

Exhibit No. 211

Exhibit No.: _____
Issue(s): NOL in Rate Base/Income Tax
Calculations in CWC/Gross Receipts Tax Refund/
Continued Separation of Spire East and West/
Discontinuation of the GSIP/ Adoption of
Conner's Management Expense Charges
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Case No.: GR-2021-0108

SURREBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

SPIRE MISSOURI, INC.

CASE NO. GR-2021-0108

July 14, 2021

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SPIRE MISSOURI INC.

CASE NO. GR-2021-0108

1 **Q. Are you the same John S. Riley who prepared and prefiled direct and rebuttal testimony**
2 **in this case on behalf of the Office of the Public Counsel?**

3 A. Yes.

4 **Q. What issues are you addressing in this surrebuttal?**

5 A. I respond to arguments presented by Spire and/or Staff concerning the net operating loss
6 (NOL) inclusion in rate base and income tax calculations within the cash working capital
7 (CWC)/tax offset. I also respond to Spire witness Scott Weitzel's testimony concerning the
8 continued separation of Spire East and West for ratemaking and the discontinuation of the
9 Gas Supply Incentive Plan (GSIP) tariff. I also point out that Spire is violating local
10 ordinances by incorrectly computing gross receipts tax (GRT) in every taxing jurisdiction.
11 Finally, I adopt OPC witness Ms. Amanda Conner's direct testimony concerning management
12 expenses.

1 **NOL EXCLUSION FROM RATE BASE**

2 **Q. Would you please summarize your argument concerning the exclusion of an NOL in**
3 **rate base before addressing any witness?**

4 A. Certainly. My argument, stated as simply as possible, is that unspent income tax expense
5 represents a source of interest free money to Spire that should be considered as an offset to its
6 NOL. A utility that receives in rates revenue that is earmarked to pay income taxes, but which
7 does not actually pay income taxes, is allowed to keep that earmarked revenue for its own use,
8 interest free. This is important because the Company, Staff and the Commission have, in the
9 past, expressed a belief that the presence of an NOL denies the Company the benefit of
10 deferred (interest free money) taxes and should be an offset to rate base. I am maintaining
11 that the unspent income tax expense, caused by the unique feature of including a normalized
12 income tax expense in rates yet not spending the balance, counter balances the argument that
13 the Company is denied the use of the deferred, interest free tax. The NOL should therefore
14 be excluded from rate base.

15 I believe this discussion concerning NOL and unspent income tax expense is a new issue for
16 the Commission. I don't believe Staff or any other party to a case that has appeared before
17 this Commission has raised this fact before. Moreover, none of the three witnesses that
18 responded to my testimony even addressed the focal point of the argument - the unspent
19 income tax expense built into the case.

1 **Q. Spire witness Mr. Felsenthal contends that you display “a misunderstanding of the**
2 **interplay between book-tax differences and NOL’s – in particular, the impact on**
3 **ratemaking.” How do you respond to that?**

4 A. I think Mr. Felsenthal spends more time on theory than actual ratemaking practice. Let’s
5 follow his explanation.

6 As I explained, **for every dollar reduction in current income taxes due to**
7 **claiming accelerated depreciation** on the income tax return, there is an equal
8 and offsetting increase in deferred income tax expense. When computing
9 income tax expense, if the “currently payable” income tax expense is negative
10 (because there is negative taxable income, typically due to accelerated tax
11 deductions), Spire must record a NOL ADIT asset if it is probable that the
12 NOL will be realized by being able to offset future taxable income. Spire
13 believes it is probable that the NOL will be realized. **The entry for this is a**
14 **debit to NOL ADIT asset and credit to current income tax**
15 **expense.”¹(Emphasis added)**

16 Mr. Felsenthal explains that the Company needs to make a debit to NOL ADIT asset and
17 credit (reduction) to current income tax expense. This may be a necessary point to make for
18 financial reporting, but from a **ratemaking** perspective, there is no deduction in current
19 income tax expense for an NOL. It is crucial to understand this point. Under the existing IRS
20 normalization rules, the income tax expense built into rates is not reduced (credited) by the
21 existence of an NOL ADIT asset. Thus there is a fundamental disconnect between what Mr.
22 Felsenthal is describing for financial reporting and what actually occurs in ratemaking. This
23 is the major point I wish to convey to the Commission. Income tax expense will be built into

¹ Felsenthal rebuttal, page 10, lines 3-10

1 the rate case at a normalized level, but will not be spent, thus generating interest free money
2 for the Company.

3 **Q. What is a normalized level of income tax when you talk about revenue requirement?**

4 A. In short, the Internal Revenue Code (“IRC”) requires the income tax expense built into a rate
5 case cost of service to be the income tax amount that a company would incur if it did not take
6 advantage of accelerated depreciation and other tax advantage timing differences². Currently,
7 Staff has a mid-point required current income tax estimate of \$40 million.³ As already stated,
8 this is calculated regardless of the Company’s NOL.

9 **Q. You have mentioned “unspent income tax expense” throughout your testimonies.
10 Neither the Company nor Staff witness seem to want to address that point. Could you
11 explain this phrase?**

12 A. Company and Staff want to focus on the fact that I stated an NOL has no cost, but that is only
13 part of the equation. There is a real cost in income tax expense. Staff includes in its
14 accounting schedules a calculated amount of current income tax as if the Company will be
15 writing checks to the Federal and State governments every quarter. As I said, it’s about \$40
16 million in this case. Staff has approximately \$27 million included in the test year. What is
17 important is that the revenue requirement developed in the last case and the case before that
18 and proposed by Staff in this current case all had income tax money expense included despite

² IRC §168(i)(9)(A)(i) the [taxpayer](#) must, in computing its [tax](#) expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such [property](#) that is the same as, and a depreciation period for such [property](#) that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

³ Staff Accounting Schedule 1, line 7

1 the fact that Spire either did not or will not pay taxes. The Company has paid no federal or
2 state income taxes over the last three years, nor is there any indication that it will be paid for
3 the next three. Instead, Spire either has a taxable loss, due to tax timing differences that built
4 up its NOL balance, or it had taxable income and applied the accumulated NOL to the balance
5 to zero out the income line.

6 **Q. Where does this unspent income tax that is included in rates go each year if it isn't**
7 **getting spent on income taxes?**

8 A. A good question. It is certainly not being spent on deferred taxes. Because of the recent tax
9 changes, deferred taxes have turned around and are reducing not increasing. Income tax
10 expense is not like deferred income tax. Current income tax expense does not have a reserve
11 account where the balance is stored and then amortized later. It disappears every year. It is
12 an expense item and is recalculated each rate case. Mr. Felsenthal may claim an NOL journal
13 entry reduces income tax expense, but I'm here to tell you that income tax expense is
14 recalculated based on the Net Operating Income requirement in every rate case. The \$40
15 million included in this case represents an annualized amount. That is \$40 million the first
16 year, \$40 million the second year, \$40 million the third year, and so on. \$120 million or more
17 never going to the taxing authority.

18 **Q. Just for the sake of argument, what happens if the Company does not have an NOL and**
19 **has taxable income?**

20 A. Of course, there would be no NOL adjustment in rate base and some or all of the \$40 million
21 will get paid to a taxing agency. But that doesn't change the fact that, for many years before,
22 the Company had unspent income tax to play with. Spire does not have to pay that unspent
23 income tax back and more than likely will not use anywhere close to the allotted amount to
24 pay taxes in the future. This is interest free money over and above any deferred tax amounts.

1 **Q. What is the relationship between the income tax expense and the deferred taxes when**
2 **Staff calculates total income taxes?**

3 A. There are two line items that make up Total Income Tax that are included in Staff's Accounting
4 Schedule 9 and Schedule 11 that affects revenue requirement calculation. The first is the
5 calculation of the **current income tax expense** which has been the subject of my testimony
6 and the second is the **deferred income taxes**. These two are combined as the **total income**
7 **tax** to adjust the "Net Income before Taxes" and produce the Net Income Available that is
8 present on line 4 of the schedule 1 Revenue Requirement. Schedule JSR-S-01 is the income
9 statement and revenue requirement page that are included in Staff's accounting schedules.
10 Thus, to answer the question, the relationship between the total income tax and the revenue
11 requirement is that current and deferred income tax are adjusted out of net income in the
12 income statement and the current income taxes are added back in to ultimately produce the
13 needed revenue requirement calculations of the rate case.

14 A major takeaway from the income statement is that the deferred income tax line (17) is a
15 negative number. Mr. Felsenthal's theory that the deferred income tax is increasing and
16 current income tax are decreasing is completely mistaken. Staff's schedules indicate that there
17 is \$40 million in unspent current income tax expense and a decreasing deferred income tax
18 balance. This rate base and revenue requirement will remain in place until the next rate case.
19 No one can claim that the Company is denied use of interest free money when it will be
20 receiving at least three years of unspent income tax expense that will be far greater than the
21 balance of the NOL.

1 **Q. If the Commission follows your recommendation, will this have any IRS tax**
2 **normalization ramifications?**

3 A. No. But I fully expected the Company to argue that this is a normalization violation. Mr.
4 Felsenthal would lead you to believe that inclusion in rate base is written in stone. To quote
5 his rebuttal testimony, “The NOL ADIT assets must be included in rate base.”⁴ This is false.

6 I have included as Schedule JSR-S-02, a private letter ruling (“PLR”) 201418024 that
7 supports my contention that current income tax should offset an NOL.⁵ The Commission has
8 stated in the past that it does not necessarily adhere to PLR decisions but the writing does
9 bring up some good conclusions.⁶ Another important point I would like to press about this
10 PLR, and PLRs in general, is that the IRS generally states in most PLRs concerning NOLs is
11 that an **NOL must be taken into account in calculating the reserve for deferred taxes**
12 (ADIT). A similar statement will be included in the quote below. These statements do **not**
13 say “**must be included,**” but rather, most say “**must take into account.**” That is a huge
14 difference.

15 The basic overview of the PLR is that the Commission excluded the NOL from the ADIT
16 reserve basing its decision on the premise that the Commission did account for the NOL and
17 did not need to adjust the ADIT any further. The quote below is on page 6 of the PLR. Key
18 wording is highlighted

⁴ Felsenthal rebuttal, page 11, line 20.

⁵ I have also included an article written by David Yankee, Partner with Deloitte Tax that discusses the implications these PLR findings possibly have on utility ratemaking. Deloitte prepared Spire Inc. 2019 consolidated income tax return. .

⁶ As the Commission has recently witnessed in WO-2020-0190, which was appealed, depending on how a case is presented to the IRS, a taxpayer can obtain any answer it wants from a PLR.

1 In the rate case at issue, Commission has excluded from the base to which
2 the Taxpayer's rate of return is applied the reserve for deferred taxes,
3 unmodified by the accounts which Taxpayer has designed to calculate the
4 effects of the NOLCs and MTCC. **There is little guidance on exactly how**
5 **an NOLC or MTCC must be taken into account in calculating the**
6 **reserve for deferred taxes under §§ 1.167(l)-1(h)(1)(iii) and 56(a)(1)(D).**
7 However, it is clear that **both must be taken into account** in calculating
8 the amount of the reserve for deferred taxes (ADIT) for the period used in
9 determining the taxpayer's expense in computing cost of service in such
10 ratemaking.

11
12 Both Commission and Taxpayer have intended, at all relevant times, to
13 comply with the normalization requirements. Commission has stated that,
14 in setting rates it includes a provision for deferred taxes based on the entire
15 difference between accelerated tax and regulatory depreciation, including
16 situations in which a utility has an NOLC or MTCC. **Such a provision**
17 **allows a utility to collect amounts from ratepayers equal to income**
18 **taxes that would have been due absent the NOLC** and MTCC. Thus,
19 Commission has already taken the NOLC and MTCC into account in setting
20 rates. **Because the NOLC** and MTCC **have been taken into account,**
21 Commission's decision to not reduce the amount of the reserve for deferred
22 taxes by these amounts does not result in the amount of that reserve for the
23 period being used in determining the taxpayer's expense in computing cost
24 of service exceeding the proper amount of the reserve and violate the
25 normalization requirements. **We therefore conclude that the reduction of**
26 **Taxpayer's rate base by the full amount of its ADIT account without**
27 **regard to the balances in its NOLC-related account and its MTCC-**
28 **related account was consistent with the requirements of § 168(i)(9) and**
29 **§ 1.167(l)-1 of the Income Tax regulations.**

30 This Commission sets rates based on this scenario because Staff calculates income tax
31 expense regardless of an NOL. Due to the NOL, income tax expense does not get paid to
32 a taxing authority. This is a normalized amount of expense in the annualized cost of service
33 that will be a greater amount than the proposed NOL that would be included in rate base.

1 **Q. Is there an alternative revenue requirement adjustment that the Commission could**
2 **consider?**

3 A. There is, but eliminating the NOL from rate base would be my preferred course of action.
4 Given the fact that the income tax expense paid by the ratepayers until the next rate case
5 will total more than the NOL itself, coupled with the fact that the deferred tax balance is
6 shrinking, the Commission could consider a regulatory liability or install a tracker to offset
7 the NOL.

8 Conventional wisdom concludes that Spire will not file another general rate case for three
9 years. The Commission could establish a regulatory liability for three years' worth of
10 income tax expense to recognize the interest free use of the normalized expense. Again,
11 however, I believe that the best course of action would be for the Commission to eliminate
12 the NOL from rate base.

13 **INCOME TAX OFFSET CALCULATIONS WITHIN CWC**

14 **Q. It seems that both the Spire and Staff's witness present the same argument. Could you**
15 **explain their opposition?**

16 A. Yes. Spire witness Timothy Lyons and Staff witness Antonija Nieto both cite Internal
17 Revenue Code requiring quarterly tax payments as the basis of the 38 day expense lag
18 component. Nieto states, "Staff accepted Spire's calculated federal and state income tax
19 expense lag of 38 days, which is consistent with quarterly tax payments"⁷. Lyons stated, "The
20 Company opposes OPC's proposed lead days for income tax payments because it does not
21 reflect the Internal Revenue Service's ('IRS') payment schedule for income taxes in

⁷ Nieto Rebuttal, page 3, lines 14-15

1 accordance with IRS Publication 542.”⁸ This would be a compelling argument **if** the
2 circumstances were a bit different.

3 **Q. What would need to be different?**

4 A. Spire would actually need to owe the government a tax payment. The IRS mandates that a
5 Corporation make quarterly payments **when it expects to owe the IRS an amount of tax at**
6 **year end**. For a company that hasn’t paid income tax in at least three years and has millions
7 in NOLC to offset any near future tax liability, no quarterly payment would be necessary.⁹
8 By making this argument, Staff and the Company are effectively claiming that quarterly
9 payments of zero dollars constitutes a 38 day expense lag. This is obviously wrong. Even if
10 Spire did pay a token quarterly payment, it would be due a refund the following year.

