

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

In the Matter of an Investigation into)
Spire Missouri Inc. d/b/a Spire)
Concerning a Natural Gas Incident in)
Holt, Missouri)

File No. GS-2024-0137

STAFF’S RESPONSE

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and in response to the Commission’s January 16, 2025, *Order Directing Response* states:

1. On November 27, 2024, Staff filed its Gas Incident Report with the Commission; wherein, Staff identified violations of the Commission’s pipeline safety standards pursuant to 20 CSR 4240-40.030 and 20 CSR 4240-40.080, and set out twelve recommendations.

2. On January 10, 2025, Spire Missouri Inc. d/b/a Spire (“Spire”) responded to Staff’s Gas Incident Report; wherein, Spire generally accepted Staff’s recommendations one – eleven, providing clarifications on recommendations three, four, five, seven, eight and eleven. Spire, however, did not agree with Staff’s Recommendation Twelve and requested the Commission to reject this recommendation.

3. On January 16, 2025, the Commission ordered Staff to file a response to Spire’s concerns with recommendation number twelve no later than January 31, 2025.

4. Based on Staff’s review of Spire’s response to Staff’s Gas Incident Report, Staff submits the attached Staff Memorandum, incorporated by reference herein, as Ordered by the Commission.

5. Staff's Memorandum reiterates that Staff found five violations of Commission rules and provided twelve recommendations as set forth in its Gas Incident Report. The Staff Memorandum further provides recommendations one through eleven were addressed to Spire, and twelve was addressed to the Commission.

6. Staff's Memorandum further addresses each of Spire's statements regarding recommendation twelve and further reasoning why such recommendation is warranted.

WHEREFORE, Staff respectfully submits and requests the Commission accept the attached Staff's Response Memorandum pursuant to the Commission's Order issued on January 16, 2025; find recommendation number twelve is warranted and Order Staff to refer the question as stemmed in recommendation number twelve to the Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects ("APEPLSPLA", or "The Board") for consideration; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully submitted,

/s/ J. Scott Stacey

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**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 28th day of January 2025.

/s/ J. Scott Stacey

MEMORANDUM

TO: Missouri Public Service Commission
Official Case File No. GS-2024-0137
Spire Missouri, Inc.

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

/s/ Kathleen A. McNelis, PE 01/28/2025
Safety Engineering Department/ Date

SUBJECT: Staff's Response to Spire's Response to Staff Recommendation Twelve in the Matter of an Investigation into Spire Missouri Inc. d/b/a Spire Concerning a Natural Gas Incident in Holt, Missouri

DATE: January 28, 2025

Staff filed its *Staff's Gas Incident Report* in Case No. GS-2024-0137 on November 27, 2024. In its *Staff's Gas Incident Report*, Staff asserted five violations of Commission rules,¹ and provided 12 numbered recommendations. Staff recommendations one through eleven are addressed to Spire Missouri, Inc. ("Spire"),² and the twelfth Staff recommendation ("Recommendation Twelve") is addressed to the Commission. Staff Recommendation Twelve requests the Commission to authorize its Staff to refer the question as to whether or not Spire has violated provisions of Chapter 327, RSMo to the Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects ("APEPLSPLA", or "The Board") for consideration.³

On January 16, 2025, the Commission issued an order directing its Staff to file a response to Spire's concerns with Recommendation Twelve; this filing contains Staff's response.

On January 10, 2025, Spire filed its Response to *Staff's Gas Incident Report*. In Paragraph 17 of Spire's Response pertaining to Staff Recommendation Twelve, Spire recommends that the Commission should reject this recommendation. Paragraph 18 of Spire's response provides several specific concerns of Spire's, and Paragraph 19 of Spire's response provides what appears to Staff to be a misunderstanding of the basis for Staff's Recommendation Twelve.

¹ Pages 2-3 of *Staff's Gas Incident Report*, filed November 27, 2024 in Case No. GS-2024-0137.

² Pages 53-57 of *Staff's Gas Incident Report*, filed November 27, 2024 in Case No. GS-2024-0137.

³ Page 57 of *Staff's Gas Incident Report*, filed November 27, 2024 in Case No. GS-2024-0137.

Staff's response below addresses each of Spire's statements pertaining to Staff Recommendation Twelve. Since several of Spire's statements appear to stem from a misunderstanding of the basis for Staff's Recommendation Twelve, Staff has addressed Spire's statement in Paragraph 19 of Spire's Response first. The remaining Spire responses are addressed in the order presented in Spire's Response.

Staff's Response to Spire's Statements in its January 10, 2025, Response

Spire Statement (Spire Response, Paragraph 19): Spire would note that Staff's recommendation stems from a letter sent by the National Transportation Safety Board ("NTSB") to 31 states with a recommendation regarding future natural gas infrastructure projects, following a single incident in Massachusetts in 2018. The NTSB's letter is purely a recommendation, not a mandate, for the states receiving such recommendation.

