

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

In the Matter of Spire Missouri, Inc.’s d/b/a)	
Spire Request for Authority to Implement a)	
General Rate Increase for Natural Gas)	Case No. GR-2021-0108
Service Provided in the Company’s)	
Missouri Service Areas.)	

**SPIRE’S APPLICATION FOR REHEARING AND MOTION FOR
RECONSIDERATION OF THE AMENDED REPORT AND ORDER**

Pursuant to 20 CSR 4240-2.160 and Mo. Rev. Stat. 386.500, Spire Missouri Inc. d/b/a Spire (“Spire” or “Company”) files this Application for Rehearing and Motion for Reconsideration (collectively hereafter “Application”) of the Missouri Public Service Commission’s (“Commission”) November 12, 2021 Amended Report and Order (the “Amended Order”) in the above referenced matter. In support of its Application, Spire states as follows:

I. THE AMENDED ORDER PUNISHES SPIRE FOR NO APPARENT REASON

1. In this case, Spire filed for a reasonable 5.55% increase in base rates. This increase is below the 5.9% cost of living increase the Social Security Administration approved for approximately 70 million Americans in 2022. Spire’s 5.55% initial ask was also substantially below the 10%-20% rate increase requests made recently by other utilities in the state.

2. Since our last rate case three years ago, Spire has invested nearly a billion dollars in new infrastructure, and has improved employee safety, system damages, leaks, and customer service (Weitzel Direct p.5). Spire implemented the Fresh Perspectives program to solicit direct feedback from communities about what to do better and what programs were important to our customers.

3. Spire was the first Missouri utility to use shareholder dollars to help customers during the pandemic. We have worked with our customers throughout the pandemic, offering new

programs and additional financial support. During the week-long public hearings, Spire and the Commission heard only a few negative comments along with some positive comments about the Company. We have improved customer metrics. We are a solid utility operator and have served our customers extremely well.

4. Despite all of this progress, the cumulative result of the Amended Order is:

- a. Spire will have the lowest overall rate of return in Missouri;
- b. Spire will be the first Missouri utility in recent history to include short-term debt in its permanent financing structure, substantially reducing the Company's earnings;
- c. For the first time ever, a Missouri utility has been ordered to stop capitalizing all of its non-operational overheads going forward. There is now an open question regarding how, and even whether, Spire can recover millions of dollars of prudently incurred costs that weren't challenged by any party during the eleven-month rate case process. These "costs" are employees and employee benefits. In the short term, tens of millions of dollars of prudent cost of service expenses will not be included in rates or capital plant.

5. Staff is tasked with taking a fair and balanced review of the case and acts as a neutral third-party evaluator for the Commission. Staff's recommended revenue requirement in this case was approximately **\$91M after true up and stipulations**. The Commission's Amended Order results in a revenue requirement of approximately **\$72M**, with additional reductions in earnings certain to result going forward with the overhead issue.

II. THIS OUTCOME REFLECTS POORLY ON MISSOURI

6. Outside observers are now pointing to the Commission's inconsistent decisions and abandonment of past practice and precedent as a negative development for both Missouri utilities and their customers.

7. As noted in Spire's prior Motion for Rehearing, we have received numerous research notes from equity analysts raising concern about the message the Commission is sending in this case.

8. This concern is well captured in a November 16 report from JP Morgan, attached as Exhibit A to this Application, which states:

*Last week, the MoPSC issued an amended order in Spire's rate case, authorizing a slightly below-average 9.37% ROE and confirming a modified capital structure with the inclusion of short-term debt, among other elements. We see the outcome as disappointing, diverging from initial expectations for a smooth rate case process, reversing MO's improving regulatory backdrop, and ultimately reducing earnings power versus more balanced results. **MO regulation remains inconsistent at best, with markedly different rate case outcomes across utilities over the past several years, and Spire's latest order amplifies untenable regulatory instability, in our view.** (Emphasis added.)*

9. Even more troubling are the cautions being issued by debt analysts and national credit ratings agencies, whose opinions of the regulatory environment have the ability to raise borrowing costs for Missouri utility customers.