11 **Q. Has opposition rebuttal testimony changed your argument?**

12 A. No. There still needs to be a 365 day lag to reflect the inflow, yet nonpayment of, the
13 calculated income tax built into the Company revenue requirement. There is no other rational
14 view. The Company is afforded an income tax expense in rates but does not have to pay and
15 will not have to pay the money to a taxing authority through the period that these rates will be
16 in effect. This is a negative CWC requirement.

⁸ Tim Lyons rebuttal, page 4, lines 11-13

⁹ IRS Publication 542 states near the bottom of page 6 “a corporation must make installment payments if it expects its estimated tax for the year to be \$500 or more”

1 **Q. Is Spire disputing your contention that there are no quarterly tax payments?**

2 A. I don't believe so. Attached as JSR-S-03 is a confidential answer to OPC data request 1312.
3 Among other requests, 1312 asked for a record of quarterly federal and state tax payments.
4 Spire indicated that there were no quarterly income tax payments.¹⁰

5 **Q. Has Staff recognized and adjusted expenses within this cost of service for taxes that are**
6 **not being paid?**

7 A. Yes. Staff has eliminated both Spire East and West earning tax due to neither entity paying
8 any earning tax since 2013.¹¹

9 **Q. How did Staff make an adjustment?**

10 A. Staff eliminated the tax from the cost of service. A nonpayment amounts to zero expense.
11 The line item "City Tax Offset" on line 35 of the Cash Working Capital schedule displays a
12 "\$0," which I agree with completely. No payment means no CWC requirement.

13 **Q. How is the Earning Tax Offset similar or different from the Federal and State Tax Offset**
14 **on lines 33 and 34 of the schedule?**

15 A. The similarity is that federal and state income taxes probably haven't been paid since 2013
16 either. Staff is aware that the tax isn't being paid even though it erroneously included tax
17 expense as a legitimate liability in the CWC. It's treating income tax nonpayment differently
18 than earning tax nonpayment for no apparent reason. The difference between them is that the
19 Staff cannot just zero out the income tax lines. IRC requires the regular tax calculations to be

¹⁰ This lack of payment would be consistent with the NOLC balance, pointed out in the Company most recent 10-K, which eliminated past and future tax liabilities.

¹¹ Staff Report, page 109 lines 10 & 11

1 included in the cost of service. So even though the income taxes aren't paid, the amount is
2 still included. This is where Staff fumbles the ball. It knows the tax isn't paid. It knows that
3 the tax has to be included in the cost of service. Yet Staff errs when applying a CWC
4 calculation.

5 **Q. Has Staff ever recognized an NOL adjustment when considering CWC tax offsets?**

6 A. Yes, it has. In Ameren Electric case ER-2016-0179, Staff recognized in its revenue
7 requirement report that Ameren was in an NOL situation with its tax payments. Page 56 of
8 the revenue requirement report states:

9 Staff proposes to set the federal income tax expense lag to zero (0) in this case as
10 Ameren Missouri currently reports a net operating loss in regards to its federal income
11 tax filings, resulting in no liability for payment of income taxes. Further, Ameren
12 Missouri has stated that it does not expect to pay any income taxes until the year 2021.

13 Schedule JSR-R-04 is a copy of Staff's initial Accounting Schedule 08, from the 2016 case,
14 presenting the CWC results. It is encouraging that someone in Staff recognizes nonpayment
15 of taxes but they still miss the next step in the process by not deducting the customer payments.
16 They accounted for the nonpayment of taxes but **messed the concept that \$184 million was**
17 **collected from the ratepayer.** Instead of "\$0" adjustment to CWC it should have been a
18 negative \$164,490,124. It's hard to expect Staff to see the reasoning of adjusting the expense
19 lag to 365 days in the current case when they haven't recognized that Spire is in an NOL
20 situation just as Ameren was in the 2016 case.

1 **GROSS RECEIPT TAX “(GRT)” REFUND**

2 **Q. You have brought up in prior testimony two discrepancies in the way Spire**
3 **administers the calculation and collection of what is commonly known as gross**
4 **receipts tax (“GRT”). One being that the Company did not apply GRT to the ISRS**
5 **refund thereby denying the customers the refund of the GRT paid on the original \$15**
6 **million. How has Spire responded to this allegation?**

7 A. Company witness Charles J. Kuper stated that “the ISRS settlement was silent with respect
8 to the treatment of gross receipts tax”¹² but he ultimately argued in testimony that GRT is
9 included in the revenues and therefore included in the refund and no other adjustment is
10 needed.

11 **Q. Is this an accurate analogy of the revenue components?**

12 A. No. Company witness Kuper has misstated the facts. Mr. Kuper’s determinations are
13 wrong on several levels. To start, let’s first look at the \$15 million refund. The refund
14 amount was based off of an ISRS case. GRT is a flow through tax and is not a component
15 of the revenue requirement of an ISRS calculation but it is a component of the billing
16 mechanism. The initial \$15 million revenue requirement was devoid of GRT. Next, let’s
17 review again Spire’s billing practice. As Mr. Kuper illustrated in his testimony; the
18 Company includes the gas service and a grossed up tax amount in the gross receipts
19 amount.¹³ Using his example, the \$15 million revenue requirement charged to the
20 customer, now has tax of \$1,129,500 which is a rate of 7.53%. The original billing has now
21 become \$16,129,500. Third, as can be seen on the billing in my direct testimony, JSR-D-

¹² Kuper Rebuttal, page 8, line 7-8

¹³ Page 8 example \$100 service and a 7% tax on lines 13-16

1 04 page 1, that was submitted to the OPC by an actual customer, the refund was applied
2 below the tax calculation line. The original billing of the untaxed \$15 million had tax
3 applied (\$1,129,500 in this example) at the billing level by including the amount in the
4 customer charges section, which is above the tax calculation line.

5 Let's be clear here that Spire refunded the \$15 million below the line (no tax applied) but
6 originally collected the \$15 million **plus** the GRT. This means that Spire collected more
7 money than it returned, hence the problem.

8 Spire has **confiscated** the ratepayer's previously paid gross receipts tax associated with the
9 \$15 million refund. Charles Kuper's statement that "the ISRS settlement was silent with
10 respect to the treatment of gross receipts tax"¹⁴ is weak and the action was predatory. Tax
11 was charged and paid by the customer in the original billing process but Spire finds
12 "*silence*" a valid defense to withhold money due back to the customer.

13 **Q. The second irregularity you pointed out about the GRT was that the Company has**
14 **always calculated the tax incorrectly and over-charged the customer. Both you and**
15 **Spire witness Kuper have stated that the tax is grossed-up¹⁵. Why is this method**
16 **incorrect?**

17 **A.** The primary reason is that the local ordinances do not mandate this method of calculation.
18 Kuper states that "In nearly 80% of the taxing jurisdictions in which Spire operates, the
19 gross receipts tax is a component of *revenue* on which the gross receipts tax is computed."¹⁶

¹⁴ Kuper rebuttal, page 8 lines 7-8

¹⁵ Kuper rebuttal, page 8, line 15

¹⁶ Kuper rebuttal, page 8 lines 10-12

1 The witness does not provide any evidence that any jurisdiction requires this redundancy
2 of tax inclusion. Tax included in revenue to calculate tax is a circular argument.

3 **Q. Isn't income tax grossed-up when calculating revenue requirement?**

4 A. Yes it is, but these are differing circumstances which are executed to achieve different
5 results. Income tax is grossed up to allow for the Commission approved net income to
6 maintain the Commission specified level. Income is taxed by the IRS and the tax is
7 calculated. The income tax is included in the revenue requirement. This inclusion is itself
8 a taxable revenue and therefore must be taxed to **maintain the allowed net income**. GRT
9 is not assessed to maintain a particular dollar amount. GRT is a fee, at a specified rate, on
10 a given business transaction. It is not a fee added to a business transaction and then taxed.

11 **Q. How should GRT be calculated?**

12 A. GRT is computed like any other tax *other* than income taxes for ratemaking. The
13 calculation is the multiplication of the taxable subject (transaction) by the statutory rate.
14 To illustrate. Your paycheck is \$1000 and the social security tax rate is 6.2%. The social
15 security tax then is $\$1000 \times 6.2\% = \62 . You do not adjust the \$1000 by adding a grossed
16 up tax rate of 6.61% and then multiply by 6.2% to come up with \$66.10 of social security
17 tax. If that was the desired results of the calculation then Social Security would have just
18 specified a 6.61% tax rate on the transaction. The same scenario applies to property tax,
19 sales tax, hotel tax, etc. The list goes on. Simple multiplication of an amount and a rate.

1 **Q. Mr. Kuper has stated that “gross receipts tax is part of the definition of *revenue*.”¹⁷**

2 **How is this an incorrect statement?**

3 A. Mr. Kuper does not reference any definitions, ordinance citations, or any other authority
4 that would lend credence to his statement, so I cannot determine what definition he is
5 referring to. Nevertheless, the statement is meaningless to our calculations. It is important
6 to point out here that Kuper is diverting the terminology. The argument is not about
7 *revenues*. The argument concerns *gross receipts*. The definitions and terminology used in
8 the ordinances that I have reviewed discuss gross receipts and the application of a tax rate
9 on gross receipts. Mr. Kuper may very well be correct and could claim that gross receipt
10 tax is a part of the definition of *revenues*. **But revenues are not what the gross receipts**
11 **tax is applied to.**

12 **Q. Mr. Kuper states that Spire collects and remits gross receipts taxes based on the**
13 **taxing jurisdiction ordinances in effect for the taxing period.¹⁸ You added a St. Louis**
14 **County and a Missouri State statute definition of gross receipts in you rebuttal**
15 **testimony. Could you expand on the taxing ordinances that you reviewed?**

16 A. I’ve included an excel spreadsheet listing GRT municipalities with a summation of GRT
17 language as well as copies of local ordinance pages clearly explaining how a utility, or if
18 the ordinance was specific, the gas distribution service should calculate the GRT (Schedule
19 JSR-S-05).

20 I used St. Louis County ordinances 502.150, Gross Utility Tax – Definitions in rebuttal due
21 to it being one of the larger taxing authorities in the Spire service area and many of the

¹⁷ Kuper rebuttal, Page 8, line 17

¹⁸ Kuper, page 9 line 13-14

1 incorporated townships within the county use this wording. I will break down how the tax
2 is imposed.

3 502.150 defines a “Public Utility”

4 (1)“Public utility” means every individual, firm, corporation, partnership,
5 joint venture, business trust, receiver and any other person, group,
6 combination or association of any of them who shall be engaged in the
7 business of supplying or furnishing electricity, electrical power, electrical
8 service, gas, gas service, water, water service, telegraph service or exchange
9 telephone service in the unincorporated areas of St. Louis county.

10 And then secondly defines what “gross receipts” to mean.

11 (2)"Gross receipts" means **the aggregate amount of all sales and charges**
12 **of the commodities** or services described in (1) made by a public utility in
13 the unincorporated areas of St. Louis County during any period less
14 discounts, credits, refunds, sales taxes and uncollectible accounts actually
15 charged off during the period. (Emphasis added)

16 Next in **502.151 – Tax Imposed-Amount.**

17 -Every public utility shall pay to St. Louis County an annual license or
18 occupational tax in the amount equal to five (5) percent of the **gross receipts**
19 derived from such business.

20 Even if, for the sake of argument, we accept Mr. Kuper’s contention that the terms *revenues*
21 and *gross receipts* are interchangeable, there should be no confusion as to how the tax is
22 calculated.

23 First. The public utility shall pay (5) percent of the gross receipts. Second. Gross receipts
24 means the aggregate amount of all sales and charges of the **commodities** or services
25 described in (1). It should be clear that gross receipts tax is not a commodity and it is not
26 a service. There is no way to interpret that GRT should somehow be calculated and then
27 added to gross receipts and calculated again. To further solidify this assertion, the

1 definition I supplied from the Missouri statutes in my rebuttal, indicates “gross receipts” is
2 the total amount of the sale price of the sales at retail.¹⁹ The statute goes on to explain that
3 a “sale at retail” includes sales of electricity, electrical current, water and gas.²⁰ I did not
4 find anywhere in the definitions that the tax should be included in the sale price and then
5 taxed again. In fact, most ordinances state that sales tax should reduce the gross receipts
6 prior to applying the tax rate²¹. No one should expect that gross receipts tax are handled
7 differently than the exclusion of sales tax.

8 **Q. As you pointed out in previous testimony, GRT is a flow through item and is pulled**
9 **from the Staff calculations. How should the Commission handle these GRT**
10 **overcharges?**

11 A. Concerning the tax from the \$15 million refund, the Commission should require an
12 immediate adjustment. The rate making implications should be a reduction in the
13 Company’s allowable return. As I pointed out in rebuttal,²² Spire’s handling of the
14 judgment allowed them to refund the \$15 million and not refund the associated grossed up
15 tax. When it submitted the tax returns, however, it was afforded a reduction due to
16 recording the refund through the return. Spire has therefore realized this windfall since
17 August of last year.

18 The continued overcharging of GRT poses a separate problem. These incorrect
19 calculations have been going on for possibly decades but I’m not sure how far back the
20 error can be refunded. I did not find a time constraint in any of the ordinances that I

¹⁹ §144.010. Definitions, (4) “Gross receipts”

²⁰ §144.010. Definitions, (13) “Sale at retail”, (b)

²¹ Please refer back to the “Gross Receipts” definition on page 6 of my rebuttal testimony. I have noticed that many municipalities within St. Louis County adopted this definition in its ordinances.

²² Riley rebuttal, page 7 lines 15-25, page 8 lines 1-2.,

1 reviewed, however, for reference the State of Missouri extended the statute of limitations
2 for sales and use tax refund requests to 10 years.²³

3 **Q. Should the customers be left on their own to request refunds from taxing authorities?**

4 A. Absolutely not. First of all, the fee is assessed against the utility and only the utility can
5 request a refund. Secondly, now that this can of worms has been open, there is nothing
6 stopping Spire from receiving refunds from every taxing jurisdiction and nothing I see,
7 other than a Commission order, will require Spire to return the windfall back to the
8 customers. The Commission needs to remember that Spire contends it was permitted to
9 retain the tax on the court ordered \$15 million refund because the stipulation was “*silent*.”
10 It is the function of the Commission to protect the ratepayer. Absent an order, we cannot
11 really expect Spire to voluntarily refund money owed the customer.

