Days ("HDD"), using Staff's climatic normal and weather normalization in the form of the WNAR tariff would more accurately resolve the revenue stabilization issue, because it is specifically linked to weather fluctuations.[6]

Ultimately, the Commission rejected Spire's proposed RSM, but determined that a WNAR tariff is in the public interest and is just and reasonable as set out by Staff's example tariff, with one of the three proposed modifications submitted by Spire of an upward adjustment limit and the elimination of a downward adjustment limit.[7]

On August 31, 2018, Spire filed tariff sheets to effect a decrease to its WNAR for Spire East, and an increase for Spire West.[8] As directed by the Commission, Staff filed its recommendations in response to the Company's tariff filings, in which it recommended rejection of both Spire East's and Spire West's tariff filings because Spire improperly calculated the WNAR rates for each operating unit.[9]

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[3] *Id.* at pp. 83-84
[4] *Id.* at p. 81
[5] *Id.* at p. 81
[6] *Id.* at p. 80
[7] *Id.* at p. 85
[8] Spire East Weather Normalization Adjustment Rider, GO-2019-0058 and GR-2019-0059, EFIS Item No. 1.
[9] Staff Recommendation, GO-2019-0058, EFIS Item No. 4; Staff Recommendation, GO-2019-0059, EFIS Item No. 4.

Introduction

Staff filed its *List of Issues, Identification of Witnesses, and Order of Cross-Examination*[10] on January 7, 2019, which presented two issues for the Commission's determination, set forth in the Argument section below. It should be noted, however, that Spire made a subsequent filing[11] where it indicated to the Commission that it had concerns regarding the description of the issues contained in Staff's filing, and provided its own presentation of the issues. Nonetheless, Spire used Staff's List of Issues to present its Statement of Positions.[12]

After the conclusion of the evidentiary hearing in this matter, the Commission issued its *Order Concerning Briefs* in which it directed each party to include the following items in their briefs, when addressing the issues heard at the evidentiary hearing:

1) Set out a plain and simple example of both of the two different methods described in the evidence at the evidentiary hearing for calculating the "NDD_{ij}" factor used in the weather normalization adjustment ("WNA") formula adopted in the tariff sheets;
2) Address whether the Tariffs' definition of the NDD_{ij} factor is ambiguous; and
3) Address how adopting Spire Missouri, Inc.'s methodology may affect the "β" ("Beta") value in the Tariffs' WNA formula.

[10] List of Issues, Identification of Witnesses, and Order of Cross-Examination, GO-2019-0058 and GO-2019-0059, EFIS Item No. 24.
[11] Reply to Staff's List of Issues, Identification of Witnesses, and Order of Cross-Examination, GO-2019-0058 and GO-2019-0059, EFIS Item No. 25.
[12] Spire Missouri Inc.'s Statement of Position, GO-2019-0058 and GO-2019-0059, EFIS Item No. 27.

Each of these issues are addressed below:

Argument

Issue: (1) Does the Weather Normalization Adjustment Rider ("WNAR") tariff language of Spire Missouri East and Spire Missouri West [i.e., P.S.C. MO. No. 7, Sheet No. 13 and P.S.C. MO. No. 8, Sheet No. 13] which was ordered in the Commission's Amended Report and Order in Case Nos. GR-2017-0215 and GR-2017-0216 mean (a) that daily normal weather ranked on current accumulation period actual daily temperature data and compared to current accumulation period actual daily weather should be used for purposes of calculating the WNAR adjustments or (b) that daily normal weather ranked on 2016 actual daily temperature data and compared to current accumulation period [2018 in this case] actual daily weather should be used for purposes of calculating the WNAR adjustments?

Put another way, the primary issue in these cases is what daily normal weather should be used, or, how should daily normal weather be calculated for purposes of calculating Spire's WNAR adjustments?

Staff's position is that, according to both Spire East's and Spire West's WNAR tariffs,[13] daily normal weather ranked on current accumulation period actual daily temperature data and compared to current accumulation period actual daily weather should be used for purposes of calculating the WNAR adjustments. The accumulation period of the current cases is April through July 2018. Therefore, daily normal weather ranked on 2018 actual daily temperature data should be used for WNAR adjustments.

[13] Ex. 205, P.S.C. MO. No. 7, Sheet No. 13; Ex. 206, P.S.C. MO. No. 8, Sheet No. 13.

