

Exhibit No.:	_____
Issues:	Cash Working Capital Taxes
Witness:	Charles J. Kuper
Type of Exhibit:	Rebuttal Testimony
Sponsoring Party:	Spire Missouri Inc.
Case No.	GR-2022-0179
Date Testimony Prepared:	October 7, 2022

SPIRE MISSOURI INC.

CASE NO. GR-2022-0179

REBUTTAL TESTIMONY

OF

CHARLES J. KUPER

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REBUTTAL TESTIMONY OF CHARLES J. KUPER

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Charles J. Kuper and my business address is 700 Market Street, St. Louis,
3 Missouri 63101.

4 **Q. ARE YOU THE SAME CHARLES J. KUPER WHO PREVIOUSLY FILED**
5 **DIRECT TESTIMONY IN THIS PROCEEDING?**

6 A. Yes, I submitted direct testimony on behalf of Spire Missouri Inc. (“Spire” or “Company”)
7 in this rate case.

8 **I. PURPOSE OF TESTIMONY**

9 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

10 A. The purpose of my testimony is to respond to various issues addressed in the Direct
11 Testimony of the Staff of the Missouri Public Service Commission (“Staff”). These issues
12 include Spire’s treatment of cash working capital income tax expense lag, income tax
13 issues related to Accumulated Deferred Income Taxes (ADIT), and property tax expenses
14 and trackers.

15 **II. CASH WORKING CAPITAL INCOME TAX EXPENSE LAG**

16 **Q. HOW DOES STAFF PROPOSE TO ADDRESS THE CASH WORKING CAPITAL**
17 **INCOME TAX EXPENSE LAG?**

18 A. Staff witness Ferguson proposes to reflect a 365-day expense lag as part of cash working
19 capital (“CWC”). While she does not comprehensively explain why a 365-day expense
20 lag is appropriate in this case, she cites to the Commission finding in GR-2021-0108 that
21 because Spire is not likely to remit any federal or state income taxes due to its net operating
22 loss carryforward, the lack of income tax payment should be reflected in a 365-day cash

1 working capital expense lag. Witness Ferguson states that Spire is still experiencing a net
2 operating loss (“NOL”), and there is a large net operating loss carryforward for future tax
3 offset.

4 **Q. HOW DO YOU RESPOND?**

5 A. The position of Spire is to have a zero-day net lag so as to not provide a duplicate benefit
6 to ratepayers through a reduction in the revenue requirement for the negative cash working
7 capital. The ratepayers are already receiving a benefit for the rate base offset related to
8 deferred taxes. By providing the duplicative benefit of a lower revenue requirement
9 through a cash working capital adjustment, the possibility of a normalization violation is
10 present which would be very detrimental to Spire and the ratepayers.

11 **Q. HOW DOES STAFF RESPOND TO SPIRE’S CONCERNS WITH RESPECT TO A
12 365-DAY EXPENSE LAG POTENTIALLY CREATING A NORMALIZATION
13 VIOLATION?**

14 A. Witness Ferguson asserts that there is no normalization violation because Staff includes
15 normalized income taxes in the cost of service. She contends that because Spire is in an
16 NOL situation, a 365-day lag is appropriate so as to give the time value of income tax
17 expense back to customers. As a result, Staff argues there is no normalization violation.

18 **Q. DO YOU DISAGREE WITH THIS ASSESSMENT?**

19 A. Yes. By providing this time value of money benefit to ratepayers, the ratepayers are
20 benefitting from lower rates because the revenue requirement has been lowered. Rate base
21 has already been decreased for the deferred taxes associated with the tax deductions which
22 have reduced current income taxes. Staff is providing normalized income taxes in cost of

1 service, yet they are also reducing the revenue subject to tax, which lowers the tax expense
2 in cost of service.

3 **Q. HAS STAFF CHANGED ITS POSITION ON THE 365-DAY EXPENSE LAG?**

4 A. Yes. Historically, Staff has supported the Company's CWC adjustment. This can be seen
5 in multiple rate cases and as recently as our last rate case, GR-2021-0108.