Staff Response: The basis for Staff's Recommendation Twelve is the State of Missouri's response from former Governor Parson to the NTSB. In response to the letter from the NTSB recommending that Missouri remove an exemption so that all future natural gas infrastructure projects require licensed professional engineer approval and stamping, former Governor Parson responded in part:

...the interpretation of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects (the state entity that regulates professional engineers) (hereinafter, "Board") is that the statute does not provide for exceptions that such work be performed by professional engineers in this instance.

Staff provided a link to the full text of the response from former Governor Parson to the NTSB, and quoted excerpts from the former Governor's response in the *Staff's Gas Incident Report*.⁴ It appears to Staff that the former Governor's response to the NTSB is that Missouri statutes do not provide exceptions for natural gas infrastructure projects. Former Governor Parson's response additionally refers questions or requests for additional information to the Board.

Staff continues to recommend to the Commission that this matter be referred to the Board. It is not Staff's intention to exclude Spire personnel from discussions with the Board, or to attempt

⁴ Pages 48-49 of *Staff's Gas Incident Report*, filed November 27, 2024 in Case No. GS-2024-0137.

to influence the outcome of the Board's decision.

Spire Statement (Spire Response, Paragraph 17): The Commission should reject this recommendation as it risks setting an impossible standard for utilities across the state.

Staff Response: Staff does not agree that Recommendation Twelve sets a standard, rather Staff's Recommendation Twelve requests the Commission to authorize its Staff to refer a question regarding compliance with a Missouri Statute to the Board, consistent with former Governor Parson's response to the NTSB.⁵

In general, Staff does not agree that the NTSB recommended an impossible standard; this standard is already being met in numerous other states. The NTSB's 2019 accident report identified several states that had already met the NTSB recommended standard, and do not provide exemption for infrastructure projects:⁶ Kansas, Oklahoma, Indiana, Michigan, North Dakota, Delaware, District of Columbia, Hawaii, New Jersey, New Hampshire, Oregon, Rhode Island, Vermont, Washington, and West Virginia. Additionally, the NTSB has tracked responses and legislative changes in the states identified as having exemptions.⁷ Recommendations to several states have been closed, following changes made to state statutes or regulations. These states are Maryland, Massachusetts,⁸ Nevada and Virginia. Several of the NTSB recommendations to states have also been closed upon reconsideration, due to responses from these states indicating that no exemption existed. These states are Arkansas, Minnesota, Missouri, and Montana.

Spire's Statement (Paragraph 18, First Sentence): For over 100 years, utilities in the State of Missouri have safely operated without a qualified professional engineer approving every single design plan for piping.

Staff's Response: Staff does not agree that Spire has at all times operated safely, for example in the case of the incident discussed in *Staff's Gas Incident Report* in Case No. GS-2024-0137, and questions whether Spire speaks for all other regulated utilities in the

⁵ Former Governor Parson's response stated in part: "For questions or additional information please contact the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects."

⁶ Table on pages 30-31 of NTSB Report <https://www.nts.gov/investigations/AccidentReports/Reports/PAR1902.pdf>

⁷ Copies of NTSB letters to states under its recommendation P-19-016, and NTSB tracking of actions and responses is provided at: data.nts.gov/carol-main-public/sr-details/P-19-016

⁸ The NTSB Recommendation to Massachusetts (P-18-005) was separate from other states and was issued earlier: It was closed by the NTSB following "acceptable action" on October 24, 2019: <https://data.nts.gov/carol-main-public/sr-details/P-18-005>.

State of Missouri. Staff is not recommending that “every single design plan for piping” be approved by a qualified professional engineer. Staff believes the question of what should be approved by a qualified professional engineer should be directed to the Board.

Spire’s Statement (Paragraph 18, Second Sentence): However, if the Commission does authorize Staff to refer the question to APEPLSPLA, the installation and replacement of necessary utility infrastructure in the state could be drastically slowed.

Staff’s Response: It is unclear to Staff why referring the question to the Board would drastically slow the installation and replacement of necessary utility infrastructure within the state, and Staff does not find further elaboration of why this would be the case within Spire’s response. Staff considered two possible meanings of this statement: 1. That Spire is concerned about the time it will take for the Board to consider the matter, and 2. That the determination made by the Board will result in a work slow-down for Spire.

To address the first possible meaning (time for Board consideration), if the Commission authorizes Staff to refer the question to the Board, Staff will: 1. request that to the extent possible the Board expedite its review, and 2. Prioritize Staff’s responses to any questions or requests from the Board.

To address the second possible meaning (time required for Spire to comply with Board determination(s)), Staff has not had previous discussions with the Board regarding this matter, and has no foreknowledge of what the Board may determine, or how that determination may impact Spire’s infrastructure installation and replacement schedule.

If the Commission does authorize Staff to refer the question to the Board, Staff encourages Spire to present its concerns to the Board.

Spire’s Statement (Paragraph 18, Third Sentence): Spire believes that there is an insufficient number of qualified professional engineers, meaning professional engineers specifically qualified to perform utility work such as natural gas distribution system design, in the state to cover the engineering needs of utilities.

