

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

**In the Matter of Spire Missouri, Inc.’s  
Request to Increase its Revenues for  
Gas Service**

**Case No. GR-2017-0215 et al.**

**RESPONSE OF MISSOURI INDUSTRIAL ENERGY CONSUMERS IN OPPOSITION  
TO CERTAIN REQUESTS FOR CLARIFICATION**

Comes now, the Missouri Industrial Energy Consumers (MIEC) and for its Response in Opposition to Certain Request for Clarification states as follows:

1. On February 27, Spire Missouri, Inc. and the Staff of the Commission filed a Joint Request for Clarification or Modification and Spire separately filed another Request for Clarification. Each filing requested that a number of aspects of the Commission’s February 21 Report and Order be clarified or modified. On that same day, the Commission issued an order setting March 5 as the deadline for responding to those two requests. In this Response, the MIEC will address two of the requests to clarify or modify the Report and Order.

2. First, the MIEC opposes the Joint Request for Clarification or Modification of the Commission’s decision regarding Accounting for Pension and OPEB Expenses (Joint Motion, paragraphs 3 and 4; Attachment A). Staff and Spire agree in Attachment A (paragraph 2) that the Staff or Spire can recommend alternative treatment of any aspect of pension and OPEB costs in any future rate case. The Commission’s Report and Order (pages 94-99) made clear that an exhaustive review of all the relevant evidence proved that pre-1996 pension costs were not to be included in the prepaid pension asset. As a result, Spire cannot seek rate recovery of them in any future rate case.

3. Furthermore, paragraphs 3 and 4 of the Joint Request for Clarification or Modification, along with Attachment A, in effect constitute a non-unanimous stipulation and agreement between Staff and Spire. Attachment A in particular is a complicated, involved set of agreements. Allowing just five business days to address it, with no opportunity to question its authors or provide countervailing expert testimony is patently unfair to the other parties. Nothing in the Commission's rules provides for the filing of such an agreement post-Report and Order, and nothing in the Commission's rules or its Order Shortening Response Time provide for an adequate opportunity to respond to this agreement.

4. Second, the MIEC opposes Spire's Request for Clarification of the Commission's decision regarding the Effect of Trackers (Spire Motion, paragraphs 10-12). Spire seeks "clarification" that the Report and Order, which merely allows certain costs to be tracked, actually guarantees recovery of those costs. Such a guarantee is contrary to Commission policy. The Commission announced this policy in a recent Ameren rate case:

As has been said many times, the deferral of a cost is not ratemaking treatment. That is, the deferral of a cost does not guarantee recovery of that cost in future rates. The Commission must determine within the context of a rate case whether recovery of the deferred cost is appropriate.<sup>1</sup>

Spire's request, under the guise of seeking clarification, is really an attempt to overturn decades of Commission policy – policy that is well-founded and that has served utilities and ratepayers alike. Moreover, it is far from clear that this Commission can issue an order that purports to bind the actions of a future commission in a future rate case. The Commission should not give Spire a pass on the necessity of proving the merits of cost recovery in that future case. Indeed, to the extent that the Commission's general discussion of trackers at page 12, paragraph 12 could be interpreted to conflict with this historical practice, the Commission

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<sup>1</sup> Case No. ER-2014-0258, *In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariff to Increase Its Revenues for Electric Service*, Report and Order issued April 29, 2015, page 31.

should clarify that statement, and not the other discussions of trackers for which Spire seeks clarification.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 5th day of March, 2018, to all counsel of record.

/s/ Lewis Mills

