

November 16, 2021

**Via Email**

Matthew E. Miller  
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**Re: Spire Missouri's Response to Environmental Defense Fund's November 12, 2021 Cease and Desist Letter**

Dear Mr. Miller:

We write in response to your letter of November 12, 2021, on behalf of Environmental Defense Fund (EDF) and EDF's media related to your letter. Spire Missouri's communications with customers and the public regarding the status of the Spire STL Pipeline have been truthful and accurate, and EDF's claims of false, misleading, or defamatory statements are baseless. As EDF now acknowledges, the Spire STL Pipeline is critical energy infrastructure that is necessary to prevent natural gas service outages to the St. Louis region this winter.

Spire Missouri as a responsible utility has an obligation to provide its customers with safe and reliable natural gas service. When we are aware of a potential threat to that service – including from the loss of a critical supply source, such as Spire STL Pipeline – we believe it is important to inform our customers so that they can be prepared. That is all that Spire Missouri has done through its email to customers on November 4 and other public statements. Spire Missouri's email provided accurate information regarding the steps it is taking to *avoid* potential service disruption – including “an emergency plan to reduce the potential impact for residential customers and businesses that provide critical services.”

Spire Missouri's statements regarding the status of the Spire STL Pipeline are likewise accurate. On September 14, 2021, following the June 22, 2021 ruling from the D.C. Circuit vacating Spire STL's certificate<sup>1</sup>, the Federal Energy Regulatory Commission (FERC) issued a temporary certificate of public convenience authorizing the Spire STL Pipeline to operate for 90 days. That temporary authorization will expire on December 13, absent further action by the FERC. While Spire STL Pipeline has applied for a longer temporary certificate – and it is

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<sup>1</sup> The D.C. Circuit's ruling is captioned *Environmental Defense Fund v. Federal Energy Regulatory Commission*, 2 F.4th 953 (D.C. Cir. 2021).

hopeful that FERC will issue an extension – no extension has been issued to date, and Spire Missouri is unaware of when or even whether the FERC will decide the matter. Thus, starting on December 14, Spire Missouri faces the real possibility of being unable to serve its customers on cold winter days after losing access to the natural gas supply provided by the Spire STL Pipeline.

EDF is doubtless aware of Spire Missouri’s concern about natural gas service this winter, which Spire Missouri repeatedly has expressed to the FERC and to the Missouri Public Service Commission (MoPSC) in proceedings in which EDF is a party. It is also public knowledge – and was reiterated in the November 4 email – that Spire Missouri is working with first responders and others to prepare for the emergency should Spire STL Pipeline be removed from service this winter.

Notably, your assertion that EDF always has supported the issuance of a temporary certificate for the Spire STL Pipeline is disingenuous. On the contrary, EDF’s initial filing with FERC in response to Spire STL’s application for a temporary certificate stated, “[T]he Commission should reject inappropriate and irrelevant aspects of the Spire Affiliates’ Application; require the Spire Affiliates to submit additional needed information to support their Application; and, if it does review the Application on the merits, impose strict conditions on any resulting temporary emergency certificate.” In that same filing, EDF also stated that “requesting an emergency or temporary certificate extending through the remand proceedings .... is a complete evisceration of the [D.C. Circuit] Court’s finding ... and *must* be rejected.” (Emphasis added).

Moreover, despite having numerous opportunities to join Spire Missouri’s efforts to secure the continued authorization of the Spire STL Pipeline through the winter heating season, EDF instead consistently chose the opposite path to place the Pipeline in further threat of a shutdown. On August 24, EDF opposed Spire STL Pipeline’s request for rehearing of the vacatur remedy at the D.C. Circuit Court. On September 23, following the D.C. Circuit’s denial of rehearing, EDF again opposed Spire Missouri’s request for the D.C. Circuit to stay the vacatur mandate. Fortunately, on October 5, EDF clearly acknowledged that a “temporary emergency certificate ... during the 2021-2022 winter season is appropriate to prevent disruption to natural gas service to St. Louis residents.” Yet, on October 11, EDF still continued to oppose efforts to ensure the continued operation of the Spire STL Pipeline by opposing Spire Missouri’s emergency application to the Supreme Court to stay the vacatur mandate. Even now, EDF’s November 10 press release states only that it supports “[Spire STL Pipeline’s] temporary certificate to operate through the winter, *with conditions*.” (Emphasis added). EDF’s “conditions” and questions over whether the Commission should even *consider* Spire STL Pipeline’s request hardly reflect a genuine endorsement of Spire STL’s application.

