

**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-2025-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”), 20 CSR 4240-40.030 and 20 CSR 4240-40.080, as follow-up to its investigation in Case No. GS-2024-0137, 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 Rules, 20 CSR 4240-40.030 and 20 CSR 4240-40.080, specifically related to an employee of a contractor working on behalf of Spire was injured while working on Spire’s 12-inch high-pressure steel distribution main.

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 and 20 CSR 4240-40.080, Safety Standards-Transportation of Gas by Pipeline (“Gas Pipeline Safety Rule”) and Drug and Alcohol Testing, respectively.

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 that beginning January 1, 2025, the maximum penalty for each violation shall be “twenty-five 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 fifty 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,¹ as well as

¹ RSMo 386.310 establishes the commission’s jurisdiction with respect to gas pipeline safety jurisdiction.

investigations as to causes of incidents. These include inspections for compliance with the Commission requirements for operators of natural gas pipelines to:

- a. 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,²
- b. Implement a written procedure to ensure that work completed on an operator's pipelines by its contractors complies with Commission rules,³
- c. Develop and implement an integrity management program, including identification of the threats and risks associated with excavation damages,⁴ and
- d. Perform post incident drug and alcohol testing of employees.

13. On October 16, 2023, the Staff requested that the Commission open a case to investigate a reportable natural gas incident that occurred on October 5, 2023, in Holt, Missouri and Spire's compliance with the Commission's Rules regarding natural gas safety found at 20 CSR 4240-40.030, 20 CSR 4240-40.080, and to assist Staff in conducting more formal discovery, pursuant to the Commission's rules of practice and procedure.⁵

² 20 CSR 4240-40.030(12)(D) – Qualification of Pipeline Personnel.

³ 20 CSR 4240-40.030(12)(B) – General Provisions.

⁴ 20 CSR 4240-40.030(17) – Gas Distribution Pipeline Integrity Management (IM).

⁵ See 20 CSR 4240-2.090 and 20 CSR 4240-2.100.

14. At the time of the incident, an employee of a contractor working on behalf of Spire was injured while working on Spire's 12-inch high-pressure steel distribution main ("the main"). A segment of the main had become exposed and was unsupported at a location crossing the Muddy Fork. New pipe had been installed under the Muddy Fork to replace the exposed segment. By 2:00pm on October 5, 2023, Spire employees completed installation of specialized pipeline tapping equipment (stopple fittings), vent stacks and an air handler in order to block the flow of gas into the exposed segment of pipe. Vents and an air handler were installed to purge any gas escaping beyond the stopple fitting. Spire employees cut and removed a short piece of the pipe so that a cap could be welded onto the ends of the pipe. In preparation for cap installation, plugs were being inserted into both open pipe ends. The plugs were intended to provide an additional measure of safety should gas escape the stopple fitting, vents and air handler. However, the plugs used were not designed or intended to be used for this purpose.

15. The first plug installed in the open pipe to the west was ejected under pressure as an employee of the contractor was working to install a plug in the open pipe to the east, injuring the employee.⁶

16. Additionally, Staff visited the site location to discuss the work being performed and the events leading up to the incident. Staff further investigated the adequacy of and adherence to the procedures used on this project, suitability of the

⁶ Paragraph 7 of Staff's October 16, 2023, Motion to Open Case.

equipment used, training of Spire and contractor personnel on the procedures, and adequacy of measures to prevent accidental releases of gas and injuries during implementation of the procedures.⁷ 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.

17. Staff's investigation and review of Spire's compliance with applicable commission rules and state statutes showed sufficient facts to assert Spire failed to perform post-incident drug and alcohol testing of eight employees.

18. Staff incorporates by reference the attached Staff's Incident Report with appendices filed on November 27, 2024, in Case No. GS-2024-0137.

19. Spire filed its response to Staff's Incident Report on January 10, 2025 in Case No. GS-2024-0137. Spire's response was silent with respect to Staff's allegations of violations of commission rules. Spire stated that it accepted Staff recommendations numbered 1, 2, 6, 9, 10 and 11, and accepted with additional clarification Staff recommendations numbered 3, 5, 7 and 8. Spire provided a response to Staff recommendation 4, but did not accept the recommendation, instead suggesting an alternative.