12 **Q. How should the overcharge be corrected?**

13 A. The Commission should direct Spire to recalculate the gross receipts tax for each billing
14 since the effective date of the last tariffs. This was an overpayment to the taxing authorities
15 and should be spread out to lessen the harm to the municipality’s funding. That total
16 overcharge should be included as a regulatory liability and reduce rate base until the
17 overcharge is completely returned over the next three years. This was a clear error by the
18 utility and the customer should be compensated for the economic loss.

²³ Governor signed SB 87 in July 2019 extending claims from three to ten years.

CONTINUED SEPARATION OF EAST AND WEST

Q. Mr. Weitzel has responded to your opposition to combining Spire East and West. He has claimed that the Commission has used single tariffs for separate and distinct territories in the past. He cites Missouri American Water as an example. Would you say that is a fair analogy?

A. Not really. Our argument with separating East and West is that there are two very large entities with unique characteristics and quite capable of being maintained separately. Missouri American Water operates scores of small water companies so in an effort to create some efficiencies some combining makes sense. Spire has not claimed that a combination would create efficiencies.

Q. OPC opposes combining the East and West ISRS also. Mr. Weitzel claims that exceeding the cap on the West ISRS was one of the reasons for this case. Is that a legitimate reason to combine these territories?

A. No. The companies would have had to file a general rate case to satisfy the ISRS requirements. Combining ISRS just allows the Company to sidestep the rules without benefiting anyone.

Q. Could you please reiterate OPC opposition to combining Spire East and West?

A. These are two distinct and completely separate functional units. The Company would claim that there is one Spire Missouri, but the only benefit to making this claim is the ability of the Company to cross subsidize each territory with either territorial low gas prices or homogenized ISRS revenues. I'm not sure the customers get to enjoy these benefits.

1 **DISCONTINUATION OF THE GSIP**

2 **Q. Spire advocates expanding the GSIP to Spire West. What benefit would the customer**
3 **receive from this expansion?**

4 A. I do not believe Spire East customers are benefiting from the present arrangement, so I
5 doubt if adding a GSIP to the West would be an improvement. With the current federal
6 administration's attitude towards fossil fuels, the price of natural gas should remain
7 elevated. The current \$3 Tier pricing threshold should provide Spire ample opportunity to
8 purchase below the benchmark allowing them to collect a bonus.

9 **Q. The Company claims that the recent gas price spike proves that volatility still exists**
10 **in the natural gas market. Do you agree?**

11 A. Not really. The "spike" in price was a convergence of unlikely events. It lasted less than
12 two weeks. There hasn't been a "spike" since 2014²⁴. If Spire did its job with hedging,
13 then the volatility should have been minimized. Prices are rising which is a function of
14 supply and demand and government intervention, but prices are not spiking.

15 **Q. Could you summarize your opposition to the GSIP?**

16 A. I feel very strongly that the GSIP should be eliminated. Spire has set this tariff up to make
17 it nearly automatic for them to collect a \$3 million windfall without the customer seeing
18 any benefit.

²⁴ Please refer to the weekly natural gas Henry Hub prices listed the US Energy Information Administration website <https://www.eia.gov/dnav/ng/hist/rngwhhdW.htm> One short lived price jump due to the polar vortex in 2014 and recently for the polar vortex in February.

1 **ADOPTION OF AMANDA CONNER TESTIMONY**

2 **Q. Direct testimony concerning Management Expense Charges was filed by Amanda C.**
3 **Conner. Is it your intention to adopt this portion of her testimony as your own?**

4 **A.** Yes, I will be adopting her testimony and the related schedule ACC-D-3.

5 **Q. Does this conclude your surrebuttal testimony?**

6 **A.** Yes.

Spire Missouri Inc.
Case No. GR-2021-0108
Test Year Ending 09/30/2020
Updated Through 12/31/2020
Income Statement

Line Number	A Category Description	B Total Test Year	C Test Year Labor	D Test Year Non Labor	E Adjustments	F Total Company Adjusted	G Jurisdictional Adjustments	H MO Final Adj Jurisdictional	I MO Juris. Labor	J MO Juris. Non Labor
1	TOTAL OPERATING REVENUES	\$0	See Note (1)	See Note (1)	See Note (1)	\$0	\$0	\$0	See Note (1)	See Note (1)
2	TOTAL GAS SUPPLY EXPENSES	\$514,701,933	\$0	\$514,701,933	-\$514,924,286	-\$222,353	\$0	-\$222,353	\$0	-\$222,353
3	TOTAL NATURAL GAS STORAGE EXPENSE	\$3,542,927	\$2,043,498	\$1,499,429	-\$186,539	\$3,356,388	\$0	\$3,356,388	\$1,856,959	\$1,499,429
4	TOTAL TRANSMISSION EXPENSES	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
5	TOTAL PRODUCTION EXPENSES	\$1,369,985	\$222,451	\$1,147,534	-\$20,307	\$1,349,678	\$0	\$1,349,678	\$202,144	\$1,147,534
6	TOTAL DISTRIBUTION EXPENSES	\$92,568,382	\$67,382,196	\$25,186,186	-\$6,549,656	\$86,018,726	\$0	\$86,018,726	\$60,752,939	\$25,265,787
7	TOTAL CUSTOMER ACCOUNTS EXPENSE	\$46,393,113	\$11,617,829	\$34,775,284	-\$3,591,278	\$42,801,835	\$0	\$42,801,835	\$10,420,021	\$32,381,814
8	TOTAL CUSTOMER SERVICE & INFO. EXP.	\$5,219,819	\$458,290	\$4,761,529	\$1,232,449	\$6,452,268	\$0	\$6,452,268	\$412,260	\$6,040,008
9	TOTAL SALES EXPENSES	\$4,104,390	\$1,555,961	\$2,548,429	-\$1,066,517	\$3,037,873	\$0	\$3,037,873	\$1,399,393	\$1,638,480
10	TOTAL ADMIN. & GENERAL EXPENSES	\$110,639,646	\$30,864,272	\$79,775,374	-\$18,251,394	\$92,388,252	\$0	\$92,388,252	\$27,815,464	\$64,572,788
11	TOTAL DEPRECIATION EXPENSE	\$100,497,413	See Note (1)	See Note (1)	See Note (1)	\$100,497,413	\$20,230,089	\$120,727,502	See Note (1)	See Note (1)
12	TOTAL AMORTIZATION EXPENSE	\$17,520,463	\$0	\$17,520,463	-\$3,859,894	\$13,660,569	\$0	\$13,660,569	\$0	\$13,660,569
13	TOTAL OTHER OPERATING EXPENSES	\$104,896,081	\$0	\$104,896,081	-\$53,091,959	\$51,804,122	\$0	\$51,804,122	\$0	\$51,804,122
14	TOTAL OPERATING EXPENSE	\$1,001,454,152	\$114,144,497	\$786,812,242	-\$600,309,381	\$401,144,771	\$20,230,089	\$421,374,860	\$102,859,180	\$197,788,178
15	NET INCOME BEFORE TAXES	\$189,328,190	\$0	\$0	\$0	\$789,637,571	-\$630,721,278	\$158,916,293	\$0	\$0
16	TOTAL INCOME TAXES	\$122,851	See Note (1)	See Note (1)	See Note (1)	\$122,851	\$27,094,471	\$27,217,322	See Note (1)	See Note (1)
17	TOTAL DEFERRED INCOME TAXES	\$17,149,844	See Note (1)	See Note (1)	See Note (1)	\$17,149,844	-\$34,568,466	-\$17,418,622	See Note (1)	See Note (1)
18	NET OPERATING INCOME	\$172,055,495	\$0	\$0	\$0	\$772,364,876	-\$623,247,283	\$149,117,593	\$0	\$0

(1) Labor and Non Labor Detail not applicable to Revenue & Taxes

Spire Missouri Inc.
Case No. GR-2021-0108
Test Year Ending 09/30/2020
Updated Through 12/31/2020
Revenue Requirement

Line Number	A Description	B 6.78% Return	C 6.91% Return	D 7.05% Return
1	Net Orig Cost Rate Base	\$2,751,005,952	\$2,751,005,952	\$2,751,005,952
2	Rate of Return	6.78%	6.91%	7.05%
3	Net Operating Income Requirement	\$186,463,183	\$190,204,552	\$193,918,409
4	Net Income Available	\$149,117,593	\$149,117,593	\$149,117,593
5	Additional Net Income Required	\$37,345,590	\$41,086,959	\$44,800,816
6	Income Tax Requirement			
7	Required Current Income Tax	\$38,907,515	\$40,078,667	\$41,241,207
8	Current Income Tax Available	\$27,217,322	\$27,217,322	\$27,217,322
9	Additional Current Tax Required	\$11,690,193	\$12,861,345	\$14,023,885
10	Revenue Requirement	\$49,035,783	\$53,948,304	\$58,824,701
11	Allowance for Known and Measureable Changes/True-Up Estimate	\$11,100,000	\$11,100,000	\$11,100,000
12	Miscellaneous (e.g. MEEIA)	\$0	\$0	\$0
13	Gross Revenue Requirement	\$60,135,783	\$65,048,304	\$69,924,701

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201418024**
Release Date: 5/2/2014
Index Number: 167.22-01

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B06
PLR-133813-13
Date:
January 27, 2014

LEGEND:

- Taxpayer =
- Parent =
- State =
- Commission =
- Year A =
- Year B =
- Year C =
- Year D =
- Year E =
- X =
- Y =
- Date A =
- Date B =
- Date C =
- Date D =
- Date E =
- Case =
- Director =

Dear . :

This letter responds to the request, dated July 30, 2013, of Taxpayer for a ruling on whether the Commission's treatment of Taxpayer's Accumulated Deferred Income

Tax (ADIT) account balance in the context of a rate case is consistent with the requirements of the normalization provisions of the Internal Revenue Code.

The representations set out in your letter follow.

Taxpayer is a regulated public utility incorporated in State. It is wholly owned by Parent. Taxpayer distributes and sells natural gas to customers in State. Taxpayer is subject to the regulatory jurisdiction of Commission with respect to terms and conditions of service and particularly the rates it may charge for the provision of service. Taxpayer takes accelerated depreciation where available and, for the period beginning in Year A and ending in Year E, Taxpayer has, in the aggregate, produced more net operating losses (NOL) than taxable income. After application of the carryback and carryforward rules, Taxpayer represents that it has net operating loss carryforward (NOLC), produced in Year C and Year E, of \$X as of the end of Year E. The amount of claimed accelerated depreciation in Year C and Year E exceeded the amount of the NOLCs for those years. In Year D, Taxpayer produced regular taxable income as well as alternative minimum taxable income (AMTI); the regular taxable income was offset by the NOLCs from Year B and year C but could not offset the entire alternative minimum tax (AMT) liability due to the limitation in § 56(d). Taxpayer paid \$Y of AMT in Year D and had a minimum tax credit carryforward (MTCC) as of the end of year E of \$Y.

On its regulatory books of account, Taxpayer “normalizes” the differences between regulatory depreciation and tax depreciation. This means that, where accelerated depreciation reduces taxable income, the taxes that a taxpayer would have paid if regulatory depreciation (instead of accelerated tax depreciation) were claimed constitute “cost-free capital” to the taxpayer. A taxpayer that normalizes these differences, like Taxpayer, maintains a reserve account showing the amount of tax liability that is deferred as a result of the accelerated depreciation. This reserve is the accumulated deferred income tax (ADIT) account. Taxpayer maintains an ADIT account and also maintains an offsetting series of entries that reflect that portion of those ‘tax losses’ which, while due to accelerated depreciation, did not actually defer tax because of the existence of an NOLC. With respect to the \$Y AMT liability from Year D, Taxpayer carried that amount as an offset to the ADIT because the AMT increased the payment of tax.

Taxpayer filed a general rate case on Date A (Case). The test year used in the Case was the 12 month period ending on Date B. In establishing the income tax expense element of its cost of service, the tax benefits attributable to accelerated depreciation were normalized in accordance with Commission policy and were not flowed thru to ratepayers. In establishing the rate base on which Taxpayer was to be allowed to earn a return Commission generally offsets rate base by Taxpayer’s plant based ADIT balance, using a 13-month average of the month-end balances of the relevant accounts. Taxpayer argued that the ADIT balance should be reduced by the amounts that Taxpayer calculates did not actually defer tax due to the presence of

NOLCs or the AMT. Commission, in an order issued on Date C, did not use the amounts that Taxpayer calculates did not defer tax due to NOLCs or AMT but only the amount in the ADIT account. Taxpayer filed a petition for reconsideration based on the normalization implications of the order. On Date D, Commission rejected Taxpayer's request. Taxpayer again requested reconsideration and the Commission denied that request on Date E. Commission asserts that, in setting rates it includes a provision for deferred taxes based on the entire difference between accelerated tax and regulatory depreciation, including situations in which a utility has, such as in this case, an NOLC or AMT. Thus, Commission asserts that it has already recognized the effects of the NOCL in setting rates and there is no need to reduce the ADIT by the other amounts due to NOLCs or AMT.

Taxpayer requests that we rule as follows:

Under the circumstances described above, the reduction of Taxpayer's rate base by the full amount of its ADIT account without regard to the balances in its NOLC-related account and its MTCC-related account was consistent with the requirements of § 168(i)(9) and § 1.167(l)-1 of the Income Tax regulations.

Law and Analysis

Section 168(f)(2) of the Code provides that the depreciation deduction determined under section 168 shall not apply to any public utility property (within the meaning of section 168(i)(10)) if the taxpayer does not use a normalization method of accounting.

In order to use a normalization method of accounting, section 168(i)(9)(A)(i) of the Code requires the taxpayer, in computing its tax expense for establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, to use a method of depreciation with respect to public utility property that is the same as, and a depreciation period for such property that is not shorter than, the method and period used to compute its depreciation expense for such purposes. Under section 168(i)(9)(A)(ii), if the amount allowable as a deduction under section 168 differs from the amount that would be allowable as a deduction under section 167 using the method, period, first and last year convention, and salvage value used to compute regulated tax expense under section 168(i)(9)(A)(i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Section 168(i)(9)(B)(i) of the Code provides that one way the requirements of section 168(i)(9)(A) will not be satisfied is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with such requirements. Under section 168(i)(9)(B)(ii), such inconsistent procedures and adjustments include the use of an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under section 168(i)(9)(A)(ii), unless such estimate or projection is

also used, for ratemaking purposes, with respect to all three of these items and with respect to the rate base.

