

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

In the Matter of Spire Inc.’s)
Acquisition of EnergySouth, Inc.) File No. GM-2016-0342
and Related Matters)

SPIRE INC.’S RESPONSE TO STAFF INVESTIGATION REPORT

COMES NOW Spire Inc. (“Spire”), formerly known as The Laclede Group, Inc. (“LG”), and submits its Response to the Staff Investigation Report filed in this case on September 1, 2016 (the ‘Report’). In support thereof, Spire states as follows:

1. In its Report, the Staff provides its views of how Spire’s acquisition of Alabama Gas Corporation (“Alagasco”) some two years ago and its potential acquisition of EnergySouth may impact the utility customers of Laclede Gas Company (“Laclede”) and its operating unit, Missouri Gas Energy (“MGE”) in the future. Staff also provides its legal views of the Commission’s jurisdiction over the proposed transaction as well as Spire’s and Laclede’s compliance with the terms of the 2001 Stipulation and Agreement in Case No. GM-2001-342 which authorized The Laclede Group to form a holding company.

2. As discussed below, the Staff’s Report unfortunately contains an incorrect summary of its own experts’ conclusions that falsely suggests that the Alagasco acquisition has had resulted in higher rates currently being charged and lower quality services currently being provided by Laclede Gas Company. This incorrect summary has, in turn, been relied upon by the media to misinform the customers of Laclede Gas and MGE into believing something that is simply not true – a result that unfairly tarnishes the reputation of Spire and Laclede Gas and does a real disservice to customers, employees and shareholders. What the Staff Report actually indicates is that:

- The Staff has *not* identified *any* detrimental impacts on the quality of customer service being provided by Laclede Gas and MGE as a result of either the Alagasco or EnergySouth acquisitions.
- The Staff has *not* identified *any* change in the rates currently being charged by Laclede or MGE as a result of either the Alagasco or EnergySouth acquisitions – a result that simply recognizes the fact that neither Laclede nor MGE have had a change in their base rates since these acquisitions occurred.
- The Staff has identified a significant *reduction* in the level of administrative services being borne by Laclede Gas due to its ability to spread those costs over additional utilities –a benefit that will be shared with customers in an appropriate manner when rates are changed;

In short, the information and conclusions provided by Staff’s technical experts in the Report are in direct conflict with how those conclusions have been mischaracterized in the Report’s Summary. Spire’s efforts to grow a Missouri company are not only a refreshing departure from the serial takeover of companies that used to be headquartered in this state, but they are also actions that have and will continue to benefit the utility customers of its operating units through improved service and rates that are lower than they otherwise would have been. Staff’s Report should not be allowed to suggest otherwise though an erroneous summary of its own findings.

3. That said, Spire will not attempt to respond in an exhaustive fashion to each and every assertion in Staff’s Report since, as the Commission has previously recognized, this is not a contested proceeding. Instead, it will only briefly address the more significant claims made by Staff in its Report, while reserving a more detailed response in the event such assertions are raised in any future contested proceeding.

**Discrepancy between Report Summary and Actual Conclusions
Reached by Staff Technical Experts in the Report**

4. There is a serious divergence between the summary of the “Effects on Missouri Ratepayers” on page 13 of the Report (the “Page 13 Summary”) and the actual conclusions of the various authors within the Report. The Page 13 Summary paints a much more negative picture than the rest of the Report regarding Laclede’s rates, credit quality, customer service, and whether the acquisitions brought any benefits to ratepayers. This Summary, and similar statements in the conclusions, were picked up by the St. Louis Post-Dispatch (the “Post”) and other media. The Post ran an article on its website that evening and in its print edition the following day in which Laclede’s customers were misled into believing they are currently paying higher rates for a lower quality of utility service as a result of the Alagasco acquisition. (See Attachment article). This is plainly false and it is directly contradicted by the conclusions reached in the Report by Staff’s own technical experts who do not claim any present impact on rates or customer service as described below:

5. Rates. In terms of rate impacts, the Page 13 Summary states as follows:

“Staff is of the opinion that the Alagasco acquisition has had effects on Missouri ratepayers, *including higher rates* due to the effects of increased holding company debt on *Laclede Gas’ credit rating*;”

FACT: Since neither Laclede nor MGE has been involved in a rate case since the acquisition of Alagasco two years ago, and since the cost of capital used to calculate their ISRS filings has also not changed in that same interval, customers are not paying higher rates as a result of the Alagasco acquisition. Further, the Financial Analysis section refutes the summary, stating as follows:

REPORT: *“Laclede Gas’ credit rating has not been downgraded due to Spire’s acquisition of Alagasco”*

--David Murray, Manager, Financial Analysis Unit.

6. In addition, while some of the Staff experts raise concerns in the Report as to the degree to which Spire and Laclede Gas have allocated costs between Laclede Gas and Alagasco and whether such allocations are consistent with the Company’s Cost Allocation Manual and the Commission’s affiliate transaction rules, none of them have asserted that such cost allocations have affected, either negatively or positively, the rates currently being charged by Laclede Gas for utility service. Indeed, since Laclede Gas has not increased its base rates since before the Alagasco acquisition, any changes in cost allocations could not have resulted in changes in Laclede Gas’ base rate.

7. Customer Service. In terms of customer service impacts, the Page 13 Summary states as follows:

“Staff is of the opinion that the Alagasco acquisition has had effects on Missouri ratepayers, including... *decreased customer service quality*... Staff is of the opinion that the EnergySouth acquisition will have effects on Missouri ratepayers similar to those that the Alagasco acquisition has had.”

FACT: Staff’s technical experts on both call center and billing activities by Laclede Gas and MGE refute this summary:

REPORT: *“While Staff is not asserting the Alagasco and EnergySouth transactions as currently proposed will create a service quality detriment to Missouri ratepayers, Staff is committed, at this time, to continuing its dialogue with Spire in the form of meetings and conference calls in an effort to alleviate any future or potential concerns.”* (page 50)

--Lisa Kremer, Manager, Consumer & Management Analysis Unit.

