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

| | | |
|---|---|---|
| **In the Matter of Laclede Gas Company's Request to Increase Its Revenue for Gas Service.** | **)<br>)** | **File No. GR-2017-0215<br>Tariff No. YG-2017-0195** |
| **In the Matter of Laclede Gas Company d/b/a Missouri Gas Energy's Request to Increase Its Revenues for Gas Service.** | **)<br>)<br>)** | **File No. GR-2017-0216<br>Tariff No. YG-2017-0196** |

# INITIAL BRIEF OF THE CONSUMERS COUNCIL OF MISSOURI

The Consumers Council of Missouri ("Consumers Council" or "CCM") here by provides this brief on certain issues that remain (are not the subject of a stipulated settlement document):

## Cost of Capital

i. **Return on Common Equity** – What is the appropriate return on common equity to be used to determine the rate of return?

The return on equity ("ROE") allowed for Spire in this rate case should be set no higher than Michael Gorman's recommendation of 9.20% for Laclede Gas and MGE. This number represents the midpoint of Mr. Gorman's estimated ROE range of 8.90% and 9.40%.[1] This Commission has found Mr. Gorman to the most credible cost of capital witness in several previous rate cases, and his testimony presents a thorough and balanced approach again in this case.

If the Commission adopts any of the risk-shifting measures proposed by Spire in this case, then the Commission should use the low end of Mr. Gorman's ROE range.

[1] Ex. 407, pp. 20-50.

ii. **Capital Structure** – What capital structure should be used to determine the rate of return?

Consumers Council supports OPC witness Gorman's capital structure recommendation of 47.2% equity and 52.8% long-term debt.

**Rate Case Expense**

Consumers Council supports the recommendation of OPC that the Commission share the expense between ratepayers and shareholders, as the Commission did in Case No. ER-2014-0370. Consistent with the Commission's treatment of rate case expense in this case, rate case expense should be shared between ratepayers and shareholders based on the ratio of Laclede and MGE's Commission-authorized-revenue-requirement increase to their requested revenue requirement increase, net of Staff's adjustments.

This approach is a fair way to recognize that the lawyers and experts used by Spire in this rate case were at working significantly for the interest of its shareholders, rather than completely in the interest of its ratepayers. Consumers should not be required to fund all of the utility's litigation cost spent to raise their own rates.

**Environmental Tracker**

The evidence adduced in this rate case shows no need for implementing the extraordinary remedy of a tracker, and it would reduce the current incentive for the utility to manage such costs in an efficient manner. There was no compelling evidence that any significant environmental costs will be incurred by either Laclede Gas nor by MGE in the foreseeable future. Such costs are generally not volatile nor predictable such that it would justify violating the matching principle to shift the risk of recovery from the utility to consumers for this matter. Thus, the request for an environmental tracker should be denied.

**Rate Design**

**i. Revenue Stabilization Mechanism**

Spire's proposal to impose a decoupling mechanism (which the utility calls "Revenue Stabilization Mechanism" or "RSM") is not consistent with the authority granted to the Commission by Section 386.266, which allows approval of a mechanism that shifts the risk of "weather, conservation, or both".[2] Rather, this proposal goes beyond that statutory authority and would instead shift the utility's risk of all variation for residential and commercial sales onto captive customers. Such risk-shifting would go far beyond weather and conservation. Ratepayers would become responsible for fuel-switching risk, economic recessions, natural disasters, or other reasons that consumers may use less natural gas (other than weather and conservation). Thus, this decoupling mechanism should be rejected.

If, however, the Commission adopts any form of Spire's RSM proposal, then it is imperative that a corresponding adjustment be made to the allowed ROE. Such an adjustment would be consistent with Section 386.266's recognition of a lowering of business risk which should be acknowledged in the ROE determination.[3] If the risks of the utility's sales and revenue variability are to be eliminated, Consumers would be left to wonder what risks for which they are left paying with a nearly double-digit profit. With the Purchased Gas Adjustment passing-through gas costs and the ISRS already eliminating

[2] Section 386.266.3 RSMo.
[3] Section 386.266.7 RSMo.

lag in pipe replacement investments by allowing rate increases in between rate case audits, much of the utility's business risk is already being absorbed by ratepayers.

### ii. **Residential Customer Charge**

The Staff-proposed residential customer charges of $26.00/month for LAC and $20.00/month for MGE are far out of the mainstream and include the allocation of costs that are not customer-specific. Consumer Council strongly opposes such high fixed costs because they unfairly disadvantage low-usage customers, and because they reduce the economic benefit customers gain from energy efficiency and energy conservation measures. Moreover, as the local public hearing testimony indicates, high fixed charges are very unpopular among the general public, thus failing the "public acceptance" goal of rate design.

Therefore, the fixed residential customer charges in this case should be set at no higher than $17.00/month for both Laclede Gas and MGE service areas. If the Commission elects to adopt a decoupling mechanism (i.e., RSM), the Commission should adopt OPC's recommendation for a corresponding residential customer charge of $14.00/month.