Former section 167(l) of the Code generally provided that public utilities were entitled to use accelerated methods for depreciation if they used a “normalization method of accounting.” A normalization method of accounting was defined in former section 167(l)(3)(G) in a manner consistent with that found in section 168(i)(9)(A). Section 1.167(1)-1(a)(1) of the Income Tax Regulations provides that the normalization requirements for public utility property pertain only to the deferral of federal income tax liability resulting from the use of an accelerated method of depreciation for computing the allowance for depreciation under section 167 and the use of straight-line depreciation for computing tax expense and depreciation expense for purposes of establishing cost of services and for reflecting operating results in regulated books of account. These regulations do not pertain to other book-tax timing differences with respect to state income taxes, F.I.C.A. taxes, construction costs, or any other taxes and items.

Section 1.167(l)-1(h)(1)(i) provides that the reserve established for public utility property should reflect the total amount of the deferral of federal income tax liability resulting from the taxpayer’s use of different depreciation methods for tax and ratemaking purposes.

Section 1.167(1)-1(h)(1)(iii) provides that the amount of federal income tax liability deferred as a result of the use of different depreciation methods for tax and ratemaking purposes is the excess (computed without regard to credits) of the amount the tax liability would have been had the depreciation method for ratemaking purposes been used over the amount of the actual tax liability. This amount shall be taken into account for the taxable year in which the different methods of depreciation are used. If, however, in respect of any taxable year the use of a method of depreciation other than a subsection (1) method for purposes of determining the taxpayer’s reasonable allowance under section 167(a) results in a net operating loss carryover to a year succeeding such taxable year which would not have arisen (or an increase in such carryover which would not have arisen) had the taxpayer determined his reasonable allowance under section 167(a) using a subsection (1) method, then the amount and time of the deferral of tax liability shall be taken into account in such appropriate time and manner as is satisfactory to the district director.

Section 1.167(1)-1(h)(2)(i) provides that the taxpayer must credit this amount of deferred taxes to a reserve for deferred taxes, a depreciation reserve, or other reserve account. This regulation further provides that, with respect to any account, the aggregate amount allocable to deferred tax under section 167(1) shall not be reduced except to reflect the amount for any taxable year by which Federal income taxes are greater by reason of the prior use of different methods of depreciation. That section also notes that the aggregate amount allocable to deferred taxes may be reduced to

reflect the amount for any taxable year by which federal income taxes are greater by reason of the prior use of different methods of depreciation under section 1.167(1)-1(h)(1)(i) or to reflect asset retirements or the expiration of the period for depreciation used for determining the allowance for depreciation under section 167(a).

Section 1.167(1)-(h)(6)(i) provides that, notwithstanding the provisions of subparagraph (1) of that paragraph, a taxpayer does not use a normalization method of regulated accounting if, for ratemaking purposes, the amount of the reserve for deferred taxes under section 167(l) which is excluded from the base to which the taxpayer's rate of return is applied, or which is treated as no-cost capital in those rate cases in which the rate of return is based upon the cost of capital, exceeds the amount of such reserve for deferred taxes for the period used in determining the taxpayer's expense in computing cost of service in such ratemaking.

Section 1.167(1)-(h)(6)(ii) provides that, for the purpose of determining the maximum amount of the reserve to be excluded from the rate base (or to be included as no-cost capital) under subdivision (i), above, if solely an historical period is used to determine depreciation for Federal income tax expense for ratemaking purposes, then the amount of the reserve account for that period is the amount of the reserve (determined under section 1.167(1)-1(h)(2)(i)) at the end of the historical period. If such determination is made by reference both to an historical portion and to a future portion of a period, the amount of the reserve account for the period is the amount of the reserve at the end of the historical portion of the period and a pro rata portion of the amount of any projected increase to be credited or decrease to be charged to the account during the future portion of the period.

Section 55 of the Code imposes an alternative minimum tax on certain taxpayers, including corporations. Adjustments in computing alternative minimum taxable income are provided in § 56. Section 56(a)(1) provides for the treatment of depreciation in computing alternative minimum taxable income. Section 56(a)(1)(D) provides that, with respect to public utility property the Secretary shall prescribe the requirements of a normalization method of accounting for that section.

Section 1.167(l)-1(h) requires that a utility must maintain a reserve reflecting the total amount of the deferral of federal income tax liability resulting from the taxpayer's use of different depreciation methods for tax and ratemaking purposes. Taxpayer has done so. Section 1.167(1)-(h)(6)(i) provides that a taxpayer does not use a normalization method of regulated accounting if, for ratemaking purposes, the amount of the reserve for deferred taxes which is excluded from the base to which the taxpayer's rate of return is applied, or which is treated as no-cost capital in those rate cases in which the rate of return is based upon the cost of capital, exceeds the amount of such reserve for deferred taxes for the period used in determining the taxpayer's expense in computing cost of service in such ratemaking. Section 56(a)(1)(D) provides

that, with respect to public utility property the Secretary shall prescribe the requirements of a normalization method of accounting for that section.

In the rate case at issue, Commission has excluded from the base to which the Taxpayer's rate of return is applied the reserve for deferred taxes, unmodified by the accounts which Taxpayer has designed to calculate the effects of the NOLCs and MTCC. There is little guidance on exactly how an NOLC or MTCC must be taken into account in calculating the reserve for deferred taxes under §§ 1.167(1)-1(h)(1)(iii) and 56(a)(1)(D). However, it is clear that both must be taken into account in calculating the amount of the reserve for deferred taxes (ADIT) for the period used in determining the taxpayer's expense in computing cost of service in such ratemaking.

Both Commission and Taxpayer have intended, at all relevant times, to comply with the normalization requirements. Commission has stated that, in setting rates it includes a provision for deferred taxes based on the entire difference between accelerated tax and regulatory depreciation, including situations in which a utility has an NOLC or MTCC. Such a provision allows a utility to collect amounts from ratepayers equal to income taxes that would have been due absent the NOLC and MTCC. Thus, Commission has already taken the NOLC and MTCC into account in setting rates. Because the NOLC and MTCC have been taken into account, Commission's decision to not reduce the amount of the reserve for deferred taxes by these amounts does not result in the amount of that reserve for the period being used in determining the taxpayer's expense in computing cost of service exceeding the proper amount of the reserve and violate the normalization requirements. We therefore conclude that the reduction of Taxpayer's rate base by the full amount of its ADIT account without regard to the balances in its NOLC-related account and its MTCC-related account was consistent with the requirements of § 168(i)(9) and § 1.167(l)-1 of the Income Tax regulations.

This ruling is based on the representations submitted by Taxpayer and is only valid if those representations are accurate.

Except as specifically determined above, no opinion is expressed or implied concerning the Federal income tax consequences of the matters described above. In particular, while we accept as true for purposes of this ruling Commission's assertions that it includes a provision for deferred taxes based on the entire difference between accelerated tax and regulatory depreciation, including situations in which a utility has an NOLC or AMT, we do not conclude that it has done so and those assertions are subject to verification on audit.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent. In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your

authorized representative. We are also sending a copy of this letter ruling to the Director.

Sincerely,

Peter C. Friedman
Senior Technician Reviewer, Branch 6
(Passthroughs & Special Industries)

cc:

Determining whether a utility's ratemaking treatment of an NOL carryforward complies with the normalization requirements



Situation presented

Many utilities have incurred net operating losses (NOLs) in recent years due to bonus depreciation, favorable section 481(a) adjustments, or general economic conditions. The proper treatment of the resulting NOL carryforward under the normalization requirements has been the subject of numerous ratemaking proceedings.

On May 2, 2014, the Internal Revenue Service (IRS) released Private Letter Ruling (PLR) 201418024 regarding the treatment of deferred tax assets (DTAs) for NOL carryforwards under the deferred tax normalization requirements of Treas. Reg. § 1.167(1)-1(h)(1)(iii). PLR 201418024 held that not including the NOL carryforward DTA in rate base, the methodology advocated by the public utility commission, complied with the normalization requirements in a specific circumstance.

On September 5, 2014, the IRS released PLR 201436037 and PLR 201436038, holding that failure to take into account the portion of an NOL carryforward that is attributable to accelerated depreciation in calculating the amount of a deferred tax liability (DTL) in the computation of rate base would be inconsistent with the normalization requirements and further, that any method for determining the portion of the NOL carryforward attributable to

accelerated depreciation other than the “with and without” method would be inconsistent with the normalization requirements. On September 19, 2014, the IRS released PLR 201438003 providing guidance consistent with the other two rulings issued in September. The methodologies held to comply with the normalization requirements in the more recent rulings were the methodologies advocated by the utilities.

Issue

The methodology that was held to comply with the normalization requirements in PLR 201418024 results in a lower revenue requirement than (1) the alternatives advocated by and approved for many utilities in their rate cases and (2) the approaches held to comply with the normalization requirements in the limited number of NOL-related PLRs released in prior years. This ruling may create regulatory risk in pending and future rate cases for other utilities with NOL carryforwards.

Utilities may need to demonstrate that the rationale underlying the methodology in PLR 201418024 is inapplicable in their factual situations if not universally arguing that it simply is an inappropriate manner of analyzing the recovery of regulatory tax expense, notwithstanding the holdings of the recent three rulings

that did not indicate that the factors or rationale of PLR 201418024 are relevant in applying the normalization requirements for NOL carryforwards.

Background

Treas. Reg. § 1.167(1)-1(h)(1)(iii) provides that if an NOL carryforward would not have arisen (or increased), but for the use of accelerated tax depreciation, then the amount and time of the deferral of tax liability shall be taken into account in such appropriate time and manner as is satisfactory to the district director. This rule recognizes that depreciation-related DTLs are interest-free loans from the government extended via the reduction of current tax liability due to the use of accelerated tax depreciation, and should not reduce the rate base (or, depending on the ratemaking mechanics used by the regulator, reduce the weighted-average cost of capital) unless the depreciation-related DTLs result in a reduction of cash taxes (i.e., serve as a source of funding). This tax rule is consistent with the economics of ratemaking, but is not as prescriptive as most of the deferred tax normalization requirements and does not provide examples of specific methodologies that comply with or violate the rules. Instead, the rule effectively directs utilities to obtain private letter rulings to determine whether their public utility commissions' ratemaking treatments of depreciation-related DTLs, while in an NOL carryforward position, comply with the normalization requirements.

Prior to the 2014 ruling, the IRS had issued one PLR regarding the application of the normalization rules to NOL carryforwards and two PLRs regarding the application of the normalization rules to NOL carrybacks. The three rulings addressed fact patterns involving carryovers to tax years with different statutory tax rates than the tax rates in effect in the years the NOLs were generated, a dynamic not present in rate cases in recent years.

In PLR 8818040, the IRS held that the regulations provide that the amount of deferred taxes subject to the normalization rules in a year an NOL is generated is computed using a "with-and-without" methodology (i.e., deferred taxes equal the excess of taxes due without accelerated depreciation over the taxes due with accelerated depreciation) and using the tax rate effective for the year the tax deferral is realized. The net effect of this accounting in the NOL years was to record no deferred taxes applicable to the amount of accelerated depreciation that produced no current tax savings (i.e., that caused or increased the NOL carryforward). The IRS further ruled that the DTL should not be recorded for ratemaking purposes until 1987, the year in which the utility benefitted from the NOL attributable to accelerated depreciation, and at

the tax rate effective for 1987 (i.e., 39.95 % rather than the 46% tax rate effective for 1985 and 1986, the years the NOLs were generated). The taxpayers did not request guidance on alternative methodologies and the ruling did not address the proration methodology that was analyzed in the 1989 and 1993 rulings summarized below.

In PLR 8903080, the utility incurred an NOL in a tax year with a tax rate of 39.95%, estimated for ratemaking purposes that it would incur an NOL in a tax year with a 34% rate and carried back the NOLs to tax years with tax rates of 46% for purposes of determining ratemaking deferred taxes. For each NOL year, the utility recorded a total tax provision (i.e., sum of the current and deferred tax provisions) at the tax rate in effect for the year in which each NOL was generated (i.e., 39.95% or 34%, respectively). The current tax benefits of the years the NOLs were generated were measured at the 46% tax rates applicable to the years to which the NOL carrybacks were deducted. In each year an NOL was generated, the deferred tax expense attributable to the book-tax timing differences was recorded at a tax rate in excess of the statutory tax rates in effect for the years the NOLs were generated (as well as in excess of the enacted tax rates of the future tax years when the timing differences were expected to reverse). The tax rate differential as a result of the NOL carrybacks to the higher rate tax year was allocated pro rata to all timing items for the years the NOLs were generated. The IRS held that recording a total tax provision at the current year's statutory tax rate for each year an NOL was generated is appropriate and is consistent with the normalization requirements of Treas. Reg. § 1.167(1)-1(h)(1)(iii). This ruling also indicated that the methodology complied with the normalization requirements applicable to excess deferred income taxes under section 203(e) of the Tax Reform Act of 1986. The methodology described above was the only approach analyzed in the ruling.

In PLR 9336010, the utility incurred an NOL in a tax year with a 34% tax rate and carried back the loss to a year with a 46% tax rate. For financial reporting purposes, the utility recorded deferred taxes for all timing differences originating in the year the NOL was generated at the 34% tax rate applicable to such year (and future years). Commission staff recommended that for ratemaking purposes deferred taxes be recorded at the 46% tax rate applicable in the carryback years and that an excess DTL reducing rate base be created. The commission adopted the staff's recommendation and ordered the utility to seek a private letter ruling to determine the amortization method and period related to the excess tax reserve resulting from the interaction of the reduction in corporate

income tax rates and the NOL carryback. The utility and commission staff asserted that none of the excess tax reserve resulting from the NOL carryback resulted from the use of accelerated depreciation. The IRS disagreed and concluded that the taxpayer had not shown which particular items caused the NOL and, thus, the appropriate methodology to allocate the excess tax reserve among timing differences originating in the year the NOL was generated is a pro rata allocation to all timing differences. The IRS held that a portion of the excess deferred tax reserve resulting from the NOL carryback is attributable to the timing difference for accelerated depreciation and that only this portion of the excess tax reserve is subject to the normalization requirements for excess deferred taxes. There was no detailed discussion on exactly how the pro rata allocation was to be effectuated by the taxpayer in this ruling.

The taxpayer in PLR 201418024 incurred taxable losses in excess of taxable income over a multiyear period and as of its test year had an NOL carryforward and a minimum tax credit (MTC) carryforward (attributable to the rule limiting utilization of alternative minimum tax NOL carryforwards to 90% of alternative minimum taxable income). The amount of accelerated depreciation claimed in the two loss years exceeded the amount of NOLs incurred in those years. The utility filed a general rate case with plant-based DTL balances reduced by the amounts of tax not deferred due to the NOL and MTC carryforwards. The commission issued an order with rates based on DTL balances unreduced by the effects of the carryforwards. In its analysis, the IRS stated that there is little guidance on exactly how an NOL or MTC carryforward must be taken into account in calculating DTLs pursuant to the normalization requirements, but it is clear that both must be taken into account for ratemaking purposes. The ruling indicates that the commission has stated that in setting rates it included a provision for deferred taxes based on the entire difference between accelerated tax and regulatory depreciation, including situations in which a utility had an NOL or MTC carryforward. This approach is described as allowing a utility to collect amounts from ratepayers equal to income taxes that would have been due absent the NOL and MTC carryforwards. The IRS accepted these commission assertions as true for purposes of the ruling, did not conclude that the commission had actually set rates in accordance with the assertions, and indicated that the assertions are subject to verification on audit. The IRS held that reduction of rate base by the full amount of the DTL account without regard to the balances of the NOL and MTC carryforward accounts was consistent with the normalization requirements because the commission

already took the carryforwards into account in setting rates.