“Staff is not asserting these types of [billing] concerns have or will occur in the Alagasco or EnergySouth transactions, but is informing the Commission of possible detriments that can result from transaction synergies.” (page 37)

--Kim Cox, Utility Policy Analyst II, Tariff/Rate Design Unit,
Operational Analysis Dept

8. Acquisition benefits. In terms of benefits from the acquisition, the Page 13 Summary states as follows:

“Staff is not aware of any benefits that the transactions have or will confer on the Missouri ratepayers of Laclede and MGE;

FACT: Acquisitions have allowed the Company to delay its need for a rate case by spreading administrative costs that would otherwise have been borne solely by Laclede over a larger number of customers. This is confirmed at page 34 of Staff’s Report, which indicates that partly as a result of spreading the cost of corporate support services over the operations of Laclede Gas and Alagasco, the amount of such costs borne by Laclede Gas was reduced by \$9 million. As the Report notes:

REPORT: “The [Affiliate Transaction] Report appears to indicate that LGC [Laclede Gas] provided the holding company, Laclede Group (now Spire), at least \$31 million of services. This page appears to indicate that the Laclede Group then charged over \$33 million to its affiliates with LGC [Laclede Gas] receiving over \$22 million of these charges....

-Robert Schallenberg, Manager, Operational Analysis Department.

9. These summary conclusions are important because that misinformation, as previously noted, has been relied upon by the media to publish their stories as quickly as possible, without having to slog through a 77 page report. In this case, the inaccurate summary has painted a false picture of the impact of Spire’s acquisition of Alagasco on Laclede’s rates and services, and tarnished the Company’s public image based on assertions that are simply untrue. Spire fully recognizes that the purpose of an investigation of this nature is to gather facts and not reach substantive conclusions. At a minimum, however, such an investigative process should not be

permitted to introduce, inadvertently or otherwise, a blatantly false depiction of the facts that is directly contradicted by the information and conclusions presented by all of the participating parties and that unfairly tarnishes the reputation of a utility for things it has not done.

Response to Specific Factual and Legal Assertions

(A) Overview

10. While Spire concurs with Staff's primary recommendation that any impacts of these acquisitions are most appropriately addressed through the rate case process, it strongly disagrees with a number of the legal and factual assertions made in the Report. Several findings and conclusions rely on errors or misconceptions in an effort to invent "potential" detriments. But largely in the absence of finding any present detriments, the Report focuses instead on imagining every conceivable and highly speculative way these transactions "might" detrimentally affect customers in the future (assuming no rate case adjustments). At the same time, it makes no meaningful effort to provide a balanced or complete assessment of how Laclede Gas has performed for its customers since the Alagasco acquisition as evidenced by two years of actual results provided in monthly, quarterly and annual reporting of financial, operational and customer service metrics. These show customer service metrics have been maintained or improved since September of 2014, the date Spire closed on Alagasco, and Laclede's customers have benefited by allowing Laclede to defer the need for a rate increase. In fact, since Laclede and MGE's last rate cases were simply "roll ins" of ISRS charges already in place, there essentially has been no increase in general rates for either utility since 2010. In contrast, over that same period of time there have been 20 other electric and gas rate cases completed in Missouri for over \$1.25 billion, with 4 more pending for another \$350 million. This significant benefit that Laclede and MGE customers have enjoyed since 2010 is based upon

growth and improvements efforts at Spire, centered around acquisitions, for which customers have not paid any acquisition-related costs. For the State and the public's benefit, this has meant that a Missouri company with strong and long-standing ties to the community has managed to grow, while many other utilities around the country are being acquired.

11. In terms of what Staff's technical experts have actually said about the customer service impacts of the Alagasco acquisition, Spire would refer the Commission to pages 38 to 50 of the Report which contain the findings of Lisa Kremer, Manager of the Staff's Consumer and Management Analysis Unit. It is clear that the customer service concerns raised by Ms. Kremer in her section of the Report are related entirely to the changes in call center and other customer facing functions that Laclede has made as a result of integrating the operations of Laclede Gas and MGE. They have nothing at all to do with Spire's acquisition of Alagasco since its customer facing functions have been operated separately from those of Laclede Gas and MGE, as discussed in the attached letter from Spire's General Counsel, Mark Darrell which summarized for Staff the information provided by Spire during the investigation. For the same reasons, the same thing is true of certain concerns raised by Staff expert Kim Cox at pages 36 to 37 of the Report regarding the impact on customer billings relating to the conversion of MGE's customer billing system to Laclede's. Since this is the subject of a pending Staff complaint against MGE, MGE will address its disagreement with Staff's assertions on this matter in that proceeding.

12. The conclusions of the Staff's financial expert are also unrelated to the status quo. Mr. David Murray speculates that the debt taken on by Spire as a result of the Alagasco and EnergySouth "might" potentially affect Laclede's cost of capital in the future:

Consequently, even though Laclede Gas' credit rating has not been downgraded due to Spire's acquisition of Alagasco,...Staff notes that, *to the extent* debt investors in Laclede Gas require a higher debt return because of its affiliation with Spire, Laclede Gas' ratepayers *will* not only pay higher rates to fund Laclede Gas' more equity-rich

capital structure, but they *will* also pay higher debt costs than are justified by its lower risk capital structure. (Report, pp. 51 – 53 (emphasis supplied)).

13. Again, this is a statement noting no change or detriment, followed by a truism – if investors require a higher return then debt costs will be higher. The other financial or accounting issues raised by other Staff experts in their specific sections of the Report are also devoid of any current concerns resulting from the Alagasco acquisition. For example, while Mr. Mark Oligschlaeger, Manager of the Commission Auditing Department, expresses concerns at pages 37 to 38 regarding what proposals Laclede Gas may make in a future rate proceeding regarding the appropriate treatment of transition costs, synergies or other costs or benefits relating to the Alagasco acquisition, he does not suggest that such future proposals can or could have any impact on present rates. Similarly, other Staff experts raise concerns in the Report (which Spire believes to be unfounded) about the degree to which Spire and Laclede Gas have complied with the Company’s Cost Allocation Manual and the Commission’s affiliate transaction rules, implying that this “may” have led to an over-allocation of costs to Laclede Gas. None of them, however, assert that such cost allocations have affected, either negatively or positively, the rates currently being charged by Laclede Gas for utility service.