## **Customer Programs**

### **b. Low Income Energy Assistance Program**

Consumers Council reached a settlement with most parties on the creation of a new Low-Income Affordability Program in the recently filed "Partial Stipulation and

Agreement Regarding Low Income Energy Affordability Program"[4], the initial terms of which are included in the proposed tariff attached to that stipulation. The terms allow for a collaborative process by the parties to meet and examine potential refinements to these details within 120 days of effective rates in this case, in advance of the 2018-2019 winter heating season. Consumers Council is appreciative of the good faith efforts of Spire and the other parties for working toward a new solution that can address the needs of customers that cannot always afford the energy needed for heating their homes and for other essential to health and safety needs.

For now, this sub-issue appears to be resolved, with the only remaining contested sub-issue relating to the funding cap for this program (Sub-issue XV.b.iv). Spire is proposing that the costs for this program be funded through a regulatory deferral that is capped at an annual amount of $500,000 for the MGE service area and $600,000 for the Laclede Gas service area (total $1.1 million annual cap). Consumers Council, through the testimony of Ms. Jacqueline A. Hutchinson proved that the low-income energy needs exceed $5 million in each service area.[5] However, both Consumers Council and the Division of Energy have ultimately proposed, as a compromise, a level of annual funding to be set at $1 million for each service territory (total $2 million annual cap). This would provide each utility with an amount of potential funding that is comparable to the level of funding for Ameren Missouri's "Keeping Current" program. This proposed $2 million level of funding still be less than the amount of decreases in energy assistance funding experienced over the past two years.

[4] Ibid., January 9, 2018.
[5] Exhibit 800, pp. 5-6.

Consumer Council's evidence regarding the unmet need for energy assistance is unrefuted. Nearly 164,000 Missouri households live with income at or below 50% of the Federal Poverty Level and face a home energy burden of 27%, and nearly 209,000 additional Missouri households live with incomes between 50% and 100% of the Federal Poverty Level and face an average home energy burden of 15%. This energy burden is among the highest for families living in poor housing stock in the urban areas served by Spire, in both its MGE and LAC service areas.[6]

Consumers Council's witness Ms. Hutchinson has been working with needy families on the front lines and helping to develop energy assistance policy in Missouri for over 30 years. She points out that studies have shown the additional societal costs of utility disconnection and the related mobility of low income families, which include lower educational attainment and lower health outcomes for children in families effected by utility disconnection. Clearly, there are significant external economic and societal costs associated with keeping customers hooked up to essential services year-round, and that good outcomes are related to mitigating utility costs for the poorest customers.[7]

While previous natural gas energy assistance pilot programs have fallen short of their intended goals in the past, Consumers Council is hopeful that if the new program is allowed sufficient funding, then it can be successful at breaking the cycle of disconnection and reconnection that can be dangerous and costly. Consumers Council believes that this low-income program, if developed through the collective work of all interested parties, can make utility bills more affordable and allow for year-round service, encourage customers to make consistent payments, increase health and safety outcomes, and lower

[6] Exhibit 800, Attachments A and B.
[7] Transcript p. 732-734.

the costs associated with the utility's attempts to collect payments from customers with limited resources (mitigating the impact on other ratepayers).

But these goals are dependent upon sufficient room in the budget (the funding cap for the deferral). According to Ms. Hutchinson, the funding gap for energy assistance has been growing in each service area. Current federal Low-Income Home Energy Assistance Program (LIHEAP) funding is not adequate to meet the needs of even a majority of eligible Missouri households, and LIHEAP funding in under increasing attacks (President Trump initially proposed zeroing out LIHEAP funding this year). Funding for LIHEAP dropped from a high of 4.7 billion in 2011 to 3.39 billion in 2017. Missouri's allocation of LIHEAP funding was $79.9 million in 2016, but that allocation dropped to $65.6 million in 2017 and the program ran out of money before the end of the previous heating season.[8] At a minimum, Consumers Council is recommending that the low-income assistance program funding level recommended by Spire should be increased by at least $1 million for each division (MGE and LAC) for a total of $2 million.

With deferral funding there is no risk that allocated money will go unspent (which would have been possible had this funding been included in the revenue requirement of this case). However, if the anticipated need does not develop or that level of assistance is for some reason not distributed to needy customers, then the deferral will simply not rise to $2 million is that year. Consumers Council suggests that it is better to assume that this program will have the success that the Ameren Keeping Current program has had and that its success will not be hindered by a funding cap that is set too low. We urge

[8] Exhibit 800.

the Commission to help ensure that this new program is a success by leaving sufficient room in the budget.

Respectfully submitted,

/s/ John B. Coffman

John B. Coffman MBE #36591
John B. Coffman, LLC
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
Ph: (573) 424-6779
E-mail: john@johncoffman.net
Attorney for the Consumers Council of Missouri

Dated: November 30, 2017

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties listed on the official service list on this 9th day of January 2018.

/s/ John B. Coffman