



## FERC Approves the Spire STL Pipeline, Ensuring Continued Operations

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Yesterday, the Federal Energy Regulatory Commission (FERC) issued an [Order on Remand and Reissuing Certificates](#) which authorizes the continued operation of the Spire STL Pipeline, after years of dispute over the project. FERC found that the Project is needed and that the Project's benefits outweigh the adverse impacts. While this is likely not the end of challenges to the Spire STL Pipeline, FERC's action represents a major victory for Spire STL and the homes and businesses it serves in the St. Louis metropolitan area. Following the court's vacatur, Van Ness Feldman represented Spire STL in applying for a new FERC certificate.

### The Project's Procedural History

FERC originally issued a certificate approving the Spire STL Pipeline in 2018, authorizing Spire STL to construct and operate the 65-mile, 400,000 dekatherms per day pipeline from an interconnection with the Rockies Express Pipeline in Illinois to interconnections with Spire Missouri, Spire STL's affiliated local distribution company that serves approximately 650,000 customers in the St. Louis metropolitan area.

After the Project was already built and operating, the U.S. Court of Appeals for the District of Columbia Circuit vacated FERC's certificate, based on a decision that FERC failed to sufficiently evaluate all evidence pertaining to whether the project is in the public interest. The court remanded the matter to FERC to examine issues related to the affiliate transaction between Spire STL and Spire Missouri, and to reevaluate whether to grant Spire STL a certificate. To prevent the pipeline from being forced to halt operations following the D.C. Circuit's vacatur of its certificate, FERC issued temporary certificates to Spire STL in 2021, which allowed the pipeline to continue operating while the Commission considered whether to grant a permanent certificate on remand. Spire STL's temporary authorization remained in effect until FERC acted on the court's remand.

### FERC Action on Remand

On remand, FERC reissued Spire STL's certificates, and found unequivocally that the Project is needed and that it provides significant benefits, including:

- A reduced cost of delivered gas for Spire Missouri's customers from the \$6.70 per dekatherm that Spire Missouri would have paid without the project to \$6.36 per dekatherm, as a result of a competitive transportation rate on the Spire STL Pipeline and access to diverse, low-cost supplies of gas;
- Improved reliability by virtue of the Spire STL Pipeline's access to diverse gas supplies and its avoidance of an earthquake fault zone traversed by the pipeline on which Spire Missouri had previously relied;
- Operational benefits for Spire Missouri, including allowing the utility to avoid constructing facilities that otherwise would have been needed to allow it to serve growing demand west of St. Louis, allowing it to retire propane peaking equipment and compressors used for gas storage;
- Benefits to surrounding pipelines, including MoGas Pipeline, which through an interconnection with Spire STL was able to avoid a major expansion of its own system.

The Commission acknowledged that certain landowners along Spire STL's right-of-way have raised issues with restoration of their properties, and that restoration work remains ongoing. The Commission noted that its staff is monitoring restoration work and that while the project had some adverse effects on landowners, its overall benefits outweigh these effects.

### Implications

The certificate order is a major victory for Spire STL, as Chairman Glick had vigorously dissented to the original certificate order, but on remand, he voted—along with all of the Commissioners—to approve the

pipeline. Nonetheless, the certificate order underscores ongoing uncertainty regarding the Commission's certificate policy, particularly as Chairman Glick appears poised to retire at the end of the year and revisions to the Certificate Policy Statement remain in limbo. Of note, in vacating the original certificate, the court criticized the Commission for relying too heavily on the single precedent agreement between Spire STL and its affiliate to demonstrate need for the Project. On remand, the Commission declined "to decide what weight, if any, the Commission should have accorded the precedent agreement is issuing the original certificate." Instead, the Commission focused on the facts before it, emphasizing Spire Missouri's current reliance on the Spire STL Pipeline for service, and the Project benefits that Spire STL documented in post-remand pleadings and with a new market study.

The Spire STL Project saga is unlikely to end here. Opponents of the Project are likely to seek rehearing of the reissued certificate order and may pursue a second round of litigation at the D.C. Circuit as well. On remand, the Commission has a robust record and strong order, which will likely aid in its defense of the reissued certificate order. Van Ness Feldman is proud to have helped Spire STL secure a new certificate order to help provide reliable, affordable supplies of gas to customers in the St. Louis area, and to continue representing the Spire STL Pipeline going forward.

Van Ness Feldman represented Spire STL Pipeline in this matter.

### **For More Information**

For additional information about the services Van Ness Feldman provides to pipelines and other members of the energy industry regulated by FERC, please contact [Paul Korman](#), [Michael Pincus](#), [Michael Diamond](#), or any other member of the [Oil, Gas, & LNG](#) practice.

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