14. The absence of any assertion by Staff’s technical experts that current rates have been adversely affected by these factors is understandable because, as established by the Commission’s own records, neither Laclede Gas or MGE have changed their base rates since July of 2013 and May of 2014, dates that precede Spire’s acquisition of Alagasco. Similarly, since the closing of the Alagasco acquisition, there has been no change to the capital cost assumptions or other factors governing the calculation of MGE’s and Laclede Gas’ ISRS filings. Given these considerations, any assertion that the rates currently being charged by MGE and Laclede Gas are somehow higher as a result of the Alagasco acquisition simply has no basis in

reality. Further, given the mathematics of being able to spread common costs over a larger base, rates established in future rate cases will be lower than they otherwise would have been but for the acquisitions.

(B) Affiliate Transactions/Cost Allocations

15. At pages 31 to 36 of its Report, the Staff suggests that the Spire and Laclede Gas *may* not have complied with the requirements of its Commission-approved Cost Allocation Manual (“CAM”) and the Commission’s affiliate transaction rules when allocating certain administrative or corporate support service costs between Laclede Gas and its regulated affiliate Alagasco. Staff further implies this may have resulted in an inappropriate share of costs being allocated to Laclede Gas although, as previously discussed, Staff does not allege that the rates charged by Laclede Gas have changed based on such allocations. These concerns are not valid for several reasons.

16. First this comes from the assumption that since many costs allocated to Laclede Holdings for general and administrative expenses are allocated to affiliates, including Laclede Gas, this would mean transaction costs were as well. That is incorrect. Such transaction costs are not allocated, but instead retained by Spire. These significant costs are not charged to the utilities and are not put into rates, just like the acquisition premium is excluded from rates. This was a commitment in the MGE transaction, and was repeated for Alagasco as well as EnergySouth. Such costs are not and will not be included in rates.

17. Second, Spire disagrees with Staff’s premise that the Commission’s affiliate transactions rule, including its asymmetrical pricing standards, was ever intended to apply to the allocation of costs between regulated utilities, like Laclede Gas, Alagasco and the utilities owned by EnergySouth. As the first sentence in the preamble to the Commission’s affiliate transactions

rules states: “This rule is intended to prevent regulated utilities from subsidizing their *nonregulated* operations.” See preamble to 4 CSR 240-40.015. Alagasco, Mobile Gas and Willmut Gas are all regulated utilities subject to the ratemaking jurisdiction of the Alabama or Mississippi Public Service Commissions. As a result, there is no incentive to subsidize their operations so that profits can be inappropriately generated and retained as unregulated revenues. Instead, the proper allocation of costs between these regulated entities can be ensured through the jurisdictional allocation process that has been successfully used for decades to make certain that joint and common costs are fairly allocated between separate entities.

18. Third, regardless of the applicability of the affiliate transactions rule to allocations between regulated entities, Spire and Laclede Gas have nevertheless allocated costs between these entities in a manner that fully complies with its Commission-approved CAM. As a result there is no compliance problem and no variance from the Commission’s affiliate transactions rule is necessary or warranted, notwithstanding Staff’s insinuations to the contrary. As set forth in Staff’s own Report, the amount of administrative or corporate support costs allocated *from* Laclede Gas to Spire for reallocation to Alagasco and other subsidiaries of Spire is almost \$9 million *greater* than the amount of administrative and corporate support service costs allocated back to Laclede Gas. (See page 34 of Staff’s Report). This means that the absolute and relative portion of administrative costs being borne by Laclede Gas is significantly *lower* today than it would have been absent the Alagasco acquisition. How this can possibly be described as a potential detriment is beyond understanding.

19. Finally, the Staff has stated in its Report that in seeking the Alabama PSC’s approval for the Alagasco acquisition, Spire’s predecessor, The Laclede Group, inappropriately committed the resources of Laclede Gas Company to operate Alagasco. Further, it insinuates

The Laclede Group lacks the operational and managerial qualifications to own and operate a utility and must rely upon Laclede Gas to do so. This blatantly ignores the leadership team of senior officers at The Laclede Group, now Spire, who collectively have well over 150 years of experience in the utility business. It also ignores that in its Application and testimony before the Alabama PSC, The Laclede Group consistently represented that The Laclede Group, and not Laclede Gas, would have ultimate management oversight of Alagasco's operations, with such functions being carried out not only by the shared services model previously adopted by The Laclede Group but also by a strong team of senior and mid-level Alagasco managers. That includes appointing a highly-experienced and long-time Alagasco employee as President of the Company with front line responsibility for Alagasco's operations.

(C) **Customer Service Impacts**

20. As previously discussed, the Staff has not asserted in its Report (except in the Report's inaccurate summary), that either the Alagasco or EnergySouth transactions have had, or will have, a detrimental effect on the quality of services provided by Laclede Gas to its Missouri customers. Instead, Ms. Kremer and, to a lesser degree, Ms. Cox use the Report as an opportunity to give their views regarding the desirability and customer service implications relating to changes Laclede Gas has made in its call center and billing functions as a result of integrating these functions for Laclede Gas and MGE.

21. Spire will make only three brief observations regarding these comments. First, as detailed in Mr. Darrell's letter summarizing the information provided to the Staff, these concerns have no absolutely no connection to Spire's acquisition of Alagasco or EnergySouth since their call center and billing activities have not been integrated with those of Laclede Gas. Second, the changes being made by Laclede Gas and MGE in how these functions are conducted will allow

both companies to provide better service to their customers in the future. Indeed, the trend line provided by Ms. Kremer in the Staff's Report regarding various call center metrics shows this is already occurring as noted in the results after the September 2014 Alagasco acquisition date. Finally, it was unfortunate that Ms. Kremer failed to recognize this trend line or discuss the other customer service metrics, ranging from response times for appointments, leak calls and other critical customer service functions, that have shown steady and significant improvement since the Company began its acquisition activities. There are far more customer service employees employed in the field, representing a much higher component of safe and reliable service, yet this aspect of our business was not assessed, despite providing metrics in these areas.

