

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

In the Matter of Spire Missouri Inc's d/b/a	)	<b><u>File No. GR-2020-0122</u></b>
Spire 2019/2020 Purchased Gas/Actual	)	Tariff No. YG-2020-0072
Cost Adjustment filing for its Spire Missouri	)	
East and Spire Missouri West Operating Units	)	

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission and for its Recommendation, states as follows:

1. On October 31, 2019, Spire Missouri Inc d/b/a Spire (“Spire West”) filed *An Application for Variance and Motion for Expedited Treatment* (“Application”) and an accompanying proposed tariff sheet bearing an effective date of November 10, 2019. This tariff sheet was filed to reflect changes in Spire West’s Purchased Gas Adjustment (“PGA”) factors as the result of an estimated change in the cost of natural gas for the winter season and changes in the Actual Cost Adjustment (“ACA”) factors. Spire West’s Application states a request for an expedited Commission order issued at the Commission’s November 6, 2019, Agenda and a request for a one-time variance from Section 1.A. of Sheet No. 11.1 of Spire West’s PGA Tariff, which requires that PGA filings be made at least ten business days prior to their effective dates, to allow the tariff sheet to take effect on November 8, 2019.

2. In its *Order Directing Expedited Staff Recommendation and Setting Time for Any Responses to Tariff Filing* (Order), issued October 31, 2019, the Commission directed Staff to file a recommendation regarding the tariff sheet filed by Spire West in Tariff No. YG-2020-0072 no later than 3:30pm on November 5, 2019.

3. On November 1, 2019, Spire West filed a substitute tariff sheet in Tariff No. YG-2020-0072, containing the same PGA factors as the tariff sheet it filed on

October 31, 2019, but bearing an effective date of November 15, 2019. The substitute tariff sheet's effective date of November 15, 2019,<sup>1</sup> is consistent with the language in Section 1.A. of Sheet No. 11.1 of Spire West's PGA tariff:

The Company shall be allowed to make up to four (4) PGA filings during each calendar year. One such filing will be effective in November of each year, but no more than one PGA filing shall become effective in any two consecutive calendar months unless specifically ordered by the Commission. **Such PGA filings shall be made at least ten (10) business days prior to their effective dates.** (*Emphasis added.*)

4. The change in the PGA factor proposed in Spire West's tariff sheet will decrease natural gas cost to \$0.40415/ccf from \$0.48438/ccf for Residential, Small General Service, Large General Service, Unmetered Gas Light, and Large Volume Sales customers. The rate for Large Volume transport remains zero.

5. Staff does not oppose Spire West's request for the Commission to expedite its consideration and approve Spire West's PGA substitute tariff sheet during the November 6, 2019, Agenda. The change in PGA factors will result in a rate decrease for Spire West's customers, and furthermore, Staff recommends the Commission approve the rate changes on an interim basis, subject to refund. Staff does oppose Spire West's request for a one-time variance from its tariff language, cited above, requiring Spire West to make its PGA filings at least ten (10) business days prior to their effective dates. Spire West requests the Commission allow its PGA tariff, filed on October 31, 2019, and as substituted on November 1, 2019, become effective on November 8, 2019, which is only six (6) business days after filing. Spire West did not cite any provision of its tariff that would allow the Commission to grant Spire West's variance request, and Staff completed a cursory review of Spire West's tariff sheets and

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<sup>1</sup> Starting with Spire West's substitute tariff issuance date of October 31, 2019, and counting ten (10) business days consistent with *20 CSR 4240-2.050 Computation of Time*, Spire West's tariff would have an effective date of November 15, 2019.

could not locate a provision that would allow the Commission to grant Spire West's variance request.<sup>2</sup> Therefore, Spire West is required to comply with its tariff and its PGA filings must be made at least ten (10) business days prior to their effective dates and can be effective no sooner than November 15, 2019.

6. Due to the limited time available to review the documentation supporting the ACA factor in this filing, the Procurement Analysis Department has requested permission to submit the results and recommendations regarding the information included in this ACA filing to the Commission on or before December 15, 2020.

7. For the reasons explained in this Staff Recommendation and Staff Memorandum, attached hereto as Appendix A and incorporated herein, Staff recommends the Commission approve the PGA and ACA factor rate changes, on an interim, subject to refund status, pending final Commission decisions in ACA Case Nos. GR-2020-0122, GR-2019-0120, GR-2017-0300 and GR-2016-0225, and be effective no sooner than November 15, 2019.

**WHEREFORE**, Staff respectfully requests that the Commission issue an order approving Spire West's substitute tariff sheet in Tariff No. YG-2020-0072, on an interim basis, subject to refund, and be effective no sooner than November 15, 2019; and direct Staff to submit the results and recommendations regarding the information included in this ACA filing to the Commission on or before December 15, 2020.

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<sup>2</sup> A tariff has the force and effect of law and is binding on the utility, the public and the PSC. This is the "Filed Rate Doctrine" or "Filed Tariff Doctrine." "As developed for purposes of the Federal Power Act, the 'filed rate' doctrine has its genesis in *Montana-Dakota Utilities Co. v. Northwestern Public Service Co.*, 341 U.S. 246, 251-252, 71 S.Ct. 692, 695, 95 L.Ed. 912 (1951). There, this Court examined the reach of ratemakings by FERC's predecessor, the Federal Power Commission (FPC). \* \* \* [M]any state courts have applied the filed rate doctrine of *Montana-Dakota* to decisions of state utility commissions and state courts that concern matters addressed in FERC ratemakings." *Nantahala Power and Light Co. v. Thornburg*, 476 U.S. 953, 962, 964, 106 S.Ct. 2349, 2354-55, 2356, 90 L.Ed.2d 943, \_\_\_ (1986). Missouri courts have uniformly applied the Filed Rate Doctrine to decisions of the PSC, see, e.g., *State ex rel. AG Processing, Inc. v. Public Service Commission*, 311 S.W.3d 361 (Mo. App., W.D. 2010); *Bauer v. Southwestern Bell Tel. Co.*, 958 S.W.2d 568 (Mo. App., E.D. 1997).