Staff’s Response: Spire’s statement in the third sentence of its Response does not provide a basis or the underlying assumptions for its belief. Extrapolating from other statements in Spire’s Response, it appears to Staff that the basis of Spire’s belief as stated in the third sentence may be based on assumptions stated at other locations in Spire’s Response:

- Spire assumption 1: If Staff refers the question as to whether or not Spire has violated provisions of Chapter 327, RSMo to the Board, this will result in additional requirements for Spire going forward (Staff paraphrase of Spire’s Paragraph 17 related to setting a new standard),
- Spire assumption 2: That “a qualified professional engineer” would be required to approve “every single design plan for piping” (from Spire’s Paragraph 18, first sentence of Spire’s Response), and
- Spire assumption 3: That “... a qualified professional engineer design, review sign-off and manage any design changes on every single project” (from the fifth sentence of Paragraph 18 of Spire’s Response).

Staff has had no previous discussion with the Board related to this matter, and no foreknowledge of the outcome of the Board’s decision. However, Staff does not agree that Spire’s assumptions are the inevitable outcome of referring a question of compliance in the matter of the Holt, Missouri, incident to the Board. Another possible outcome would be that the Board determines there was no violation of Chapter 327, RSMo. Staff therefore assumes that this is Spire’s projection of what it imagines to be the worst possible outcome of communication with the Board.

With respect to the number of engineers and the qualifications that Spire is assuming will be required, Staff believes that there currently are professional engineers qualified to perform utility work including natural gas distribution system design in Missouri, but does not know the extent of Spire’s anticipated need for additional such resources.

Staff continues to recommend that this matter be referred to the Board. If the Commission does authorize Staff to refer the question to the Board, Staff encourages Spire to present its concerns to the Board.

Spire’s Statement (Paragraph 18, Fourth Sentence): Each year, utilities produce thousands of engineering designs; Spire Missouri alone issues approximately 2,000 engineering designs.

Staff’s Response: Staff has insufficient data to either support or refute the number of designs issued by Spire Missouri annually, or to comment on how many are related to utility infrastructure.

Natural gas operators are required to notify the Pipeline and Hazardous Materials Safety Administration (PHMSA) not later than 60 days prior to beginning certain types of projects.⁹ Staff has received several such notifications in recent years, but none involving Spire facilities. This does not mean that Spire hasn't issued approximately 2,000 engineering designs annually, only clarification that Staff has not been notified.

Staff continues to recommend that this matter be referred to the Board. If the Commission does authorize Staff to refer the question to the Board, Staff encourages Spire to present its concerns to the Board.

Spire's Statement (Paragraph 18, Fifth Sentence): Having a qualified professional engineer design, review, sign-off, and manage any design changes on every single project, with the current number of qualified professional engineers in this state, presents an unreasonable and unattainable goal that would only delay the installation of infrastructure necessary for the public safety and economic development across the state.

Staff's Response: Spire has not provided details regarding: a. the number of qualified professional engineers currently working either directly for or contracted as engineering firms to Spire, or b. the additional number of engineers that would be required to comply with what Spire assumes is or will be required.

Staff does not agree that having a qualified professional engineer design, review, sign-off, and manage any design changes on every single project is an inevitable outcome of referring a question of compliance in the matter of the Holt, Missouri, incident to the Board. Another possible outcome would be that the Board determines there was no violation of Chapter 327, RSMo.

Further, as discussed in Staff's Response to Spire's Response, Paragraph 17, according to the NTSB Accident Report and subsequent NTSB tracking of responses from states, it appears that some form of professional engineering involvement with utility infrastructure design is already a requirement in numerous states.

⁹ The full list of required notifications is in 20 CSR 4240-40.020(11)(C), and 49 CFR 191.22(c), and includes a). Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs ten (10) million dollars or more; and b). Construction of ten (10) or more miles of a new pipeline.

Staff continues to recommend that this matter be referred to the Board. If the Commission does authorize Staff to refer the question to the Board, Staff encourages Spire to present its concerns to the Board.

Spire's Statement (Paragraph 18, Sixth Sentence): Further, for utilities to avoid infrastructure delays and have the qualified professional engineers necessary to meet such a requirement would impact ratepayers with the additional costs of hiring qualified professional engineers and qualifying currently employed engineers, all without justification that such costs are even necessary.

Staff's Response: Staff is not seeking to impose any new requirements on utilities, rather Staff is requesting that the Commission authorize Staff to refer a question as to whether or not Spire violated an existing Missouri Statute to the appropriate Board.

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Spire Missouri Inc. d/b/a Spire)	<u>Case No. GS-2024-0137</u>
Concerning a Natural Gas Incident in)	
Holt, Missouri)	

AFFIDAVIT OF KATHLEEN A. MCNELIS, PE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

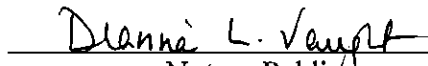
COMES NOW KATHLEEN A. MCNELIS, PE and on his oath states that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Report*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.


_____)
KATHLEEN A. MCNELIS, PE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 27th day of January 2025.


_____)
Notary Public

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2027
Commission Number: 15207377