(D) Financial Detriments

22. Staff states that credit rating may be improved if Laclede Gas were not associated with its holding company; however, the credit rating of Laclede Gas remains unchanged as a result of the Alagasco acquisition. In the public interest is not meant to require an improvement, but rather no detriment, and Laclede Gas has amply lived up to the Holding Company Agreement condition Staff put in place for it to maintain investment grade credit rating. No detriment has been experienced, nor could one be without a change in rates, which has also not occurred since the Alagasco acquisition. Laclede Gas' credit rating is the same as it was after the MGE transaction. It was through that transaction that MGE customers received the benefit of debt costs roughly 2% lower than they were under Southern Union, and this lower cost of debt also flows through into lower costs for ISRS rates for both Laclede Gas and MGE. It should be noted that the acquisitions of both Alagasco and EnergySouth were done with lower cost debt at Spire than was achieved by Laclede Gas in the MGE acquisition. Additionally, these deals closed with higher stock prices, meaning capital markets are not feeling the Alagasco and

EnergySouth acquisitions were detrimental to Spire’s financial condition. It should be noted that at last year’s Financial Research Institute, a credit analyst from Moody’s Investor Service stated that roughly half of a utility’s credit rating is based on its “regulatory environment”. The Regulatory Research Associates provided an update last month about the Missouri PSC that stated,

“Although the utilities are generally supportive of potential changes to the regulatory paradigm, recent comments from the public counsel were dismissive of regulatory lag concerns. Should the legislature or PSC fail to take action to address these concerns, a reduction in the ranking may be justified.”

It should be noted that Staff’s one-sided Report is certain to call into question the Missouri regulatory environment by credit analysts.

(E) Compliance with Holding Company Agreement

23. Staff devotes a significant portion of its Report (pages 13 to 28) to discussing the Company’s compliance with the various safeguards and conditions set forth in the 2001 Stipulation and Agreement in Case No. GM-2001-342. That is the proceeding in which the Commission authorized the establishment of The Laclede Group, Inc. as a holding company of Laclede Gas Company (Holding Company Agreement).

24. Notably, the Staff finds that Company has complied with all of the fundamental financial conditions that were designed to ensure that a future acquisition would not jeopardize the ability of Laclede Gas to provide safe and reliable service to its customers. Specifically, the Staff finds that both Spire and/or Laclede Gas have: (a) significantly exceeded the equity to debt ratios required by the Agreement (Report, p. 16); (b) maintained investment grade credit ratings (Report, pp. 18 to 19); (c) have not pledged the stock of Laclede Gas Company to provide collateral for the debt of Spire or any affiliate and or sought to have Laclede Gas guarantee the debt of Spire or any affiliate (Report, pp. 15-16); (d) maintained a regulated rate base for Laclede

Gas well in excess of its outstanding debt (Report, p. 18). The Staff also concludes that Spire and Laclede Gas have complied with all of the miscellaneous conditions in the Holding Company Agreement. (Report, pp. 29-31). In short, Spire and Laclede Gas have complied with all of the fundamental financial commitments designed to ensure that Laclede Gas would continue to have the financial capabilities to render safe and adequate service to its customers.

25. The Staff does take issue with whether the Company has complied with several other conditions in the Holding Company Agreement. Staff's assertions regarding the Company's compliance with the Cost Allocation Manual provisions of the Agreement are addressed in subsection B above and its assertions regarding the Company's compliance with Section 5 of the Agreement relating to Commission authorization for certain transactions is addressed in subsection F below.¹

26. The Staff also takes issue with the Laclede Gas' challenge to Staff's effort several years ago to obtain certain information under the access to information provisions of the Holding Company Agreement. The Staff observes that this issue had to be resolved by litigation. Because the issue was resolved by litigation over three years ago and implemented through the terms of a stipulation and agreement in 2013, Staff's detailed recitation of these events are not appropriate and seem designed to give the impression that the Company has not complied in good faith with these access to information conditions. In fact, the source of the Company's opposition to Staff's request for the information underlying this dispute was the Company's claim that Staff itself was violating the terms of Holding Company Agreement in seeking such information. Notably, the Company's position was endorsed by the Commission itself before the membership of the Commission changed. The Company's position was also upheld by a

¹The Staff also indicates at pages 17 to 18 of its Report that while it had most quarterly filings of certain financial information that Laclede Gas had committed to filing under the Holding Company Agreement, it could not locate several. Laclede Gas is running this discrepancy down and will, of course, provide the reports if it has not already.

Circuit Court judge who carefully reviewed the Holding Company Agreement and the kind of information that Staff was requested. The fact that the Western District Court may have eventually concluded otherwise does not change the fact that Laclede Gas had a good faith basis to oppose what the Staff was requesting. While Spire and Laclede Gas take their obligations under any agreement with the upmost seriousness, their commitment to the terms of an agreement does not mean that they are also agreeing to live with whatever interpretation the Staff may give to such terms. Laclede Gas continues to this day to believe that its position in the litigation was correct but, of course, understands that it needs to comply and has complied with any judicial determination resolving the matter.

