

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

In the Matter of Spire Missouri, Inc.	)	
d/b/a Spire (East) Purchased Gas	)	Case No. GR-2021-0127
Adjustment (PGA) Tariff Filing	)	

**PUBLIC COUNSEL’S POSITION STATEMENT**

This case presents the unprecedented question of whether the Missouri Public Service Commission finds it prudent for a gas utility to manage its operations in such a manner that the company’s president is compelled to issue a warning that the company’s unreliable gas supply may result in widespread service losses, home explosions, and the loss of life.

**Issue 1. Was it reasonable and prudent for Spire Missouri, Inc. d/b/a Spire (East), in managing its gas supply and pipeline capacity, to have relied on obtaining service from Spire STL Pipeline prior to the latter having received a non-appealable certificate of public convenience and necessity from FERC?**

No. Spire’s unreasonable actions were dangerous, risked the lives of its customers, and demonstrated extreme imprudence. Consider Mr. Scott Carter’s, Spire’s president’s, own warning:

Spire Missouri faces the **very real threat** that...its reduced gas supply would lead to low pressure on its distribution system during cold periods and cause **uncontrolled loss of service to households** and other high priority consumers, such as **hospitals, nursing homes, and schools**. Loss of natural gas service during cold periods would create the potential for **loss of life and severe impacts to essential services**<sup>1</sup>

Mr. Carter further warned that this supply issue could result in a “**risk of explosion** created by uncontrolled gas escaping into customer homes through

*the unlit gas appliance pilot orifice.*<sup>2</sup> Spire caused this risk by prematurely altering its gas supply, storage and distribution system, which resulted in the “very real threat” of catastrophic results in the St. Louis region. Thus, the Company’s actions warrant a strong rebuke and a finding of imprudence.

Spire cut traditional supplies and altered its system and storage to support its affiliate STL Pipeline without *any* certainty regarding the pipeline’s future viability. This disregard for ensuring sufficient supplies to heat homes, hospitals, nursing homes, and schools ahead of the winter heating season recklessly risked the safety of the public Spire serves, and same the public that entrusts the Commission with protecting them from utility mismanagement. For these reasons, the Office of the Public Counsel (“OPC) urges the Commission to find Spire’s actions were imprudent.

If the Commission determines Spire’s management acted imprudently, the next question is to determine whether Spire gets a free pass for its imprudence, or whether risking the lives of its customers has consequences.

**Issue 2. If the answer to the foregoing question is negative, what action should the Commission take?**

Disallowing \$27,650,000 as demonstrated by Gregory M. Lander, witness for the Environmental Defense Fund, is appropriate. This amount represents the reservation charges Spire Missouri required its customers pay Spire’s affiliate pipeline during this period, despite customers receiving a service that lacked reliability *because* Spire made affiliate-supporting changes.

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<sup>1</sup> Affidavit of Scott Carter, July 26, 2021, FERC Case No. CP17-40 (emphasis added).

<sup>2</sup> *Id.*

The Commission itself questioned the need for the pipeline and actively opposed it before FERC, yet Spire built the pipeline anyway. The Company then altered its system and gas supply sources while a question remained whether the FERC certificate would withstand review.

What is the value of a service if its reliability is significantly reduced? Similar to how an airline “standby” ticket’s reduced fare is based on the lessened reliability of there being a seat available for the ticketholder, Spire’s customers should not be forced to pay full price for a service with drastically reduced reliability. Spire essentially provided its East system customers with an uncertain “standby” gas service. Such service should not require customers to pay full price as if they were continuing to receive the same reliable service they received in all prior periods.

OPC will provide the Commission with additional options to address Spire’s imprudence, including offsets based on the number of customers receiving unreliable gas supplies. With approximately 664,000<sup>3</sup> customers in Spire’s East distribution system, a \$1 to \$50 disallowance per customer gives the Commission the option to determine Spire’s imprudence in providing unreliable gas supplies should result in a \$664,000 to \$33,200,000 offset, or some other higher or lower reasonable disallowance as determined by the Commission.

The Commission has the authority to order a disallowance, including the authority provided by Section 393.130.1 RSMo. It provides:

**393.130. Safe and adequate service — charges — certain home rule cities, interest accrual, when. — 1.** Every gas corporation,

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<sup>3</sup> Spire Missouri East Annual Report for calendar year 2021

every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electrical corporation, water corporation or sewer corporation for gas, electricity, water, sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity, water, sewer or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

The service Spire East provided was not “safe and adequate.” Spire created the potential for extreme harm, as described by Spire’s president. Accordingly, the charges demanded for this service were not “just and reasonable.” Thus, Spire legally<sup>4</sup> cannot require its customers to pay these unjust and unreasonable charges.

### **The Alternative Issues**

Spire and the Commission’s Staff portray the contested issues in this case as whether the Spire Missouri decision to contract for gas with its affiliate, Spire STL Pipeline, was prudent. At this time, OPC takes no position on this issue. While the issues addressed earlier are certainly related to Spire’s contracting decision with its affiliate, the entering of that contract alone was not the relevant act of imprudence. Instead, the imprudence was the efforts Spire took to support its affiliate pipeline at the expense of its captive customers.

What Spire provided its customers during the October 1, 2019 to September 30, 2020 service period was an *unreliable* gas supply. Significantly

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<sup>4</sup> Section 393.130.1 RSMo

decreased reliability, to the point that it could result in widespread outages of an essential service is without question harmful to the provision of safe and adequate service as required under Missouri law.

Respectfully submitted,

**/s/ Marc Poston**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 14th day of July 2023.

**/s/ Marc Poston**

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