

In the Matter of:

SPIRE MISSOURI INC.'s d/b/a SPIRE REQUEST FOR AUTHORITY, etc.

GR-2021-0108, VOL. I

March 01, 2021



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Discovery Conference via WebEx

March 1, 2021

Jefferson City, Missouri

Volume 1

In the Matter of Spire Missouri))
Inc.'s d/b/a Spire Request for))
Authority to Implement a) File No.
General Rate Increase for) GR-2021-0108
Natural Gas Service Provided))
in the Company's Missouri))
Service Areas))

CHARLES HATCHER, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
Beverly Jean Bentch, CCR No. 640
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P R O C E E D I N G S

1
2 JUDGE HATCHER: Let's go on the record.
3 Today's date is March 1, 2021. The time is 10:00 a.m.
4 and we are all together via WebEx audio and video
5 teleconference. The Commission has set this time aside
6 for a discovery conference in the case captioned as In
7 the Matter of Spire Missouri Inc.'s d/b/a Spire Request
8 for Authority to Implement a General Rate Increase for
9 Natural Gas Service Provided in the Company's Missouri
10 Service Areas. This is File No. GR-2021-0108 and the
11 Tariff Tracking No. is YG-2021-0133 -- I do ask that
12 everyone mute if they're not participating on the call,
13 the ability to participate that is. I'm going to take a
14 second and see if I can figure out how to mute
15 everybody.

16 Okay. Again, this is Tariff Tracking No.
17 YG-2021-0133. Okay. My name is Charles Hatcher, and I
18 am the Regulatory Law Judge in this matter. We will
19 begin with the attorneys making their entries of
20 appearance. First off for Spire, please go ahead.
21 If counsel for Spire would introduce themselves?

22 MS. BOCKSTRUCK: Good morning, Judge.
23 Appearing on behalf of Spire Missouri is Goldie
24 Bockstruck, Matt Aplington and Rachel Niemeier, 700
25 Market Street, St. Louis, Missouri 63101.

1 JUDGE HATCHER: Thank you, Ms. Bockstruck.

2 And for Staff?

3 MR. BERLIN: Good morning, Judge. Appearing
4 on behalf of the Staff of the Missouri Public Service
5 Commission are Bob Berlin and Curt Stokes at the
6 Governor Office Building, Suite 800, 200 Madison Street,
7 Jefferson City, Missouri 65102.

8 JUDGE HATCHER: Thank you. And Office of the
9 Public Counsel?

10 MR. CLIZER: Good morning, Your Honor. John
11 Clizer appearing on behalf of the Missouri Office of the
12 Public Counsel. My contact information should be with
13 the court reporter and if not, I will update after this.

14 JUDGE HATCHER: Thank you, Mr. Clizer.
15 Midwest Energy Consumers Group? Let the record reflect
16 there was no answer. Missouri Industrial Energy
17 Consumers? We're waiting just an extra second because
18 of the muting involved and the teleconference, but let
19 the record reflect there is no answer. National Housing
20 Trust?

21 MR. LINHARES: Good morning, Judge. This is
22 Andrew Linhares for National Housing Trust. My address
23 is 3115 South Grand Boulevard, Suite 600, St. Louis, MO
24 63118.

25 JUDGE HATCHER: Thank you, Counsel. And for

1 Renew Missouri? Let the record reflect there was no
2 answer. Legal Services of Eastern Missouri?

3 MR. BARRS: Good morning, Judge. This is Paul
4 Barrs with Legal Services of Eastern Missouri, address
5 4232 Forest Park Avenue, St. Louis, Missouri 63108.

6 JUDGE HATCHER: Thank you. And Consumers
7 Council of Missouri? Let the record reflect there was
8 no answer. And Missouri School Boards' Association --
9 For the attorneys I saw just add on, I'll come back
10 around and ask again. Right now for Missouri School
11 Boards' Association, is Mr. Brownlee still on the line?
12 Okay. Let the record reflect Mr. Brownlee has already
13 checked in with the hearing and requested to be excused.
14 That request was granted.

15 And are there any other entries of appearances
16 that I have not called on or that didn't get a chance
17 and joined in a little later?