The taxpayer and its consolidated group in PLR 201436037 incurred or expected to incur NOLs resulting in NOL carryforwards. The taxpayer computed the depreciation-related portion of its DTA on a with-or-without methodology whereby the NOL carryforward was considered attributable to accelerated depreciation to the extent of the lesser of the amount of accelerated depreciation or the NOL carryforward. Other approaches were proposed by other rate case participants, including a proposal to reduce regulatory tax expense by the amount of the DTA determined to be attributable to accelerated depreciation. The IRS stated that regulations make clear that the effects of an NOL carryforward attributable to accelerated depreciation must be taken into account in determining the rate base reduction for DTLs for normalization purposes, but that the regulations provide no specific mandate on methods. The IRS stated that the with-or-without methodology provides certainty regarding correctly taking into account the depreciation-related portion of the DTA for an NOL carryforward and the prevention of the possibility of flow-through of the benefit of accelerated depreciation to ratepayers by maximizing the amount of the NOL carryforward attributable to accelerated depreciation. The IRS ruled that, under the circumstances presented, reduction of rate base by the full amount of the DTL account balances offset by a portion of the DTA for the NOL carryforward that is less than the amount attributable to accelerated depreciation computed on a with-or-without basis would be inconsistent with the normalization requirements. Further, any reduction to tax expense included in cost of service to reflect the tax benefit of an NOL carryforward would be inconsistent with the normalization requirements because such reduction would, in effect, flow through the tax benefits of accelerated depreciation deductions through to ratepayers even though the taxpayer had yet to realize the benefits.

Similarly, the taxpayer and its consolidated group in PLR 201436038 incurred or expected to incur NOLs resulting in NOL carryforwards. The taxpayer computed the depreciation-related portion of its DTA on a with-or-without methodology whereby the NOL carryforward was considered attributable to accelerated depreciation to the extent of the lesser of the amount of accelerated depreciation or the NOL carryforward. Other approaches were proposed by other rate case participants. The IRS stated that regulations make clear that the effects of an NOL carryforward attributable to accelerated depreciation must be taken into account in determining the rate base reduction for DTLs for normalization purposes, but that

the regulations provide no specific mandate on methods. The IRS stated that the with-or-without methodology provides certainty regarding correctly taking into account the depreciation-related portion of the DTA for an NOL carryforward and the prevention of the possibility of flow-through of the benefit of accelerated depreciation ratepayers by maximizing the amount of the NOL carryforward attributable to accelerated depreciation. The IRS ruled that, under the circumstances presented, reduction of rate base by the full amount of the DTL account balances offset by a portion of the DTA for the NOL carryforward that is less than the amount attributable to accelerated depreciation computed on a with-or-without basis would be inconsistent with the normalization requirements.

The utility subsidiary in PLR 201438003 forecasted that it would incur an NOL resulting in an NOL carryforward in its test period. The utility reduced its DTL used to reduce rate base by the amount of the DTA for the NOL carryforward. The utility's commission issued an order holding that it was inappropriate to include the DTA for the NOL carryforward in rate base, but stating that it intended to comply with the normalization requirements and that it would allow the utility to seek an adjustment to rates if it obtains a private letter ruling affirming the utility's position that failure to reduce its rate base offset for depreciation-related DTL by the DTA attributable to the NOL carryforward would be inconsistent with the normalization requirements. The IRS stated that regulations make clear that the effects of an NOL carryforward attributable to accelerated depreciation must be taken into account in determining the rate base reduction for DTLs for normalization purposes, but that the regulations provide no specific mandate on methods. The IRS stated that the with-or-without methodology employed by the utility provides certainty regarding correctly taking into account the depreciation-related portion of the DTA for an NOL carryforward and the prevention of the possibility of flow-through of the benefit of accelerated depreciation to ratepayers by maximizing the amount of the NOL carryforward attributable to accelerated depreciation. The IRS ruled that, under the circumstances presented, reduction of rate base by the full amount of the DTL account balance unreduced by the balance of the DTA for the NOL carryforward would be inconsistent with the normalization requirements. The IRS also ruled that use of a balance for the portion of the DTA for the NOL carryforward attributable to accelerated depreciation that is less than the amount computed on a with-and-without basis would be inconsistent with the normalization requirements. The IRS also held that assignment of a zero rate of return to the balance of the DTA for the NOL carryforward attributable to accelerated depreciation

would be inconsistent with the normalization requirements.

Implications

The economic and regulatory debate regarding the proper treatment of DTAs for NOL carryforwards in ratemaking involves acknowledgment that recorded DTLs resulting from enacted tax incentives, such as accelerated depreciation intended to stimulate the economy, essentially represent interest-free loans from the government to taxpayers, regardless of the industry of the taxpayer or how the taxpayer sets its prices. The interest-free loan only occurs if or to the extent the corresponding deductions result in reduction (deferral) of tax payments to the government. This does not occur when the deductions for accelerated depreciation result in or contribute to an NOL carryforward.

The normalization debate regarding the proper treatment of DTAs for NOL carryforwards in ratemaking may involve:

- Whether the full amount of the depreciation-related DTL may reduce rate base despite the existence of an NOL carryforward (i.e., whether the DTA for the portion of an NOL carryforward attributable to accelerated depreciation must be included in rate base);
- How to compute the depreciation-related portion of a DTA for an NOL carryforward; and
- Consideration of alternative approaches to reduce the revenue requirement when an NOL carryforward exists and some or all of the DTA for the NOL carryforward is included in rate base.

The IRS has exercised the discretion granted to it by the normalization regulations to assess whether the specific methodologies arising in rate cases and presented in five private letter ruling requests involving NOL carryforwards comply with the normalization requirements. The alternatives and arguments of the parties to the rate proceedings have varied in the private letter rulings issued in this area.

In PLR 201418024, the only private letter ruling on these matters resulting from a ruling request that did not seek guidance regarding use of the with-or-without methodology, the IRS instead considered a perspective presented that focused on whether the utility had recovered through rates charged amounts that compensated it for deferred tax expense attributable to depreciation deductions that had not yet resulted in savings of cash taxes in the current year or a carryback year. Whether this factor is relevant is questionable and how to determine whether this condition exists is challenging. Without explaining how to determine whether this ratemaking condition exists, the IRS held in PLR 201418024 that there is a ratemaking approach that

complies with the deferred tax normalization requirements yet permits not reducing depreciation-related DTLs due to the existence of an NOL or MTC carryforward.

In light of the analysis and holding of PLR 201418024, utilities may need to evaluate whether they have recovered depreciation-related deferred tax expense from ratepayers when NOL carryforwards have been incurred or are expected to recover depreciation-related deferred taxes from ratepayers when NOL carryforwards are forecasted. Utilities without tax adjustment clauses (i.e., “trackers”) or without true-up mechanisms with regard to allowed earnings may have difficulty establishing whether or not they have actually recovered the amount of income taxes inherent in their revenue requirement or the portions of their actual revenues attributable to regulatory income tax expense. Any such analysis should also address whether it is possible or appropriate to evaluate whether a single component of regulatory tax expense (i.e., depreciation-related deferred tax expense) has been recovered through rates without regard to the other components of the tax provision (e.g., other components of the deferred tax provision, the current tax provision, investment tax credit (ITC) amortization). In analyzing the application of the facts and assumptions of PLR 201418024 to their rate situations, utilities will likely need to assess whether the income tax components of their revenue requirements in their most recent rate cases (or their actual revenues during the years NOLs were generated) are determined with reference to allowed equity returns, actual equity returns, book-tax differences, or other factors. It would also be worthy to note whether the depreciation-related portion of deferred tax expense exceeds the total or net tax provision (in light of the current tax benefit likely recorded in an NOL year).

The factor analyzed in PLR 201418024 was not mentioned in the other four NOL carryforward normalization letter rulings. In the other four private letter rulings, the IRS

consistently held that the maximum depreciation-related DTL that is allowed to reduce rate base must consider the existence of an NOL carryforward and that the depreciation-related portion of the DTA for the NOL carryforward included in rate base must be computed with reference to a with-or-without approach (sometimes referred to as a with-and-without approach in the rulings).

The IRS has also ruled that two alternative approaches proposed by parties to rate proceedings seeking to reduce revenue requirements when an NOL carryforward exists would violate the normalization requirements. These alternatives were proposed to mitigate or eliminate the effect of inclusion of a DTA related to an NOL carryforward in rate base reduction of recoverable tax expense by an amount equal to the deferred tax benefit associated with the DTA, and treatment of the DTA as zero-cost capital. Utilities should continue to assert economic, ratemaking, and tax normalization defenses against similar assertions that aim to circumvent the effects of the normalization requirements.

Lastly, it should be noted that there are a number of other pending ruling requests regarding the application of the normalization requirements to NOL carryforwards that will afford the IRS additional opportunities to provide guidance on this important issue.

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Case No. GR-2021-0108

Schedule JSR-S-3 to John
S. Riley's Surrebuttal
Testimony

has been deemed

“Confidential”

in its entirety

Ameren Missouri
Case No. ER-2016-0179
Test Year 12 Months Ending March 31, 2016
True-Up through December 31, 2016
Cash Working Capital

Line Number	A Description	B Test Year Adj. Expenses	C Revenue Lag	D Expense Lag	E Net Lag C - D	F Factor (Col E / 365)	G CWC Req B x F
1	OPERATION AND MAINT. EXPENSE						
2	Payroll & Withholdings	\$307,786,659	40.51	12.12	28.39	0.077781	\$23,939,954
3	Pensions & Benefits	\$70,339,779	40.51	26.58	13.93	0.038164	\$2,684,447
4	Fuel - Nuclear	\$89,488,649	40.51	15.21	25.30	0.069315	\$6,202,906
5	Fuel - Coal	\$763,015,506	40.51	13.70	26.81	0.073452	\$56,045,015
6	Fuel - Natural Gas	\$15,106,820	40.51	41.58	-1.07	-0.002932	-\$44,293
7	Fuel - Oil	\$4,355,997	40.51	16.24	24.27	0.066493	\$289,643
8	Purchased Power	\$18,338,845	40.51	25.83	14.68	0.040219	\$737,570
9	Incentive Compensation	\$17,949,481	40.51	253.77	-213.26	-0.584274	-\$10,487,415
10	Uncollectibles Expense	\$10,652,432	40.51	40.51	0.00	0.000000	\$0
11	Cash Vouchers	\$725,995,071	40.51	36.41	4.10	0.011233	\$8,155,103
12	TOTAL OPERATION AND MAINT. EXPENSE	\$2,023,029,239					\$87,522,930
13	TAXES						
14	FICA - Employer Portion	\$18,808,623	40.51	12.73	27.78	0.076110	\$1,431,524
15	St. Louis Payroll Expense Tax	\$348,153	40.51	76.38	-35.87	-0.098274	-\$34,214
16	Federal Unemployment Tax	\$153,814	40.51	76.38	-35.87	-0.098274	-\$15,116
17	State Unemployment Tax	\$376	40.51	76.38	-35.87	-0.098274	-\$37
18	Corporate Franchise Tax	\$95,561	40.51	-77.50	118.01	0.323315	\$30,896
19	Property Tax	\$148,182,624	40.51	182.50	-141.99	-0.389014	-\$57,645,115
20	TOTAL TAXES	\$167,589,151					-\$56,232,062
21	OTHER EXPENSES						
22	Decommissioning Fees	\$6,758,605	40.51	70.63	-30.12	-0.082521	-\$557,727
23	Use Tax	\$1,774,194	40.51	76.38	-35.87	-0.098274	-\$174,357
24	Sales Tax	\$71,184,173	26.69	38.79	-12.10	-0.033151	-\$2,359,827
25	Gross Receipts Tax	\$149,746,372	26.69	27.54	-0.85	-0.002329	-\$348,759
26	TOTAL OTHER EXPENSES	\$229,463,344					-\$3,440,670
27	CWC REQ'D BEFORE RATE BASE OFFSETS						\$27,850,198
28	TAX OFFSET FROM RATE BASE						
29	Federal Tax Offset	\$159,506,891	40.51	40.51	0.00	0.000000	\$0
30	State Tax Offset	\$25,518,519	40.51	40.51	0.00	0.000000	\$0
31	City Tax Offset	-\$169,466	40.51	40.51	0.00	0.000000	\$0
32	Interest Expense Offset	\$186,912,322	40.51	90.76	-50.25	-0.137671	-\$25,732,406
33	TOTAL OFFSET FROM RATE BASE	\$371,768,266					-\$25,732,406
34	TOTAL CASH WORKING CAPITAL REQUIRED						\$2,117,792

FORM RD-UTIL
2021

City of Kansas City, Missouri - Revenue Division
UTILITIES LICENSE TAX
QUARTERLY LICENSE



Phone: (816) 513-1120
E-file: kcmo.gov/quicktax

Legal Name: _____ Mailing Address: _____
 Business Name: _____
 FEIN or SSN: _____ Business Address: _____
 Account ID: _____

Period From: _____ Period To: _____

Type of Business (Required check one only): Electric Gas Steam Telephone Wireless DOLLARS CENTS

1. Residential sales - Number of taxable customers _____ Non-taxable gross receipts _____

a. Residential taxable gross receipts	1a	\$	_____	_____
b. Residential rate (Use 6.0% for Electric, Gas, & all Telephone) (Use 2.4% for Steam & Heating Companies)	1b		_____ %	
c. Residential taxes due (Line 1a x Line 1b)	1c	\$	_____	_____

2. Commercial sales - Number of taxable customers _____ Non-taxable gross receipts _____

a. Commercial taxable gross receipts	2a	\$	_____	_____
b. Commercial rate (Use 6.0% for Electric, Gas, & all Telephone) (Use 2.4% for Steam & Heating Companies)	2b		_____ %	
c. Commercial taxes due (Line 2a x Line 2b)	2c	\$	_____	_____

3. Industrial sales - Number of taxable customers _____ Non-taxable gross receipts _____

a. Industrial taxable gross receipts	3a	\$	_____	_____
b. Industrial rate (Use 6.0% for Electric, Gas, & all Telephone) (Use 2.4% for Steam & Heating Companies)	3b		_____ %	
c. Industrial taxes due (Line 3a x Line 3b)	3c	\$	_____	_____

4. Total Taxes (Lines 1c plus 2c plus 3c) \$ _____

5. Less credits for previous overpayments _____

6. Tax Due (Line 4 minus Line 5) \$ _____

7. Penalty: "Failure To File Timely Return" (5% of the outstanding tax due per month until filed - maximum penalty of 25%) \$ _____

8. Penalty: "Failure To Pay Amount Due" (5% of the outstanding tax due) \$ _____

9. Interest (3% per annum until tax is paid) \$ _____

10. Total Amount Due (sum of Lines 6, 7, 8 and 9) \$ _____

11. Amount Paid \$ _____

12. Check if amended and brief reason for amendment _____

13. If no longer conducting business in Kansas City, MO enter date closed
DO NOT COMPLETE IF BUSINESS IS STILL OPERATING

____ / ____ / ____
MM DD YY

DO NOT SUBMIT THIS RETURN

For changes to name, address or FEIN/SSN, please contact us at revenue@kcmo.org or (816) 513-1120.
 I authorize the Commissioner of Revenue or delegate to discuss my return and attachments with my preparer.
 Under penalties of perjury, I declare this return to be true, correct, and complete accounting for the taxable year stated.