COUNT I

Failure to perform appropriate post-incident drug testing of the eight employees whose performance either contributed to the incident or could not be

⁷ Paragraph 8 of Staff's October 16, 2023, Motion to Open Case.

completely discounted as a contributing factor to the incident was a violation of 49 C.F.R. § 199.105(b)(1) as adopted by 20 CSR 4240-40.080.

20. The Staff's Incident Report filed on November 27, 2024, in Case No. GS-2024-0137 at pages 18 – 26 in *Section III.D Drug and Alcohol Testing* covers the substance of this Count and is attached.

21. As soon as possible but no later than 32 hours after the incident occurred, Spire should have drug tested each employee whose performance either contributed to the accident or could not be completely discounted as a contributing factor to the incident as required by 49 C.F.R. 199.105(b) and incorporated by reference into 20 CSR 4240-40.080. An operator may decide not to test; however, such a decision must be based on the specific information that the covered employee's performance had no role in the cause(s) or severity of the incident. At the time the incident occurred, eight employees (including employees of Spire and contractors to Spire) were performing or had performed covered functions at the incident location. Within 32 hours after the incident occurred, Spire neither made a determination that the actions of any of the covered employees working that the incident location had no role in the cause(s) or severity of the incident, nor performed any drug testing of these employees.

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 and 20 CSR 4240-40.080 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

Failure to perform appropriate post-incident alcohol testing of the eight employees whose performance either contributed to the incident or could not be completely discounted as a contributing factor to the incident was a violation of 49 C.F.R. § 199.225(a) as adopted by 20 CSR 4240-40.080.

22. The Staff's Incident Report filed on November 27, 2024, in Case No. GS-2024-0137 at pages 18 – 26 in *Section III.D Drug and Alcohol Testing* covers the substance of this Count and is attached.

23. As soon as practicable after the incident occurred, Spire should have performed testing for the presence of alcohol for each employee whose performance either contributed to the accident or could not be completely discounted as a contributing factor to the incident as required by 49 C.F.R. 199.225(a) and incorporated by reference into 20 CSR 4240-40.080. An operator may decide not to test; however, such a decision must be based on the specific information that the covered employee's performance had no role in the cause(s) or severity of the incident. At the time the incident occurred, eight employees (including employees of Spire and contractors to Spire) were performing or had performed covered functions at the incident location. Spire neither made a determination that the actions of any of the covered employees working that the incident location had no role in the cause(s) or severity of the incident, nor performed any alcohol testing of these employees following the incident.

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 and 20 CSR 4240-40.080 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 III

Failure to document reasons for the decision not to test the eight covered employees for drugs was a violation of 49 C.F.R. § 199.105(b)(2) as adopted by 20 CSR 4240-40.080.

24. The Staff's Incident Report filed on November 27, 2024, in Case No. GS-2024-0137 at pages 18 - 26 in *Section III.D Drug and Alcohol Testing* covers the substance of this Count and is attached.

25. 49 C.F.R. § 199.105(b)(2) as incorporated by reference in 20 CSR 4240-40.080 requires that if a required drug test is not administered within 32 hours following an incident, the operator must prepare and maintain its decision stating the reasons why the test was not promptly administered. At the time the incident occurred, eight employees (including employees of Spire and contractors to Spire) were performing or had performed covered functions at the incident location. Spire neither performed the required drug testing following the incident, nor prepared contemporaneous documentation stating the reasons why the tests were not promptly administered.

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 and 20 CSR 4240-40.080 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 IV

Failure to document reasons for the decision not to test the eight covered employees for alcohol was a violation of 49 C.F.R. § 199.225(a)(2)(i) as adopted by 20 CSR 4240-40.080.

26. The Staff's Incident Report filed on November 27, 2024, in Case No. GS-2024-0137 at pages 18 - 26 in *Section III.D Drug and Alcohol Testing* covers the substance of this Count and is attached.

