

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

In the Matter of Spire Missouri Inc.)	
d/b/a Spire (East) Purchased Gas)	File No. GR-2021-0127
Adjustment (PGA) Tariff Filing)	
)	
In the Matter of Spire Missouri Inc.)	
d/b/a Spire (West) Purchased Gas)	File No. GR-2021-0128
Adjustment (PGA) Tariff Filing)	

**RESPONSE OF SPIRE MISSOURI INC. TO APPLICATIONS TO INTERVENE AND
REPLY OF ENVIRONMENTAL DEFENSE FUND, OFFICE OF THE PUBLIC
COUNSEL, MIDWEST ENERGY CONSUMERS GROUP,
AND CONSUMERS COUNCIL OF MISSOURI**

COMES NOW Spire Missouri Inc. (“Spire Missouri” or “Company”) and for its Response to the Applications to Intervene and Reply of the Environmental Defense Fund, Office of the Public Counsel, Midwest Energy Group and Consumers Council of Missouri, states as follows:

1. On November 9, 2020, the Environmental Defense Fund (“EDF”), Office of the Public Counsel (“OPC”), Midwest Energy Consumers Group (“MECG”) and the Consumers Counsel of Missouri (“CCM”) (collectively “the Joint Commenters”) submitted joint Comments and Motion to Establish Procedural Schedule in these proceedings. In their pleading, the Joint Commenters raised a number of concerns regarding a transportation arrangement between the Company and its affiliate Spire STL Pipeline (“STL Pipeline”) and requested that the Commission establish a procedural schedule to address such concerns.

2. On November 10, 20 and 30, 2020, the Staff and Company filed responsive pleadings in which they asserted that the establishment of a procedural schedule was premature and inconsistent with the procedures and practices typically followed by the Commission in gas cost review proceedings such as this one. Instead, they argued that the Commission should

maintain its traditional approach to such reviews and withhold the establishment of any procedural schedule until Staff completes its ACA review and issues its Recommendation in these proceedings in December of 2021.

3. The Joint Commenters filed their reply to these pleadings on December 8, 2020. EDF, MECG and CCM also filed separate applications to intervene in these proceedings on December 2, 3 and 8, respectively. Staff filed its response to these applications on December 10, 2020.

RESPONSE TO APPLICATIONS TO INTERVENE

4. Turning to the applications to intervene first, the Company states that it has no objection to the Commission permitting EDF and CCM to intervene in File No. GR-2021-0127 – the ACA proceeding that has been established to consider the purchased gas and pipeline reservation costs for Spire East. In both their initial Comments and Motion, as well as their Reply, all of these parties have focused exclusively on the cost, prudence and reasonableness of the Company’s transportation arrangement with STL Pipeline.¹ Because STL Pipeline only serves the Company’s Spire East service area, all of the cost impacts from this arrangement are necessarily limited to Spire East and its customers. None of them, whether favorable or unfavorable, are shared with customers in the Spire West service area. Accordingly, to the extent EDF and CCM are permitted to intervene, that intervention should be limited to Spire East’s ACA proceeding where they have articulated an actual interest in the outcome of the proceeding. Spire Missouri does question the motive of EDF intervening in this case. According to its website, EDF’s states

¹This exclusive focus by the Joint Commenters on the transportation contract with STL Pipeline as the justification for their participation in these proceedings was also noted by the Commission at page 2 of its November 12, 2020 Order in these cases. As the Commission described their interests: “The Commenters’ response questions the prudence of Spire’s affiliate transactions with STL Pipeline. Specifically, the Commenters question the inclusion of costs associated with a firm transportation capacity contract between Spire Missouri and STL Pipeline in Spire’s October 30, 2020, PGA/ACA tariff filings.”

as its key priority “We take on climate change and other grave threats by identifying what’s most urgent and where we can make the most difference”. According to the EPA and AGA, more than two thirds of GHG emissions comes from electricity generation, the transportation sector, and industry. The vast majority of Spire Missouri’s customers are residential. Residential natural consumption accounts for only 4% of greenhouse gas emissions. STL Pipeline is also a more modern transportation system, with less leaks and fuel loss on its pipeline. STL Pipeline has a fuel loss of 0.25% while Enable MRT’s older pipe has a 1.49% fuel loss. MRT also utilizes system compression that burns natural gas. By contrast, STL Pipeline has no compression on its system.

EDF’s website also highlights its “methane challenge.” Moving to STL Pipeline has reduced methane emissions compared to transporting on older interstate pipelines. One would think that EDF would support a positive environmental move for the state and focus its resources on other “grave threats” that are “most urgent”. For example, Missouri’s transportation sector is heavily reliant on gasoline and diesel fuels, and its electric generation is still predominantly coal fired. Instead, in this proceeding (and others) EDF attacks the Company’s decision to contract capacity on a short, efficient pipeline that brings a variety of operational benefits to its system and customers.