6 **Q. WHAT WAS STAFF'S POSITION IN GR-2021-0108?**

7 A. Staff Witness Antonija Nieto accepted Spire's calculated federal and state income tax
8 expense lag of 38 days, which is consistent with quarterly tax payments. She states, "This
9 coincides with the Internal Revenue Code requirement for filing and paying corporate
10 income taxes on a quarterly basis."¹ Witness Nieto goes on to say that Staff has always
11 historically assigned or accepted federal and state income tax lags based on the statutory
12 required quarterly, equal tax payments.²

13 **Q. STAFF STATES IT IS NOT OPPOSED TO SPIRE SEEKING A PRIVATE
14 LETTER RULING FROM THE IRS. HOW DO YOU RESPOND?**

15 A. Spire appreciates Staff's willingness to not oppose such a prudent measure, but Spire would
16 like more emphatic steps in order to protect itself and its customers from a potential
17 normalization violation. Spire desires to have the Commission formally determine whether
18 the 365-day cash working capital expense lag creates a normalization violation, and if it
19 determines it does not, then Spire respectfully requests the Commission agree to participate
20 in the private letter ruling process as a party.

21 **III. INCOME TAX**

¹ Rebuttal Testimony Antonija Nieto, 3:12-17, GR-2021-0108

² *Id.* at 4:7-12.

1 **Q. WHAT IS STAFF’S POSITION WITH REGARD TO TCJA STUB PERIOD**
2 **AMORTIZATION?**

3 A. Witness Ferguson testified that Spire was to quantify and track all impacts of the Tax Cuts
4 and Jobs Act of 2017 potentially affecting gas service rates from January 1, 2018, going
5 forward. Staff identified the time period between June 1, 2021 and December 23, 2021 as
6 a “stub period,” stemming from the May 31, 2021 true-up cutoff date contemplated in
7 Spire’s last rate case, and the December 23, 2021 effective date of rates. According to
8 Witness Ferguson, the difference between excess ADIT included in rates and actually
9 experienced by Spire during the stub period will be reflected in rates in this case.

10 **Q. HOW DO YOU RESPOND TO THIS ISSUE?**

11 A. Staff has not quantified this potential revenue requirement impact. The Company will
12 either respond or provide its own suggested quantification of this impact in the next round
13 of testimony.

14 **PROPERTY TAX**

15 **Q. DO YOU HAVE ANY CONCERNS WITH STAFF’S PROPOSAL ON PROPERTY**
16 **TAX TRACKER?**

17 A. Yes. I reviewed the property tax workpapers relied upon by Staff Witness Lyons, and I
18 discovered errors that have a significant impact on Staff’s recommendation. There were
19 several email exchanges and a conference call with Staff to discuss the issues I noted, and
20 Staff acknowledged the two areas that needed attention. The first area relates to a sign flip
21 regarding amortization. The second area relates to the continuation of the tracker balance
22 from the previous rate case, which was to be only in effect until December 23, 2021. The
23 total related cost of service adjustments from these issues are estimated to be approximately

1 a \$7.8 million increase. Staff indicated they would update their recommendation as part of
2 the rebuttal testimony. Once I receive and review the updated recommendation, I will
3 determine if further adjustments are necessary.

4 **IV. MISSOURI PROPERTY TAX**

5 **Q. WHAT DOES STAFF RECOMMEND WITH RESPECT TO MISSOURI**
6 **PROPERTY TAXES?**

7 A. Staff recommends an annualized level of Missouri property taxes for Spire East and Spire
8 West based on actual property taxes paid in 2021. For Spire East, Staff's recommended
9 level is \$21,909,112 and for Spire West, \$23,115,691.

10 **Q. HOW DOES STAFF'S RECOMMENDATION COMPARE TO SPIRE'S**
11 **PROPOSAL IN THIS PROCEEDING?**

12 A. Spire was anticipating that Staff would use the methodology that has been used in past rate
13 cases by using the most recent year actual property taxes paid and adjusting for the change
14 in the plant balance for the current year.

