

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

In the Matter of the Application of Spire Missouri)
Inc. for an Accounting Authority Order Concerning) File No. GU-2019-0011
Its Commission Assessment for the 2019)
Fiscal Year.)

SPIRE’S STATEMENT OF POSITION

COMES NOW Spire Missouri Inc. (“Spire Missouri” or “Company”), as its Statement of Position concerning the issues contained in the *List of Issues, Order of Witnesses, Order of Cross-Examination and Order of Opening Statements* (“List of Issues”) filed on November 28, 2018, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

SUBJECT

Spire Missouri’s current rates became effective on April 19, 2018, as a result of the Commission’s Order in Files Nos. GR-2017-0215 and GR-2017-0216, and resulted in a decrease in rates for its customers. The rate decrease took effect approximately 2 months before the Commission’s Fiscal Year 2019 assessment letter was sent. The Commission assessment for Fiscal Year 2019 represented a \$1,661,778.53 (51.2%) increase from the Fiscal Year 2018 assessment included in Spire Missouri’s rates. This is in addition to the nearly \$1,000,000 unrecoverable charge the Company already incurred for sharing of expenses related to Files Nos. GR-2017-0215 and GR-2017-0216.

Spire Missouri seeks an accounting authority order authorizing it to defer as a regulatory asset the increases above the Commission’s Fiscal Year 2018 assessment built into its rates until the Company’s next general rate case. The Company would also propose to defer as a regulatory

liability the amount by which any assessment falls short of the Fiscal Year 2018 assessment amount between now and the Company's next general rate case.

LIST OF ISSUES

The List of Issues, as filed by Staff, contained the following recognition:

. . . as recognized by the Commission, "not all parties may agree upon how each issue should be described, or on whether a listed issue is in fact a proper issue." With the understanding that not all parties may agree upon how the following are described or if each listed issue is in fact a proper issue, Staff submits the following:

In fact, Spire does not agree with the precise wording of the issues. However, Spire believes that its Statements of Position will sufficiently identify its disagreements in this regard.

Does Spire Missouri Inc.'s accounting authority order (AAO) / tracker request meet the Commission's expressed criteria for authorizing AAO / tracker deferrals?

Spire Position:

The reference to both an AAO and a tracker is largely a distinction without a difference. The Court of Appeals has stated that a "'tracking' accounting mechanism is the same as a request for an AAO, as it seeks to book a particular cost, normally charged as an expense on a utility's income statement in the current period, to the utility's balance sheet as a regulatory asset or regulatory liability." *In the Matter of Kanas City Power & Light Company's Request*, 509 S.W.3d 757, 769 (Mo.App. 2016).

Moreover, the reference in this issue to "the Commission's expressed criteria" promises more structure than is necessarily present in past Commission cases. As recently as 2012, the Commission stated as follows:

Although the courts have recognized the Commission's authority to authorize an AAO in extraordinary and unusual circumstances, there is nothing in the Public Service Commission Law or the Commission's regulations that would limit the grant of an AAO to any particular set of circumstances.

In the Matter of the Application of Kansas City Power & Light Company and Greater Missouri Operations Company, 2012 Mo. PSC LEXIS 422, File No. EU-2012-0131 (April 19, 2012).

Having said this, Spire Missouri recognizes that the Commission has commonly referred to extraordinary and unusual circumstances in regard to consideration of AAO's and Spire believes that the referenced increase in its assessment is an extraordinary item. However, it is also the case that the Commission may examine the nature of the assessment and the circumstances surrounding it and reach a determination without being bound to the "extraordinary item" outlines in the Uniform System of Accounts, if it should choose to do so. (*Weitzel Dir., All; Weitzel Sur., All*)

Is the increase in the Commission Assessment billed to Spire Missouri Inc. in fiscal year 2019 an extraordinary event, as defined by past Commission criteria?

Spire Position:

Spire believes that the reference in this issue would be more appropriately phrased as to whether the increase in Commission assessment is an extraordinary "item." General Instruction 7 of the USOA applicable to gas corporations refers to extraordinary "items." Those are "items related to the effects of events and transactions which have occurred during the current period and which are of unusual and infrequent occurrence." In this case, the significant increase in the Commission Assessment was the result of events that were unusual and infrequent occurrences (litigated rate cases for two divisions and among other things, the first rate case for each division

after a major acquisition, for a company that has not traditionally litigated rate cases).

