BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Claude Scott,	)	
	)	
Complainant	)	
v.	)	**File No. GC-2020-0201**
	)	
Spire Missouri, Inc., d/b/a Spire	)	
	)	
Respondent	)	

REPORT AND ORDER

Issue Date: April 7, 2021

Effective Date: May 7, 2021

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Claude Scott,	)	
	)	
Complainant	)	
v.	)	**File No. GC-2020-0201**
	)	
Spire Missouri, Inc., d/b/a Spire	)	
	)	
Respondent	)	

APPEARANCES

Claude Scott, 3725 Geraldine Ave., St. Ann, Missouri 63074.

For the Staff of the Missouri Public Service Commission:

Travis Pringle, 200 Madison Street, Suite 800, Jefferson City, Missouri 65102.

For Spire Missouri, Inc.:

Goldie T. Bockstruck, Spire Missouri Inc., 700 Market Street, St. Louis, Missouri 63101.

Regulatory Law Judge: **Jana C. Jacobs**

REPORT AND ORDER

The Missouri Public Service Commission, having considered the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and the arguments of all of the parties have been considered by the Commission in making this decision. Any failure to specifically address a piece of evidence, position, or argument of any party does not indicate that the Commission did not consider relevant evidence, but indicates rather that omitted material is not dispositive of this decision.

Procedural History

On January 16, 2020, Claude Scott filed a formal complaint against Spire Missouri, Inc. d/b/a Spire. Mr. Scott alleged Spire billed him based on inaccurate estimates and failed to read his meter, overbilled him, failed to credit his account for payments, failed to offer a payment plan and violated the Commission's "Cold Weather Rule."[1] Mr. Scott's complaint alleged an amount in dispute of $220.00.[2]

On January 17, 2020, the Commission directed notice of a contested case under Chapter 536 of the Revised Statutes of Missouri (RSMo) and directed Spire to satisfy the complaint or file an answer.[3] The Commission notified the parties this case constitutes a small formal complaint under Commission rules.[4] The Commission also directed the Staff of the Commission (Staff) to investigate the complaint and report its findings and recommendations to the Commission.

---

[1] Ex. 301: Complaint, p. 1-3 (complaint pages are not numbered; page numbers provided exclude exhibit cover page).
[2] Ex. 301: Complaint, p. 2.
[3] *Order Giving Notice of Contested Case and Directing Answer* (Jan. 17, 2020).
[4] Commission Rule 20 CSR 4240-2.070(15).

On February 3, 2020, Spire requested mediation of Mr. Scott's complaint, and on February 18, 2020, Mr. Scott agreed to mediation. After an attempt at mediation, Spire filed a timely answer on March 16, 2020, and denied Mr. Scott's allegations in full.

On April 20, 2020, Staff filed its report and recommendations, concluding that Spire had not violated applicable statutes, Commission rules or the company's tariff in relation to Mr. Scott's complaint. On April 21, 2020, the Commission issued a notice of extension of the 100-day deadline for resolution in a small formal complaint case, based on the finding that adequate time did not exist to conduct a hearing before the expiration of the time period.

The Commission conducted a prehearing conference on May 11, 2020, for the purpose of establishing a hearing date, discussing procedural issues and allowing the parties to meet to discuss a resolution of the complaint. At Spire's request, the Commission on May 20, 2020, extended the time allowed for the parties to file a proposed procedural schedule to permit Spire to change the meter at Mr. Scott's address at his request.[5]

On June 4, 2020, the parties filed a joint proposed procedural schedule. The Commission adopted the schedule and issued notice of a July 24, 2020 evidentiary hearing.[6] The procedural schedule established a June 22, 2020 deadline for "discovery," or requests by the parties to other parties for information in the case.[7] On July 23, 2020,

[5] *Order Extending Time to File Proposed Schedule* (May 20, 2020); *see also Spire Missouri's Status Report*, ¶¶ 2, 3 (May 20, 2020).

[6] The parties' proposed procedural schedule allowed for either an in-person hearing or a hearing by telephone, if required because of restrictions due to COVID-19. *Joint Proposed Procedural Schedule*, ¶¶ 5, 6 (June 4, 2020). The Commission's procedural orders required exchange of exhibits in advance of hearing to enable Mr. Scott to participate in a remote hearing with notice of all proposed exhibits. *See Order Providing for Exchange of Exhibits* (July 14, 2020); *Order on Procedural Schedule* (Nov. 12, 2020). *See also Notice of Proposed Exhibits and Order Directing Filing of Objections* (Dec. 10, 2020).

[7] *Notice of Hearing and Order Setting Procedural Schedule*, ¶ 1 (June 5, 2020).

the Commission continued the July 24 hearing based on Spire's request that the hearing be canceled to allow Spire to complete a second exchange of Mr. Scott's meter, at his request.[8] On September 21, 2020, Spire reported the parties continued to work toward resolution of the case.

On October 21, 2020, Spire reported the parties were not able to reach a resolution and requested the Commission schedule an evidentiary hearing on one of two dates proposed by Staff and Spire. After allowing Mr. Scott an opportunity to object to the proposed hearing dates, the Commission on November 12, 2020, issued notice of a December 4, 2020 evidentiary hearing.

On December 4, 2020, the Commission conducted an evidentiary hearing via telephone conference, also accessible by Webex video conference. During the hearing, the Commission heard argument from the parties regarding a pending filing submitted by Mr. Scott. On December 1, 2020, Mr. Scott filed a letter with an attached document labeled "Complainant's Motion for Discovery." The attached document sought "monthly billing" for the period of "04/2019 to 10/2020" and requested a response "prior to November 23, 2020."[9] After giving Mr. Scott the opportunity to explain his request, the presiding officer took the issue of Mr. Scott's discovery request under advisement to be resolved after the hearing.