18 Okay. Let's move on. Let's start out with
19 the Staff discovery issues. I just want to kind of
20 start us off. I've taken this from the Staff complaint.
21 Mr. Berlin, the basis of the issues, as I'm
22 understanding them right now, is the Staff is seeking
23 standard financial information pertaining to Spire Inc.
24 and that's the holding company and parent of Spire
25 Missouri Inc. And Staff seeks parent company

1 information so that Staff may perform its Commission
2 duty in analyzing expenses and allocated costs that
3 Spire Missouri seeks to recover from its customers in
4 this rate case. Mr. Berlin, can you go ahead and
5 expound on that a little?

6 MR. BERLIN: Yes, Judge, thank you. That is
7 correct. The primary purpose and the reason for my
8 calling this discovery conference is really to address
9 the large number of Spire objections to providing
10 requested information from Spire Incorporated. That is
11 the parent company and the holding company of Spire
12 Missouri Inc. who is applying to increase rates in this
13 case.

14 Spire Incorporated costs flow down to Spire
15 Missouri. They're broken out to Spire East and Spire
16 West ratepayers. These costs show up through
17 allocations that are collected in rates from Spire's
18 customers. Now, audit staff has reported to me, as well
19 as finance staff, that they've not seen this level of
20 objections to providing parent company documentation
21 with other utilities or even with Spire in its last rate
22 case in 2017.

23 I would also point out that I received an
24 email last week from Spire counsel informing me to
25 remember that Spire Missouri was not providing Spire

1 Inc. information. That is why I moved to have a
2 discovery conference today.

3 I'm seeking three things today in this
4 discovery conference. The first is to bring these
5 problems on the record to the attention of the
6 Commission to let the Commission know that these
7 objections are thwarting Staff's ability to perform its
8 job for the Commission and if it's allowed to continue I
9 can tell you it will thwart and hamper the Commission
10 from doing its job that it must do to determine rates in
11 this case that will flow to Missouri ratepayers. So I
12 am seeking from this discovery conference an instruction
13 from the Commission to the Company that the Company will
14 indeed provide the information from Spire Incorporated
15 that we have requested in a plethora of data requests
16 and that this is authorized under the July 2001 holding
17 company stipulation and agreement from the Case
18 GM-2011-341, which was also affirmed by the Western
19 District Court of Appeals in 2012 in the State of
20 Missouri ex rel. Laclede Gas Company case 392 S.W.3d 24.

21 And then finally, Judge, I would also seek
22 through this case an alternative way to fast track these
23 concerns if needed going forward, because we have some
24 four or five scheduled discovery conferences that are
25 ordered in the procedural order. But I'm hoping that we

1 don't need another procedure but it's possible that we
2 may.

3 And I am prepared today too to have Staff,
4 Keith Majors, Karen Lyons, and I don't know if Seoung
5 Joun Won is on this call. I can't tell. But we can
6 also provide supporting detail as to the reasons why we
7 need specific Spire Incorporated data. Now, having said
8 all that, I do want to point out that Staff is willing
9 to work with the Company along the lines of the whole
10 manner and way in which this information in data
11 requests, which I might add are pretty standard data
12 requests, were addressed in the 2017 Spire rate case
13 which is to say that if there's employee specific
14 information that we are requesting it can be provided,
15 as in the past, with employee identification number and
16 withholding the actual employee name. That was done in
17 the past as a way to work through that specific issue.
18 But again, as I mentioned earlier, our concern is that
19 we bring to a close this thwarting and these objections
20 to the information that we need from Spire Incorporated
21 of the costs that are flowed down to Spire East and
22 Spire West in rates.

23 I have a rather long list. I pointed some of
24 those out in the pleading that you just referenced and
25 we are prepared to discuss those in more detail as

1 needed. That would conclude my initial comments, Judge.
2 Thank you.

3 JUDGE HATCHER: Thank you, Counselor. I'm at
4 a crossroads of either going to Spire for response or
5 going to the Office of the Public Counsel to get their
6 issues also on the record.