Spire East's and Spire West's WNAR tariffs each define NDD_{ij} as "the total normal heating degree days based upon Staff's daily normal weather as determined in the most recent rate case." However, before analyzing the intent of this language, one must first understand Staff's method for calculating normal weather.

NORMAL WEATHER

Because temperature pattern is one of the primary determinants of energy usage and revenues for most energy utilities, during a rate case, any unusual sales of energy due to an unusual temperature pattern must be adjusted to levels consistent with a normal temperature pattern.[14] Weather normalized energy sales are calculated using weather during the test year that is adjusted to "normal."[15] For a rate case involving a natural gas utility, Staff utilizes the following method to calculate that normal:

1. Ranked Average Method

First, as explained by Staff Witness Dr. Seoung Joun Won in his Direct Testimony, Staff utilizes a "ranked average method" to calculate daily normal temperature values.[16] In the context of a rate case, Staff determines the mean daily temperature ("MDT") for each day in the year using 30-year normal weather obtained from the National Oceanic and Atmospheric Administration ("NOAA") and the Midwest Regional Climate Center. For Spire East, Staff uses data collected from St. Louis Lambert International Airport, and for Spire West, data from Kansas City International Airport. NOAA defines a climate "normal" as the arithmetic mean of a climatological element computed over

[14] Ex. 200, Direct Testimony of Seoung Joun Won, PhD, Schedule SJW-d2, p. 1.
[15] *Id.*
[16] Ex. 200, p. 4.

three consecutive decades.[17] In Spire's most recent rate case, the three decade period used by Staff to calculate normal weather was 1987 to 2016.[18]

The data utilized by Staff includes the maximum temperature ("T_{max}") and minimum temperature ("T_{min}") for each day in each year during the 30-year period.[19] Staff uses these values to calculate each day's MDT. MDT is the simple average of T_{max} and T_{min}; e.g., MDT = (T_{max} + T_{min})/2.[20] Staff then calculates the corresponding normal HDDs for each day of the 30-year period. HDDs were originally developed as a weather measure that could be used to determine the relationship between temperature and gas usage, and are based on the difference of MDT from a comfort level of 65 degrees Fahrenheit ("F").[21] HDDs are calculated as the difference between 65 degrees F and MDT, when the mean daily temperature is less than 65.[22] HDDs are equal to zero when the MDT is above 65 degrees F.[23] So for a hypothetical day that had a high temperature of 60 degrees and a low of 50, the number of heating degree days for that day is 10 [65-((60+50)/2)].[24]

For each month of each year in the 30-year period, Staff ranks each day from hottest to coldest, irrespective of calendar date.[25] Staff then calculates the normal daily HDDs for each day of each month of each year. For example, to determine the normal daily HDDs for the month of January, Staff would calculate the 30-year average of the HDDs on the coldest day in January in each year, the 30-year average of the HDDs on

[17] Ex. 200, p. 3.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.* at p. 2.
[22] Ex. 200, p. 2; Tr. Vol. 2, pp. 151 and 178.
[23] Ex. 200, p. 2.
[24] Ex. 200, p. 2, footnote 1; and Tr. Vol. 2, p. 169.
[25] Ex. 200, p. 4.

the 2nd coldest day in January in each year, and so on. The result, for the month of January, is a list of the 30-year average of HDDs for each of the 31 days in the in the month, listed from hottest to coldest; or, the normal HDDs for the 31 days in January. In a rate case, Staff does this for each month in the test year to calculate normal weather.

Again, as explained by Dr. Won in his written testimony[26] and at hearing,[27] there is no calendar date associated with any of the listed daily normal HDDs.

2. Ranking Based on Actual Temperatures

The next step in Staff's determination of daily normal weather is to rank each daily normal HDD based on the ranking of actual temperatures during a given period. In Spire's most recent rate cases, that period was the test year of 2016.[28] As a hypothetical example, consider that the actual temperature on January 10, 2016, was the third coldest day in January 2016. In its final determination of daily normal HDDs, Staff would ascribe the third coldest 30-year daily normal HDD for the month of January, to January 10.