During the evidentiary hearing, the Commission received 15 exhibits into evidence.[10] Two additional exhibits were discussed during the hearing, to be admitted pending an opportunity for objection after the hearing. The Commission heard testimony

[8] *Motion for Continuance*, ¶¶ 3, 4 (July 23, 2020).
[9] *See Letter Dated Nov. 25, 2020,* Attachment: *"Complainant's Motion for Discovery"* (Dec. 1, 2020).
[10] *Notice of Admitted and Filed Exhibits* (Jan. 22, 2021).

from five witnesses. Mr. Scott testified on his own behalf. Spire presented testimony from Connie Sanchez, a Spire outreach specialist; Brandon Wilken, a service technician; and James Rieske, Spire's Director of Measurement. Staff presented witness Tammy Huber, a senior research/data analyst with the Commission's Customer Experience Department. In addition, over Mr. Scott's objection, the Commission took official notice of Spire tariffs in effect as of the relevant time periods in this case.[11]

During the hearing, Mr. Scott testified he did not have a copy of a June 1, 2020 letter addressed to him by Spire.[12] Also during the hearing, based on the testimony of Ms. Sanchez, the presiding officer requested Spire file a copy of the August 5, 2019 billing statement for Mr. Scott's account.[13] On December 8, 2020, Spire filed the statement.[14]

On December 10, 2020, the Commission issued a *Notice of Proposed Exhibits and Order Directing Filing of Objections*. The notice attached the August 2019 statement and the June 2020 letter and directed that the notice and attached documents be mailed to Mr. Scott. As stated in the notice, objections to the proposed exhibits were due no later than December 31, 2020.

On December 17, 2020, the Commission issued an *Order Providing for Correction to Admitted and Filed Exhibits*. The order identified the exhibits admitted to the record during the hearing and indicated reserved exhibit numbers for the June 2020 letter (Ex. 103) and the August 2019 statement (Ex. 106), copies of which had already been

[11] Transcript Vol. 2 at p. 27-29 (Dec 4, 2020).
[12] Transcript Vol. 2 at p. 161-162 (Dec. 4, 2020). The June 1, 2020 letter was included in Spire's prehearing exhibit disclosure, which Spire filed on November 25, 2020, as required by the procedural order. *Response to Order Directing Filing in Advance of Hearing*, Attachment p. 10: June 2020 Letter (Nov. 25, 2020). The certificate of service included with Spire's November 25 filing indicates Spire mailed the documents to Mr. Scott.
[13] Transcript Vol. 2 at p. 119-121, 221-222 (Dec. 4, 2020).
[14] *Submission of Exhibit in Response to Commission Order* (Dec. 8, 2020).

provided to Mr. Scott pursuant to the December 10, 2020 order. In addition, the Commission ordered that a copy of the order along with copies of all of the exhibits – with the exception of the two proposed exhibits provided with the December 10 order – be mailed to Mr. Scott. The order provided that corrections to any of the admitted and filed exhibits be submitted no later than January 15, 2021. No corrections were received.

On January 22, 2021, the Commission issued a *Notice of Admitted and Filed Exhibits*, which provided a list of 17 exhibits admitted to the record after expiration of the objection and correction periods.[15] With the resolution of post-hearing filings on January 22, 2021, this matter was submitted to the Commission for decision.[16]

On March 22, 2021, the Commission issued an *Order Directing Notice of Recommended Report and Order*, which provided notice of the recommended order issued by the regulatory law judge, as provided by the Commission's rules governing small formal complaints.[17] The notice provided any comments on the recommended order were required to be filed no later than April 1, 2021. No comments were received as of April 1, 2021.

Findings of Fact

1. Spire Missouri Inc. d/b/a Spire is a "gas corporation" and "public utility" regulated by the Commission, pursuant to Section 386.020, RSMo (Supp. 2020).

2. Spire began providing residential gas service to Claude Scott at 3725 Geraldine Avenue, St. Ann, Missouri, in December 2018.[18]

[15] Ex. 105, which is a picture of a meter, was offered as a demonstrative exhibit.
[16] Commission Rule 20 CSR 4240-2.150(1).
[17] 20 CSR 4240-2.070(15)(G).
[18] *Stipulation of Undisputed Facts*, ¶ 3 (July 17, 2020); Ex. 200C: *Staff Memorandum*, p. 3; Transcript Vol. 2 at p. 185-186 (Dec. 4, 2020).

Meter reading and testing

3. Spire reads the gas meter at 3725 Geraldine Avenue through automated meter reading.[19] Automated meter reading allows a meter to be read remotely.[20] In-person meter reading is not necessary to read the gas meter at the property.[21]

4. Meter readings are indicated on Spire billing statements in boxes below the customer's name and address.[22] Billing statements based on actual meter reads, rather than estimated use, are indicated with the word "actual" appearing below the boxes indicating the "present" meter reading and "previous" meter reading on the statement.[23]

5. Billing statements issued for Mr. Scott's account and admitted to the record indicate "actual" meter reads.[24] Spire's billing of Mr. Scott's account for the period at issue is based on actual reads of the meter at 3725 Geraldine Avenue.[25]

6. On May 16, 2020, Spire service technician Brandon Wilken removed the gas meter in use at 3725 Geraldine Avenue and replaced it with a different meter.[26] The meter removed on May 16, 2020, had been installed at 3725 Geraldine Avenue in July 2008.[27]