7 MR. CLIZER: Your Honor, I was actually about
8 to speak up as to that.

9 JUDGE HATCHER: Okay. Go ahead.

10 MR. CLIZER: I'll say just briefly that OPC
11 Data Requests 3001 through 3011 are effectively the
12 exact same issue as what counsel for Staff just
13 identified. They are effectively also data requests
14 seeking information from Spire Missouri Incorporated
15 that we believe were objected to for the same reason as
16 Staff DRs, and I echo absolutely everything that counsel
17 for Staff has argued for why these DRs need to be
18 responded to. I also can produce Witness Dave Murray
19 who requested these specifics in the data requests if
20 there's a need for explanation as to more information of
21 why these data requests are necessary to be answered and
22 can fill out more specifics related directly to our data
23 requests, but I wanted to make sure it was clear that we
24 share Staff's issue almost exactly in many respects.

25 JUDGE HATCHER: Okay. Then let's stop there

1 and we'll go ahead and turn to Spire to see what their
2 response is. Counsel for Spire?

3 MS. BOCKSTRUCK: Thank you, Judge. Mr. Berlin
4 and Staff and OPC, the Company appreciates your comments
5 and just wanted to point out that the Company has
6 provided a lot of information regarding Spire Inc.
7 already. Spire Inc. is not a party to this case.
8 They're not regulated by the Commission, but we
9 understand that to the extent that Spire Inc.'s costs
10 are allocated down to the utility company Spire MO that
11 that information should be provided for review pursuant
12 to the holding company agreement and other applicable
13 Missouri law. And so we are willing to provide that
14 information to the extent that it involves costs
15 allocated down to Spire Missouri.

16 So one thing that we are proposing is the
17 Company does have a shared services agreement -- excuse
18 me -- shared services company that has all the allocated
19 costs to Spire Missouri. So that would be one way that
20 Staff could conduct its audit. That would protect the
21 Company from sharing information regarding its other
22 companies that do not allocate its costs down to Spire
23 MO.

24 JUDGE HATCHER: Okay. Ms. Bockstruck, have
25 you read the Laclede Gas decision that Mr. Berlin

1 referenced?

2 MS. BOCKSTRUCK: I have.

3 JUDGE HATCHER: By my reading, that decision
4 seems to go beyond just what would be cost allocation
5 issues. Would you agree?

6 MS. BOCKSTRUCK: Yes, I do. Are you referring
7 to the Court of Appeals?

8 JUDGE HATCHER: The Court of Appeals decision
9 where they split their decision between those two
10 sentences in I think it's Section IV of the 2001
11 agreement, the stip and agreement, and they said that
12 sentence one was referring to the Cost Allocation
13 Manual, to the facts of that stipulation and to
14 enforcement of the stipulation but then sentence two
15 they said referred to all discovery requests and that
16 that was part of the bargain that Laclede struck in
17 their initial case asking to establish Laclede Holding
18 Company, which would not be under the jurisdiction of
19 the Commission.

20 And so part of that stipulation, as I
21 understand from the Court of Appeals, part of that
22 stipulation was that the Commission in the course of
23 their normal regulation would get to see the information
24 of the holding company. Do you disagree with that?

25 MS. BOCKSTRUCK: I do not disagree with that.

1 I do believe that the Company still has the right to try
2 to protect privileged information.

3 JUDGE HATCHER: Okay. So you're asserting
4 attorney-client privilege or some other privilege?

5 MS. BOCKSTRUCK: Well, not just
6 attorney-client privilege but any privileged information
7 regarding some of the other companies.

8 MR. APLINGTON: Judge, I would add, too,
9 there's privilege. There's also questions about scope
10 with respect to individual requests, timing of
11 individual requests. I don't think we disagree in
12 theory with what the holding agreement stipulation says
13 or what the Western District says. It becomes difficult
14 in application to particular data requests what other
15 discovery type objections we may have beyond relevance.

