

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

The Staff of the Missouri Public Service )  
Commission, )  
 )  
Complainant, )  
v. )  
 )  
Spire Missouri Inc., d/b/a Spire )  
 )  
Respondent. )

**File No. GC-2024-XXXX**

**COMPLAINT**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through Staff Counsel’s Office, pursuant to Section 386.390 of the Revised Statutes of Missouri (“RSMo”), and 20 CSR 4240-40.030, as follow-up to its investigation in Case No. GS-2022-0261, and for its *Complaint* states as follows:

**Introduction**

1. The Respondent is the present operator of Spire Missouri Inc., d/b/a Spire (“Spire” or “Spire Missouri”), a regulated provider of natural gas service in Missouri. Staff contends that Spire violated certain sections of the Commission’s Gas Pipeline Safety Rule, 20 CSR 4240-40.030, specifically related to the timeliness of Spire Missouri’s efforts to locate and mark its natural gas pipelines to prevent damage to those pipelines by excavators.

### **Complainant**

2. Complainant is the Staff acting through Staff Counsel as authorized by Missouri Public Service Commission (“Commission”) Rule 20 CSR 4240-2.070(1).

### **Respondent**

3. Respondent Spire Missouri, Inc. (Spire Missouri) is a Missouri general business corporation in good standing, its principal place of business is located at 700 Market Street, St. Louis, Missouri 63101 and its registered agent is Incorp Services, Inc. The registered agent’s office has now changed to 2847 South Ingram Mill Road, Suite A100, Springfield, Missouri 65804. Spire Missouri is a public utility engaged in distributing and transporting natural gas to retail customers in both western and eastern portions of Missouri. Spire Missouri serves retail customers in the City of Kansas City and thirty (30) counties in western Missouri through its Spire Missouri West operating unit and serves retail customers in the City of St. Louis and ten (10) counties in eastern Missouri through its Spire Missouri East operating unit.

### **Jurisdiction**

4. By virtue of the activities described in the above paragraphs, Respondent is now, and at all times pertinent to the events described above was, a “gas corporation” within the definition of Section 386.020(18), RSMo, and a “public utility” within the definition of Section 386.020(43), RSMo, and thus subject to the jurisdiction of this Commission and the provisions of the Public Service Commission Law at Chapters 386 and 393, RSMo.

## **Powers of the Commission**

5. Pursuant to Sections 386.250(1) and 393.140(1), RSMo, this Commission is charged with the supervision and regulation of public utilities engaged in the supply of natural gas at retail and is authorized by Sections 386.250(6), 386.310.1, and 393.140, RSMo, to promulgate safety rules applicable to the transportation and distribution of natural gas. Pursuant to this authority, the Commission has duly promulgated its Rule 20 CSR 4240-40.030, Safety Standards-Transportation of Gas by Pipeline (“Gas Pipeline Safety Rule”).

6. Section 386.570.1, RSMo, provides for a penalty between \$100 to \$2,000, per offense, for “[a]ny corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand, or requirement, or any part or provision thereof, of the commission....”

7. Section 386.572.2, RSMo, states the “maximum penalty for each violation shall [be] twenty thousand dollars” while the “maximum penalty for a continuing violation or a multiple series of violations of the same standard or rule provision shall [be] two hundred thousand dollars.”

8. Pursuant to Section 386.590, RSMo, “[a] penalties...shall be cumulative of each other, and the suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or forfeiture.”

9. The Commission has authority to hear and determine complaints against public utilities pursuant to Section 386.390.1, RSMo, which provides that “[c]omplaint may be made...in writing, setting forth any act or thing done or omitted to be done by any corporation...in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission....”

10. The Commission is authorized by Section 386.310.1, RSMo, after a hearing upon a complaint, to require a public utility to maintain and operate its line, plant, systems, and equipment in such manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to require the performance of any other act which the health or safety of its employees, customers or the public may demand.

11. This Commission is authorized by Section 393.140(2), RSMo, to investigate the methods employed in distributing gas and “[has] power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas...and those employed in the manufacture and distribution thereof...” The Commission is authorized by Section 393.140(5), RSMo, if it shall be of the opinion after a hearing upon complaint that the property, equipment, or appliances of any such person or corporation under its supervision is unsafe, insufficient or inadequate, the Commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used for the security and accommodation of the public and in compliance with the provisions of law and franchises and charters.