---

[19] Transcript Vol. 2 at p. 149-150 (Dec. 4, 2020); *Stipulation of Undisputed Facts*, ¶ 5 (July 17, 2020).
[20] Transcript Vol. 2 at p. 149-150 (Dec. 4, 2020); *see also Stipulation of Undisputed Facts*, ¶ 5 (July 17, 2020).
[21] Transcript Vol. 2 at p. 149-150 (Dec. 4, 2020); *see also Stipulation of Undisputed Facts*, ¶ 5 (July 17, 2020).
[22] Transcript Vol. 2 at p. 102 (Dec. 4, 2020).
[23] Transcript Vol. 2 at p. 102, 195 (Dec. 4, 2020).
[24] Billing statements admitted to the record for the period before Mr. Scott filed his complaint on January 16, 2020, are dated as early as June 5, 2019, and continue for each month through January 6, 2020. *See* Ex. 6 and Ex. 300 p. 3: June 2019; Ex. 7 and Ex. 300 p. 8: July 2019; Ex. 106: August 2019; Ex. 101 p. 1: September 2019; Ex. 101 p. 3: October 2019; Ex. 101 p. 6: November 2019; Ex. 4 and Ex. 101 p. 7: December 2019; Ex. 1 and Ex. 101 p. 8: January 2020 ("Statement Exhibits"). Mr. Scott also offered on the record select billing statements generated after Mr. Scott filed his complaint in January 2020, and those statements were accepted on the record without objection. Those statements also indicate billing based on actual meter reads, rather than estimates. *See* Ex. 3: April 2020; Ex. 5: June 2020; and Ex. 2: November 2020 ("Post-Complaint Statement Exhibits").
[25] Transcript Vol. 2 at p. 102, 195 (Dec. 4, 2020).
[26] Transcript Vol. 2 at p. 107, 143-145 (Dec. 4, 2020).
[27] Transcript Vol. 2 at p. 187-188 (Dec. 4, 2020).

7. Spire mailed a letter to Mr. Scott's address, dated June 1, 2020, advising that on June 15, 2020, Spire would test the meter removed from 3725 Geraldine Avenue.[28] The letter explained that Mr. Scott could witness the meter test and provided contact information to request more information.[29]

8. On June 15, 2020, a Spire shop supervisor tested the meter that had been removed from 3725 Geraldine Avenue to determine the accuracy of the meter.[30] When the results of the high-flow test and low-flow test were averaged, the test indicated the meter provided "exact" measurements.[31] The test performed on the meter indicated the meter was operating correctly.[32]

9. In an attempt to settle Mr. Scott's complaint, Spire again replaced the meter at 3725 Geraldine Avenue on July 25, 2020.[33]

Billing and Payments

10. Billing statements issued for Mr. Scott's account list charges authorized by Spire's tariff.[34] Charges appear on the Spire billing statements issued to Mr. Scott under four main categories: "delivery"; "natural gas cost"; "taxes"; and "other charges."[35]

11. The items listed under delivery on the Spire billing statements issued to Mr. Scott include a "customer charge," which is a standard amount or "flat" fee charged to each residential customer per billing period that does not change based on the amount

[28] Transcript Vol. 2 at p. 160-161 (Dec. 4, 2020); *See* Ex. 103: June 2020 Letter.
[29] Ex. 103: June 2020 letter.
[30] Transcript Vol. 2 at p. 159-160, 165-167 (Dec. 4, 2020).
[31] Transcript Vol. 2 at p. 166-170 (Dec. 4, 2020); Ex. 104: Special meter test form.
[32] Transcript Vol. 2 at p. 170 (Dec. 4, 2020).
[33] Transcript Vol. 2 at p. 107, 146-148 (Dec. 4, 2020); *see also Motion for Continuance* (July 23, 2020); *Status Report* (Sept. 21, 2020); *Status Report* (Oct. 21, 2020).
[34] Transcript Vol. 2 at p. 109 (Dec. 4, 2020).
[35] Transcript Vol. 2 at p. 102-104 (Dec. 4, 2020); *See* Statement Exhibits and Post-Complaint Statement Exhibits.

of gas used.[36] The statements admitted to the record indicate a $22 customer charge per billing period,[37] which is authorized by Spire's tariff.[38]

12. Also included under "delivery" is a "usage" charge, which is part of what Spire is authorized to charge for providing natural gas service.[39] The charge per "therm," which is a measure of gas used,[40] varies based on a summer or winter seasonal rate established by Spire's tariff.[41] The statements admitted to the record indicate a usage charge consistent with Spire's tariff.[42]

13. The delivery category includes additional adjustments, which may be amounts credited to the customer or amounts charged to the customer.[43] The adjustments in the delivery category include credits and/or debits for the Infrastructure System Replacement Surcharge (ISRS) and Weather Normalization Adjustment Rider (WNAR), which are authorized by Spire's tariff.[44]

14. The ISRS charge, also described as a "Pipeline Upgrade Charge" on some of the 2020 statements admitted to the record,[45] reflects approved costs for the replacement of eligible infrastructure.[46]

---

[36] Transcript Vol. 2 at p. 103 (Dec. 4, 2020).
[37] Transcript Vol. 2 at p. 103 (Dec. 4, 2020); *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[38] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 2 (effective April 19, 2018).
[39] Transcript Vol. 2 at p. 103-104 (Dec. 4, 2020). *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[40] Transcript Vol. 2 at p. 103 (Dec. 4, 2020).
[41] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 2 (effective April 19, 2018).
[42] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 2 (effective April 19, 2018)(providing for charge per therm of $0.23330 from November through April and $0.20994 for the first 50 therms per month from May through October). *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[43] *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[44] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 2 (effective April 19, 2018)(authorizing ISRS, as provided by P.S.C. MO. No. 7 Sheet No. 12, and WNAR, as provided by Sheet No. 13); *see also* Transcript Vol. 2 at p. 103-104 (Dec. 4, 2020).
[45] *See* Post-Complaint Statement Exhibits.
[46] Transcript Vol. 2 at p. 103-104 (Dec. 4, 2020).