5. Spire does not believe the same grant should extend to Spire West’s ACA, File No. GR-2021-0128. In Spire West’s ACA proceeding, Joint Commenters have not met the requirements of the Commission’s rules in that they have not shown that they have an interest different from the general public that may be adversely affected by a final order arising from that case and granting the intervention would not serve the public interest. This approach will also help ensure that the resolution of the Spire West ACA proceeding is not delayed or encumbered by the

additional discovery and outcome of an ACA proceeding that is unrelated to the concerns raised by EDF, MECG and CCM.

6. With respect to MECG, it is not clear whether the customers represented by MECG would be impacted by the outcome of the Spire East proceeding. In the past, MECG has represented transportation customers who contract for interstate transportation service directly from pipeline suppliers other than STL Pipeline. If that is the case here, any disposition of the STL Pipeline issue would have little or no impact on the customers who MECG may be representing thus eliminating their interest in this proceeding. At a minimum, MECG should be required to clarify to which of Spire's customer rates classes its clients belong, and how their interests would be adversely affected by these proceedings beyond the interest of the general public or how its intervention would serve the public interest before it is granted intervention. If they demonstrate intervention is acceptable as EDL and CCM have, then Spire would not object to the intervention as described herein.

RESPONSE TO REPLY OF JOINT COMMENTERS

7. In their Reply, the Joint Commenters reiterate arguments previously made in their initial comments. As discussed below, repetition has not made them any more persuasive.

(a) Spire's filing is sufficient and complies with the requirements of the Commission-approved tariff.

There is simply no requirement, as the Joint Commenters suggest, for a utility to present a detailed justification of the prudence and reasonableness of all of its gas costs at the time it makes a PGA/ACA filing. The Company's PGA/ACA tariffs have the same force and effect as any statute². Spire East's Tariff Sheet No. 11.17 describes the specific pricing and other information that is to

² *Bauer v. Southwestern Bell Telephone Co.*, 954 S.W.2d 568. 570 (Mo. App. 1997); *Warner v. Southwestern Bell Telephone Co.* 428 S.W.2d 596 (Mo. 1968)

be provided by a gas utility at the time it makes a PGA/ACA filing. The Company fully complied with these tariff requirements when it made its PGA/ACA filing in these cases. In fact, the Commission agreed in its November 12, 2020 Order in which it made the following finding in approving that tariff: “The Commission finds that the proposed tariff sheets conform to Spire’s Commission-approved PGA tariff.” Spire met the filing requirements to open this case. Spire intends to meet its burden of proof as the case proceeds.

(b) The STL Pipeline transportation arrangement does not warrant a change in the Commission’s traditional practices and procedures for reviewing purchased gas costs because Spire and its predecessors have included affiliate transactions as part of its PGA/ACA review in the past.

In their Reply, the Joint Commenters attempt to portray the STL Pipeline transportation arrangement between Spire Missouri and STL Pipeline as something so unique that it warrants a change in the way the Commission handles its review of gas costs, including a change in the burden of proof being met at the filing of this proceeding. (Reply, p. 5). All of the factors cited by the Joint Commenters are mere differences without a distinction. They do not provide an explanation as to what makes this transportation agreement so unique that it warrants a change in the Commission’s method for reviewing the associated costs.

Over the years Spire Missouri (and Laclede Gas Company) has had multiple gas supply-related contracts with affiliated entities over the years, including gas supply purchase and sale contracts with Spire Marketing Inc., both now and, before that, when it was known as Laclede Energy Resources. The Company has for many years also had contracts with an affiliated pipeline in Illinois that carries propane for use in the Company’s gas supply portfolio (Laclede Pipeline Company n/k/a Spire NGL Inc.). Costs associated with these affiliate transactions have routinely

been reflected in the Company's PGA/ACA rates without any suggestion that special procedures, such as those proposed by the Joint Commenters, are necessary to review them. In short, the affiliated nature of the Company's relationship with STL Pipeline provides no unique, let alone compelling, reason for disturbing the normal operation of the Commission's gas review procedures.

The overall impact on pipeline reservation costs paid by the Company as a result of the additional transportation contract with STL Pipeline has been appropriately mitigated. This is due in large part to the Company's successful efforts to shed the costs of other pipeline capacity and gas supply resources that were no longer needed once the STL Pipeline became operational. Spire Missouri was also able to negotiate discounts on other interstate pipelines because it had new supply optionality into the St. Louis market as a result of STL Pipeline.

Moreover, Spire Missouri and its customers have benefitted greatly from the negotiation of a hard cap in its contract that required STL Pipeline (rather than the Company and its customers) to absorb any over-runs on the project's estimated cost once they exceeded a certain amount. As it happened, there were significant cost overruns in the construction of the STL Pipeline because of historic flooding, which Spire Missouri has been shielded from. The end result is that the Company was able to secure a more diversified, reliable and cost-effective source of supply for its customers, at significantly mitigated cost.³ Those costs have instead been borne by STL Pipeline.

Finally, Spire Missouri agrees to address any affiliate transaction concerns or rules as part of the ACA review and discovery process.