Staff ranks normal daily weather values based on actual temperatures because actual daily temperatures do not follow smooth patterns from day to day.[29] In any given year, actual temperatures vary from day to day. As Dr. Won testified, ranking daily normal temperatures based on actual temperatures is a necessary step in Staff's determination of daily normal temperatures, to allow Staff to calculate a set of normal daily HDD values that reflect the actual daily and seasonal variability.[30] Staff witness Michael Stahlman echoed this sentiment at hearing, stating that part of Staff's method

[26] Ex. 200, p. 4.
[27] Tr. Vol. 2, pp. 108, 109
[28] Ex. 201, Rebuttal Testimony of Seoung Joun Won, PhD, p. 2.
[29] Ex. 200, p. 5.
[30] *Id.*

of determining daily normal weather includes matching, in the context of 'ranking,' the coldest daily normal value with the coldest actual daily value.[31] This method produces a more realistic daily temperature variation,[32] and is thus, more accurate. Ranking based on actual temperature is an essential element of Staff's determination of normal weather. Therefore, as explained by Dr. Won in written testimony and again at the hearing, Staff's normal weather without proper rankings of the associated actual temperature is no longer Staff's normal weather.[33]

3. Staff's Method of Calculating NDD_{ij}

Staff's method for calculating NDD_{ij} for Spire's WNAR adjustment was partially explained at hearing by Staff witness Michael Stahlman in his walkthrough of Exhibit No. 209, in response to questions from Commissioner Hall.[34] Simply put, Staff's method for calculating NDD_{ij} begins with using Staff's daily normal weather as determined in Spire's most recent rate case; i.e., the normal daily HDDs calculated based upon 30 years of weather data, as outlined above. For this specific WNAR adjustment, Staff utilized the normal weather calculated in Case Nos. GR-2017-0215 & GR-2017-0216. In those cases, Staff ranked daily normal HDDs utilizing actual temperatures in 2016, the test year period for the case. However, for this WNAR proceeding, Staff ranked the normal daily HDDs as calculated in Spire's most recent rate cases, to the 2018 daily actual temperatures of the accumulation period for this case.[35]

[31] *Id.* at p. 144.
[32] Ex. 200, p. 7.
[33] Ex.201, p. 7.
[34] Tr. Vol. 2, pp. 144-153.
[35] Ex. 202, Direct Testimony of Michael L. Stahlman, p. 2.

Staff ranked the daily normal weather by updating the actual weather period in the workpaper utilized by Dr. Won in Spire's recent rate cases.[36] There is no technical difficultly in this step; all that is required is updating the current period actual weather in the work paper to that of 2018, and it automatically ranks normal weather accordingly.[37] Exhibit No. 209 lists Staff's daily normal weather, properly ranked for the calendar months of April 2018 through September 2018, under the column entitled "2018 Ranked NHDD".

At the hearing, Mr. Stahlman explained to Commissioner Hall how to calculate (NDD_{ij} – ADDij) for billing cycle 14 of April 2018.[38] Calculating NDD_{ij} is accomplished in a similar manner, by summing the numbers under the "2018 Ranked NHDD" column of exhibit No. 209 instead of the "NDD-ADD (2018)" column. It should be noted, that in this example, the dates before April 19, 2018, were excluded because the WNAR tariff sheet was not in effect until that date. Using the same three dates discussed at hearing, i.e. April 19th through the 21st of 2018, which are the applicable dates for the 14th billing cycle of April 2018, the NDD_{ij} for the period is 26.3 HDDs using Staff's method. The ADD_{ij} for that period is 46.5.

4. Spire's Method of Calculating NDD_{ij}

Spire's method is identical to Staff's in every respect except that Spire maintains the same calendar day rank used in its 2016 rate cases. Looked at in another light, Spire's method is not really a calculation at all. Spire simply utilizes the normal weather

[36] Ex. 200, p. 7.
[37] Ex. 201, p.2, footnote 2; Tr. Vol. 2, p. 110.
[38] Tr. Vol. 2, p. 152.

determined in their most recent rate cases into the equation, as if those normals are calendar day specific.

Exhibit 209 lists Spire's rank in the column entitled "2016 Ranked NHDD". However, the daily ranks of Spire's weather do not line up with the daily ranks of actual weather. For example, the coldest day in April 2018 was the first. Staff's method assigned the highest normal HDD to that date, while Spire's method maintains the highest normal date on April 9, which was the coldest day in the month of April in 2016.[39] Spire's method results in a NDD_{ij} of 5.8 HDD for the same 14th billing cycle of April 2018 discussed above.