15. Spire's tariffs authorize the WNAR adjustment,[47] which appears as a credit, ranging from $0.07 to $1.13, on each of the Spire billing statements admitted to the record.[48]

16. The second category listed on Spire's billing statements to Mr. Scott is "natural gas cost," which is an adjustment related to the cost to Spire to buy, transport and store gas delivered to the service address.[49] During the relevant periods, Spire's tariffs authorized an adjustment for purchased gas costs.[50]

17. The third and fourth categories are taxes and "other charges."[51] A "St. Ann tax" is the only tax included on the billing statements admitted to the record.[52] Spire's tariffs authorize it to collect taxes.[53] The final category, "other charges," includes late payment charges, which are also authorized by Spire's tariff.[54]

18. Mr. Scott's complaint alleged Spire did not credit his account for an $86 payment made on September 1, 2019, and an $85 payment made on September 21, 2019.[55] In addition, a receipt for a $53 payment made on January 6, 2020, is attached to the complaint.[56]

---

[47] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 13 (effective April 19, 2018).
[48] *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[49] Transcript Vol. 2 at p. 103, 104 (Dec. 4, 2020).
[50] Effective November 15, 2018, Spire was authorized to charge $0.45672 per therm to residential customers under the purchased gas adjustment. *See* Spire Missouri Inc. d/b/a Spire for Spire Missouri East, P.S.C. MO. No. 7 First Revised Sheet No. 11.16. Effective November 15, 2019, Spire was authorized to charge $0.41274 per therm to residential customers. *See* Spire Missouri Inc. d/b/a Spire for Spire Missouri East, P.S.C. MO. No. 7 Second Revised Sheet No. 11.16. As of November 16, 2020, the authorized adjustment is $0.37193. *See* Spire Missouri Inc. d/b/a Spire for Spire Missouri East, P.S.C. MO. No. 7 Third Revised Sheet No. 11.16.
[51] *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[52] *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[53] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 14 (effective April 19, 2018).
[54] Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 7 Original Sheet No. 2 (effective April 19, 2018). Spire's tariff authorizes late charges of 1.5% of the outstanding balance. Late charges are the only types of "other charges" that appear on the billing statements on the record in this case. *See* Statement Exhibits and Post-Complaint Statement Exhibits.
[55] Ex. 301: Complaint, p. 3, 5, 7 (including receipts dated Sept. 1 and 21, 2019); *see also* Ex. 8: Receipts.
[56] Ex. 301: Complaint, p. 7 (including receipt dated Jan. 6, 2020); *see also* Ex. 8: Receipts.

19. Payment credits appear on Mr. Scott's account for an $86 payment made on September 1, 2019,[57] an $85 payment made on September 21, 2019,[58] and a $53 payment made on January 6, 2020.[59]

Disconnection notices and payment arrangements

20. Spire mailed a notice of disconnection dated June 4, 2019, to Mr. Scott.[60] The billing statement issued for Mr. Scott's account with a statement date of June 5, 2019, informed Mr. Scott his service was "scheduled to be shut off for nonpayment."[61]

21. Spire mailed a follow-up notice dated June 27, 2019, informing Mr. Scott service would be disconnected if Mr. Scott did not make a payment arrangement or make payment by July 11, 2019.[62] The billing statement issued for Mr. Scott's account, dated July 3, 2019, stated service was "scheduled to be shut off for nonpayment."[63]

22. Spire mailed a notice of disconnection dated July 5, 2019, to Mr. Scott.[64]

23. Mr. Scott entered a payment plan with Spire on about July 11, 2019.[65] Spire mailed to Mr. Scott a confirmation of payment arrangement details, dated July 11, 2019.[66] The payment plan called for an initial payment of $71 by July 12, 2019, with three monthly payments of $53.66 and one final payment to pay the remaining past-due balance.[67]

24. Payment records indicate a $71 payment on Mr. Scott's account on July 12,

---

[57] Transcript Vol. 2 at p. 98, 104 (Dec. 4, 2020); Ex. 101 p. 1: September 2019 statement; Ex. 100: Account spreadsheet.
[58] Transcript Vol. 2 at p. 98, 104-105 (Dec. 4, 2020); Ex. 101 p. 3: October 2019 statement; Ex. 100: Account spreadsheet.
[59] Transcript Vol. 2 at p. 98, 135 (Dec. 4, 2020); Ex. 100: Account spreadsheet; Ex. 1 and Ex. 101 p. 8: January 2020 statement.
[60] Ex. 300 p. 1: June 4, 2019 notice.
[61] *See* Ex. 6 and Ex. 300 p. 3: June 2019 statement.
[62] Ex. 300 p. 6: Billing Notice.
[63] Ex. 7 and Ex. 300 p. 8: July 2019 statement.
[64] Ex. 300 p. 10: Final notice.
[65] Transcript Vol. 2 at p. 105, 110-111, 196 (Dec. 4, 2020).
[66] Transcript Vol. 2 at p. 125-126 (Dec. 4, 2020); Ex. 300 p. 12: Payment arrangement letter.
[67] Ex. 300 p. 12: Payment arrangement letter.

2019.[68] Billing statements generated in August, September and October 2019 indicate "payment arrangement" charges of $53.66 or $53.65, consistent with the letter stating the terms of the payment plan.[69]

25. Several months later, on January 22, 2020, Spire's system generated an offer for a payment arrangement, as the result of an inquiry to the company's "self-service" system, which may be accessed by telephone or internet.[70]

26. After receiving a proposed payment arrangement via the self-service system, a customer can finalize an agreement by contacting customer service to set it up and make an initial down payment.[71]

27. After the self-service offer was generated in January 2020, a payment arrangement for Mr. Scott's account was not finalized.[72]

28. As of the date of hearing, December 4, 2020, Spire had not, at any time, disconnected service to Mr. Scott at 3725 Geraldine Avenue.[73]

29. As of the date of hearing, the last time Spire issued a disconnection notice on Mr. Scott's account was in July 2019.[74]

Medical emergency form

30. To enable customers to show that service should not be disconnected because of a medical condition, Spire provides a form to be completed by a customer's