16 JUDGE HATCHER: Okay. And for the record that
17 was Mr. Aplington speaking for Spire?

18 MR. APLINGTON: Yes.

19 JUDGE HATCHER: Okay. Any response,
20 Mr. Berlin?

21 MR. BERLIN: Yes. Thank you, Judge. You
22 know, this goes a little bit beyond just simply a cost
23 that is allocated down to Spire Missouri and it goes
24 more to having to make sure that Spire Missouri
25 ratepayers are paying their fair share of these backroom

1 allocated overheads that come down from Spire Inc. And
2 that may include needing data as to employee counts, and
3 so forth, with regard to, you know, who else is footing
4 the bill for these overhead allocations, that is, other
5 companies under Spire Inc. And the whole point of our
6 data requests are to make sure that Missourians are
7 paying their fair share of the cost. And so I would
8 just point that out, without getting into actual
9 specific details which we sure can do this morning, but
10 that is our concern.

11 We, as I mentioned, had done a work-around in
12 the last rate case where we didn't need specific names
13 of employees but we actually accepted the employee ID
14 numbers along with various, whether it had to do with
15 compensation or those kinds of issues, but we still need
16 the information and it covers a broad waterfront from
17 cost of debt of Spire Inc. all the way down to all these
18 other allocated costs that are part and parcel of the
19 DRs that are in my motion. So I rest on the fact that
20 the holding company agreement from July of 2001 and the
21 affirmation of the Western District Court of Appeals
22 requires the Company to disclose this.

23 And so, again, my concern was being told by
24 the counsel from Spire Missouri that they were not going
25 to provide the Spire Inc. information, and so this is

1 why we're here. I want to make sure that the Commission
2 is aware of this issue and that we are entitled to this
3 information so that we can do our job. And that's all I
4 have to say, Judge. And again, we can get into specific
5 DRs if you'd like to.

6 JUDGE HATCHER: Thank you, Mr. Berlin. Let's
7 hold off on getting into specifics just for the moment.
8 Mr. Clizer, you had previously weighed in, and other
9 counsel on the line I'll get to asking you in a second.
10 Mr. Clizer, would you like to weigh in on this
11 discussion?

12 MR. CLIZER: Yes, please. First of all,
13 again, let me reiterate that we support and I completely
14 agree with everything that Mr. Berlin has said. I will
15 say that our DRs were less focused on the specifics of
16 cost allocation issues, not that that's not an important
17 issue, again reiterating I agree with everything
18 Mr. Berlin said. But our DRs were focused primarily on
19 certain financial information related to Spire Missouri
20 Incorporated, and to that end I would just hold out that
21 Spire Missouri subsidiary that relies on Spire
22 Incorporated for access to equity markets and access to
23 commercial paper, short-term debt markets, its cost of
24 capital as impacted by the corporate level, decisions
25 and strategies, equity investor analysis of the parent

1 level and the financial risks of the parent level amount
2 to consideration for Spire's Missouri business and
3 regulatory risks. Its Spire Missouri, the subsidiary's
4 credit rating, both S&P and Moody's are impacted by
5 affiliates of Spire Missouri Incorporated which includes
6 other assets Spire Inc. owns, as well as how it finances
7 those assets. So there's a lot at play with Spire
8 Incorporated that affects the financial treatment that
9 should be applied to Spire Missouri.

10 And while the Company is free in a rate case
11 hearing to argue to the contrary to argue that Spire
12 Missouri should be kept as a separate entity, at this
13 stage, at the discovery stage, the burden is incredibly
14 low and it should be very obvious that the OPC is
15 prepared to make a strong argument for why the Spire
16 Missouri Incorporated, the parent subsidiary level
17 financial information should have an impact on the
18 subsidiary and should be considered by the Commission
19 which is why we're seeking this information.

20 And again, I would allow, if the Commission
21 needs more information, Dave Murray can speak at length
22 on this issue.

23 The last thing I want to touch on, there was a
24 brief mention regarding privilege. I just want to
25 remind as far as the OPC's DR responses or objections

1 are concerned, I don't believe privilege was ever
2 mentioned as to any of them. I do not see how privilege
3 could apply to any of the information that we are
4 requesting because none of the information we are
5 requesting is information that should have been prepared
6 either in the course of litigation or in preparation for
7 litigation. And as to any other privilege, I'm just not
8 sure what could possibly apply in that case. So that
9 would be my position.

10 JUDGE HATCHER: Thank you, Counsel. I'd like
11 to ask the other attorneys, I have Mr. Linhares and
12 Mr. Barrs for National Housing Trust and Legal Services,
13 would you two have any input on the current discussion?
14 Let the record reflect there was no answer.