Spire's approach, as explained above, is inconsistent with Staff's method of calculating daily normal weather, and, as explained later in this brief, is inconsistent with its own WNAR tariff.

DAILY NORMAL WEATHER RANKED ON CURRENT ACCUMULATION PERIOD ACTUAL DAILY TEMPERATURE DATA AND COMPARED TO CURRENT ACCUMULATION PERIOD ACTUAL DAILY WEATHER SHOULD BE USED FOR PURPOSES OF CALCULATING THE WNAR ADJUSTMENTS

1. The Definition of NDD_{ij} is Clear

A tariff approved by the Commission has the same force and effect as a statute directly prescribed from the legislature, so a court would interpret a tariff in the same manner it would interpret a statute.[40] When words of statute are unambiguous, first canon, that court must presume that Legislature says in statute what it means and

[39] Tr. Vol. 2, p. 152.
[40] *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 156 S.W.3d 513 (Mo. Ct. App. 2005).

means in statute what it says there, is also last canon; judicial inquiry is complete.[41] The same applies when interpreting a tariff.

Spire's WNAR tariffs define NDD_{ij} as the following:

> *The total normal heating degree days based upon Staff's daily normal weather as determined in the most recent rate case.*

Spire's interpretation of this definition is essentially, "the total normal heating degree days using Staff's normal weather ranked on 2016 actual daily temperature data from the rate case;"[42] in other words, Spire interprets NDD_{ij} to mean that it should be determined using data that was fixed and finalized in its last rate case. While Spire Witness Scott Weitzel indicated in testimony that be believes the tariff language is 'oblique,'[43] Spire stated in its filed position statement, and at hearing, that the WNAR tariffs are clear and unambiguous.[44] Despite this newfound lucidity, Spire's interpretation does not give meaning to each word of the definition it relies upon.

A court's role in interpreting a tariff approved by the Commission is to ascertain the intent of the utility and the Commission from the language used, to give effect to that intent if possible, and to consider the words used in their plain and ordinary meaning.[45] When doing so, every word, clause, sentence, and provision of a statute (or in this case a tariff) should be given effect.[46] Spire's interpretation of the definition of NDD_{ij} gives no

[41] *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 112 S. Ct. 1146, 117 L. Ed. 2d 391 (1992).
[42] Ex. 101, Rebuttal Testimony of Scott Weitzel, p. 3; Spire Missouri Inc.'s Statement of Position, EFIS Item No. 27 in GO-2019-0058 & GO-2019-0059.
[43] Ex. 101, p.7.
[44] Spire Missouri Inc.'s Statement of Position, EFIS Item No. 27 in GO-2019-0058 & GO-2019-0059; Tr. Vol. 2, p. 25.
[45] *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 156 S.W.3d 513 (Mo. Ct. App. 2005).
[46] *Skinker Boulevard Corp. v. Dir. Of Revenue*, 395 S.W.3d 1, 5 (Mo. 2013) (en banc), *modified* (Feb. 26, 2013); see also *State v. Jones*, 479 S.W.3d 100, 106 (Mo. 2016 (en banc).

effect to the words "based upon" or "as determined."[47] These terms are integral to the interpretation of this definition.

a. "Based Upon"

First, the inclusion of the term "based upon" clearly indicates that the WNAR tariff is not intended to prescribe the use of the exact data determined in Spire's most recent rate case; if that was the intent of this definition, the term "based upon" would be superfluous. The most obvious example for why such language is included in the definition is the existence of leap days. 2016 was a Leap Year.[48] The intent of Spire's WNAR is to adjust for revenue fluctuations based upon fluctuations in weather, not fluctuations in the number of days in a year. Requiring the 'shoehorning' of data including a leap day, into an accumulation period that does not, is an absurd proposition. The inclusion of the term "based upon" clearly allows Spire to account for February 29th when the applicable accumulation period does not take place during a leap year.[49] At hearing, Spire's witness Mr. Weitzel agreed with Staff's methodology for excluding the impact of a leap year.

b. "As Determined"

While Spire specifically focuses on the significance of the word "determined,"[50] the onus is on the word "as". According to Merriam-Webster's Dictionary, "as" when used as a conjunction, can mean "in the way or manner that."[51] Another definition is,

[47] Ex. 202, p. 2.
[48] Ex. 201, p. 2, Footnote 1; Ex. 202, p. 2.
[49] Ex. 202, p. 2.
[50] Ex. 101, pp. 4-5.
[51] Ex. 207, p. 2.

