

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

In the Matter of the Application of Spire Missouri )  
Inc. for approval to establish an On-Bill Financing ) Case No. GO-2021-0126  
Program and Cost Recovery Mechanism )

**RESPONSE OF SPIRE MISSOURI TO  
THE OFFICE OF THE PUBLIC COUNSEL’S MOTION TO DISMISS**

**COMES NOW** Spire Missouri Inc., (“Spire” or “the Company”) and hereby submits this *Response of Spire Missouri to the Office of the Public Counsel’s Motion to Dismiss*, and hereby states as follows:

1. On October 30, 2020, Spire submitted its verified Application and direct testimony in support of its On-Bill Financing Program as well as the Company’s proposed cost recovery mechanism.

2. In response to Spire’s filing, the Office of the Public Counsel (“OPC”), submitted its Objection and Motion to Dismiss, stating that the Company’s application: (1) did not contain sufficient information to show that the Company’s proposal was lawful and/or pursuant to the public interest; (2) that the legal authority has not been cited for implementation of the cost recovery mechanism; and (3) the application does not identify what costs Spire seeks to recover through the cost recovery mechanism. The OPC concludes by asking the Commission to either dismiss the case without prejudice or in the alternative suspend the tariff changes and direct the parties to file a proposed procedural schedule with an evidentiary hearing.

3. On November 18, 2020, the Commission issued an *Order Suspending Tariff Sheets, Granting Motion for Extension of Time, and Setting a Procedural*

*Conference* (“the Order”). In the Order the Commission gave parties until November 23, 2020 to respond to the OPC’s Motion to Dismiss.

4. On November 20, 2020, Staff, OPC, and Spire filed a *Joint Proposed Procedure*, in which the Parties requested the Commission delay the date by which Staff is to submit its Recommendation as well as the filing of a procedural schedule in this case, to allow the parties time to engage in discovery, technical conferences and further discussion regarding the details of Spire’s proposal. The Parties stated that after the investigatory phase was complete, they would jointly notify the Commission of the status and file either a proposed procedural schedule or other recommendation.

5. Spire appreciates the OPC’s evaluation and concern regarding the details supporting Spire’s application. However, Spire disagrees that its application is so insufficient as to warrant the remedy of dismissal. Spire’s application conforms with all aspects of the Commission rules regarding the filing of applications, specifically 20 CSR 4240-2.060. The application references the direct testimony filed in tandem with the application, which contains additional details pertaining to Spire’s proposed On-Bill Financing Program and cost recovery mechanism, and includes additional information supporting the fact that Spire’s proposal is just and reasonable and in the public interest. Spire’s filing shows that an On-Bill Financing Program would not only enhance energy efficiency, and provide environmental benefits, but would ultimately save participants money on their natural gas bill. Spire’s proposal is consistent with other similar Pay As You Save® programs that have been recently approved by this Commission.

6. In its Motion to Dismiss, the OPC lamented that the Company did not state a legal authority by which it may implement its proposed cost recovery mechanism.

As noted above, however, approval of a cost recovery mechanism such as what Spire is proposing is consistent with prior Commission practice in approving programs with similar features. While such programs have principally relied on the MEEIA Statute which applies to electric utilities, Missouri courts have upheld the legality of other tariffed programs for gas utilities that periodically reconcile and adjust rates based on the Commission's inherent powers to set just and reasonable rates, including most notably purchased gas adjustment and gas supply incentive mechanisms. See *State ex rel Midwest Gas Users' Ass'n v Public Service Commission* 976 S.W.2d 470 (Mo. Ct. App. 1998).

7. Based on these same inherent powers, the Commission has also approved a variety of other tariffed programs – each with their own unique cost recovery provisions – even those such programs are not specifically identified in any statute. Among others, these include various energy efficiency programs, low-income weatherization programs and energy affordability programs. In fact, compared to these other approved programs, Spire's On Bill Financing Program has a much closer nexus to a specific grant of statutory authority in that it is primarily designed to help customers conserve on their natural gas usage through the installation of more efficient heating equipment– a purpose which would justify approval of an adjustment mechanism under Section 386.266.3 RSMo.

8. For all of these reasons, Spire would urge the Commission to deny the Motion, and allow for the Parties to continue to further investigate and discuss Spire's proposal, consistent with the *Proposed Joint Procedure* filed on November 20. The

Company would also point out that the *Proposed Joint Procedure* recommends allowing the Company to supplement its filing with additional testimony if necessary.

**WHEREFORE**, Spire Missouri respectfully submits this Response to the OPC's Motion to Dismiss and requests that the Commission deny OPC's Motion, and instead proceed consistent with the Parties *Proposed Joint Procedure* filed on November 20.

Respectfully submitted,

Goldie T. Bockstruck

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Response was served on all Parties of record on this 23<sup>rd</sup> day of November, 2020 by hand-delivery, fax, electronic or regular mail.

/s/Goldie T. Bockstruck

Goldie T. Bockstruck