(F) **Commission Jurisdiction over the Transactions**

27. Although the Staff recommends any impacts from the Alagasco and EnergySouth acquisitions should be addressed through the rate case process, it still offers a number of its legal views as to why the Commission has jurisdiction to approve or disapprove such transactions under review in this proceeding. One relates to Section 5 of the Holding Company Agreement, which the Staff indicates conferred jurisdiction on the Commission to approve such acquisitions if undertaken by the Laclede Group or its predecessors.² The other is based on a new interpretation of the statutes governing the Commission's powers which Staff asserts makes

² Section 5 of the Holding Company agreement states in pertinent part that:

The Laclede Group, Inc. agrees that it will not, directly or indirectly, acquire or merge with or allow itself to be acquired by or merged with, a public utility or the affiliate of a public utility, where the affiliate has a controlling interest in a public utility, or seek to become a registered holding company, or take any action which has a material possibility of making it a registered holding company or of subjecting all or a portion of its Missouri intrastate gas distribution operations to FERC jurisdiction, without first requesting and, if considered by the Commission, obtaining prior approval from the Commission and a finding that the transaction is not detrimental to the public, provided that for purposes of acquisitions by the Holding Company only, public utility shall mean a natural gas or electric public utility. (emphasis supplied).

Spire a gas corporation under Missouri law that must seek Commission approval before acquiring a foreign utility. Finally, in the Alagasco and EnergySouth transactions, Spire is not acquiring a “gas corporation,” which is “a public utility, under privilege, license or franchise now or hereafter granted by the state, any political subdivision, county or municipality thereof” – these are companies that are the jurisdiction of Alabama and Mississippi, not Missouri.

28. Staff’s view of Section 5, requiring Spire to obtain approval from the Commission before acquiring gas companies in foreign jurisdictions, is incorrect for the following reasons:

- A. It conflicts with Staff’s own view of the section, as Staff described it to the Commission at the presentation of the Holding Company Agreement in 2001;
- B. It conflicts with the actions of all parties to LG’s presentation to the Commission of the Alagasco purchase in 2014;
- C. It causes the Commission to unlawfully exceed its jurisdiction over acquisitions provided by the legislature in Section 393.190.2 RSMo;
- D. It leads to an illogical and absurd conclusion that puts Missouri holding companies that own Missouri utilities (e.g. Spire, Ameren, Great Plains) at a distinct disadvantage to foreign holding companies that own Missouri utilities (e.g. Algonquin)

29. First, Staff’s view of Section 5 conflicts with the parties’ representations to the Commission at the time the Holding Company Agreement was presented for its approval in 2001. As shown by the excerpt from Staff’s Suggestion in Support of that Agreement, it is clear that Section 5 was focused solely and exclusively on whether a particular transaction would subject Spire to federal regulation through PUHCA or subject the facilities of Laclede Gas to FERC jurisdiction. As the Staff said:

RESTRICTING LOSS OF COMMISSION JURISDICTION

Staff was concerned with potential loss of Commission jurisdiction if the proposed transaction was approved, specifically in connection with infusion of federal regulation through the Public Utility Company Holding Act (PUHCA). Therefore, a safeguard was negotiated [Section 5] that prohibits the Holding Company from seeking to become a registered holding company, or taking any action which has a material possibility of making it a registered holding company (subject to PUHCA), or subjecting any portion of its Missouri intrastate gas distribution operations to FERC jurisdiction without first obtaining Commission authorization.

30. Staff's explanation makes it clear that Section 5 was focused on preventing a loss of Commission jurisdiction due to activities that would make Spire a registered holding company or subject the intrastate facilities of Laclede Gas to FERC jurisdiction.

31. Staff's current view of Section 5 is also inconsistent with the parties' prior practice regarding this provision. Staff, OPC, and the Commission were fully aware of the provisions of the Holding Company Agreement at the time Spire acquired Alagasco, since some of its provisions had just been litigated. And yet, as Staff conceded in the Report, no one raised a hand or said a word about Section 5 requiring Commission approval of that transaction when Spire voluntarily, and without prompting from anyone, discussed the terms and merits of the transaction in a formal on the record presentation before the Commission. (Report, p. 12) Spire believes this is compelling evidence of the fact that those parties familiar with the Agreement fully understood and agreed that Section 5 did *not* purport to confer jurisdiction on the Commission to approve transactions involving the acquisition of other utilities except in those instances where such a transaction would make Spire a registered holding company or subject the facilities of Laclede Gas Company to FERC jurisdiction. This is further relevant and persuasive indicia of the parties' intent regarding the meaning and intent of Section 5.

32. Third, Staff's view of Section 5 attempts to illegally confer jurisdiction on the Commission to approve or disapprove the acquisition of foreign utilities. A close reading of the statute that authorizes the Commission to approve acquisitions demonstrates that Section 393.190.2 applies only to acquisitions of Missouri gas companies, and not to acquisitions of foreign gas companies. The statute focuses on protecting Missouri gas providers from complete acquisition by Missouri gas corporations, or from partial (10%) acquisition by foreign corporations. Because the Alagasco and EnergySouth transactions involve Spire purchasing foreign gas companies, Section 393.190.2 does not apply.

33. Section 393.190.2 also applies only when the acquirer is a Missouri gas corporation and, contrary to Staff's view, Spire is not a Missouri gas corporation. A gas corporation is a corporation "owning, operating, controlling or managing any gas plant..." Gas plant includes "all real estate, fixtures and personal property owned, operated, controlled, used or be used for...the manufacture, distribution, sale or furnishing of gas..." (Section 386.020(18) and (19) RSMo) The definitions do not refer to a gas corporation as one that controls other gas corporations, or one that might or could possibly control gas plant. In order to be a gas corporation, Spire must actually be controlling Laclede Gas' real estate, fixtures and personal property used to provide gas service. The fact is that, while Spire does own the stock of Laclede, it does not exert control over the physical assets Laclede uses to provide gas service. Although the Staff Report criticizes Spire for relying on prior Commission decisions to support its legal conclusions, the fact remains that such decisions are the product of legal input from multiple Staff attorneys, including Staff general counsels, and multiple commissions over a period spanning more than 4 decades. Moreover, while such decisions may not constitute precedent in the strict legal sense, they have created strong expectations regarding how such transactions will

be treated in Missouri. Spire would respectfully suggest that the cumulative weight of these long-standing interpretations by multiple attorneys on all sides of the regulatory spectrum are very persuasive support for Spire's position.