Spire Missouri's current rates became effective on April 19, 2018, as a result of the Commission's Order in Files Nos. GR-2017-0215 and GR-2017-0216, and resulted in a decrease in rates for its customers. The rate decrease took effect approximately 2 months before the Commission's Fiscal Year 2019 assessment letter was sent in June of 2018. The revenue requirements in those cases reflected the Fiscal Year 2018 assessment, which is \$1,661,778.53 less on an annual basis than the Fiscal Year 2019 amount assessed by the Commission in June, just a couple of months after the completion of the rate cases. This assessment shortfall is in addition to the nearly \$1,000,000 unrecoverable rate case expenses the Company incurred as a result of the "sharing" of rate case expenses related to Files Nos. GR-2017-0215 and GR-2017-0216.

As stated above, the Commission assessment for Fiscal Year 2019 is a \$1,661,778.53 (51.2%) increase from the Fiscal Year 2018 assessment. An increase of over 50% represents an extraordinary, non-recurring and unusual change in the assessment for Spire Missouri. the

following chart identified the changes over the last ten years:

MPSC Assessments
Spire Missouri, Inc (East and West)

Fiscal Year	Annual	Percent Change
2008	4,147,693.60	
2009	3,980,583.92	-4.0%
2010	3,585,137.41	-9.9%
2011	4,041,676.12	12.7%
2012	3,463,112.65	-14.3%
2013	3,384,578.19	-2.3%
2014	3,384,369.51	0.0%
2015	3,954,922.54	16.9%
2016	3,364,459.91	-14.9%
2017	2,916,945.72	-13.3%
2018	3,242,612.16	11.2%
2019	4,904,390.63	51.2%

The substantial Fiscal Year 2019 fiscal year increase is beyond the control of Spire Missouri and a circumstance for which no provision is made in the ratemaking process. This unpredictable change, which arises from a number of factors beyond the Company's control, including when other utilities file rate cases, makes normal budgeting parameters extremely difficult to forecast.

The magnitude of Fiscal Year 2019 assessment increase is an item “of significant effect”, which is “abnormal and significantly different from” such increases (or decreases) in the past, related to the effects of events and transactions which have occurred during the current period and which are of unusual and infrequent occurrence, and which would not reasonably be expected to recur in the foreseeable future.

(Weitzel Dir., All; Weitzel Sur., All)

Is the increase in the Commission Assessment billed to Spire Missouri Inc. in fiscal year 2019 of a material nature?

Spire Position:

Spire believes that the Staff’s use of the phrase “material nature” in the above issue concerns the following statement found in General Instruction 7 of the USOA:

To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent as extraordinary.

The increase in Spire’s assessment is not “more than approximately 5 percent of income, computed before extraordinary items.”

While relevant, the relationship of the deferral to income is not determinative as to the case. In *In the matter of the application of Missouri Public Service for the issuance of an accounting authority order*, 1 Mo.P.S.C.3d 200, 206, Case No. EO-91-358, et al., (December 20, 1991), the Commission stated as follows:

The issues of whether the event has a material or substantial effect on a utility's earnings is also important, but not a primary concern. The company, under the USOA, is required to seek Commission approval if the costs to be deferred are less than five percent of the company's income computed before the extraordinary event. This five percent standard is thus relevant to materiality and whether the

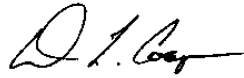
event is extraordinary but is not case-dispositive.

(emphasis added)

(Weitzel Dir., All; Weitzel Sur., All)

WHEREFORE, Spire Missouri respectfully submits this Statement of Position for the Commission's consideration.

Respectfully submitted,



Dean L. Cooper MBE#36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
(573) 635-7166
dcooper@brydonlaw.com

**ATTORNEYS FOR
SPIRE MISSOURI INC.**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 3rd day of December, 2018, to:

Jeff Keevil
General Counsel's Office
staffcounsel@psc.mo.gov
jeff.keevil@psc.mo.gov

Marc Poston
Office of the Public Counsel
opc@ded.mo.gov
marc.poston@ded.mo.gov

David Woodsmall
Woodsmall Law Office
david.woodsmall@woodsmalllaw.com