EDF’s letter and related press release both repeatedly assert – without any apparent factual basis – that FERC is “poised to act” to extend Spire STL Pipeline’s temporary certificate and that “there is no risk of outages to customers as a result of the judicial rulings.” Based on Spire Missouri’s knowledge of the status of Spire STL Pipeline’s application for an extension, EDF’s pronouncements regarding the FERC’s purported forthcoming actions are nothing more than pure speculation. Spire Missouri’s knowledge of the status of the case is based on FERC issued public documents that do not indicate if or when FERC will act on the temporary

certificate. To the extent that EDF has communicated with FERC Commissioners or Staff, or otherwise has knowledge to support its claim that “FERC will soon extend that temporary certificate through at least the winter,” please provide those communications or documents.

While a Spire STL Pipeline matter is listed on the public agenda for FERC’s Meeting on Thursday, November 18, the listed sub-docket relates only to requests for rehearing and to clarification of the temporary certificate. The September 14 temporary certificate was issued in a different sub-docket that is not listed on the FERC agenda.

EDF’s assertions of “false, misleading and defamatory statements” concerning “the Spire STL Pipeline and related legal challenge” or “the current and future status of its operations” are without merit. There is nothing false or misleading whatsoever – let alone defamatory – in referencing the “rigorous regulatory review” that preceded the Commission’s nearly two-year process that led to the approval of the Spire STL Pipeline. In Missouri, “truth is an *absolute* defense to a defamation claim.” *Nigro v. St. Joseph Med. Ctr.*, 371 S.W.3d 808, 818 (Mo. App. 2012) (emphasis original); *Henry v. Halliburton*, 690 S.W.2d 775, 780 (Mo. banc 1985). In any event, a statement regarding the purported “rigor” of the Commission’s review is a non-factual opinion that would not support a defamation claim, as the very case EDF relies on acknowledges. See *Smith v. Humane Soc’y of U.S.*, 519 S.W.3d 789, 799-801 (Mo. banc 2017).

Nor does Spire Missouri’s November 4 email ever state that potential natural gas disruptions are “due to” EDF’s legal challenge. The email never once names EDF. Instead, the email accurately notes that “a New York-based environmentalist group challenged the government agency’s approval process, and in June 2021, the court ruled in the group’s favor. This ruling essentially took back the pipeline’s approval to operate.” The email also accurately states that “[t]he STL Pipeline is fully operational today, with temporary federal approval to operate through Dec. 13” and that “Spire has been working to keep the pipeline in service this winter as government regulators consider its long-term use.” Again, each of these statements is 100% truthful.

To the extent EDF or its employees have received threatening messages from outside parties, that is, of course, regrettable. Spire Missouri has done nothing to encourage or condone this conduct. Your letter, however, inexplicably includes the non-public telephone number of a Spire Missouri employee that has now been posted in unredacted form to the EDF website. We request that EDF immediately remove your unredacted letter from its website, or redact the telephone number of the Spire Missouri employee, so as to avoid the public dissemination of this information. We are certain that you can appreciate that EDF’s dissemination of the employee’s telephone number on its website creates risk. Much like EDF, Spire employees have likewise been subjected to mean-spirited and threatening messages relating to this dispute.

Thank you in advance for your and EDF’s anticipated cooperation with our request that EDF immediately remove your unredacted letter from its website, and quickly provide details of any communications pertaining to knowledge of the FERC’s intent to extend Spire STL Pipeline’s temporary certificate authorization beyond December 13.

Very truly yours,

A handwritten signature in black ink that reads "Gabriel E. Gore". The signature is written in a cursive style with a large, sweeping initial 'G'.

Gabriel E. Gore