10. For example, a November 17 research note by Moody's, attached as Exhibit B, states:

*On 12 November, the Missouri Public Service Commission (MPSC) unanimously approved an amended rate order on Spire Missouri Inc.'s (A1 senior secured, stable) rate case which includes provisions that are inconsistent with past rate orders, less transparent on cost recovery timing, and not supportive of the company's credit quality. **The decision is credit negative for Spire Missouri because of the adverse impact on both the company's cash flow and credit metrics. It also signals the potential for a less consistent and predictable regulatory environment in Missouri** which may lead to a more contentious relationship between Spire Missouri and state regulators going forward. (Emphasis added.)*

III. MOTION FOR RECONSIDERATION

11. Of course, a punitive and inconsistent outcome may not have been the Commission's intention. The purpose of this motion is to provide the Commission an opportunity to balance the cumulative impact of its decision in this case by revisiting the issues raised here.

12. The consequence of breaking from longstanding precedent and practice as the Commission did in this case is that it creates uncertainty and the state's regulated utilities are left to operate in uncharted territory. We are asking for rehearing or reconsideration of the below issues to give pause for the Commission to analyze and reconsider its decision based on the record, the overall impact to the revenue requirement, its relation to Staff's recommendation, the impact on customers, and the impact on the Missouri regulatory environment. The Company asks the Commission to rehear or reconsider the issues of overhead capitalization, revenue normalization adjustment, cash working capital, return on equity, and short-term debt because the Commission's decision on these issues is unreasonable and was not based on competent and substantial evidence, and collectively the results of the Commission's decisions on these issues are punitive in nature and contrary to regulatory precedent and historical treatment these issues have received in the past.

13. If the Commission is changing the regulatory construct of the historical test year and making decisions that impact costs that a utility has to manage in real time or prospectively, then utilities should have the opportunity to evaluate this approach and give feedback prior to such decisions being made. The case was filed under the historic test year model used in Missouri utility regulation for decades. Yet some decisions, such as the capitalization/expensing of overheads, are being applied prospectively with no ability for the utility to adjust rates for the same. A workshop or investigation with open dialogue among parties would be a better forum to study sweeping changes that break with the Commission's historical precedent than arbitrary

decisions made in a single utility's rate case. Such a forum would also permit parties time to consider how to prepare for and implement such sweeping changes.

14. **Capitalization of overheads:** This issue has been covered in depth in Spire's post-hearing briefs and the Company's previous Motion for Rehearing, but some of those arguments bear repeating here. The Amended Order prospectively reduces the Company's recovery of expenses which were previously capitalized, and although we won't know the impact until we complete studies under the revised methodology, we have estimated it could be very significant and within a wide range of **\$20 - \$30 million annually**. No party questioned the prudence of the costs that form the basis for capitalized overheads, and if Spire is prohibited from capitalizing them, those costs must be treated as expenses in order for the Company to recover its cost of service as required by ratemaking principles and legal authority. The Amended Order directs Spire to cease recovery of capitalized non-operational overhead costs in plant, going forward, until compliance with the USOA is shown (timing unknown); and establishes that a regulatory asset account may be established to be recognized as used and useful after the effective date of the tariffs. (Amended Order p. 82.) Further, the ability to create a regulatory asset without further guidance does not assist the Company with what to do prospectively, as the accounting rules do not allow deferral unless we can gain certainty with a high probability of future recovery. Nor does it define which overheads are "non-operational," which are intended to continue to be capitalized, and which are not. Finally, it does not identify when, and whether, the expenses deferred to the regulatory asset may be recovered. In order to be useful to the Company, and to better assist Staff in its ordered duties, the Commission should include specific language in the order on how Spire is to comply with accounting requirements for how these costs will be booked going forward, as set forth in the paragraph below.

15. Spire’s understanding of how the regulatory asset is intended to function is that, immediately upon the effective date of new rates in this case, it must stop capitalizing all Administrative & General (“A&G”) overheads. From that point, all costs formerly capitalized as A&G overheads will be deferred to the regulatory asset. Once Staff completes its audit and files either a recommendation or stipulation for which percentage of these A&G overheads should continue to be capitalized going forward, capitalization of A&G overhead items may resume to the extent of their compliance with the result of the audit. Going forward from that point, the costs that were formerly capitalized, but which will not be capitalized going forward, will also continue to be deferred to the regulatory asset. The prudence of all costs deferred to the regulatory asset, and recovery of those costs, will then be taken up in Spire’s next general rate case. If this is the intent of the Amended Report and Order, the Commission should confirm this understanding, or state how its intention is different.