34. Since the Commission is not authorized by Statute to restrict the purchase of foreign corporations, the Holding Company Agreement cannot be interpreted to confer that power on the Commission. *Livingston Manor, Inc. v. Department of Social Services*, 809 S.W.2d 153, 156 (Mo. App. W.D. 1991). Indeed, this basic principle was recently recognized by the very party that requested the Commission open this investigation. As Public Counsel pointed out at pages 10 to 11 of its reply brief in a Western District appellate proceeding; Appeal No. WD79349: "Agreements between parties, even those approved by the PSC, cannot expand the PSC's jurisdiction, especially when those agreements violate the plain language of the statute . . ." *citing State ex rel Utility Consumers Counsel of Missouri v. Public Service Commission*, 585 S.W.2d 41, 54 (Mo en banc 1979).

35. Finally, Staff's view of Section 5 would arbitrarily and without justification subject Spire's acquisition activities in other states to regulatory barriers that the Commission has not applied to competing holding companies that also own public utilities in Missouri. Those holding companies are free to acquire utility companies in other states without any involvement by the Commission, while holding companies headquartered in Missouri must seek and obtain approval not only in the state or states where the utility company being acquired is located, but also approval in Missouri as well. This discriminatory treatment is an unreasonable and unlawful impediment that puts Missouri headquartered holding companies at a distinct competitive disadvantage. Such a result is bad enough on its own merits. It is even worse policy, however, given the fact that the Commission has apparently deemed an approval

condition such as Section 5 completely unnecessary for the protection of Missouri consumers when other holding companies of Missouri utilities are or have been acquired by foreign holding companies. Again, Section 5 should not be construed in a manner that would create this unlawful, discriminatory and unreasonable result.

WHEREFORE, for the foregoing reasons, Spire respectfully requests that the Commission accept this response.

Respectfully Submitted,

/s/ Mark C. Darrell

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the parties of record in this case on this 6th day of September, 2016 by United States mail, hand-delivery, email, or facsimile.

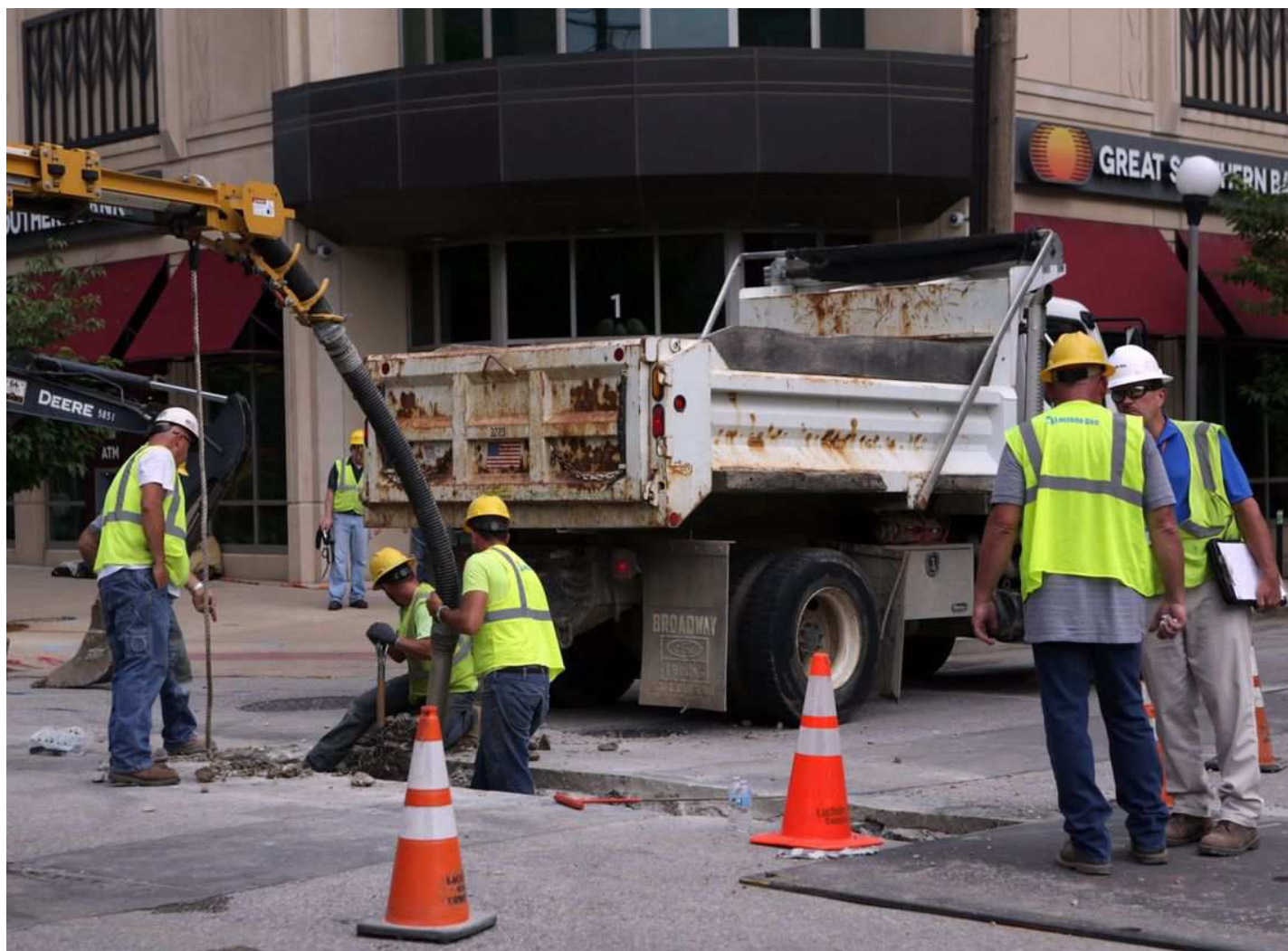
/s/ Mark C. Darrell

Business

http://www.stltoday.com/business/local/regulators-laclede-gas-customers-pay-extra-for-parent-company-spire/article_a19d2034-6500-5386-98f1-9b4cb46e5e01.html

Regulators: Laclede Gas customers pay extra for parent company Spire's out-of-state acquisitions

By Jacob Barker St. Louis Post-Dispatch Sep 1, 2016



Laclede Gas employees work to repair a 4-inch natural gas line that ruptured at the intersection of Euclid and Laclede avenues in Central West End on Tuesday, June 14, 2016. The St. Louis Fire Department evacuated at least 150 people from buildings near the rupture for safety reasons as Laclede Gas employees worked on the repair. Photo by Laurie Skrivan, lskrivan@post-dispatch.com

Rates have gone up and service has decreased for Laclede Gas customers following its parent company's purchase of a large Alabama natural gas utility, an investigation from Missouri regulators has found.