Yes No

Print Name of Taxpayer _____ Signature _____ Title _____ Date _____ Phone _____

Preparer Name (if other than taxpayer) _____ Signature _____ Title _____ Date _____ Phone _____

FORM RD-UTIL
2021

City of Kansas City, Missouri - Revenue Division
UTILITY LICENSE RETURNS
INSTRUCTIONS



Phone: (816) 513-1120
E-file: kcmo.gov/quicktax

GENERAL INSTRUCTIONS FOR COMPLETING FORM RD-UTIL

1. Who must file:

- a) **Electric and Power Business** - Any entity owning, operating, controlling, leasing or manufacturing, selling, distributing or transmitting electricity for light, heat or power usage. (For more details see KCMO Ordinance Chapter 40, Section 40-344 and 40-345).
- b) **Gas Business** - Any entity owning, operating, controlling a gas plant or system for the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power usage. (For more details see KCMO Ordinance Chapter 40, Section 40-346 and 40-347).
- c) **Heating Companies (Steam) Business** - Any entity owning, operating, managing or controlling any plant or property for manufacturing, distributing and selling, for distribution or distributing hot or cold water, steam or currents of hot or cold air for motive power, heating, cooking or for any public use or service. (For more details see KCMO Ordinance Chapter 40, Section 40-348, 40-349, and 40-350).
- d) **Telephone Business (Landline Services)** - Any entity owning, operating, controlling, or managing any telephone landline or part of telephone landline used in the conduct of the business of affording telephonic communication for hire. (For more details see KCMO Ordinance Chapter 40, Section 40-360 and 40-361).
- e) **Telephone Business (Wireless Services)** - Any entity owning, operating, controlling, or managing any wireless telephone line or part of wireless telephone line used in the conduct of the business of affording telephonic communication for hire. (For more details see KCMO Ordinance Chapter 40, Section 40-360, 40-361, and 40-361.5).

2. Return Requirement:

- a) File Form RD-UTIL to report the regular utility tax for **Electric, Gas, Heating (Steam), and Telephone (Landline and Wireless) businesses.**
- b) File Form RD-EMER to report the emergency tax for **Electric, Gas, Heating (Steam), and Telephone (Landline and Wireless) businesses.**
- c) File Form RD-CABL to report the franchise fee for **Cable Television businesses.**

DO NOT SUBMIT THIS RETURN

FORM RD-UTIL
2021

City of Kansas City, Missouri - Revenue Division
UTILITY LICENSE RETURNS
INSTRUCTIONS



Phone: (816) 513-1120
E-file: kcmo.gov/quicktax

INSTRUCTIONS FOR COMPLETING FORM RD-UTIL

A. Please provide the following information on Form RD-UTIL.

- Indicate type of utility tax business by checking the appropriate box (e.g. electric, gas, steam, landline telephone, or wireless telephone). Use this form for only one type of utility tax business. **Please do not check more than one box.**
- Provide business name and location.
- Provide mailing and business address. The address should include the location where returns are prepared and payment(s) will be processed.
- Provide taxable period. All reporting periods for Form RD-UTIL must be prepared on a quarterly basis.
- Provide Federal Employer Identification Number (FEIN).

B. Residential Sales- Regular Utility Tax Section (1).

- **Number of taxable customers:** Enter number of residential customers used to calculate the total taxable gross receipts on the return.
- **Non-taxable gross receipts:** Enter any non-taxable residential gross receipts that were deducted from the total taxable gross receipts generated in the reporting period. All non-taxable gross receipts deductions (or adjustments) must be made in accordance with the guidelines outlined in the following Kansas City Code of Ordinances:
 - a) For Electric businesses, see Chapter 40, Section 40-344(a).
 - b) For Gas businesses, see Chapter 40, Section 40-346(a).
 - c) For Heating companies (Steam), see Chapter 40, Section 40-348(a).
 - d) For Telephone businesses, see Chapter 40, Section 40-360(a).
 - e) For Wireless Telephone businesses, see Chapter 40, Section 40-360(a), and Section 40-361.5(a).

Line 1a Enter the total residential taxable gross receipts for the quarter.

Line 1b Residential rate: Multiply Line 1a times residential rate.

(Use 6.0% for quarterly utility rate for Electric, Gas, and all Telephone businesses).
(Use 2.4% for quarterly utility rate for Steam & Heating companies).

Line 1c Enter residential tax due from calculation made (Line 1a x 1b).

DO NOT SUBMIT THIS RETURN

FORM RD-UTIL
2021

City of Kansas City, Missouri - Revenue Division
UTILITY LICENSE RETURNS
INSTRUCTIONS



Phone: (816) 513-1120
E-file: kcmo.gov/quicktax

DO NOT SUBMIT THIS RETURN

Commercial Sales -Regular Utility Tax Section (2).

- **Number of taxable customers:** Enter number of commercial customers used to calculate the total taxable gross receipts on the return.
- **Non-taxable gross receipts:** Enter any non-taxable commercial gross receipts that were deducted from the total taxable gross receipts generated in the reporting period. All non-taxable gross receipts deductions (or adjustments) must be made in accordance with the guidelines outlined in the Kansas City Code of Ordinances. See appropriate ordinances outlined in the Residential Gas - Regular Utility Tax Section (item #B above).

For Electric, Gas, Steam and Heating businesses, you must prepare the Commercial Sales section (Lines 2a through 2c) of Form RD-UTIL on a **quarterly** basis as follows:

Line 2a Enter the total taxable gross receipts from commercial sales for the quarter.

Note: If you have Commercial Sales gross receipts on Form RD-UTIL, you are required to complete Form RD-EMER to report the required **monthly** "Utility Emergency Tax" due. Please ensure that the commercial sales gross receipts amount entered on Line 2a above equals the "sum total" of all commercial taxable gross receipts reported on the three (3) monthly emergency returns.

Line 2b Commercial rate: Multiply Line 2a times commercial rate.

(Use 6.0% for quarterly utility rate for Electric and Gas businesses).
(Use 2.4% for quarterly utility rate for Steam and Heating companies).

Line 2c Enter commercial taxes due from calculation made (Line 2a x 2b).

For Regular Telephone (landline), and Wireless Telephone businesses, you must prepare the Commercial Sales section (Lines 2a through 2c) of Form RD-UTIL on a **quarterly** basis as follows:

Line 2a Enter the total commercial taxable gross receipts for the quarter.

Note: If you have Commercial Sales gross receipts on Form RD-UTIL, you are required to complete Form RD-EMER to report the required **quarterly** "Utility Emergency Tax" due. Please ensure that the commercial sales gross receipts amount entered on Line 2a above is used to calculate the **quarterly** emergency tax on Form RD-EMER.

Line 2b Commercial sales rate: Multiply Line 2a times commercial rate.

(Use 6.0% for quarterly utility rate for all Telephone businesses).

Line 2c Enter commercial taxes due from calculation made (Line 2a x 2b).

FORM RD-UTIL
2021

City of Kansas City, Missouri - Revenue Division
UTILITY LICENSE RETURNS
INSTRUCTIONS



Phone: (816) 513-1120
E-file: kcmo.gov/quicktax

Industrial Sales -Regular Utility Tax Section (3).

Number of taxable customers: Enter number of industrial customers used to calculate the total taxable gross receipts on the return.

Non-taxable gross receipts: Enter any non-taxable industrial gross receipts that were deducted from the total taxable gross receipts generated in the reporting period. All non-taxable gross receipts deductions (or adjustments) must be made in accordance with the guidelines outlined in the Kansas City Code of Ordinances. See appropriate ordinances outlined in the Residential Sales - Regular Utility Tax Section (item #B above).

For Electric, Gas, Steam and Heating businesses, you must prepare the Industrial Sales section (Lines 3a through 3c) of Form RD-UTIL on a **quarterly** basis as follows:

Line 3a Enter the total industrial taxable gross receipts for the quarter.

Note: If you have Industrial Sales gross receipts on Form RD-UTIL, you are required to complete Form RD-EMER to report the required **monthly** "Utility Emergency Tax" due. Please ensure that the industrial sales gross receipts amount entered on Line 3a above equals the "sum total" of all industrial taxable gross receipts reported on the three (3) monthly emergency returns.

Line 3b Industrial rate: Multiply Line 3a times industrial rate.
(Use 6.0% for quarterly utility rate for Electric and Gas businesses).
(Use 2.4% for quarterly utility rate for Steam and Heating companies).

Line 3c Enter industrial taxes due from calculation made (Line 3a x 3b).

For Regular Telephone (landline), and Wireless Telephone businesses, you must prepare the Industrial Sales section (Lines 3a through 3c) of Form RD-UTIL on a **quarterly** basis as follows:

Line 3a Enter the total industrial taxable gross receipts for the quarter.

Note: If you have Industrial Sales gross receipts on Form RD-UTIL, you are required to complete Form RD-EMER to report the required **quarterly** "Utility Emergency Tax" due. Please ensure that the industrial sales gross receipts amount entered on Line 2a above is used to calculate the **quarterly** emergency tax on Form RD-EMER.

Line 3b Industrial sales rate: Multiply Line 3a times industrial rate.
(Use 6.0% for quarterly utility rate for all Telephone businesses).

Line 3c Enter industrial taxes due from calculation made (Line 3a x 3b).

DO NOT SUBMIT THIS RETURN

FORM RD-UTIL
2021

City of Kansas City, Missouri - Revenue Division
UTILITY LICENSE RETURNS
INSTRUCTIONS



Phone: (816) 513-1120
E-file: kcmo.gov/quicktax

DO NOT SUBMIT THIS RETURN

All businesses:

Line 4 Enter tax due (Add: Lines 1c, plus 2c, plus 3c).
Line 5 Enter any **approved** credits from overpayments (e.g., amended returns, duplicate payments, etc.).
Line 6 Enter total regular utility tax due (Line 4 minus Line 5).
Lines 7, 8 & 9...Penalty and Interest Provisions.

Return Due Date

- a) For Electric, Gas, Steam & Heating, and Water businesses, based upon the business during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30, and September 30, Form RD-UTIL is due on or before January 31, April 30, July 31, and October 31.
(**Example:** For the quarter ending December 31, Form RD-UTIL is due by January 31).
- b) For all Telephone businesses, (both landline and wireless), based upon the gross receipts collected during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30, and September 30, Form RD-UTIL is due on or before January 31, April 30, July 31, and October 31.
(**Example:** For the quarter ending December 31, Form RD-UTIL is due by January 31).

- **Penalty for "Failure To File Timely" return:** Will be charged at a rate of 5% per month on the outstanding tax balance due. Penalty shall apply beginning the first day after the due date, and each month thereafter until tax is paid in full (not to exceed 25%).
- **Penalty for "Failure To Pay Amount Due" with return:** Will be charged an additional 5%.
- **Interest:** Will be charged at the statutory rate based on RSMo 32.065.

Line 10 Enter total amount due (sum of Lines 6, 7, 8 and 9).
Line 11 Enter amount paid with return (make check payable to "KCMO City Treasurer"). (DO NOT SEND CASH).
Line 12 Check this box if filing an amended return and provide a brief reason for the amendment.
Line 13 Enter date business closed or no longer conducting business in Kansas City, Missouri, if applicable.

Subdivision I**Laclede Gas Company****Section 12-11 License Tax Levied.**

[Ord. No. 172, §2]

The Laclede Gas Company shall pay to the city, at least once every year, a sum equal to five percent of the gross receipts from its operation in the city as and for a license tax.

Subdivision II**Underground Gas Distribution****Section 12-12 Definitions.**

[Ord. No. 274, §1]

For the purposes of this subdivision, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUSINESS OF SUPPLYING GAS OR GAS SERVICE

The supplying of gas or gas service through an underground pipe distribution system; nothing in this subdivision shall be construed as imposing a tax on persons commonly called bottled gas dealers who supply propane and butane gas in steel tanks to customers, such bottled gas dealers being specifically exempted from the tax levied by this subdivision; except, that section 12-11 passed and approved on November 17, 1964, and as amended, shall remain in full force and effect.

GROSS RECEIPTS

The aggregate amount of all sales and charges from the business of supplying gas or gas service made by a person in the city during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

PERSONS

Any individual, firm, copartnership, association, corporation, trust, trustee, receiver, syndicate or any other group or combination acting as a unit, in the plural as well as the singular number.

Section 12-13 License Tax Levied.

[Ord. No. 274 §2]

Every person now or hereafter engaged in the business of supplying gas or gas service for compensation for any purpose in the City shall pay to the City, as a license tax, a sum equal to five percent (5%) of the gross receipts received from such business within the City.

Section 12-14 Statement of Gross Receipts to be Filed.

[Ord. No. 274 §3]

It is hereby made the duty of every person engaged in any business described in the foregoing Section hereof, to file with the City Clerk on the last day of January, 1970, a sworn statement of the gross receipts of such person received within the City from the fourth (4th) day of November, 1969 to the thirty-first (31st) day of December, 1969, and thereafter a similar statement on the last day of July and the last day of January of each year of such receipts for the six (6) calendar months preceding the filing of such statement. The City Clerk or his duly authorized deputy shall be and is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during business hours to examine the books, documents, papers, and records of any person making such statement in order to ascertain the accuracy thereof.

Section 12-15 Payment of License Tax.