[68] Ex. 100: Account spreadsheet; Ex. 106: August 2019 statement.
[69] Ex. 106: August 2019 statement; Ex. 101 p. 1: September 2019 statement; Ex. 101 p. 3: October 2019 statement.
[70] Transcript Vol. 2 at p. 105, 112, 196 (Dec. 4, 2020).
[71] Transcript Vol. 2 at p. 111 (Dec. 4, 2020).
[72] Transcript Vol. 2 at p. 111, 196 (Dec. 4, 2020).
[73] Transcript Vol. 2 at p. 87, 106 (Dec. 4, 2020); *see also Stipulation of Undisputed Facts*, ¶ 6 (July 17, 2020).
[74] Transcript Vol. 2 at p. 106, 112 (Dec. 4, 2020).

physician and returned to the company ("medical emergency form").[75]

31. Based on a contact with Mr. Scott by telephone regarding possible disconnection of service,[76] a Spire customer service supervisor on June 10, 2019, requested a medical emergency form be mailed to Mr. Scott.[77] Spire records indicate the form was mailed.[78] Unlike the supervisor, the first Spire customer service representative who spoke with Mr. Scott on June 10, 2019, did not offer the medical emergency form.[79]

32. Connie Sanchez, a Spire outreach specialist, sent the medical emergency form to Mr. Scott by email on June 10, 2019, using the same email address Ms. Sanchez had previously used to communicate with Mr. Scott.[80]

33. After sending the form by email, Ms. Sanchez called Mr. Scott and attempted to confirm he had received the form.[81] She attempted to call three times, and two of the calls were disconnected.[82] Ms. Sanchez was not able to speak to Mr. Scott to confirm he had received the form.[83]

34. As of the date of hearing, a medical emergency form has not been returned to Spire for Mr. Scott's account.[84]

[75] Transcript Vol. 2 at p. 114, 215 (Dec. 4, 2020).
[76] Transcript Vol. 2 at p. 128, 212 (Dec. 4, 2020).
[77] Transcript Vol. 2 at p. 107, 113, 212 (Dec. 4, 2020).
[78] Transcript Vol. 2 at p. 127-128 (Dec. 4, 2020).
[79] Transcript Vol. 2 at p. 106-107, 113, 198, 212-213 (Dec. 4, 2020); *see also* Ex. 200C: Staff Memorandum, p. 5, 6.
[80] Transcript Vol. 2 at p. 107, 128 (Dec. 4, 2020). Ms. Sanchez's testimony indicates she used the same email address used by Mr. Scott in this proceeding. *See* Transcript Vol. 2 at p. 113; *Response to Spire's Request for Mediation* (Feb. 18, 2020).
[81] Transcript Vol. 2 at p. 113, 129-130 (Dec. 4, 2020).
[82] Transcript Vol. 2 at p. 113, 129-130 (Dec. 4, 2020).
[83] Transcript Vol. 2 at p. 114 (Dec. 4, 2020).
[84] Transcript Vol. 2 at p. 216 (Dec. 4, 2020).

Conclusions of Law

Preliminary matters

A. Section 386.480, RSMo (2016), limits the public disclosure of information furnished to the Commission, with the exception of "such matters as are specifically required to be open to public inspection" by the provisions of Chapters 386 and 610, RSMo.

B. The Commission may make information furnished to the Commission open to the public "on order of the Commission" and "in the course of a hearing or proceeding."[85]

C. Customer-specific information may be designated confidential under Commission rules.[86] The confidentiality provisions of Commission rules may be waived by the Commission for good cause.[87]

D. The Commission may take official notice to the same extent as the courts take judicial notice.[88]

Commission jurisdiction – Burden of proof

E. Spire is a "gas corporation" and a "public utility" as those terms are defined in Section 386.020, RSMo (Supp. 2020).

F. Spire is subject to the Commission's jurisdiction, supervision and regulation as provided in Chapters 386 and 393, RSMo. The Commission has jurisdiction over the manufacture, sale and distribution of gas within the state.[89]

---

[85] Section 386.480, RSMo (2016).
[86] Commission Rule 20 CSR 4240-2.135.
[87] Commission Rule 20 CSR 4240-2.135(19).
[88] Section 536.070(6), RSMo (2016).
[89] *See* sections 386.040 and 386.250(1), RSMo (2016).

G. Section 386.390.1, RSMo (Supp. 2020), permits any person to make a complaint to the Commission "setting forth any act or thing done or omitted to be done" by any public utility "in violation, of any provision of law subject to the [C]ommission's authority, of any rule promulgated by the [C]ommission, of any utility tariff, or of any order or decision of the [C]ommission."

H. In a complaint before the Commission, the person bringing the complaint has the burden of showing that a public utility has violated a provision of law subject to the Commission's authority, or a Commission rule, order or Commission-approved tariff.[90]

I. The determination of witness credibility is left to the Commission, "which is free to believe none, part, or all of the testimony."[91]

Commission-approved tariffs

J. Among the general powers of the Commission is the authority, pursuant to Section 393.140(11), RSMo (2016), to require every gas corporation to file with the Commission and to print and keep open to public inspection "schedules showing all rates and charges made, ... all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used."[92]

K. Such rate schedules and rules and regulations are commonly referred to as "tariffs."[93]

L. A tariff is a document that lists a public utility's services and the rates for

---

[90] *State ex rel. GS Techs. Operating Co., Inc. v. Pub. Serv. Comm'n*, 116 S.W.3d 680, 693 (Mo. App. 2003).
[91] *Office of Pub. Counsel v. Evergy Mo. W., Inc.*, 609 S.W.3d 857, 865 (Mo. App. W.D. 2020) (quoting *In re Kan. City Power & Light Co.'s Request for Auth. to Implement Gen. Rate Increase for Elec. Serv. v. Pub. Serv. Comm'n*, 509 S.W.3d 757, 766 (Mo. App. W.D. 2016)).
[92] *See also State ex rel. Inter-City Beverage Co., Inc. v. Pub. Serv. Comm'n*, 972 S.W.2d 397, 400 (Mo. App. W.D. 1998).
[93] In the context of cases before the Commission, the terms "tariffs" and "rate schedule" are synonymous. *See State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n*, 311 S.W.3d 361, 364 n.3 (Mo. App. W.D. 2010).