15 Okay. I'm going to sit on that for just a
16 second. Mr. Clizer, you separated your complaint -- or
17 your discovery conference issues into two. Would you
18 care to get into your second issues dealing with DR
19 1206, 1209 and 8502?

20 MR. CLIZER: I certainly can. These issues
21 are much narrower in scope and they require discussion
22 of the specific and individual DRs. I'd prefer to start
23 with DR 8502. Effectively this DR sought the reserve
24 balances for each calendar year starting with December
25 31, 2010, for all mains and service accounts in each of

1 the Spire Missouri jurisdictions. The Company objected
2 to this DR on the basis that it was overly broad and not
3 calculated to lead to discoverable and admissible
4 evidence effectively because it went outside the test
5 year. The OPC's response to this is basically that we
6 requested the information dating back to 2010, because
7 we are attempting to build what should be the average
8 service life for these accounts and the determination of
9 an average service life requires looking beyond just the
10 three years in the test period. You have to examine it
11 over a much longer period, in this case a ten-year
12 period average. So that's why this information is
13 relevant even though it seeks information outside the
14 test year, because we are attempting to determine what
15 the proper average service life is.

16 JUDGE HATCHER: Mr. Clizer, tell me the name
17 of those reserve balances. At the very beginning you
18 called this account something. What was it?

19 MR. CLIZER: We are requesting the plant and
20 reserve balances for all mains and service accounts for
21 each jurisdiction. Now, those accounts should have a
22 specific number applied to them, but the Company would
23 know the number of the accounts.

24 JUDGE HATCHER: I got what I needed. Thank
25 you very much.

1 Let's move on to the other two remaining DRs,
2 1206 and 1209.

3 MR. CLIZER: All right. These might be
4 resolved amicably very quickly. 1206 we asked for
5 allocation used for officer and management employees of
6 Spire Missouri in each month of the test year and the
7 true-up period, and the Company objected saying that the
8 request was vague and ambiguous as to the meaning and
9 relevance of the term allocation and the Company cannot
10 discern what the information in the request is intended
11 to elicit. I would answer that in terms of what we're
12 trying to elicit, we just want to know what amounts of
13 officer expense was actually allocated to Spire Missouri
14 for each of the officer and management employees.

15 If the Company can work with us in coming to
16 terms of what the term allocation means with regard to
17 this DR response and we get that squared away, then that
18 DR would probably resolve itself. So I guess the
19 question is basically does that explanation of what
20 we're looking for explain to the Company what our DR
21 response is sufficient to resolve the objection.

22 MR. APLINGTON: John, I believe it does. That
23 one was one that we really weren't sure what you were
24 attempting to solicit. So we appreciate that. I would
25 just mention, you know, this is the first time we've had

1 an opportunity to talk with you, John, about any DR
2 objections that we've made or what the responses have
3 been and many of these are not yet due. In the future,
4 I think this is probably something we can work through
5 with a simple phone call just between the two parties.
6 Yeah, I think that resolves 1206.

7 MR. CLIZER: I understand. And I apologize.
8 I admit that I was focused primarily on other cases at
9 this time and, in fact, nearly missed the deadline to
10 file our objections with regard to this discovery
11 conference. This is the first time I've ever been in a
12 case that operates in this manner. So I am a little
13 unsure as to exactly how these discovery conferences are
14 to proceed and sort of what the tone and tenor of them
15 are, which the Commission might recognize by the simple
16 fact that I explained earlier I was not even aware that
17 these were going to be on the record. But yes, I think
18 we can probably work with the Company regarding the
19 first of those two DRs, and then with regard to the
20 second I noted that the Company stated that it was going
21 to supply a response. So I don't believe that's even an
22 issue any more.

23 JUDGE HATCHER: Okay.

24 MR. CLIZER: In fact, if the Company is
25 willing to -- If the Company can agree as to the plant

1 in service accounts issue as to our explanation for why
2 we'd want that information and withdraw that objection,
3 then that would resolve all three of the OPC's
4 outstanding issues other than the aforementioned
5 financial analysis that's related to Staff's issue.