[Ord. No. 274 §4]

Every person now or hereafter engaged in any of the businesses described in Section 12-13 shall, at the same time as making the sworn statement required in Section 12-14, pay to the City Collector of the City an amount equal to five percent (5%) of the gross receipts derived from such business in the City for the preceding six (6) calendar months.

Section 12-16 Effect of License Tax on Other Taxes Levied by City.

[Ord. No. 274 §5]

The tax required by this Subdivision to be paid shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in Section 12-13; but nothing contained in this Subdivision shall be so construed as to exempt any such person from the payment to the City of the tax which the City levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than gas, nor shall the tax required by this Subdivision exempt any such person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in Section 12-13.

Section 12-17 Penalty for Violation of Subdivision; Continuing Violations.

[Ord. No. 274 §6]

Any person engaged in any of the businesses described in Section 12-13 who shall violate any of the provisions of this Subdivision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each day's violation of this Subdivision shall constitute a separate offense.

Sec. 28-121. License fee required, amount.

Every gas company and every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing, leasing or controlling a gas plant or system for the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power, shall, in addition to all other taxes, payments or requirements required by law or City ordinance, pay to the City as a license fee a sum equal to seven (7) percent of the licensee's gross receipts from the sale of gas sold for domestic or commercial purposes within the limits of the City under the licensee's applicable general service rate schedule on file with and approved by the State Public Service Commission.

(Code 1988, § 28-91)

Lee's Summit, MO Division 4. – GAS COMPANIES (Emphasis Added)

Muni/Jurisdiction	GRT (%)	Include Tax in Revenue?	Actual Language
Airport Drive	3%	no	In the utility tax ordinance, a Village utility and gas tax in the sum of three percent (3%) each is collected upon all receipts of electrical consumption costs from Empire District and the Gas Service Company.
Alba	5%	unavailable	
Alma	5%	unavailable	
Anderson	3%	unavailable	
Armstrong	5%	unavailable	
Arnold	6% residential; 7.5% non residential	No	The aggregate amount of all sales and charges for the commodities or services described under the term "business organizations" made by a business organization in the City during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Ash Grove	4%	unavailable	
Aurora	6%	no	So long as Company shall be required, by any regulatory authority having jurisdiction, to separately state the franchise tax increment of its charges for natural gas service rendered under the franchise hereby granted, the term "gross receipts" as used herein shall not include the separately stated tax increment.
Avondale	5%	unavailable	
Baldwin Park	5%	unavailable	

Ballwin	7%	No	As used in this article, the term "gross receipts" means the aggregate amount of sales and charges relative to the business of supplying telephone or communication services for compensation in the city during the period, less credits, refunds, sales taxes, and uncollectible accounts actually charged off during the period.
Bates City	5%	unavailable	
Bel Nor	6%	unavailable	
Bella Villa	5%	unavailable	
Bellefontain Nbrs	7.41%	no	The term "gross receipts" as used in this ordinance, means the aggregate amount of all sales and charges from the business of furnishing or supplying electricity, electrical service, or power, gas or gas service, telephones or telephone services, or water or water service during any period, less discounts, credits, refunds, sales taxes and uncollectible
Bellerive Acres	8% commercial & industrial, 1.5% residential	unclear	No definition
Belton	7%	no	pay to the city as a license fee a sum equal to seven percent of the licensee's gross receipts from the sale of gas sold for domestic, commercial and industrial purposes and consumption within the limits of the city under the licensee's applicable "general service" rates schedule on file with and approved by the state public service commission. The term "gross receipts" shall include any amounts received by the licensee in the nature of a penalty for late payment arising out of said sale. Such tax shall be collected only upon the gross receipts for the utility services provided and shall not include any other taxes or special charges levied by any unit of Government. Any charges retained by utility companies as allowed by law for the collection of the gross receipts tax shall be deducted from the tax as calculated on the gross receipts for the utilities sold so that the total amount of gross receipt taxes collected shall not exceed eight percent (8%).
Berkeley	8%	no	"gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in this Chapter relative to the business of supplying utility services covered by the license tax for compensation in the City of Beverly Hills during any period, less discounts, credits, refunds, charges for a license, occupation or franchise taxes, sales taxes and uncollectible accounts actually charged off during the period.
Beverly Hills	10%	no	
Billings	5%	unavailable	
Birmingham	5%	no	The term "gross receipts" as used herein shall not include the separately stated tax increment.

Black Jack	3%	no	Gross receipts. The aggregate amount of all sales and charges of the goods or services described in subsection (b) below during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Blackburn	5%	unavailable	The term "gross receipts" as used in this Chapter shall not include any receipts from the sale of electrical services to any political subdivision of the State of Missouri or any municipality located within the State of Missouri. This does not exclude from the definition the United States of America or any agency thereof or the State of Missouri or any agency thereof.
Blue Springs	5%	Unclear	The term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in this Section relative to the business of supplying electricity, natural gas or telephone service for compensation in the City during any period less sales to the City, discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Bonne Terre	5%	no	There is hereby levied and imposed upon all persons now or hereafter engaged in the business of furnishing or supplying light, electricity, electrical service or power, gas or gas service, telephones or telephone service or water or water service to non-residential customers within the City a monthly license or occupational tax amounting to the sum of six and one-half percent (6.5%) of the gross receipts derived from carrying on such business within the City.
Breckenridge Hills	6.50%	Unclear	Every person engaged in the business of operating systems for supplying gas, water and telephone services in the City shall pay the City a monthly license tax of eight percent (8%) for non-domestic usage and zero percent (0%) for domestic usage of the gross receipts received from the operation of any such systems being granted with the City and shall file with the City Clerk/Administrator, commencing on April 1, 1998 and the twentieth (20th) day of each month thereafter, sworn statements of the amount of the gross receipts received by any such person from the operation of any such systems within the City during the preceding month and shall at such time pay the license tax of eight percent (8%) for non-domestic usage and zero percent (0%) for domestic usage of the gross receipts to the City Clerk/Administrator. It shall not be necessary to include in such statements nor calculate the tax upon any receipts derived from any such service furnished to the City or any other governmental unit.
Brentwood	8.00%	Unclear	The term "gross sales" as used in this Chapter means the aggregate amount of all sales and charges to all persons, firms or corporations either for residential purposes, manufacture or commercial use, rendered within the City of Bridgeton, during any periods, less discounts, credits, refunds, sales taxes and uncollectible accounts.
Bridgeton	7.5% Commercial/Industrial; 5% residential	no	

Every gas company, and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing any gas distribution system selling, distributing or transmitting natural gas, shall in addition to all other taxes, payments or fees now or hereafter required by law or ordinance, pay to the City of Buckner, Missouri, a franchise or license tax in an amount equal to five percent (5%) of the gross receipts derived from the sale of natural gas within the jurisdictional limits of the City, currently and as may be amended, and including as such tax is referenced in RSMo. Section 393.275.

Buckner 5% Unclear

Butterfield 5% unavailable

Byrnes Mill 3% Unclear No definition

Calverton Park 6% unavailable

Cameron 5% unavailable

Carl Junction 5% no  All monies collected and received by licensee from the sale or lease of goods and products to all of licensee's customers within the present and future boundaries of the City of Carl Junction, before any deductions are made therefrom by the licensee for any expenses, costs or charges of any kind

Carrollton 5% unavailable

Carterville 5% unavailable

Carthage 5% unavailable

Cassville 4% unavailable

Centerview 5% unavailable

Charlack 11% unavailable

Chesterfield 5% unavailable

Clarksburg 5% unavailable

Claycomo 5% unclear

Domestic and commercial sales shall be considered as sales made other than on special contracts providing for standby fuel and interruption of service at any time demands of domestic and commercial consumers may so require. The percentage of the company's gross receipts is hereby levied and assessed as a franchise fee for the privilege of engaging in the business herein recited during the term hereof; and as a further consideration for the franchise, the company agrees to recognize the same as a valid fee and make the payments during such period.

Unless otherwise provided, the aggregate amount of all sales and shall include the receipt of cash, credits and property of any kind or nature without any deduction therefrom on account of the cost of any items sold, the cost of any materials used or of any labor, service costs, interest paid or payable or any losses or any other expenses whatsoever; provided however, that the following shall be excluded from any computation of gross receipts if the books of accounts segregate the amounts so as to reflect such exclusions:

1. Receipts of taxes levied by State and Federal Governments and collected by the seller.
2. Sales for delivery outside the State to non-residents of the State; provided this Subparagraph (2) has no application to utilities licensed under Sections 605.240 and 605.250.
3. Receipts of traded merchandise recorded as cash receipts and resold and recorded as a sale upon such resale; provided this Subparagraph (3) has no application to utilities licensed under Sections 605.240 and 605.250.
4. Interdepartmental sales within the organization of the seller.
5. Such part of the sales price of property returned by the purchaser as is refunded either in cash or by credit.
6. Receipts of refundable deposits, except that portion of refundable deposits forfeited and taken into the gross receipts of the seller.
7. Receipts for sales of beer and intoxicating liquors, provided said sales are subject to a license fee of the City and said fee has been paid pursuant to the provisions of this Code and the ordinances of this City.

Clayton 8% no

Cleveland 5% unavailable

Clever 4% unavailable

Concordia 5% unavailable

Cool Valley 7% unavailable

Corder 5% unavailable

Cottleville 5% unavailable

Country Club Hills 8% unavailable

Crane 7% unavailable

Crestwood 6% residential; 7% commercial; no

As used in this article, the term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services hereinabove described in the City during any period, less discounts, credits, refunds, sales taxes and uncollectible amounts actually charged off.

Creve Coeur 7% no

As used in this Article, the term "gross receipts" means the aggregate amount of all sales and charges of commodities or services described in Section 635.130 relative to the business of supplying gas or gas service for compensation in the City during any period, less discounts, credits, refunds, charges for license, occupation or franchise taxes, sales taxes and uncollectible accounts actually charged off during the period.

Crystal City 6.50% no

Gross receipts defined. The term "gross receipts," as used in this section, shall not be construed to include that portion of such gross receipts as is derived from the city, or any of its agencies or instrumentalities, or from large industrial users under rates not applicable to the public generally by reason of the extent of such use and taking rates on specially written contracts at special rates.

De Soto 7% unclear no definition

Dearborn 5% unavailable

Dellwood 7% unavailable

Dennis Acres 5% unavailable

Des Peres 5% Unclear no definition

Desloge 5% unclear No definition

Diamond 5% unavailable

Drexel 5% unavailable

Duenweg 5% unavailable

East Lynne 5% unavailable

Edgerton 5% unavailable

Edmundson

6% no

The term "gross receipts", as used in this Chapter, means the aggregate amount of all sales and charges from the business of furnishing or supplying light, electricity, electrical service and power, gas or gas service, telephone or telephone service, telephone exchange service or water or water service within the City during any period, less discounts, credits, refunds, sales taxes and uncollectible amounts.

El Dorado Springs 3% unavailable

The aggregate amount of all sales, transactions, fees, commissions, rental and leasing fees and shall include the receipt of cash (or accrual basis), credits and property of any kind or nature without any deductions therefrom on account of the cost of any items sold, the cost of any materials used or of any labor, service costs, interest paid or payable or any losses or any other expenses whatsoever; provided, that the following shall be excluded from any computations of gross receipts if the books of accounts segregate the amount so as to reflect such exclusions:

1. Receipt of taxes levied by State and Federal Governments collected by the seller;
 2. Receipts of traded merchandise recorded as cash receipts and placed in inventory to be a sale upon such resale;
 3. Transfer for resale of like items not for profit to other independent dealers;
 4. International sales within the organization of the seller;
 5. Such part of the sales price of goods, wares, merchandise or personal property returned by the purchaser as is refunded either in cash or by credit;
 6. Receipts of refundable deposits, except that portion of refundable deposits forfeited and taken in the gross receipts of the seller;
 7. Receipts for sales of beer and intoxicating liquors and non-intoxicating beer, provided such sales are subject to a license fee of the City and such fee has been paid, pursuant to the provisions of the ordinances of the City;
 8. Receipts for sale of gasoline for highway use;
 9. Outside or contract labor paid to others for the installation or service of merchandise sold.
- "Licensee" shall mean every person required to have a current license as well as one holding a license.

Ellisville

7% no

Emma

5% unavailable

Eureka

5% No

Ordinance page attached

Excelsior Springs

6% unclear

No definition

Exeter

3% unavailable

Farmington

.5% sales tax

No

Fayette	5%	no	<p>Company shall not later than the first (1st) day of each calendar month in each year make a report to the governing board of the City of its gross receipts from the sale of natural gas for domestic and commercial purposes within the corporate limits of said City for the one (1) month period ending on the first (1st) day of the month next preceding that on which the report is due; and at the time of making such reports, pay into the City Treasury a sum equal to five percent (5%) of said gross receipts subsequent to the effective date of this franchise. So long as Company shall be required, by any regulatory authority having jurisdiction, to separately state the franchise tax increment of its charges for natural gas service rendered under the franchise hereby granted, the term "gross receipts", as used herein, shall not include the separately stated tax increment. Said percentage of Company's gross receipts is hereby levied and assessed as an occupation and license tax (in lieu of all other occupation, license or other revenue taxes or fees) for the privilege of engaging in the business herein recited during the term hereof; and as a further consideration for this franchise, Company agrees to recognize the same as a valid tax and make said payments during such periods.</p>
Fenton	5%	no	<p>The term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services as hereinabove described in the City of Fenton, during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.</p>
Ferguson	8%	no	<p>The term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in sections 42-42(a), 42-43(a), 42-44(a) and 42-45(a) made by a public utility operation in the city during any calendar year less discounts, credits, refunds, sales taxes and noncollectible accounts charged off during such year.</p>
Ferrelview	5%	unavailable	
Festus	4.50%	unclear	No definition
Flordell Hills	5%	unavailable	
Florissant	7%	no	<p>Definition. "Gross receipts", as used herein, shall be construed to mean the aggregate amount of all sales and charges from the business of supplying or furnishing electricity, electrical power, electrical service, furnishing gas or gas service, furnishing water or water service during any period, less discounts, refunds, sales taxes and uncollectible accounts.</p>
Fredericktown		unclear	
Freeman	5%	unavailable	

Friestatt	5% unavailable		
Frontenac	8% commercial & industrial, .5% residential	no	<p>GROSS RECEIPTS The aggregate amount of all sales and charges of the commodities or services hereinabove described in the City of Frontenac during any period less discounts, credits, refunds, sales taxes and uncollectible amounts actually charged off.</p>
Garden City	5% unavailable		
Gladstone	7% unclear		no definition
Glenaire	5% unavailable		
Glendale	9%	no	<p>The term "gross receipts" as used in this Chapter shall be defined as the aggregate amount of the sales and charges during any period, less any discounts, credits, refunds and uncollectible accounts actually charged off during the period.</p>
Golden City	5% unavailable		
Goodman	3% unavailable		
Gower	5% unavailable		
Grain Valley	5% unavailable		
Grandview	7%	no	<p>Every gas company and every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing, leasing or controlling a gas plant or system for the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power, shall in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay to the city as a license fee a sum equal to seven (7) per cent of the licensee's gross receipts from the sale of gas sold for domestic, commercial, and industrial consumption within the limits of the city under the licensee's applicable "General Service" rate schedule on file with and approved by the Public Service Commission of Missouri. The term "gross receipts" shall include any amounts received by licensee in the nature of a penalty for late payment arising out of such sales.</p>

Grayson 5% unavailable



The term "gross receipts" as used in this Section, means the aggregate amount of all sales and charges from the business of furnishing or supplying light, electricity, electrical service or power, gas or gas service, telephones or telephone service, or water or water service within the City during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts.