those services.[94] Both a utility and its customers are presumed to know the contents and effect of published tariffs.[95]

M. Commission-approved tariffs may also include provisions governing regulations, practices and services that are prescribed by the Commission and applicable to the public utility and its customers.[96]

N. A tariff approved by the Commission becomes Missouri law and has the same force and effect as a statute enacted by the General Assembly.[97]

Commission rule and tariff provisions

O. Commission rules require Spire to render a bill for each billing period to residential customers based on actual usage for the billing period, unless certain exceptions apply.[98]

P. Automated meter reading is authorized by Spire's tariff, which states: "The Company may install on the meter a remote reading attachment, the readings from which constitute actual meter readings."[99]

Q. Commission rules require Spire to identify any bill based on estimated usage by "clearly and conspicuously" stating that the bill is based on estimated usage.[100]

---

[94] *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm'n*, 210 S.W.3d 330, 337 (Mo. App. W.D. 2006) (quoting *Bauer v. Sw. Bell Tele. Co.*, 958 S.W.2d 568, 570 (Mo. App. E.D. 1997)).
[95] *A.C. Jacobs & Co., Inc. v. Union Elec.* Co, 17 S.W.3d 579, 585 (Mo. App. W.D. 2000) (citing *Bauer v. Sw. Bell Tele. Co.*, 958 S.W.2d 568, 570 (Mo. App. E.D. 1997)).
[96] *See* Section 386.270, RSMo (2016); *A.C. Jacobs & Co., Inc. v. Union Elec. Co.*, 17 S.W.3d 579, 581-85 (Mo. App. W.D. 2000) (approved tariff that is not subject to challenge is deemed lawful and reasonable and establishes rules governing utility's duty to customers).
[97] *Bauer v. Sw. Bell Tele. Co.*, 958 S.W.2d 568, 570 (Mo. App. E.D. 1997).
[98] 20 CSR 4240-13.020(1), (2).
[99] *See* Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 8 Original Sheet No. R-9 (effective April 19, 2018).
[100] 20 CSR 4240-13.020(2)(C)5.

R. When a payment agreement will extend beyond 90 days, Commission Rule 20 CSR 4240-13.060 requires that a utility mail or deliver the terms of a payment agreement to a customer in writing.

Cold Weather Rule

S. The Cold Weather Rule, 20 CSR 4240-13.055, prohibits the disconnection of gas and electric service to residential users for nonpayment of bills under specified circumstances, including on any day when the National Weather Service morning forecast predicts a local temperature drop below 32 degrees Fahrenheit in the next 24-hour period.[101]

T. The Cold Weather Rule prohibits disconnection of service from November 1 through March 31 due to nonpayment when a customer meets certain requirements, including entering into a payment agreement.[102] The rule includes special provisions to govern payment agreements available to customers under the rule.[103]

Medical emergencies

U. Commission Rule 20 CSR 4240-13.050(10) provides that a utility shall postpone disconnection of service for no more than 21 days when a service disconnection "will aggravate an existing medical emergency" for the customer or a member of the customer's family or household.

V. Commission Rule 20 CSR 4240-13.050(10) provides that, if requested by the utility, any person alleging such a medical emergency "shall provide the utility with reasonable evidence" to establish a medical necessity to avoid disconnection.

[101] 20 CSR 4240-13.055(5)A. The conclusions of law stated here broadly summarize only the provisions of the Cold Weather Rule potentially relevant to Mr. Scott's complaint.
[102] 20 CSR 4240-13.055(6).
[103] 20 CSR 4240-13.055(10).

Decision

Preliminary matters

Limited disclosure of account information: Most of the documents filed in this case have been designated as "confidential," as permitted by the Commission's rules, which provide for the confidentiality of customer-specific information. Because it is necessary for the Commission to make specific findings of fact regarding Mr. Scott's account history to decide Mr. Scott's complaint, the Commission finds good cause exists to make public elements of Mr. Scott's billing statements and other specific account information to the extent such information is expressly disclosed in this order. This order authorizes such disclosure, pursuant to the Commission's authority under Section 386.480, RSMo (2016), and 20 CSR 4240-2.135(19).

Official notice of Spire tariffs: The Commission has taken official notice of Spire's tariffs in effect during the relevant time period in this case. Mr. Scott's objection to such notice is overruled on the grounds that Mr. Scott's complaint calls into question Spire's compliance with its tariffs. Therefore, Mr. Scott's argument during the hearing that he has not received a copy of such tariffs provides no basis to prevent the Commission from consulting the tariffs, as necessary, to decide this case. Current tariffs are available to the public at the company's offices, the company's website and the Commission's website.[104] Knowledge of Commission-approved tariffs is presumed as a matter of law

[104] Tariffs on file with the Commission are available to the public through the Commission's website, https://psc.mo.gov. In addition, Section 393.140(11), RSMo (2016), authorizes the Commission to require every gas corporation to file with the Commission and "print and keep open to the public" "schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used." Accordingly, Commission Rule 20 CSR 4240-40.085 requires gas corporations to file with the Commission and "keep open for public inspection" "schedules showing all rates and charges ... together with proper supplements covering all changes in the rate schedules" authorized by the Commission. In addition, the Commission's rules require gas corporations to publish rate schedules on the corporation's website. *See*

and no additional notice is required.[105]

Denial of untimely request: Mr. Scott's request that the Commission direct Spire to provide additional documents is denied as untimely. Based on the parties' proposed procedural schedule, all such requests for information from another party were to be submitted no later than June 22, 2020.[106] On December 1, 2020, three days before the hearing date, Mr. Scott filed a letter alleging that Spire had failed to respond to a request for discovery and attached a document entitled "Complainant's Motion for Discovery."[107] During the hearing, Spire's counsel advised the Commission that no request for information had been received from Mr. Scott.[108] Counsel for Staff stated Staff was not aware of a prior discovery request from Mr. Scott.[109] The document labeled "Complainant's Motion for Discovery" is not dated.