27. 49 C.F.R. § 199.225(a)(2)(i) as incorporated by reference in 20 CSR 4240-40.080 requires that if a required alcohol test is not administered within 2 hours following an incident, the operator must prepare and maintain its decision stating the reasons why the test was not promptly administered. At the time the incident occurred, eight employees (including employees of Spire and contractors to Spire) were performing or had performed covered functions at the incident location. Spire neither performed the required alcohol testing following the incident, nor prepared contemporaneous documentation stating the reasons why the tests were not promptly administered.

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 and 20 CSR 4240-40.080 as stated herein and, pursuant to Section 386.600, RSMo, authorize its General Counsel to seek penalties under

communicated the change but will supplement this response if any such documentation is located.” No supplemental responses were provided.

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 and 20 CSR 4240-40.080 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 VI

Staff Recommendations

30. In addition to identifying violations of Commission Rules, Staff set out in its Staff’s Incident Report at pages 53 – 57 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 Incident Report on November 27, 2024, it also filed a cover pleading entitled *Staff’s Incident 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 and Drug and Alcohol testing 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 Incident Report and recommends through its Complaint that the Commission direct that Spire file an action plan to effectuate each recommendation.

A. Staff recommends that Spire provide a final listing of corrective actions identified by Spire during its PIR and root cause analysis investigations to the Commission. For each identified corrective action item Staff recommends that Spire provide either the date the corrective action item was completed or a timeline for completion (See Section III.B, Investigation of Failures and Incidents of the attached Staff's Gas Incident Report).

B. Staff recommends that Spire provide quarterly updates to the Commission regarding the status of implementation of each corrective action. If any identified corrective action item is no longer being considered as required by Spire, the reason(s) should be explained in the quarterly updates (See Section III.B, Investigation of Failures and Incidents of the attached Staff's Gas Incident Report).

C. Staff recommends that Spire develop procedures that address the following:

a. Establish who within Spire is responsible for determining which employees (including employees of contractors working for Spire) are to be tested following an incident;

b. Establish a time-frame for making the determination whether or not to test employees following an incident. Staff recommends that this be done within two hours to meet the time requirements for alcohol testing. If it will be difficult for Spire to make this determination within two hours following an incident, Staff

recommends that Spire adopt a policy that all employees working at an incident location be tested;

c. Provide instructions for how and where specimens are to be collected following an incident. This should address the contingency that employees (including employees of contractors working for Spire) are working outside of their normal service area(s); and

d. Provide instructions for how specimens are to be collected, and by whom for hospitalized employees. (See Section III.D, Drug and Alcohol Testing of the attached Staff's Gas Incident Report).

D. Staff recommends that Spire include in its written agreements with its contractors that perform covered functions on Spire's pipelines provisions to:

a. Require that specimens be collected for drug and alcohol testing from each employee identified by Spire within two hours of a federally reportable incident.

b. Require that each contractor either develop or adopt the procedures recommended for Spire above.

c. Include the requirements of 49 C.F.R. §§ 199.115 and 199.245 that the contractor allows access to property and records by Spire, the Administrator, any DOT agency with regulatory authority over the operator or covered employee, and representatives of the Missouri Public Service Commission for the purposes of monitoring the operator's compliance with the requirements of 49 C.F.R. Part 199 as adopted in 20 CSR 4240-40.080. (See Section III.D, Drug and Alcohol Testing of the attached Staff's Gas Incident Report).

E. Staff recommends that Spire to amend its plans and procedures regarding tapping, stopping, and capping operations similar to those required by the project in Holt, MO, to include detailed processes that can be followed to produce safe, repeatable results when conducting these operations. Amendments should include, but not be limited to:

a. All sub-processes that could be utilized during tapping and stopping procedures as they relate to safety (such as “air-jacking”, lock-out tag-out, or other such sub-processes), including detailed methodology and when it is and is not approved to use the sub-process;

b. Information about which specific valves and equipment are subject to the lock-out, tag-out procedures and sub-processes; and

c. How to determine qualification requirements in order to verify qualified individuals are performing any covered tasks.

d. Staff further recommends that any relevant changes to Spire procedures with regards to safety during these operations be written as required processes (e.g., “shall” or “must” instead of “should” language) (See *Section III.E, Hot Tapping and Stopping* of the attached Staff’s Gas Incident Report).

