BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Laclede Gas Company's Request to Increase Its Revenue for Gas Service	)	**File No. GR-2017-0215**
In the Matter of Laclede Gas Company d/b/a Missouri Gas Energy's Request to Increase Its Revenues for Gas Service	)	**File No. GR-2017-0216**

POST-HEARING STATEMENT OF POSITION AND CLOSING STATEMENT OF THE MISSOURI INDUSTRIAL ENERGY CONSUMERS

COMES NOW the Missouri Industrial Energy Consumers, ("MIEC"), and for its Post-Hearing Statement of Position and Closing Statement states as follows:

POSITIONS OF THE PARTICIPATING PARTIES

MIEC

The MIEC position is consistent with the Nonunanimous Stipulation and Agreement (the Tax Act Agreement) filed on February 5. That is: the Commission should take the effects of the 2017 Tax Cuts and Jobs Act into account in setting rates in this case. In doing so, it should use the most precise calculation of those effects and implement a tracking mechanism so that neither Spire Missouri, Inc. nor its customers is harmed by or receives a windfall from the Tax Act. At this time, the calculation presented by MIEC witness Meyer (Exhibit 754) is the most precise, and that is the calculation that supports the Tax Act Agreement. The MIEC would not object to recalculating the $28 million in the Tax Act Agreement if the Commission's issued Report and Order is not consistent with the assumptions underlying Mr. Meyer's calculations.

Because the Tax Act Agreement would apply to the rates set in this case, it would not affect the period of time between when the Tax Act become effective (January 1) and when rates become effective. Assuming that Spire's new rates go into effect at the end of March, Spire would keep approximately $7 million. This is money that flows directly to Spire's bottom line.

The Office of the Public Counsel, the Midwest Energy Consumer's Group and the Consumers' Council of Missouri all are signatories to the Tax Act Agreement and support its provisions.

Staff

Staff's primary position and preferred approach to the Tax Act is very similar to the provisions of the Tax Act Agreement. The only material difference is that Staff prefers to wait until the Commission's decisions on all the issues are final to calculate the Tax Act's impacts. As noted above, the MIEC has no objection to that approach. Staff's calculation of the Tax Act's impact is very similar to the calculation performed by MIEC witness Meyer (Exhibit 754). Both Staff witnesses testified that they understood the way that Mr. Meyer performed the calculations and that they concurred with him.

Staff's earlier position would have had the Commission defer to a regulatory liability all differences between Spire's taxes as calculated under the old tax code and the lower taxes under the Tax Act. This regulatory liability would continue to accumulate until Spire's rates were next changed in a general rate proceeding, presumably the rate case that will be filed in four years. At that point, it would be amortized over a period of at least four years, and very possibly longer. During the entire four-year deferral period, and during the amortization period, Spire would continue to raise rates through the ISRS process. The most reasonable assumption about the level of tax benefits deferred is $28 million per year, which means that the regulatory liability would likely reach $112 million before customers even begin to recover some of their excess payments. During that same four-year period before Spire's next rate case, assuming Spire spends the same amount on ISRS-eligible investments as it did during the previous four years, it will increase rates by $49 million (Exhibit 71).
If the Commission chooses to simply defer the effects of the Tax Act, Spire customers will pay rates that are $28 million too high and at the same time have to pay increases of $12 million. Every year for four years. Under what possible definitions of "just" and "reasonable" does that make sense?

Spire

Spire would agree to flow back $20 million of the $28 million in benefits it will realize under the Tax Act, but if and only if the Commission decides certain issues in the case in Spire's favor. Spire's position is unconscionable, and amounts to nothing more than an attempt to strong-arm the Commission. At the hearing, Spire claimed that it would not be "permissible" for the Commission to include the effects of the Tax Act in rate in this case without Spire's consent. But Spire never made good on supporting that claim. Spire pointed to two regulatory principles and one alleged question about class cost allocation to show that Commission action without Spire's consent would be impermissible. First, it claimed that the passage of the Tax Act occurred after the end of the true-up period. While this is true, it misses the point. The test year concept is a tool, not a straightjacket. The Commission can -- and should -- look beyond the confines of the test year when extraordinary circumstances dictate that doing so would lead to rates that are more reasonable than holding the test year inviolate. Second, Spire claimed that the "known and measurable" standard precludes the Commission from recognizing the impacts of

the Tax Act without Spire's consent. The known and measurable standard, like the test year concept, should not be slavishly followed when following it leads to rates that are less reasonable than if it were not followed. And in any event, in this case Staff witnesses repeatedly testified that the impacts of the Tax Act are indeed known and measurable. Third, Laclede claimed that questions about the allocations of the effects of the Tax Act among the classes preclude the Commission from taking action without Spire's consent. Both MIEC witness Meyer and Staff witness Oligschlaeger, who together have about 65 years' experience in utility ratemaking, testified that this is a red herring. There was agreement in the rate case about how to allocate income taxes among the rate classes, and the Tax Act simply reduces the amount of taxes so allocated. There is no reason to defer taking action because of class allocations.

Despite that fact that the Commission scheduled a technical conference for the purpose of "reconciliation of the parties' positions and calculations regarding the tax cuts," despite the fact that the Commission scheduled a hearing "to hear evidence related to the specific adjustments that would be needed to include in rates any change in cost of service as a result of the Tax Cuts and Jobs Act," and despite the fact that Spire has the information necessary to perform such calculations, Spire did not make a good faith effort to do so at either the technical conference or the evidentiary hearing. Spire's direct case at the evidentiary hearing was almost entirely directed at attempting to get the Commission to reconsider the direction it appears to be heading on capital structure rather than even a desultory attempt to comply with the scheduling order's directive to present "evidence related to the specific adjustments that would be needed to include in rates any change in cost of service as a result of the Tax Cuts and Jobs Act." Spire had every opportunity to present such evidence, before or during the evidentiary hearing, but affirmatively chose not to do so. Even at the hearing, it refused to say which of the two approaches presented by the Staff would be preferable. Spire obviously hopes that by not engaging in any real attempt to quantify the impacts that it will freeze the Commission into inaction.

CONCLUSION

Only one of the approaches presented to the Commission would result in just and reasonable rates, and that is the position arrived at independently by the signatories to the Tax Act Agreement and the Staff. Deferral simply makes customers pay inflated rates for an extended period of time, even while ISRS rates increase. Caving in to Spire's bullying tactics would certainly not result in just and reasonable rates.

Respectfully submitted,

MISSOURI INDUSTRIAL ENERGY CONSUMERS

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed to all parties of record this 6th day of February, 2018.

/s/ Lewis Mills

Lewis Mills