The request seeks "monthly billing" "for the billing period of 04/2019 to 10/2020," to be provided "prior to November 23, 2020."[110] At hearing, Mr. Scott did not provide a date when he submitted the request to Spire, nor did he provide any documentation or other evidence to determine the date of the request.[111] Based on the fact that the request seeks billing through October 2020 to be provided by November 23, 2020, the Commission concludes any such request was made after June 22, 2020, and is untimely.

Commission Rule 20 CSR 4240-40.085(2). Spire's tariffs provide that copies of its tariffs, as filed with the Commission, are available at the company's offices and the company's website. *See* Spire Missouri Inc. d/b/a Spire, P.S.C. MO. No. 8 Original Sheet No. R-4 (effective April 19, 2018).

[105] Both a utility and its customers are presumed to know the contents and effect of published tariffs under the "filed tariff doctrine." *See Bauer v. Sw. Bell Tele. Co.*, 958 S.W.2d 568, 570 (Mo. App. E.D. 1997).

[106] *Notice of Hearing and Order Setting Procedural Schedule* (June 5, 2020); *see also Joint Proposed Procedural Schedule* (June 4, 2020).

[107] *Letter Dated Nov. 25, 2020, Attachment: "Complainant's Motion for Discovery"* (Dec. 1, 2020).

[108] Transcript Vol. 2 at p. 37 (Dec. 4, 2020).

[109] Transcript Vol. 2 at p. 37 (Dec. 4, 2020).

[110] *Letter Dated Nov. 25, 2020, Attachment: "Complainant's Motion for Discovery"* (Dec. 1, 2020).

[111] Transcript Vol. 2 at p. 32-40 (Dec. 4, 2020).

Mr. Scott offered no reason to justify a late request and did not explain how additional billing information will be useful or relevant to this case.

The Commission notes that documents provided to Mr. Scott before hearing on December 4, 2020, collectively provide billing, payment and usage information for Mr. Scott's account from January 2019 through January 6, 2020, addressing the bulk of his request. Before the hearing on December 4, Spire filed a disclosure of proposed exhibits, which included billing statements from September 2019 through January 2020.[112] On December 3, 2020, Spire filed confirmation of delivery of those proposed exhibits to Mr. Scott,[113] and Mr. Scott acknowledged receipt during the hearing.[114] The proposed exhibits Spire disclosed to Mr. Scott also included an account summary, later admitted to the record as Exhibit 100, that states billed amounts, payments, usage and the running balance on Mr. Scott's account from January 4, 2019, through July 6, 2020.[115]

Mr. Scott himself offered billing statements for June and July 2019 into the record.[116] When Ms. Sanchez's testimony addressed the August 2019 statement, which was not in the record, the presiding officer directed Spire to file the August 2019 statement, subject to objection.[117] On December 8, 2020, Spire filed a billing statement dated August 5, 2019. On December 10, 2020, the Commission directed that the August 2019 statement be mailed to Mr. Scott, along with an order requiring any objections to be

[112] *Response to Order Directing Filing in Advance of Hearing* (Nov. 25, 2020).
[113] *Spire's Response to Commission Order Regarding Delivery of Exhibits* (Dec. 3, 2020).
[114] Transcript Vol. 2 at p. 100-101 (Dec. 4, 2020).
[115] *See Response to Order Directing Filing in Advance of Hearing*, Attachment: p. 9 (Nov. 25, 2020); *Spire's Response to Commission Order Regarding Delivery of Exhibits* (Dec. 3, 2020); Ex. 100: Account Spreadsheet.
[116] See Ex. 6 and Ex. 7; *see also* Ex. 300 p. 3, 8.
[117] Transcript Vol. 2 at p. 119-121, 221-222 (Dec. 4, 2020).

submitted no later than December 31, 2020.[118] No objections were received.[119] In addition, at Mr. Scott's request, additional billing statements for April 2020, June 2020 and November 2020 were admitted to the record.[120]

In all, billing statements for June 2019 through January 2020, as well as assorted 2020 statements, were admitted to the record after Mr. Scott was provided the opportunity to review and object to all such statements.[121] Mr. Scott has offered no reason why additional billing statements are necessary for the Commission's decision. Therefore, Mr. Scott's request, filed on December 1, 2020, will be denied.

Complaint

Mr. Scott's complaint alleges Spire billed him based on inaccurate estimates and failed to read his meter, overbilled him, failed to credit his account for payments, failed to offer a payment plan and violated the Commission's Cold Weather Rule. Mr. Scott has not met his burden to show that Spire violated statute, Commission rule or the company's tariffs.

The evidence on the record indicates Spire billed Mr. Scott as authorized by the company's tariffs based on actual, regular reads of the meter installed at 3725 Geraldine Avenue. Spire's tariffs authorize the company to use automated meter reading, which allows Spire to regularly read the meter without sending a technician to view the meter. The evidence provides no indication that Spire generated estimated bills for Mr. Scott's account during the period reviewed from June 2019 through January 2020, when Mr.

[118] *Notice of Proposed Exhibits and Order Directing Filing of Objections* (Dec. 10, 2020). The Commission's order also provided a copy of a June 2020 letter that Mr. Scott testified he had not received. The June 2020 letter was admitted as Exhibit 103 when no objection was filed.
[119] *Notice of Admitted and Filed Exhibits* (Jan. 22, 2021).
[120] *See* Post-Complaint Statement Exhibits.
[121] *See* Statement Exhibits and Post-Complaint Statement Exhibits.

Scott filed his complaint. In addition, the billing statements offered on the record by Mr. Scott for the period after January 2020 also indicate billing based on actual reads.