F. Staff recommends that if Spire intends to utilize a lockout tagout process during tapping, stopping, and venting operations that Spire develop a written lockout tagout

procedure to be put into effect during those processes and that written procedure include, but is not limited to:

- a. Details on personnel authority for completing a lockout and/or tagout including determination of whom has the authority to do so;
- b. Details on personnel authority for releasing a lockout and/or tagout including determination of whom has the authority to do so;
- c. Details on whether a lock or a tag, or a lock and a tag will be utilized in these processes and specifically how the lock and/or tag will prevent unauthorized operation of equipment;
- d. Details on how Spire will train employees and contractors on how to put the lockout tagout procedure into effect and what training or qualifications will be required to obtain the authority to lockout or tagout equipment and release a lockout or tagout; and
- e. Details on how Spire will train all of its employees and contractors on how to recognize when equipment has been locked and/or tagged out, and how to recognize who has the authority to release a locked or tagged out piece of equipment. (See *Section III.E, Hot Tapping and Stopping* of the attached Staff's Gas Incident Report).

G. Staff recommends that Spire review its procedures and practices for prevention of accidental ignition during the work activities that were involved in this incident and make revisions to prevent recurrence of this incident and the near-miss of an accidental ignition in an occupied excavation. These revisions should ensure the use of a gripper plug is not

allowed going forward and that only acceptable methods for gas pipeline isolation, such as double block and bleed⁸ stopple fittings, are used going forward to address concerns with gas bleeding past a stopple fitting (See Section III.F, Prevention of Accidental Ignition of the attached Staff's Gas Incident Report).

H. Staff recommends that Spire follow its procedure with respect to changes to covered tasks performed on its pipelines. Additionally, Staff recommends that for each change in a procedure that can potentially affect a covered task, the procedure should be updated to address:


- a. Communication of the change(s) to the persons responsible for design and planning of these covered tasks; and
- b. Including evaluation criteria regarding the changes in the testing criteria for qualification or re-qualification on the affected covered tasks. (See Section III.G, Operator Qualification of the attached Staff's Gas Incident Report).

I. Staff recommends that Spire implement the changes to its DIMP Plan as outlined in Spire's response to Staff data request 0010, part E, specifically to ** [REDACTED]

[REDACTED]

[REDACTED]

⁸ Double block and bleed" refers to a method of isolation that involves closing two valves (or plugging heads in the case of a stopple fitting) to create a barrier between the source of hazard and a break of containment. A bleed valve located between the two block valves is used to bleed any pressure that may build up in the space between the block valves.

 ** (See Section III.H, Distribution Integrity Management Program (“DIMP”) of the attached Staff’s Gas Incident Report).

J. Staff recommends that Spire conduct a DIMP program re-evaluation including the changes outlined in Spire’s response to Staff data request 0010, part E, in order to determine the relative risk of each threat including sub-threats within the threat category of incorrect operations. Additionally, as part of the DIMP program re-evaluation, Staff recommends that Spire ensures that it determines if any measures to address the risk posed by incorrect operations are necessary to reduce the risk posed to its pipeline (See Section III.H, Distribution Integrity Management Program (“DIMP”) of the attached Staff’s Gas Incident Report).

K. Staff recommends that Spire communicate procedural changes such as ** the discontinuance of gripper plugs ** to its Inspection Contractors (See Section III.I, Oversight of Contractors of the attached Staff’s Gas Incident Report).

L. The Commission should order:

- a. Spire to file an action plan, within 60 days, which addresses the recommendations (numbered A. – L. 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.

31. 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 Incident Report.

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 3rd day of March, 2025.

/s/ J. Scott Stacey