6 JUDGE HATCHER: Okay. I think I am ready to
7 move all of us forward. What I would like to do is
8 schedule a continuation of this discovery conference for
9 next Monday at 10:00 a.m. I would like to do that with
10 regards to Office of the Public Counsel's DRs 1206 and
11 1209. We are going to continue our discussion on those
12 two to give those parties a week to discuss these things
13 among themselves and hopefully have positive news to
14 report next Monday.

15 I'm going to lump all of Staff's DRs and the
16 3000 series that were cited in OPC's motion, 3001
17 consecutively through 3007 and then 3009 through 3011.
18 I'm going to lump those all into a group with Staff's.
19 To me all of those issues seem to revolve around the
20 Laclede decision cited in Staff's response and the
21 Laclede Stipulation and Agreement GM-2001-341. And to
22 me, that seems fairly straight-forward.

23 So I'm a little worried about that and I'd
24 like to give myself a week to think about how I'm
25 viewing that and how I'm reading that, and also I would

1 like to ask the counsel of Spire to get together and
2 firm up their discussion points on why that settlement
3 and why that case is not at issue here. But I'm not
4 going to rule on either one of those two things today or
5 in the intervening week.

6 So, so far we have disposed with all but one
7 of the data requests by my record keeping. Somebody
8 wave or shake your head no if you disagree. Let the
9 record reflect I don't see anyone disagreeing. The last
10 data request is OPC's issue 8502 -- I'm sorry, Data
11 Request 8502 and this is on their plant and reserve
12 balances for all of the mains and lines. The objection
13 here from Spire was that this was overly broad and
14 outside the test year. It occurs to me counsel for
15 Spire have -- I have not asked you to respond to Public
16 Counsel's issue on 8502. So if Spire would like to go
17 ahead and talk to me about 8502.

18 MS. BOCKSTRUCK: Thank you, Judge. After
19 hearing Mr. Clizer's arguments and giving more
20 explanation, I think to the extent we have that
21 information available the Company would be willing to
22 provide. I will defer to our witness Wesley Sellinger
23 regarding if we have that information.

24 JUDGE HATCHER: What I would rather do, my
25 concern is by calling a non-attorney that we might have

1 to swear them in. This squarely puts it in to let's
2 check it off for next week. Let's let you and Office of
3 the Public Counsel, it sounds like you might have this
4 resolved by next Monday. So what I'd like to do then is
5 this seems like everything we've brought up today -- I'm
6 sorry. It doesn't seem like it. This is what we are
7 going to do. This is the plan. Let me know if anyone
8 objects. We are going to take everything in our
9 discovery conference agenda today brought up by Office
10 of the Public Counsel and brought up by Staff for the
11 Missouri Public Service Commission and we're going to
12 come back and discuss them all next Monday at 10:00 a.m.
13 via a WebEx or similar conference mechanism. Do I hear
14 any objections to that plan? Let the record reflect I
15 see nor hear no objections. Again, I'll email all of
16 the parties the same type of contact information.

17 Are there any other issues? Please go ahead.

18 MS. BOCKSTRUCK: Go ahead.

19 MR. CLIZER: I just want to make clear that
20 while the OPC does believe that the Laclede Gas
21 stipulation and corresponding Western District case are
22 really pivotal on the question presented as to those
23 issues, I just want to make clear that the OPC would
24 stand that its DR response requests are relevant
25 notwithstanding that decision or that stipulation. I

1 don't think that was the intent of what you said, Judge,
2 but I wanted to make sure that it was clear that we
3 believe that they're relevant regardless of the
4 existence of the stipulation or the decision.

5 JUDGE HATCHER: Yes. I'm sorry. We hadn't
6 even gotten there yet. You're absolutely right.

7 MR. BERLIN: Judge, I would agree with
8 Mr. Clizer as well. This is Bob Berlin for Staff.

9 JUDGE HATCHER: Thank you, Mr. Berlin. Okay.
10 Hearing nothing else we need to discuss, let's adjourn.
11 We are off the record.

12 (Off the record.)

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CERTIFICATE OF REPORTER

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Beverly Jean Bentch, RPR, CCR No. 640

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