

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

In the Matter of the Application of)
Spire Missouri, Inc. d/b/a)
Spire for a Variance of its)
Tariff Rules and Regulations for)
Resale of Natural Gas)

Case No. GE-2023-0393

STAFF RESPONSE TO COMMISSION ORDER

COMES NOW the Staff of the Missouri Public Service Commission and for its *Response to Commission Order* hereby states:

1. On May 19, 2023, Spire Missouri Inc. d/b/a Spire filed its *Application* requesting a variance from its tariff provisions related to the resale of natural gas and a waiver of the 60-day notice rule in connection with the new KCI Airport terminal built by the City of Kansas City. Staff is conducting an ongoing investigation and requested the Commission grant it authority to file a letter with the Pipelines and Hazardous Materials Safety Administration (PHMSA) requesting an interpretation of the master meter provision, 49 CFR 191.3, which the Commission has adopted in its rule, 20 CSR 4240-40.020.

2. Staff's Memorandum is attached to this pleading as Attachment A and the letter sent to PHMSA is attached as Attachment B. As explained in its Memorandum, based on a review of publicly available historical information, Staff anticipates a response from PHMSA between March and August 2024. Staff also requests that its *Recommendation*, presently ordered to be filed March 13, 2024, be extended to April 30, 2024. Staff will file a *Status Report* by that date if it has not yet received PHMSA's response or has had an inadequate amount of time to review the response.

WHEREFORE, Staff prays that the Commission will accept this *Response to Commission Order* with attachments; permit Staff to file its recommendation or a status report on April 30, 2024; and provide such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Whitney Scurlock

Whitney Scurlock
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, to all parties or their representatives pursuant to the Service List maintained by the Commission's Data Center for this file, on this 16th day of February, 2024.

/s/ Whitney Scurlock

MEMORANDUM

TO: Missouri Public Service Commission
Official Case File No. GE-2023-0393
Spire Missouri, Inc.

FROM: Kathleen A. McNelis, PE, Engineer Manager, Safety Engineering Department

/s/ Kathleen A. McNelis, PE 02/16/2024
Safety Engineering Department/ Date

SUBJECT: In the Matter of the Application of Spire Missouri Inc. d/b/a Spire for a Variance of its Tariff Rules and Regulations for Resale of Natural Gas;
Status Report

DATE: February 16, 2024

On May 19, 2023, Spire Missouri Inc. d/b/a Spire filed an application requesting a variance from the Resale Provision of its Tariff Rules and Regulations. The Commission opened Case No. GE-2023-0393, and directed the Staff of the Commission to file a recommendation with regard to Spire's application. The variance involves the City of Kansas City, which has been joined as a party to the case. Specifically, the variance would apply to the Kansas City International Airport.

Spire's request is for a variance of its tariff, P.S.C. Mo. No. 9 Sheet No. R-8, Subsection 8 regarding the resale provision of natural gas. This variance stems from the Kansas City International Airport's construction of a new terminal including a natural gas system that extends from a meter installed by Spire Missouri, but which the extension built off of said meter was constructed by the City of Kansas City.

On December 29, 2023, Staff filed its Staff Motion to Contact Pipeline and Hazardous Materials Safety Administration (Staff Motion). The central issue of the application is whether the Kansas City International Airport natural gas system meets the definition of a Master Meter System in 20 CSR 4240- 40.020(1)(H) and 49 CFR Part 191.3. Because the Commission's definition of master meter system in 20 CSR 4240-40.020 is an adoption of the federal definition of a master meter system in 49 CFR 191, Staff requested authority to seek a formal interpretation of the federal rule from the Pipeline and Hazardous Materials Safety Administration (PHMSA).

ATTACHMENT A

On January 18, 2024, the Commission granted Staff’s motion, and ordered that:

1. The Staff Motion is granted. Staff is authorized to send its draft letter to PHMSA.
2. Staff shall file a status report indicating when it expects to receive an answer from PHMSA no later than February 20, 2024.
3. Staff shall file a copy of the letter sent, and any response received.