The stinging, 77-page report from the staff of the Missouri Public Service Commission found that Laclede Gas' holding company improperly allocated costs to the natural gas utility in connection with the purchase of Alagasco.

The holding company, St. Louis-based Spire, which recently changed its name from the Laclede Group, also used services from Laclede Gas to run the Alabama utility and the parent company, the report found, thereby driving up rates for St. Louis area customers.

The report appears to put more pressure on Laclede Gas to file a formal rate case that would subject it to an audit by regulatory staff, something it hasn't done since 2013. Instead, it has relied on infrastructure surcharges that raise rates by a few cents at a time and don't require a full financial review.

Spire has become a far more aggressive company than the conservative Laclede Gas that generations of St. Louisans bought natural gas from. Since 2013, it has purchased Kansas City's natural gas utility and Alagasco, and it currently has a deal pending to buy EnergySouth, the owner of two smaller natural gas utilities in Mississippi and Mobile, Ala.

But the debt taken on to finance the purchases has led to higher rates, the PSC report found, and customer service quality has declined.

The PSC staff now says that Spire should have sought approval from Missouri utility regulators for its \$1.6 billion purchase of Alagasco, which closed two years ago. Spire, which was still the Laclede Group then, had argued the PSC doesn't have jurisdiction because Alagasco was outside of the state, and regulators until now hadn't contested it.

But the report alleges Laclede Gas resources were committed as part of the deal, affecting St. Louis-area customers without regulatory approval.

"Laclede Group had no approval from the (PSC) to commit (Laclede Gas) to operate Alagasco or make commitments on its behalf to the Alabama Public Service Commission," the PSC report says. "The Alabama Public Service Commission nonetheless approved the transaction in part based on these nonauthorized (Laclede Gas) commitments."

Spire, in a statement, said its acquisitions have improved service and lowered costs across its natural gas utilities, and it pointed out that the commission has yet to act on the report.

“The report issued by the staff of the Missouri Public Service Commission — which is not a Commission approved report — is flawed, unfounded and erroneous,” Spire said. “We look forward to submitting our response directly to the Missouri PSC to correct the record.”

PSC staff indicated they will file complaints over Spire’s failure to seek approval for the Alagasco purchase and the pending purchase of the smaller, EnergySouth utilities.

But, the investigation says, the Alagasco purchase can’t be undone, so “the best way to address the detriments it has identified is in the context of a general rate case for Laclede Gas Company.”

The report came in response to a request for an investigation by Missouri’s Office of Public Counsel, which advocates for ratepayers in front of the PSC. The office in April filed a separate complaint that accuses Laclede Gas of excess profits.

Public Counsel James Owen said he was “encouraged by the fact that (PSC staff is) seeing the same things we’re concerned with.”

Spire had sought legislation earlier this year that would have given it two more years before it was required to file a general rate case.

Under current law, it will have to file by April, its first general rate case in almost four years.

Owen noted that he, legislators and PSC Chairman Daniel Hall have all indicated they are interested in Laclede filing a general rate case so all the financial information is on the table.

“There’s clearly some reason why Spire and Laclede don’t want to do that,” Owen said. “I don’t know what that is, and the only way we’re going to know is to get more information.”

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formerly The Laclede Group

Spire Inc.
700 Market Street
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August 15, 2016

VIA ELECTRONIC MAIL

Jeffrey Keevil, Esq.
Missouri Public Service Commission Staff
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Re: Case No. GM-2016-0342; Completion of Responses to Staff Data Requests

Dear Jeff:

I am writing on behalf of Spire Inc. ("Spire" or "Company") to confirm that we have completed our responses to the Staff's Data Requests in the above referenced case. We have attempted to cooperate in meeting Staff's information needs as evidenced, in part, by our submission of responses to over half of the DR's earlier than required by the expedited discovery schedule.

The Company believes that these responses, as well as other external sources of information, clearly establish that neither the acquisition of Alabama Gas Corporation, which was completed some two years ago, nor the pending acquisition of EnergySouth, has had or will have any detrimental impact on Missouri ratepayers. To the contrary, Missouri ratepayers have been held harmless or affirmatively benefitted from each of the Company's acquisitions over the past three years, beginning with Laclede Gas' acquisition of Missouri Gas Energy ("MGE"), as shown by an evaluation of each of the metrics previously identified by Staff for assessing such matters. We firmly believe this will also be the case with EnergySouth, a much smaller transaction, for which we have developed considerable talent, knowledge, capabilities, and a track record for such integration into the Spire family:

- **Impact on Rates** – For the past six years, rate increases for both Laclede Gas and MGE have been limited solely to ISRS charges. The one rate case Laclede and MGE have each filed under our ownership resulted only in rebasing the ISRS charges that both operating units were already recovering in rates, with no additional amounts added to rates for non-ISRS costs. By comparison, over the seven years preceding these cases, Laclede Gas and MGE received approval to recover approximately \$90 million in non-ISRS costs in rates. While a number of factors have played a role in bending down the historical cost curve experienced by Laclede Gas and MGE, the synergies and other efficiencies achieved through the Company's acquisitions has certainly been a major factor. The Company submits that ratepayers are already benefitting from these transactions, because the synergies derived from them have permitted Laclede Gas to defer seeking rate increases for both operating units. The critical point is, however, that there is no reason for believing that the completed MGE and Alagasco acquisitions or the pending EnergySouth acquisition has had or would have any detrimental impact on the rates charged Missouri customers. Even OPC believes costs for the utilities may potentially be lower today, not higher, meaning customers could go even longer without a rate increase and continue to experience that benefit. Moreover, in the highly unlikely event there could be any potentially adverse impacts on costs from these

transactions, the Company has already agreed in the Holding Company Stipulation (and the Commission already has the power) to exclude such impacts from rates. Given these considerations, the Company submits there is no plausible basis for concluding that the Alagasco acquisition has had, or the EnergySouth acquisition will have, a detrimental impact on the rates charged by Laclede Gas or MGE for service to their Missouri customers.

