

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 21st day of October, 2020.

In the Matter of Spire Missouri Inc.'s)
Verified Application for an Accounting)
Authority Order Related to COVID-19)
Impacts)

File No. GU-2020-0376

**ORDER APPROVING AMENDED
UNANIMOUS STIPULATION AND AGREEMENT**

Issue Date: October 21, 2020

Effective Date: October 31, 2020

On May 18, 2020, Spire Missouri, Inc. (Spire) filed an application with the Missouri Public Service Commission (Commission) for an Accounting Authority Order (AAO) that would allow the Companies to track and defer, in a regulatory asset, all extraordinary costs and associated financial impacts (including lost revenues) related to the COVID-19 pandemic. The Commission directed notice and established an intervention deadline. The Commission granted intervention to: Midwest Energy Consumers (MECG), Missouri Industrial Energy Consumers (MIEC), Renew Missouri, and The National Housing Trust (NHT).

On September 15, 2020, all of the parties filed an Amended Unanimous Stipulation and Agreement (Stipulation). The Stipulation supplanted a September 11, 2020 Stipulation and Agreement filed by Spire, the Staff of the Commission, the Office of the Public Counsel, MECG, and MIEC. The Commission heard additional explanations about the Stipulation from the parties at an on-the-record presentation held on October 19, 2020.

The parties request that the Commission issue an order that authorizes Spire to track and defer into a regulatory asset the following incremental costs directly related to the COVID-19 pandemic, beginning March 1, 2020:

(a) New or incremental operating and maintenance expense related to protecting employees and customers – eligible costs are the following:

(i) Additional cleaning of facilities and vehicles;

(ii) Personal protective equipment (i.e. masks, gloves, sanitizing sprays);

(iii) Technology upgrades and equipment directly related to enabling employees to work from home. Such costs shall only include company costs and will not extend to costs normally incurred by the employee including internet connectivity at the home;

(b) Increased bad debt expense due to COVID-19 to the extent total bad debt expense exceeds levels included in the cost of service;

(c) Costs related to any new- assistance programs implemented to aid customers with payment of natural gas bills during the pandemic (the details of such programs to be made in a separate tariff filing);

(d) Increased field employee overtime specifically attributable to changes in Spire field operation procedures caused by the COVID-19 pandemic, but only up to an amount by which the total overtime expense during the deferral period exceeds total overtime expense included in the cost of service;

(e) Lost revenues up to the amount included in rates related to: waived late payment fees, reconnection charges, and disconnection charges.

The Stipulation also addresses how the parties agree Spire should treat: carrying costs, lost revenues, savings to be deferred, duration of the AAO, reporting of cost categories to be tracked and deferred, accounting practices and procedures, future recovery, treatment of this stipulation pending the outcome of an Evergy appeal on AAOs¹, a customer arrearage payment plan, and customer protections.

The Stipulation waives any procedural requirements that would otherwise be necessary before final decision.² Also, because the Stipulation disposes of this action, the Commission need not separately state its findings of fact.³

Missouri courts have recognized the Commission's regulatory authority to grant a form of relief to a utility in the form of an AAO "which allows the utility to defer and capitalize certain expenses until the time it files its next rate case."⁴ "The AAO technique protects the utility from earnings shortfalls and softens the blow which results from extraordinary construction programs."⁵ "However, AAOs are not a guarantee of an ultimate recovery of a certain amount by the utility."⁶ The AAO "simply allows for certain costs to be separately accounted for *possible* future recovery in a future ratemaking proceeding."⁷ "This is not retroactive ratemaking, because the past rates are not being changed so that more money can be collected from services that have already been provided; instead, the past costs are

¹ W.D. No. 83319.

² Section 536.060, RSMo 2016.

³ Section 536.090, RSMo 2016.

⁴ *State ex rel. Aquila, Inc. v. Public Service Comm'n of State*, 326 S.W.3d 20, 27 (Mo. App. 2010). See also Section 393.140, RSMo 2000. Additionally, Commission Rule 20 CSR 4240-20.040(1) requires electric utilities to keep all accounts in conformity with the Uniform System of Accounts prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act. However, section (4) of the rule provides that in prescribing this system of accounts the Commission is not committing itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining any other matter.

⁵ *Id.*

⁶ *Id.*

being considered to set rates to be charged in the future.”⁸ 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.⁹

The Commission has discretion in prescribing accounting methods and forms of accounts, records and memorandum kept by an electrical corporation without conducting a hearing.¹⁰ Nevertheless, the Commission issued notice in this matter and allowed interested entities to intervene and request a hearing. No hearing was requested.¹¹ Instead, the parties filed the Stipulation.

Based on the Commission’s review of the Stipulation, the Commission finds that the Stipulation is consistent with the public interest and will approve it. The Commission will incorporate the terms of the Stipulation into this order. Because of the need to make the provisions of the Stipulation effected as soon as possible, the Commission will make this order effective in 10 days.

⁷ *State ex rel. Office of Public Counsel v. Missouri Public Service Comm’n*, 301 S.W.3d 556, 570 (Mo. App. W.D. 2009).

⁸ *Id.*

⁹ Section 393.140, RSMo 2000. Extraordinary has been defined as meaning of a nonrecurring nature, and unusual has been defined as meaning a substantial cost. *Missouri Gas Energy v. Public Service Comm’n*, 978 S.W.2d 434, 437 (Mo. App. 1998); *State ex rel. Office of Public Counsel v. Public Service Comm’n*, 858 S.W.2d 806, 811 (Mo. App. 1993).

¹⁰ The courts have not decided the issue of whether Section 393.140(4) (which does not require a hearing) or Section 393.140(8) (which does require a hearing) controls the grant of an AAO. *State ex rel. Public Counsel v. Public Service Commission*, 858 S.W. 2d 806, 809-810 (Mo. App. 1993). The Commission’s position is that no hearing is required. *Id.*

¹¹ The term “hearing” presupposes a proceeding before a competent tribunal for the *trial of issues* between *adversary parties*, the presentation and the consideration of proofs and arguments, and determinative action by the tribunal with respect to the issues ... ‘Hearing’ involves an *opposite party*; ... it contemplates a listening to facts and evidence for the sake of *adjudication* ... The term has been held synonymous with ‘opportunity to be heard’. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Comm’n of State of Mo.*, 776 S.W.2d 494, 495 -496 (Mo. App. 1989). The requirement for a hearing is met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence. *Id.*

THE COMMISSION ORDERS THAT:

1. The provisions of the Amended Unanimous Stipulation and Agreement filed on September 15, 2020 are approved and incorporated into this order as if fully set forth herein. The parties shall comply with the terms of the Agreement. A copy of the Agreement is attached to this order as Appendix A.
2. This order shall become effective on October 31, 2020.
3. This file shall be closed on November 1, 2020.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Pridgin, Regulatory Law Judge