## Factual Statement

12. The Commission's Staff ("Staff") performs routine inspections of natural gas operators jurisdictional to the Commission for gas pipeline safety.<sup>1</sup> These include inspections for compliance with the Commission requirements for operators of:

- a. Buried natural gas pipeline to carry out a written program to prevent damages by excavation activities,<sup>2</sup>
- b. Natural gas pipelines to have and follow a written qualification program that applies to all individuals who perform covered tasks, regardless of whether they are employed by the operator, a contractor, a subcontractor, or any other entity performing covered tasks on behalf of the operator,<sup>3</sup>
- c. Natural gas pipelines to implement a written procedure to ensure that work completed on an operator's pipelines by its contractors complies with Commission rules,<sup>4</sup> and
- d. Natural gas distribution pipelines to develop and implement an integrity management program, including identification of the threats and risks associated with excavation damages.<sup>5</sup>

---

<sup>1</sup> RSMo 386.310 establishes the commission's jurisdiction with respect to gas pipeline safety jurisdiction.

<sup>2</sup> 20 CSR 4240-40.030(12)(I) – Damage Prevention Program.

<sup>3</sup> 20 CSR 4240-40.030(12)(D) – Qualification of Pipeline Personnel.

<sup>4</sup> 20 CSR 4240-40.030(12)(B) – General Provisions.

<sup>5</sup> 20 CSR 4240-40.030(17) – Gas Distribution Pipeline Integrity Management (IM).

13. On March 29, 2022, the Staff requested that the Commission open a case to investigate Spire's compliance with the Commission's Rules regarding natural gas safety found at 20 CSR 4240-40.030 and to assist Staff in conducting more formal discovery, pursuant to the Commission's rules of practice and procedure.<sup>6</sup>

14. Additionally, Staff intended to gather information on the reasons for the decreasing trend in Spire's timely responses to excavator requests for Spire to mark the locations of its underground natural gas facilities, and what Spire Missouri is doing to improve its timeliness.<sup>7</sup> Staff conducted its investigation by review of Spire's records during routine pipeline safety inspections, review of quarterly and annual reports submitted by Spire to Staff, and through data requests to Spire in this case.

15. Staff's review of Spire's compliance with applicable commission rules and state statutes showed there are numerous instances each year when Spire failed to locate its underground facilities within the time allowed by Section 319.030, RSMo. 20 CSR 4240-40.030(12)(I)1. requires each operator of a buried pipeline to carry out a written program to prevent damage to that pipeline by excavation activities. Spire's damage prevention program includes compliance with Chapter 319, RSMo; therefore, Spire's failure to locate its underground facilities within the time allowed by Section 319.030, RSMo is a violation of 20 CSR 4240-40.030(12)(I)1.

---

<sup>6</sup> See 20 CSR 4240-2.090 and 20 CSR 4240-2.100.

<sup>7</sup> Paragraph 19 of Staff's March 29, 2022, Motion to Open Case.

16. Staff incorporates by reference the attached Staff's Investigation Report with appendices filed on January 31, 2024, in Case No. GS-2022-0261.

17. Spire filed its response to Staff's Investigation Report on March 8, 2024 in Case No. GS-2022-0261. In its response, Spire did not contest the alleged violation of Commission Rule 20 CSR 4240-40.030(12)(I)1, and stated in Paragraph 6 of its response that it generally agrees with Staff's recommendations. Spire additionally provided a response to each of Staff's recommendations.

### **COUNT I**

**Failure to follow its written damage prevention program is a violation of 20 CSR 4240- 40.030(12)(I)1., which requires each operator of a buried pipeline to carry out a written program to prevent damage to that pipeline by excavation activities in accordance with subsection (12)(I), and 20 CSR 4240-40.030(1)(G)3., which requires each operator to maintain, modify as appropriate and follow the plans, procedures and programs that it is required to establish under this rule.**

18. The Staff's Investigation Report filed on January 31, 2024, in Case No. GS-2022-0261 at pages 35 - 42 in *Section III.A.1.0 Damage Prevention program* covers the substance of this Count and is attached.

**WHEREFORE,** Staff prays that the Commission, after due notice and hearing, will determine that Spire violated the Commission's Gas Pipeline Safety Rule 20 CSR 4240-40.030 as stated herein and, pursuant to Section 386.600, RSMo, authorize its

General Counsel to seek penalties under Sections 386.570, 386.572 and 386.590, RSMo; and grant such other and further relief as is just in the circumstances.