15 **Q. DO YOU AGREE WITH STAFF'S RECOMMENDED LEVEL OF MISSOURI**
16 **PROPERTY TAXES FOR SPIRE EAST AND SPIRE WEST?**

17 A. No. Spire contends the property tax amount in cost of service should be \$24,601,029 for
18 Spire East and \$27,007,526 for Spire West based on information updated for 2021.

19 **Q. STAFF DETERMINED THE BALANCE OF THE REGULATORY LIABILITY AS**
20 **OF MAY 31, 2022 TO BE (\$1,112,420) FOR SPIRE EAST AND (\$1,698,965) FOR**
21 **SPIRE WEST AND RECOMMENDS AN AMORTIZATION PERIOD OF THREE**
22 **YEARS THAT RESULTS IN AN ANNUAL AMORTIZATION OF (\$370,807) FOR**

1 **SPIRE EAST AND (\$566,322) FOR SPIRE WEST. DO YOU AGREE WITH THAT**
2 **RECOMMENDATION?**

3 A. As noted earlier in my testimony, Staff Witness Lyons determined this needed to be
4 corrected. She indicated the update would be provided in her rebuttal testimony.

5 **Q. MS. LYONS TESTIFIED THAT STAFF CONTINUES TO RECOMMEND THAT**
6 **SUCCESSFUL PROPERTY TAX APPEALS ASSOCIATED WITH PROPERTY**
7 **TAXES PAID BY SPIRE EAST AND SPIRE WEST FOR THE PERIOD OF 2018-**
8 **2021 BE USED TO OFFSET THE PROPERTY TAX TRACKER. HOW DO YOU**
9 **RESPOND?**

10 A. Spire agrees with this approach.

11 **V. KANSAS PROPERTY TAX**

12 **Q. WHAT DOES STAFF RECOMMEND WITH RESPECT TO THE ANNUALIZED**
13 **LEVEL OF KANSAS PROPERTY TAX?**

14 A. Staff recommends a normalized level of Kansas property taxes for Spire West based on
15 actual property taxes paid during the period of 2018-2021. For Spire West, Staff's
16 recommended annual level is \$1,389,470.

17 **Q. HOW DOES STAFF'S RECOMMENDATION COMPARE TO SPIRE'S**
18 **PROPOSAL IN THIS PROCEEDING?**

19 A. Spire agrees with the recommendation.

20 **Q. MS. LYONS TESTIFIED THAT THE REGULATORY ASSET ASSOCIATED**
21 **WITH KANSAS PROPERTY TAXES IS NOW A REGULATORY LIABILITY**
22 **BECAUSE SPIRE WEST CUSTOMERS HAVE PAID MORE IN RATES FOR**

1 **KANSAS PROPERTY TAXES COMPARED TO THE AMOUNTS SPIRE WEST**
2 **HAS PAID TO TAXING AUTHORITIES. DO YOU AGREE?**

3 A. As noted earlier in my testimony, Staff determined this needed to be corrected. Staff
4 indicated the update would be provided in rebuttal testimony.

5 **Q. DO YOU AGREE WITH STAFF’S PROPOSED THREE-YEAR AMORTIZATION**
6 **PERIOD?**

7 A. A three-year amortization period is reasonable, as it attempts to fully amortize prior case
8 balances before the possible start of a new general rate case.

9 **VI. CONCLUSION**

10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11 A. Yes.

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

In the Matter of Spire Missouri Inc.'s Request)
for Authority to Implement a General Rate)
Increase for Natural Gas Service Provided in the) **Case No. GR-2022-0179**
Company's Missouri Service Areas.)
)

AFFIDAVIT

STATE OF MISSOURI)
CITY OF ST. LOUIS) SS.
)

I, Charles J. Kuper, of lawful age, being first duly sworn, deposes and states:

1. My name is Charles J. Kuper. I am the Director, Tax for Spire Missouri Inc. My business address is 700 Market Street, St. Louis, Missouri 63101.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony on behalf of Spire Missouri Inc.
3. Under penalties for perjury, I declare that the foregoing is true and correct to the best of my knowledge and belief.


Chuck Kuper (Oct 6, 2022 15:16 CDT)

Signature

Charles J. Kuper

Printed Name

Dated: 10/06/2022