Respectfully submitted,

**/s/ Jamie S. Myers**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 5<sup>th</sup> day of November 2019.

**/s/ Jamie S. Myers**

## MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File  
Case No. GR-2020-0122, Tariff No. YG-2020-0072  
Spire Missouri Inc., d/b/a Spire (West)

**FROM:** Michael J. Ensrud, Procurement Analysis Department

/s/ David M. Sommerer 11/05/2019  
Financial and Business Analysis Div. /Date

/s/ Jamie Myers 11/05/2019  
Staff Counsel's Office/Date

**SUBJECT:** Staff Recommendation for Spire Missouri Inc., d/b/a Spire /  
Scheduled Winter Season PGA Filing Effective November 15, 2019

**DATE:** November 5, 2019

On October 31, 2019, Spire Missouri Inc., d/b/a Spire (“Spire West” or “Company”) of St. Louis, Missouri, filed a tariff sheet with an effective date of November 10, 2019 for its Spire Missouri West division. The tariff sheet was filed to reflect scheduled changes in Spire West’s Purchased Gas Adjustment (PGA) factors as the result of an estimated change in the cost of natural gas for the winter season and changes in the Actual Cost Adjustment (ACA) factors.

On October 31, 2019, the Commission issued an **ORDER DIRECTING EXPEDITED STAFF RECOMMENDATION AND SETTING TIME FOR ANY RESPONSES TO TARIFF FILING**, which directs Staff to file its recommendation by November 5, 2019. The date and time for response to be filed is also November 5, 2019, at 3:30 PM.

On November 1, 2019, the Company filed a substitute tariff sheet, Tariff No. YG-2020-0072, that updated the effective date for 10 business days from the issue date, now showing a November 15, 2019 effective date.

Spire West states the following in its cover letter:

Spire East’s charges for gas will be reduced from \$.45672 to \$.41274 per therm; and **Spire West’s charges for gas will be reduced from \$.48438 to \$.40415 per ccf.** (Emphasis added.)

Compared to currently existing rates, and assuming normal usage, the PGA rate will decrease the average monthly bill of the typical residential customer – for Spire East the reduction will be about \$2.95 per month or a reduction of 4.35% and for Spire West the reduction will be about \$5.02 per month or a reduction of 8.25%.

Such bill impacts may be less or more depending on a customer's actual usage, which is primarily affected by weather.

Staff would summarize the proposed change from the perspective of the rate from a year ago, as follows:

<b>November -2019</b>		
<u>Existing</u> <u>PGA</u> <u>Rate</u>	<u>Proposed</u> <u>PGA</u> <u>Rate</u>	<u>Rate</u> <u>Reduction</u>
\$0.48438	\$0.40415	<b>(\$0.08023)</b>

These are the rate classes subject to the above PGA: Residential, Small General Service, Large General Service, Unmetered Gas Light, and Large Volume Sales. The rate for Large Volume Transport remains zero.

Case No. GR-2020-0122, under which these changes were filed, was established to track the Company's PGA factors to be reviewed in its 2018-2019 ACA filing. Any rate change implemented pursuant to this tariff filing should be on an interim basis, subject to refund status pending final Commission decisions in ACA Case Nos. GR-2020-0122, GR-2019-0120, GR-2017-0300, and GR-2016-0225.

Due to the limited time available to review the documentation supporting the ACA factor in this filing, the Procurement Analysis Department has requested permission to submit the results and recommendations regarding the information included in this ACA filing to the Commission on or before December 15, 2020. The ACA procedure involves review and true-up to the actual gas costs incurred.

Staff has verified that Spire Missouri has filed its annual report, and is not delinquent on its PSC assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing, other than as mentioned above.

Staff has reviewed this filing and has determined it was calculated with conformance with Spire West's PGA Clause. Staff is of the opinion that good cause for approval of this tariff sheet on less than thirty (30) days' notice is demonstrated by Spire West's Commission-approved PGA clause allowing for ten (10) business days' notice for PGA change filings. Staff recommends the

OFFICIAL CASE FILE MEMORANDUM

MO PSC Case No. GR-2020-0122

Tariff No. YG-2020-0072

November 5, 2019

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Commission issue an order approving the following tariff sheet, filed on October 31, 2019, as substituted November 1, 2019, to become effective on November 15, 2019, on an interim basis, subject to refund pending final Commission decisions in Case Nos. GR-2020-0122, GR-2019-0120, GR-2017-0300 and GR-2016-0225.

PSC Mo No. 8

2nd Revised Sheet 11.13, Cancelling 1st Revised Sheet 11.13

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

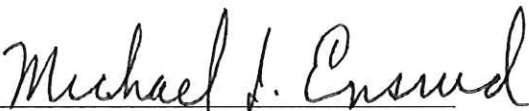
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**AFFIDAVIT OF MICHAEL J. ENSRUD**

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

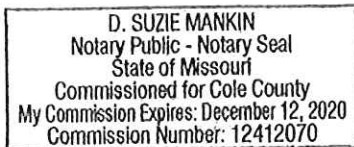
**COMES NOW MICHAEL J. ENSRUD** and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.


Further the Affiant sayeth not.

  
**MICHAEL J. ENSRUD**

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 5<sup>th</sup> day of November 2019.



  
Notary Public