³It should be noted that at the same time Spire Missouri was achieving these favorable cost impacts for its customers, it was also able through the STL Pipeline arrangement to enhance its overall supply reliability by making the Company less dependent on pipeline capacity running through the New Madrid seismic zone. This is in addition to the fact that STL Pipeline has also afforded the Company a greatly enhanced opportunity to access favorably priced gas supplies from the most prolific shale play in the country while simultaneously creating more bargaining leverage with its other pipeline suppliers.

(c) Spire believes that Staff should lead the discovery process because their unique expertise will provide the most straightforward information and analysis to be presented to the Commission in these cases, and that process will allow simultaneous access of information to any parties granted leave to intervene in this case.

The Joint Commenters also suggest in their Reply that the immediate establishment of a procedural schedule and commencement of discovery will permit a better, more informed record to be created. Spire Missouri disagrees. Under the Commission's normal procedures, the Staff would typically be the only party submitting discovery during its audit period, although the Office of the Public Counsel might occasionally conduct some very limited discovery. This approach has worked well because the Staff members making the data requests have substantial experience and knowledge of interstate pipeline and supply basin markets, the Company's gas supply resources, the requirements of its local distribution system, including pressure and flow requirements, and how these areas and many others mesh together to form a proper evaluation of the reasonableness and prudence of Spire Missouri's gas supply activities and decisions.

In contrast to the Staff auditors, the Joint Commenters do not possess the same level of knowledge, expertise or experience with the Company's gas supply and distribution operations. As a result, they are less equipped to seek the kind of information that is relevant to the prudence and reasonableness of the STL Pipeline arrangement, especially in light of the broad range of factors the Company must consider when making such decisions. It requires substantial time and effort on Spire Missouri's behalf to respond to Staff's data requests alone. The barrage of duplicative data requests such parties are likely to submit will only distract the Company from providing timely and responsive information to the more relevant data requests submitted by Staff

and can have a detrimental impact on the quality of the record being created. This is an important consideration.

These detrimental impacts could be avoided by instructing the other parties to defer submitting their own data requests until Staff completes its audit. Staff plans to commence its audit by immediately submitting a combined 220 data requests to Spire Missouri in these cases. Throughout this period, any intervenors would have full access through EFIS to the questions being asked by Staff and the answers being provided by the Company. The pertinent information, as deemed by Staff's experts, will be obtained by all parties and there is no harm to the parties or the process. To the extent other parties believe the information produced by this process was in some respect insufficient, they would then have more than adequate time to submit their own data requests or series of data requests to obtain such information prior to an evidentiary hearing. The Company respectfully submits that this approach is best calibrated to produce an informed and complete evidentiary record should litigation and a hearing prove to be necessary.

However, as a gesture of good faith, Spire Missouri would be willing to discuss a negotiated discovery process with Joint Commenters that would provide Staff the opportunity to lead the discovery process initially, with additional data requests from intervenors stayed until such time as Staff's initial discovery is complete. The Company anticipates that a negotiated hybrid approach could allow intervenors to propound any relevant, non-duplicative additional data requests in August or September of 2021, which would still permit the responses to help inform Staff's Recommendation and Report.

Additionally, to further assist the parties in understanding all of the circumstances surrounding its decision to enter into the STL Pipeline contract, Spire Missouri would be willing, subject to suitable confidentiality protections, to make available to any of the Joint Commenters

who become parties to the case the extensive report it provided the Staff and OPC nearly a year ago to show the reasonableness and prudence of its transaction to secure supply via STL Pipeline. Spire Missouri is proud of the transportation contract it negotiated with STL Pipeline, and is more than willing to share a report that substantiates why that arrangement is unquestionably beneficial to its utility customers, with the appropriate confidentiality safeguards in place.

WHEREFORE, for the foregoing reasons, Spire Missouri respectfully requests that the Commission issue its Order;

(a) permitting EDF and CCM to intervene in the Spire East ACA proceeding, but not the Spire West ACA proceeding;

(b) permitting MECG to intervene in the Spire East ACA proceeding, but only upon a showing that it represents customers who are not transportation customers and would actually be affected by the outcome of any Commission determinations made with regard to costs relating to the transportation arrangement with STL Pipeline;

(c) reaffirming the December 15, 2021 deadline for the Staff to conclude its ACA audit and submit its Recommendations;

(d) directing Spire Missouri and any other intervening party to respond to Staff's recommendation within 30 days of its filing and recommend any procedural schedule they may believe is necessary to address any disputed issues;

(e) permitting the Joint Commenters who are permitted to intervene to fully monitor the progress of Staff's audit through EFIS and instructing them to defer submitting their own data requests until the completion of that audit and the receipt of Staff's recommendation or in the alternative, allow the Parties to discuss and submit a discovery schedule as set forth herein.

Respectfully submitted,

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ATTORNEYS FOR SPIRE MISSOURI INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Response was served on the General Counsel of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel on this 14th day of December, 2020 by hand-delivery, fax, electronic or regular mail.

/s/ Goldie T. Bockstruck

Goldie T. Bockstruck