Green Park 5% no

Greendale 5% unavailable

Greenfield 5% unavailable

Greenwood 5% unclear no definition

Harrisonville 5% unavailable

Hazelwood 6% unclear no definition

Herculaneum 6% unclear no definition

Higginsville 5% unavailable

Hillsboro 5% unavailable

Holden 5% unavailable

Holt 5% unavailable

Houston Lake 10% unavailable

Houstonia 5% unavailable

Hughesville 5% unavailable

Independence 9.08% unclear no definition

Jasper 5% unavailable

Jennings 7.50% unavailable

Jerico Springs 3% unavailable

Joplin 6% unavailable

Kansas City 6% quarterly

no

Every gas company, and every corporation, company, association, joint stock company or association, partnership and person, and their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling a gas plant or system for the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power, shall, in addition to all other taxes, payments or requirements now or hereafter required by law or city ordinance, pay to the city a quarter-annual license fee to be due and payable to the city treasurer on or before January 30, April 30, July 30 and October 30, respectively, of each year, based upon the business done during the preceding period of three calendar months ending, respectively, on December 31, March 31, June 30 and September 30.

Kearney 5% unavailable

Kingsville 5% unavailable

Kinloch 6% unavailable

Kirkwood	7.50%	no	<p>"Gross receipts" as used in this section shall be defined as the aggregate amount of all sales and charges during any period, less any discounts, credits, refunds, uncollectible accounts actually charged off during the period, and sales tax.</p> <p>So long as such grantee shall be required by any regulatory authority having jurisdiction, to separately state the franchise tax increment on its charges for natural gas service rendered under such franchise, the term "gross receipts" as used herein shall not include the separately stated tax increment.</p> <p>Gross receipts means, with respect to any calendar year, the amount collected during such year by every person coming under this article from his business, less credits, allowances, or refunds to customers credited, allowed or refunded during such year on account of gas, water, electricity or telephone service actually sold or distributed at any time within the city subsequent to December 31, 1947.</p>
Knob Noster	5%	no	
Ladue	7%	no	
Lake Lotawana	5%	unclear	No definition
Lake St. Louis	5%	unclear	No definition
Lake Waukomis	5%	unclear	No definition
Lake Winnebago	5%	unavailable	
Lakeshire	5%	unavailable	
Lamar	5%	unavailable	
LaMonte	5%	unavailable	
Lanagan	4%	unavailable	
Lathrop	6%	unavailable	
Lawson	5%	unavailable	

Leadington	5% unavailable	
Leadwood	7% unavailable	
Lee's Summit	7% No	ATTACHED Section 28-121. - License fee required, amount.
Liberty	5% unclear	no definition
Lockwood	5% unavailable	
Lone Jack	5% unavailable	
Manchester	5% no	The term "gross receipts", as used in this Article, means the aggregate amount of all sales and charges during any period for which payment is due, less credits, allowances, refunds, sales tax and uncollectible accounts actually charged off during such payment period. Gross receipts means the aggregate amount of all sales or charges, and shall include the receipt of cash, credits and property of all kinds and of any nature without deduction therefrom on account of the cost of items sold, of materials sold, of materials used or of labor, services or interest or any losses or expenses whatsoever. Taxes levied by state and federal government may be excluded from gross receipts if the books of account segregate the amounts so as to reflect such exclusions, receipts of taxes so levied and collected by the seller. Reductions may be allowed for discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.
Maplewood	9% no	
Marionville	5% unavailable	
Maryland Heights	5.50% no	In this article "gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in section 13-127 made by any of the aforesaid companies during each quarterly period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during such period.
Moline Acres	5% unavailable	
Monett	5% unclear	no definition

Mosby 5% unavailable

Mount Leonard 5% unavailable

Mount Vernon 5% unclear no definition

Neck City 5% unavailable

Neosho 5% unavailable

Nixa 5% unavailable

Noel 5% unavailable

Norbonne 5% unavailable

Normandy 8% no

GROSS RECEIPTS
The aggregate amount of all sales and charges of the commodities as services as herein described made by a public utility in the City of Normandy during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

North Kansas City unclear

Northmoor 5% unavailable

Northwoods 10% no

GROSS RECEIPTS
The aggregate amount of all sales and charges of the commodities of services as herein described made by a public utility in the City of Northwoods during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

Oak Grove 5% unclear no definition

Oakland	4%	no	The term "gross sales", as used herein, means the aggregate amount of all sales and charges of the commodities or services as hereinabove described in the City during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.
Oaks	5%	unavailable	
Oakview	5%	unavailable	
Oakwood	5%	unavailable	
Oakwood Park	5%	unavailable	
Odessa	5%	unclear	No definition
O'Fallon	5%	no	<p>GROSS RECEIPTS As it relates to utility taxes collected by the City of O'Fallon, shall mean the aggregate amount of sales and charges for commodities or services relative to the business of supplying electricity, gas, water, telephone or other utilities for compensation for any purpose in the City of O'Fallon, Missouri, less discounts, credits, refunds, charges for license, occupation or franchise taxes, sales taxes and uncollectible accounts actually charged off during the period.</p> <p>The term "gross receipts", as used in this Article, means, with respect to any monthly period, the aggregate amount of all sales and charges during such period by such person, firm, company or corporation from such business, less credits, allowances, refunds, sales taxes and uncollectible accounts actually charged off during such period.</p>
Olivette	10%	no	
Osborn	5%	unavailable	
Overland	6%	no	"Gross receipts" as used herein means the aggregate amount of all sales and charges of the commodities described herein during any period less discounts, credits, refunds, sales taxes and uncollectible accounts, actually charged off during the period.
Ozark	5%	unavailable	
Pacific	7.42%	unclear	No definition

Pagedale	8% unavailable	
Park Hills	5% unclear	No definition
Parkville	5% unclear	No definition
Pasadena Hills	5% no	GROSS RECEIPTS The aggregate amount of all sales and charges from the business of supplying gas or gas service made by any person in the City of Pasadena Hills during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.
Peculiar	5% unclear	No definition
Pevely	5% unclear	no definition
Pierce City	5% unavailable	
Pilot Grove	5% unavailable	
Pilot Knob	5% unavailable	
Pine Lawn	7% no	The term "gross receipts" means the aggregate amount of all sales and charges of commodities or services as herein described from the business as herein described in the City of Pine Lawn, St. Louis County, Missouri, during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.
Pineville	4% unavailable	
Platte Woods	5% unavailable	

Pleasant Hill	5% no	The term "gross receipts," when used in this ordinance, shall mean the aggregate amount of all sales and charges from the business of supplying electricity by company, or any affiliated company, in said municipality during any period less discounts, late payment charges, credits, refunds, sales taxes and uncollectible accounts. The company shall pay the franchise tax to the city as set forth in Ordinance #1291, or such other ordinances that may apply.
Pleasant Valley	5% unclear	no definition
Poplar Bluff	5% unclear	no definition
Prathersville	5% unavailable	
Purcell	5% unavailable	
Purdy	4% unavailable	
Randolph	5% unavailable	
Raymore	7% no	Every person, firm, company, or corporation, and the successors and assigns owning, operating, controlling, leasing, and/or managing any such person, firm, company, or corporation, engaged in the business of furnishing public, non-municipal utility services to the citizens and entities of the City, and operating within the City, shall pay, as an annual franchise/occupation tax, seven percent (7%) of the gross receipts derived and collected from the sale of such public utility services within the present or future limits of the City, during the period of such occupation. The seven percent (7%) annual franchise/occupation tax shall be paid in addition to any other taxes imposed upon such public utilities.
Raytown	8% no	Every person, partnership, company, corporation, association or joint stock company engaged in the business of distributing, selling or furnishing of gas, natural or manufactured, for light, heat, refrigeration or power in the city shall pay to said city, in addition to all other taxes, payments or fees now or hereafter required by law or ordinance a license fee of the sum of eight percent of the gross annual receipts from the furnishing of said natural or manufactured gas service within the corporate limits of the city. The said license fee shall not include any revenue for gas service to the city or the aforesaid franchise tax to the city.
Republic	5% unavailable	

Richmond Heights	6% no	The term "gross receipts", as used in this Section, shall mean the aggregate amount of all sales and charges for the commodities or services hereinabove described during the period less credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Riverside	5% no	Every gas, electricity, water or telephone company and every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, managing, leasing or controlling a gas, electricity, water or telephone plant or system for the manufacture, distribution, sale or furnishing of gas (natural or manufactured), electricity, water or telephone service, shall, in addition to all other taxes, payments or requirements now or hereinafter required by law or City ordinance, pay to the City as a license fee a sum equal to five percent (5%) of the licensee's gross receipts from the sale of gas, electricity, water or telephone service sold for domestic, commercial and industrial purposes within the limits of the City under the licensee's applicable rate schedules on file with and approved by the Public Service Commission of Missouri. Provided, however, said gross receipts shall not include any receipts collected by the utility pursuant to the City's sales tax nor any receipts collected pursuant to this Chapter.
Rock Hill	8% unavailable	
Sarcoxie	5% unclear	no definition
Savannah	5% unclear	no definition
Seneca	5% unavailable	
Sheldon	3% unavailable	
Shrewsbury	7.25% no	The aggregate amount of all sales and charges of the commodities or services as hereinafter described in the City of Shrewsbury, Missouri, during any period less discounts, credits, refunds, sales taxes, and uncollectible amounts actually charged off during the period.
Slater	5% unavailable	
Smithville	5% unclear	no definition

Southwest City		5% unavailable		
St. Ann		9% no		With respect to any monthly period, the aggregate amount of all sales and charges during such period less credits, discounts, refunds, sales taxes and uncollectible accounts actually charged off during the period. "Gross receipts" means the aggregate amount of all sales and charges of the commodities or services as herein described from the business of supplying gas or gas service for compensation in the City during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period. Gross receipts derived from the furnishing of such service to the City shall not be included in gross receipts, nor shall any tax be due on such gross receipts.
St. Charles		6.70% no		
St. Clair		10% unavailable		The aggregate amount of all sales and charges for electricity, natural gas, telephone service and water made by any person in the City of St. John, during the applicable period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the applicable period.
St. John		5% no		
St. Joseph	1% residential; 7.5% Commercial/Industrial	unclear	no definition	"Gross receipts" means the aggregate amount of all sales and charges of the commodities or services by every person engaged in the business of selling or distributing natural, artificial or mixed natural and artificial gas for heating, lighting, power and refrigeration for the use of the public in the City during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
St. Louis City	4% Residential; 10% Commercial/Industrial	no		"Gross receipts" means the aggregate amount of all sales and charges of the commodities or services described in (1) made by a public utility in the unincorporated areas of St. Louis County during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
St. Louis County (Unincorporated)		5% No		
St. Peters		5% unclear	no definition	
Ste Genevieve		5% unclear	no definition	
Stewartsville		5% unavailable		
Stockton		unclear; tax by individual 3% contract		

Sugar Creek		10% unavailable	
Sullivan		5% unavailable	
Sunset Hills	5% residential; 7.5% commercial/industrial	unavailable	
Sweet Springs		5% unavailable	
Tipton		5% unclear	no definition
Town & Country	7% (commercial/industrial only)	unavailable	
Trimble		5% unavailable	
Turney		5% unavailable	
Union		6% unclear	no definition
University City		9% no	The term "gross receipts", as used in this Chapter, means the aggregate amount of all sales and charges for furnishing gas or gas service during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period, effective August 1, 1979.
Valley Park		5% unclear	no definition
Velda City		6% no	The term "gross receipts" as used herein means the aggregate amount of all sales and charges derived from the business of supplying or furnishing gas, natural or manufactured, within Velda City during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Verona		5% unavailable	

Vinita Park	7.50% no	The aggregate amount of all sales and charges of commodities or services as herein described from the business as herein described in the City during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Walnut Grove	4% unavailable	
Warrensburg	6% unclear	no definition
Warson Woods	9% unclear	The term "gross receipts", as used in this Chapter, means, with respect to any calendar period, the amount collected during such period by such person, firm, company or corporation from such business, excepting however, amounts collected from said City or any other Governmental Agency therein, less credits, allowances or refunds to customers actually credited, allowed or refunded during each such period on account of gas actually sold or distributed during such period.
Washington	6% unclear	no definition
Waverly	5% unavailable	
Weatherby Lake	10% no	Every gas, electricity and telephone company and every person owning, operating, managing, leasing or controlling any natural or manufactured gas, electricity or telephone plant or system used for the manufacture, distribution, sale or furnishing of natural or manufactured gas, electricity or telephone service shall pay to the City a license fee in the amount of ten percent (10%) of the licensee's gross receipts from the sale of natural or manufactured gas, electricity or telephone services for domestic, commercial or industrial purposes within the City. This license fee shall be in addition to all other taxes, licenses or payments required by State law or City ordinance. The amount of the license fee shall be based upon the licensee's applicable rate schedule on file with and approved by the Public Service Commission of the State.
Webb City	5% unavailable	
Webster Groves	7% unavailable	
Weldon Spring	5% unavailable	
Wellston	7% unavailable	

Wentworth	5% unavailable	
Wentzville	5% unclear	no definition
West Sullivan	6% unavailable	
Wildwood	5% no	The aggregate amount of all sales and charges of the commodities or services of a public utility made in the City of Wildwood during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.
Willard	3% unavailable	
Winchester	6% no	The term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services hereinabove described in the City of Winchester, Missouri, during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off.
Windsor	5% unavailable	
Wood Heights	5% unavailable	
Woodson Terrace	5% no	"Gross receipts" means the aggregate amount of all sales and charges of commodities or services as herein described from the business of supplying or furnishing gas or gas service for compensation in the City of Woodson Terrace, Missouri, during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.