- **Impact on Financial Health** – From the time the Company announced the MGE acquisition until now, there has been no degradation in Laclede Gas’ financial health. Laclede Gas had an A- credit rating before these acquisitions began and it has an A-credit rating today. Laclede Gas has been able to achieve this strong credit rating by maintaining an equity ratio that exceeds 50% of its capital structure. It continues to be able to obtain access to the short-term and longer-term capital markets on very favorable terms and has demonstrated an ability to maintain these metrics separate and apart from any rating changes for its parent, Spire. Additionally, Spire has remained financially strong throughout this period. Despite the acquisitions, or perhaps more accurately because of them, Spire’s stock price has risen by more than 50% (and is up over 45% since the Alagasco transaction was financed), meaning the financial market and sophisticated investment professionals believe the transactions have been beneficial to Spire and the utilities that comprise nearly all its value, meaning access to capital has not been detrimentally affected. Laclede Gas’ parent, Spire, has maintained an equity ratio that exceeds 50% of its capital structure and it has been able to maintain access to the short and long-term capital markets on very favorable terms. Although Spire’s credit rating was downgraded by one notch following the acquisition of Alagasco, it remains solidly investment grade and the downgrade has had no impact on Laclede Gas. In short, both Laclede Gas and Spire continue to substantially exceed the financial metrics that the Staff has previously identified as triggering the kind of financial concerns that would require any kind of remedial action (i.e. equity ratios below 35% and 30%, respectively; credit rating downgraded below investment grade). Laclede Gas and Spire also continue to comply with all of the financial conditions and requirements that Staff requested and the Commission adopted 15 years ago to protect ratepayers from any adverse financial impacts in the unlikely event such impacts arise as a result of Spire’s acquisition activities. Given this positive financial history and the degree to which safeguards are already in place to protect Missouri ratepayers from any adverse financial impacts associated with the Alagasco and EnergySouth acquisitions (in the unlikely event there should ever be any), the Company submits that there is no tenable basis for concluding that either transaction has had or will have a detrimental impact on the financial health of either Laclede or Spire.
- **Impact on Customer Service Functions** – In the MGE acquisition case, the Staff was particularly concerned about the impact that the MGE acquisition might have on customer facing functions such as call center activities, disconnection and reconnection activities, customer billing, etc. As discussed below, because the local operations of these customer facing functions for Alagasco have not been integrated with those of Laclede Gas and MGE, and the customer facing functions of EnergySouth will be integrated with those of Alagasco, neither of these transactions have had or will have any impact, detrimental or otherwise, on these functions by Laclede Gas and MGE. In fact, the only possible impact would be the potential identification and application of best practices from one operating unit to another – a circumstance that would only enhance the quality of the services provided by Laclede Gas and MGE. On a broader level, the customer service metrics maintained for Laclede Gas and MGE show that performance has improved significantly over a broad array of functional areas during the past three years as these acquisitions were being pursued and completed. These include, among others, improvements in call center metrics, average leak response times, and service response times. In fact, the only temporary decline in call center metrics was related to the conversion of MGE to Laclede Gas’ Customer Care & Billing information system, which was completely unrelated to the Alagasco acquisition. Given this positive performance history and the degree to which these customer service functions remain or will remain unaffected by the Alagasco and EnergySouth acquisitions, the Company would submit that there is no plausible basis for concluding that either transaction has had or will have a detrimental impact on the

quality of services provided to Missouri customers. Moreover, as a result of the Stipulation and Agreement in the MGE acquisition case, the Staff will continue to receive monthly call center and other information and will therefore be in a position to continue to monitor the Company's performance in these key customer facing areas.

- **Impact on Gas Supply/Reliability** – In the MGE acquisition proceeding, the Staff also expressed concern over the potential impact of that acquisition on the reliability and management of the gas supply assets used to serve MGE's customers. In the winter immediately following the acquisition, the Company managed to maintain the reliability of its gas supply assets without material disruptions of any kind, notwithstanding the fact that the winter was one of the coldest experienced by Laclede Gas and MGE in the past 30 years. In terms of the Alagasco and EnergySouth acquisitions, the impact of the transactions on the reliability of MGE's and Laclede Gas' supply assets is not even an issue. While there may be opportunities to further identify best practices in this area through the Company's shared service model, Laclede Gas and MGE are connected to different pipelines and have different sources of gas supply than the Alagasco and the EnergySouth utilities. The gas supply assets of Laclede Gas and MGE will remain physically separate from those of Alagasco and EnergySouth. Moreover, unlike the MGE acquisition, these transactions have not and will not require any transfer of gas supply assets, transportation contracts or other assets critical to the gas supply function. In light of these considerations, there is no credible basis for concluding that either transaction will have a detrimental impact on either Laclede Gas' or MGE's ability to provide a reliable gas service.

For all of these reasons, and those outlined in the Company's DR responses, we respectfully request that the Staff find and report that there is no reasonable basis for concluding that either the Alagasco or EnergySouth transactions have been or will be detrimental to Missouri customers. Thank you for your consideration of this request.

Sincerely,

/s/ Mark C. Darrell
Senior Vice President, General Counsel
and Chief Compliance Officer