No evidence has been presented to suggest any malfunction of the meter in use at 3725 Geraldine Avenue during the period at issue. The meter installed at the residence from July 2008 until May 16, 2020, provided accurate measurements when tested in June 2020. The second meter exchange, which was performed by Spire at Mr. Scott's request in July 2020, is not relevant to any of the issues in this case because the meter in place at the time of Mr. Scott's complaint had previously been removed and tested. No evidence has been presented to indicate a problem with any Spire meter in use at 3725 Geraldine Avenue.

No evidence on the record supports a finding of overbilling. Billing statements on the record indicate Spire billed Mr. Scott in accord with the rates and charges established by Spire's tariffs. Mr. Scott testified that he was confused by his bills and did not understand the basis of many of the items listed on his bills.[122] However, there is no evidence on the record that Spire's billing of Mr. Scott's account is inconsistent with the company's Commission-approved tariff.

The evidence on the record also indicates Spire credited Mr. Scott's account for the three payments mentioned in the complaint, including the two payments Mr. Scott alleged he had not received credit for. There is no credible evidence on the record to support a finding that Mr. Scott has not received credit for payments made on his account.

The evidence also indicates Spire appropriately offered Mr. Scott payment arrangements to manage past-due balances. Based on the evidence on the record,

[122] Transcript Vol. 2 at p. 41-42, 72 (Dec. 4, 2020).

Mr. Scott sought a payment plan in July 2019, after Spire mailed two disconnection notices. The Commission finds that Mr. Scott's testimony that he did not enter into a payment plan with Spire in 2019[123] is not credible. Mr. Scott offered no evidence in support of this contention, which is inconsistent with testimony and documents admitted to the record. In addition, the evidence on the record indicates Spire's system generated the terms of a possible payment plan for Mr. Scott's account in January 2020 based on a "self-service" inquiry by phone or internet. This potential payment arrangment was not finalized.

There is no evidence on the record to indicate violation of the Cold Weather Rule. Mr. Scott's complaint appears to suggest the company inappropriately threatened to disconnect service. No evidence was presented indicating Spire issued a disconnection notice on Mr. Scott's account in violation of any rule or tariff. In general, the provisions of the Cold Weather Rule are in place from November 1 through March 31. The rule prohibits disconnection under specified circumstances. The evidence on the record indicates Spire has not disconnected service to Mr. Scott and did not issue a disconnection notice on Mr. Scott's account at any point after July 2019. While the rule includes requirements for advance notice of disconnection,[124] the rule does not prohibit all disconnections, nor does it prohibit the use of disconnection notices. As noted above, Spire's "self-service" system generated a possible payment plan on Mr. Scott's account in January 2020, during the winter season covered by the Cold Weather Rule.

Finally, evidence on the record indicates that on June 10, 2019, a Spire customer service representative failed to offer a form to Mr. Scott to help him demonstrate that he

[123] Transcript Vol. 2 at p. 83, 85-87 (Dec. 4, 2020).
[124] 20 CSR 4240-13.055(3).

was experiencing a medical emergency. When such a medical emergency is demonstrated, Commission rule requires the utility to temporarily abstain from service disconnection. Mr. Scott testified he has never received a form from Spire regarding any medical condition.[125] Testimony at hearing established that a Spire supervisor arranged for Spire to mail a medical emergency form to Mr. Scott; testimony indicates the form was also sent by email. A lapse in offering the medical emergency form, when corrected the same day, does not support a finding of violation of statute, Commission rule, or Spire's tariffs.

Mr. Scott has not met his burden to establish a violation of statute, rule or tariff. The Commission will deny Mr. Scott's complaint.

THE COMMISSION ORDERS THAT:

1. Because of the necessity of considering customer-specific account information to decide Mr. Scott's complaint, that information is made public to the extent such information is disclosed in this order. Such disclosure is hereby authorized as provided by Section 386.480, RSMo (2016).

2. Mr. Scott's request to the Commission filed on December 1, 2020, in the form of a letter and an attached "Motion for Discovery," is denied.

3. Mr. Scott's complaint is denied.

4. Spire may proceed with Mr. Scott's account consistent with the law, the company's tariffs and the Commission's rules.

5. In accordance with Commission Rule 20 CSR 4240-2.070(14), all parties are notified as follows: Section 386.500, RSMo (2016), requires any application for

[125] Transcript Vol. 2 at p. 73 (Dec. 4, 2020).

rehearing to be filed with the Commission before the effective date of the Commission's order to preserve the right to seek judicial review of a Commission decision. Applications for rehearing before the Commission are governed by 20 CSR 4240-2.160 and Section 386.500, RSMo. Applications for rehearing may be filed through the Commission's electronic filing and information system (EFIS) or by mail to:

Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

EFIS may be accessed from the Commission's website, https://psc.mo.gov.

6. This order shall be effective on May 7, 2021.

BY THE COMMISSION

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).

Jacobs, Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 7th day of April, 2021.

Morris L. Woodruff
Secretary

Digitally signed by MOPSC
DN: CN=MOPSC, O=MOPSC, OU="", E=kim.happy@psc.mo.gov, C=US
Reason: I attest to the accuracy and integrity of this document
Location: Cole County, Missouri
Date: 2021.04.07 11:48:34-05'00'
Foxit PhantomPDF Version: 10.1.1

MISSOURI PUBLIC SERVICE COMMISSION

April 7, 2021

File/Case No. GC-2020-0201

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounselservice@psc.mo.gov

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

Claude Scott
Claude Scott
3725 Geraldine Ave.
Saint Ann, MO 63074-2004
claude17scott@gmail.com

Missouri Public Service Commission
Travis Pringle
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Travis.Pringle@psc.mo.gov

Spire
Goldie Bockstruck
700 Market Street
St. Louis, MO 63101
goldie.bockstruck@spireenergy.com

Spire
Rick E Zucker
14412 White Pine Ridge Ln
Chesterfield, MO 63017-6301
zuckerlaw21@gmail.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.