16. **Rate Normalization Adjustment Rider (“RNA”):** In this proceeding, Spire proposed an “RNA” to replace its current Weather Normalization Adjustment Rider (“WNAR”). Spire’s proposed RNA was modeled after the Ameren Delivery Charge Assessment (“DCA”), which the Commission approved in 2019. Staff also recommended an RNA with some modifications to Spire’s proposal. The RNA filed by Staff and Company were nearly identical to the already approved 2019 DCA mechanism. Inexplicably, in this case the Commission rejected the proposal and has decided it does not comply with Mo. Rev. Stat. 386.366(3), and further instructed Spire to turn to the Legislature for assistance on the issue rather than making a consistent decision among Missouri utilities. Missouri regulation would benefit from consistency, and greater deference to recent precedent.

17. **Short-term debt:** Spire followed the Commission’s “point in time” decision on short-term debt in the Company’s last general rate case, GR-2017-0215/0216. In this case, Spire made the Commission aware of the potential consequences of using a three-year average approach instead of a “point in time” approach, which includes retroactive application of the Company’s short-term debt that is inconsistent with the Commission’s prior decision and penalizes the Company for managing its short-term debt based on the Commission’s decision in the last rate case. Spire even requested that *if* the Commission was planning to change its customary analysis of short-term debt that the Company be informed before entering a new rate cycle. (Woodard True-Up Rebuttal, p. 7.) The Commission’s decision ignores all of these elements. Instead, the Commission issued a decision with a completely different outcome in this case that will substantially reduce the Company’s earnings. This decision also upends decades of Missouri precedent, both for Spire and all other utilities in the state. No other utility to date has included short-term debt in its permanent financing structure. This drastic shift should be a conversation about concerns surrounding the treatment of short-term debt instead of an annual **\$20M** hit to Spire without warning after the Company demonstrated it was following the Commission’s prior decision. This issue would be better handled in a working docket where all stakeholders could participate and discuss the matter.

18. **ROE:** The Commission found the appropriate ROE is 9.37% for Spire (Amended Order, p. 97.) For fully litigated cases like this one, the average authorized ROE in 2021 year to date (at the time of the July Surrebuttal cut-off) was 9.61% on a simple basis and 9.87% on a weighted basis. (Woodard Surrebuttal. pp. 3-4.) The Commission’s ordered ROE is well below the average. Further, Staff’s recommendation in this case was a 9.37% which is below Staff’s pending recommendation of 9.5% in the Ameren case, even though all parties agree gas utilities

should have a higher ROE than electric utilities. Again, the Commission needs to take a broader view when setting its ROE to allow for consistency throughout the state and avoid punitive outcomes like this one.

19. **Rate of Return:** ROE and capital structure should be analyzed separately and collectively. The capital structure and ROE are primary drivers of the rate of return a utility is allowed. Having a below average ROE and short-term debt in the capital structure severely hinders a utility's ability to earn a fair return. Spire's rate of return of 6.37% will be the lowest in the state of Missouri.

20. **Cash Working Capital (CWC):** The Commission's decision on this tax item adjustment in cash working capital is another change in Commission policy. These are standard inputs that have been included in past rate cases and approved by Staff. As Staff and Spire identify, the purpose of the 38-day expense lag is to conform with Section 6655 of the Internal Revenue Code. Consistency in regulatory practice is important to utility planning and to all stakeholders, particularly when the reason for the adjustment is consistent with federal law and guidelines. Staff's and Spire's position was just recently approved by the Commission in ER-2019-0374. Now the Commission has reversed course on the issue.

IV. CONCLUSION

21. We had hoped to come out of this case with some stability that would allow us to focus on operational efficiencies, delivering enhanced environmental options for our customers and continue to enhance the overall value we deliver. However, the outcome currently included in the Amended Order is not sustainable. If the decision stands as it is currently written, Spire will have no choice but to file another general rate case in the near future.

22. We feel a Commission order that is approximately \$19M below Staff's recommended revenue requirement number is not reflective of the Company's actual cost of service or level of service and is punitive. In addition, the results included in the Amended Order violate past regulatory treatment and policy on these issues and create instability within the Missouri regulatory landscape. Consistency in regulatory practice is important to utility planning and all stakeholders. We are asking for rehearing based on the record of this case and to address long standing changes in regulatory and Commission policy as described above. We further ask for clarification or confirmation of the Company's understanding of the intention of the regulatory asset regarding capitalized overheads.

/s/ Matt Aplington

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ATTORNEYS FOR SPIRE MISSOURI INC.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served electronically, or hand-delivered, or via First Class United States Mail, postage prepaid, on all parties of record herein on this 19th day of November, 2021.

/s/ **Lew Keathley**_____