"the way in which."[52] Therefore, the correct interpretation of NDD_{ij} could be rephrased as:

> *The total normal heating degree days based upon Staff's daily normal weather, the way in which it was determined in the rate case.*

Staff's ranked method is how Staff's daily normal weather was determined in the most recent rate case. As explained above, Staff's ranking method requires normal weather to be ranked consistently with the actual weather in the accumulation period; this is an essential element of Staff's determination of normal weather. The calculation of the WNAR adjustments is performed under the assumption that the relationship between gas usage and associated HDD that is determined during the most recent rate case is correct and is not changed during the accumulation period.[53] As explained by Dr. Won, if that assumption does not hold because improper daily HDD are used, *there is no foundation of validity regarding the WNAR* adjustments.[54] In other words, Staff's normal weather without proper rankings of the associated actual temperature *is not* Staff's normal weather.[55] The relationship of normal HDDs experienced for the first day of a calendar month to the actual HDDs experienced on the first day of a calendar month illustrates the importance of Staff's method. This relationship is as important (or possibly more important) than the total number of HDDs experienced in a month under normal weather versus actual weather.[56] For example, under Spire's ranking approach, if a calendar month in 2016 began cold and ended warm, while the calendar month in 2018 started out warm and ended cold, the usage included in the bill cycles

[52] *Id.*
[53] Ex. 201, p. 3.
[54] *Id.*
[55] *Id.* p. 7
[56] Ex. 204, p. 3.

that end at the beginning of the month and the usage included in the billing cycles that end in the end of the month for that billing month will be incorrect.[57]

The ranking of normal with the actual weather in the accumulation period is further supported by Staff Witness Mr. Stahlman's testimony from Spire's rate cases establishing the WNAR tariffs. At the hearing for Case Nos. GR-2017-0215 and GR-2017-0216, Mr. Stahlman stated:

> …And the concept is, you would take the – using Staff weather method, you *would compute* the normal heating degree days and subtract the actual heating degree days of the applicable weather station.[58] (Emphasis Added).

If the intent of the definition of NDD_{ij} is truly to use Staff's normal weather ranked on 2016 actual daily temperature data from the rate case, there would be no need to further compute normal heating degree days.

2. The Formula Itself Requires Ranking Based on Actual Temperatures in the Accumulation Period

The formula included in Spire's WNAR tariffs[59] is as follows:

$$\mathrm{WNA}_i = \sum_{j=1}^{18} \left(\left(NDD_{ij} - ADD_{ij} \right) \cdot C_{ij} \right) \cdot \beta$$

[57] *Id.* at p. 6.
[58] Ex. 208, Rate Case Transcript Excerpt (Stahlman), p. 2434.
[59] Ex. 205; Ex. 206.

After a simple review of the definitions associated with this formula, it becomes clear on its face that Spire's interpretation of NDD_{ij} is not consistent with its tariff. Those definitions are:[60]

i	=	the applicable billing cycle month
WNA_i	=	Weather Normalization Adjustment
j	=	the billing cycle
NDD_{ij}	=	the total normal heating degree days based upon Staff's daily normal weather as determined in the most recent rate case.
ADD_{ij}	=	the total actual heating degree days, base 65° at Kansas City International Airport Weather Station
C_{ij}	=	the total number of customer charges charged in billing cycle j and billing month i
β	=	the coefficient of 0.1291586 for Spire West

The variables NDD_{ij}, ADD_{ij}, and C_{ij} all contain a common element; '$_i$' and '$_j$'. The definition section of each WNAR tariff tells us that '$_i$' refers to the applicable billing cycle month, while '$_j$' refers to the billing cycle. Both Spire East and Spire West each have 18 separate billing cycles.[61] These billing cycles start and end on different dates within each billing month. Looking at the formula, '$_{ij}$' remains constant; whether for normal heating degree days (NDD), actual heating degree days (ADD), or total number of customer charges charged (C), the same billing cycle month and billing cycle should be used to determine each. In other words, when calculating the Weather Normalization Adjustment, you compare apples to apples. Spire, on the other hand, argues that when determining NDD_{ij}, 2016 billing cycle and billing cycle month data should be used.[62]