## **COUNT II**

### **Staff Recommendations**

19. In addition to identifying violations of Commission Rules, Staff set out in its Staff's Investigation Report at pages 55 – 56 recommendations respecting areas related to the violation with the intended effect of implementation of the recommendations further evaluating the risks posed by the violation, and to minimize the possibility of a recurrence of the same violations. When Staff filed its Staff's Investigation Report on January 31, 2024, it also filed a cover pleading entitled *Staff's Investigation Report* that stated it would file a Complaint against Spire which would contain Staff's recommendations in addition to identifying and addressing the violations of the Commission's pipeline safety rules. Pursuant to its authority under Section 386.310.1, RSMo, to require Spire to operate its system in such manner as promotes and safeguards the health and safety of its employees, customers, and the public, its authority under Section 393.140(2), RSMo, to order such reasonable improvements in Spire's methods of operation as will best promote the public interest, preserve the public health and protect both those using gas and those employed in the distribution of gas, and its authority under other statutory sections noted herein, the Commission may order Spire to implement these recommendations. Staff recommended in its Investigation Report and recommends through its Complaint that the Commission direct that Spire file an action plan to effectuate each recommendation.



A. Spire shall increase the number of persons providing locates of its underground facilities to a level needed to meet Section 319.030, RSMo. Staff anticipates that Spire could accomplish this using either a combination of additional Spire and contractor personnel, or by \* \*

[REDACTED]

[REDACTED] \*\*, or both.

B. Spire shall evaluate past trends including increasing numbers of facility locate requests over time, turn-over of qualified locating personnel, and other factors that may affect locating timeliness going forward.

C. Spire shall further evaluate what factors may have affected the following changes in Spire Missouri East:

- \*\* a. [REDACTED] -  
[REDACTED] -
- b. [REDACTED]
- c. [REDACTED] -
- d. [REDACTED] -
- e. [REDACTED] . \*\*

D. Spire shall provide a plan to the Commission for providing locates of its underground facilities within the time allowed by Section 319.030, RSMo and an estimated time schedule for implementing the plan. The plan should allow for the variations over time in the number of personnel necessary to meet Section 319.030, RSMo (e.g., use Spire personnel for non-locating work on days when the number

of Spire and contractor personnel exceeds the level needed to meet Section 319.030, RSMo) and provide for the upward trend in locate request volume.

E. Spire shall create or modify existing procedures to define the process of how contract locators are to communicate issues discovered in the field (e.g. inaccurate facilities mapping, broken or missing tracer wire) to Spire.

F. Spire shall create or modify existing procedures to define how Spire will communicate audit findings to contract locators, and work with the contractor locators to prevent any problem(s) from recurring in the future.

G. In at least one of its procedures, Spire shall identify and define each specific category it intends to use as a root cause description of an excavation damage event.

H. Spire shall inform and train its damage prevention personnel on the definitions of each specific category of Root Cause Description of an excavation damage event.

I. Failure to timely locate facilities shall be included as one of the specific categories of root cause description of an excavation damage event.

J. Spire shall resume tracking and evaluation of damages caused by failure to timely locate its facilities.

K. The Commission should order:

- a. Spire to file an action plan, within 60 days, which addresses the recommendations (numbered A. – J. above).
- b. Spire to include in its action plan filing when it will effectuate that action plan.

- c. Require that the action plan include Spire's proposed resolution for addressing each recommendation and the timeframe for implementing the resolution.
- d. Require Spire to file updates every six months as to how the plan has been effectuated.

20. If Spire believes no action is necessary, Staff recommends the Commission order Spire to further explain, and provide supporting documentation as available, the reason(s) Spire believes no further action is required.

**WHEREFORE**, Staff files its Complaint with respect to the findings and violations against Spire as set out above and in the Attached Investigation Report.

Respectfully submitted,

**/s/ J. Scott Stacey**

J. Scott Stacey  
Deputy Counsel  
Missouri Bar No. 59027  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-522-6279  
573-751-9285 (Fax)  
[scott.stacey@psc.mo.gov](mailto:scott.stacey@psc.mo.gov)

**ATTORNEY FOR STAFF OF THE  
PUBLIC SERVICE COMMISSION**

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been transmitted by electronic mail to counsel of record this 16<sup>th</sup> day of April, 2024.

**/s/ J. Scott Stacey**