On January 19, 2024, Staff sent its letter to PHMSA (copy attached). Staff anticipates that a response will be received from PHMSA between March and August 2024, and Staff will file a copy of that response when received.

Staff’s estimate is based on a review of similar¹, recent requests and responses for PHMSA interpretations of 49 CFR 191.3 and 192.3.² Of these, the time for response ranged between 65 and 215 days, with an average of 132 days.

SELECTED PHMSA INTERPRETATIONS OF DEFINITIONS IN 49 CFR Request and Response Dates and Days to Respond				
ID No.	Pertaining to 49 CFR	Request date	Response Date	Days to Respond
PI-23-0010	192.3 definition	3/10/2023	10/4/2023	208
PI-21-0003	192.3 definition	1/29/2021	9/1/2021	215
PI-19-0016	191.3 definition	10/17/2019	1/27/2020	102
PI-18-0016	191.3 definition	7/31/2018	10/4/2018	65
PI-17-0012	191.3 definition (master meter)	7/20/2017	11/6/2017	109
PI-16-0012	191.3 definition (master meter)	9/2/2016	12/6/2016	95

Maximum Days for Response 215

Minimum Days for Response 65

¹ Staff considered that recent requests pertaining to the definition of master meter were likely to be the most similar, but found none more recent than 2017. Staff therefore also included other more recent interpretations of other definitions in 49 CFR Parts 191 and 192 in developing its estimate of date ranges.

² From: [Regulations Section | PHMSA \(dot.gov\)](https://www.phmsa.dot.gov/regulations)



Missouri Public Service Commission

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JASON R. HOLSMAN
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Commissioner

January 19, 2024

Mr. John A. Gale
Director, Office of Standards and Rulemaking
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590
John.Gale@dot.gov

Subject: Request for Written Regulatory Interpretation; Applicability of definition of Master Meter System in 49 CFR 191.3 to the City of Kansas City Airport

Dear Mr. Gale:

The Staff of the Missouri Public Service Commission (“Staff”) is requesting an interpretation as to whether the Kansas City Airport (“KCI”) natural gas distribution system would be classified as a master meter system and subject to the requirements for master meter systems in 49 CFR Part 192. The following outlines the system in question:

1. KCI is an international airport operating in the City of Kansas City (“City”), in Platte County, Missouri.
2. The City constructed a new airport terminal, which opened on February 28, 2023.
3. During the construction process, Spire Missouri, operator of the local gas distribution system, provided natural gas service through a single large meter.
4. The City constructed natural gas distribution piping within the airport terminal to serve concessionaries within the new airport terminal.
5. The natural gas distribution piping installed by the City of Kansas City consists of both buried and above ground piping.

6. The buried piping is 6-inch diameter High Density Polyethylene (PE), connecting from the outlet of Spire Missouri's meter to the transition to steel prior to entering the new airport terminal.
7. Within the terminal the piping system consists of welded, threaded and mechanically joined steel pipe, ranging from 6-inch to 1-inch diameter at the various concession areas.
8. The City furnishes utilities, including natural gas, to food and beverage providers (Sublessees) renting space with the terminal.
9. Sublessees utilize natural gas for cooking food which is sold within the airport terminal.

For this system, Staff has the following questions:

1. Does this system meet the definition of Master Meter System in 49 CFR 191.3?
2. Would the applicability of the definition of Master Meter System be different under the following situations?
 - a. If the cost of gas is individually metered to the Sublessees?
 - b. If the cost of gas is prorated based on some factor (e.g. square footage) as opposed to metering?
 - c. If the cost of gas was not directly passed on to sublessees through metering or prorating but indirectly through rent of space?
 - d. If the City outsources management of the sublessees to another company, and that company recovers the cost of gas from the individual sublessees?

If you have questions, please feel free to contact me at 573-751-3456 or

Kathleen.mcnelis@psc.mo.gov. Thank-you in advance for your assistance.

Respectfully,



Kathleen McNelis
Pipeline Safety Program Manager

Copy: Commission Case No. GE-2023-0393