The 2016 rankings are set data; they are known and do not need to be calculated. If the intent of the formula was simply to use 2016 normal data from the rate

[60] The definitions of the variables contained in the formula contained on both Spire East's and Spire West's WNAR tariffs are identical, except in regard to the weather station utilized to determine ADD_{ij}.
[61] Ex. 202, p. 4.
[62] Ex. 100, Direct Testimony of Scott Weitzel, p. 5.

case, it would explicitly state as much. Instead, by including NDD_{ij} as a variable in the equation, there is a clear indication that it is not a static element; it is meant to change based upon 'i' and 'j'. In this case, 'i' and 'j' are derived from the accumulation period; month to month, 2018.

In fact, at hearing, Spire Witness Scott Weitzel agreed with this concept. As elucidated by Judge Graham, NDD_{ij} is *a variable component of Spire's WNAR tariffed formula*.[63] Variables, by their very nature, change. When asked by Judge Graham, "Why is [NDD_{ij}] a variable?" Mr. Weitzel stated, "Because you have i and j in there which have changing elements." By Spire's own witness's admission, its position that 2016 rankings should be utilized is inconsistent with this foundational concept.

3. Conclusion

As stated above, the calculation of the WNAR adjustment is performed under the assumption that the relationship between gas usage and associated HDDs that was determined in the most recent rate case is correct and is not changed during the accumulation period. If improper normal daily HDDs are used for the WNAR adjustments, then the relationship between gas usage and HDDs determined in the most recent rate case is no longer valid.

However, the formula, when read together with its associated definitions, clearly indicates that NDD_{ij} is to be calculated based upon the applicable billing cycle month and billing cycle in the accumulation period. In other words, daily normal weather ranked on current accumulation period actual daily temperature data and compared to current accumulation period actual daily weather should be used for purposes of calculating Spire's WNAR adjustments.

[63] Tr. Vol. 2, p. 74

How Would the Adoption of Spire Missouri, Inc.'s Methodology Affect the "β" ("Beta") Value in the Tariffs' WNA Formula.

The adoption of Spire's method would not affect the value of β itself, which is set in the tariff. However, as stated in Spire's tariffs, the calculation of the WNAR adjustment is performed under the assumption that the relationship between gas usage and associated HDDs determined during the most recent case is correct and is not changed during the accumulation period.[64] The relationship between gas usage and HDD is a positive correlation. In other words, customer gas usage increases when HDD increases because of cold weather.[65] This assumption is not unique to Spire's WNAR, but is an integral component to Staff's Normal Weather method, whether applied in a rate case, or any other type of proceeding.[66] Per Spire Missouri East's WNAR tariff,[67] the β is 0.1493772.

Should the Commission adopt Spire's method for weather normals, the assumption that customers, on average, will consume more natural gas on colder days is no longer valid. For example on April 19, 2018, Spire East experienced 19.5 HDD. Under Spire's interpretation, those 19.5 HDD for April 19, 2018, the 12th coldest day in April 2018 would be compared to 0 HDD, based on the warmest-coldest rank of April 19, 2016.[68] It is reasonable to assume that customers used more gas on April 19, 2018, than customers used on April 19, 2016.[69] Based on this example, there is no discernable relationship between increases and decreases in the normal daily HDD of 2016 and the

[64] Ex. 201, p. 3.
[65] *Id.*
[66] Tr. Vol. 2, p. 163; Ex. 201, p. 7.
[67] Ex. 205.
[68] Ex. 204, pp.4-5.
[69] Ex. 204, Rebuttal Testimony of Robin Kliethermes, p. 5.

value of the actual daily HDD of 2018.[70] However, under Staff's interpretation of the ranking method, for April 19, 2018, Staff compared this to the "normal" HDD for the 12th coldest day in April of 10.6 HDD.[71]

Issue: (2) If the Commission determines that the weather normalization adjustment rider ("WNAR") tariff sheets of Spire Missouri East and/or Spire Missouri West [i.e., P.S.C. MO. No. 7, Sheet No. 13 and P.S.C. MO. No. 8, Sheet No. 13, respectively] are vague regarding how the WNAR rate adjustments are to be calculated, is Staff's or Spire's interpretation of the tariff and calculation method most consistent with the Commission's intent when it ordered adoption of the WNAR tariff?

First, it is worth repeating that in Staff's view the WNAR tariff sheets are not ambiguous regarding how the WNAR rate adjustments are to be calculated. However, if the Commission determines that they are, Staff believes its interpretation of the tariff and calculation method is most consistent with the Commission's intent when it ordered adoption of the WNAR tariff.

Should a court determine that statutory language is ambiguous, the *Related Statutes Canon* holds that the language should be read in light of separate statutes concerning the same subject matter.[72] Related statutes are "governed by one spirit and policy," just as the provisions of one statute are directed towards one general purpose.[73] The same holds true when interpreting ambiguous tariff language. As noted above, a tariff approved by the Commission has the same force and effect as a statute directly prescribed from the legislature, so a court would interpret a tariff in the same

[70] Ex. 201, p. 5.
[71] Ex. 204, pp. 4-5.
[72] *Williams v. State*, 386 S.W.3d 750, 754 (Mo. 2012) (en banc).
[73] *State v. Duggar*, 806 S.W.ed 407, 409 (Mo. 1991) (en banc.).

manner it would interpret a statute.[74] Although this proceeding is Spire's first adjustment filing under its WNAR tariffs, it is not the first WNAR adjustment approved by this Commission. In Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities' ("Liberty") most recent rate case,[75] the Commission approved a WNAR tariff[76] containing an *identical* formula, with nearly identical associated definitions,[77] to that of the one included in Spire's WNAR tariff. In their first tariff filing to adjust their WNAR,[78] Liberty utilized Staff's method to calculate NDD_{ij}, and the Commission approved their request based upon this method.[79] An endorsement of Spire's method for calculating NDD_{ij} would effectively ascribe two different meanings for NDD_{ij}; one for Liberty, and the other for Spire. This inconsistent result would be disfavored.

Further, on page 84 of its Amended Report and Order in Case Nos. GR-2017-0215 and GR-2017-0216, issued on March 7, 2018, the Commission stated "because annual natural gas usage is 95 percent correlated with annual HDD, **using Staff's climatic normal and weather normalization** in the form of the WNAR tariff would more accurately resolve the revenue stabilization issue because it is specifically linked to weather fluctuations." (Emphasis added) As stated above, ranking based on actual temperature is an essential element of Staff's normal weather. Therefore, Staff's normal weather without proper rankings of the associated actual temperature is no longer Staff's normal weather.[80]

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[74] *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 156 S.W.3d 513 (Mo. Ct. App. 2005).
[75] Case No. GR-2018-0013.
[76] Liberty's Tariff: P.S.C. MO. No. 2 1st Revised Sheet No. 67 Cancelling P.S.C. MO. No. 2 Original Sheet No. 67.
[77] Of note, the definition of NDD_{ij} in Liberty's WNAR tariff is identical to that of Spire East's and Spire West's WNAR tariff.
[78] Case No. GO-2019-0060.
[79] Ex. 203, p. 3.
[80] Ex. 201, p. 7.

Staff's method also reduces the daily variation between actual and normal usage, better correlating actual billing month during the WNAR period to the billing months that were the basis for the determinants and revenues in the rate case.[81] The alignment of the HDD per billing month during the period covered by the WNAR is what enables the WNAR adjustment to reduce the financial impact of weather variation relative to the determinants and revenues agreed to in the most recent rate cases.[82] Conversely, as explained by Staff Witness Dr. Won, Spire's method does not maintain the relationship between usage and HDD, and therefore, will introduce unnecessarily volatile WNAR adjustments. In other words, Staff's method is more accurate.

Finally, as mentioned under the previous issue, Spire's interpretation of the tariff simply ignores some of the language of the tariff. This is contrary to basic rules of construction / interpretation, which require that meaning be given to all words or phrases used. Staff's interpretation gives meaning to all of the tariff language as well as the formula contained therein.

At the hearing, Commissioner Hall suggested that, should the Commission determine that Spire's WNAR tariff is ambiguous, it should interpret the tariff in a manner that is most reasonable, is the best policy, and is the most consistent with the Commission's intent.[83] Staff believes its interpretation of the tariff fulfills all three of these criteria.

WHEREFORE, Staff respectfully submits this Post-Hearing Brief for the Commission's consideration.

[81] Ex. 204, p. 2.
[82] *Id.*
[83] Tr. Vol. 2, p. 25.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 29th day of January 2019, to all counsel of record.

/s/ Mark Johnson