

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:

PETITION OF SPIRE TENNESSEE INC.
FOR APPROVAL OF ITS 2026 ANNUAL
REVIEW OF RATES MECHANISM
("ARM") PURSUANT TO TENN. CODE
ANN. § 65-5-103(d)(6)

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DOCKET 26-00042

CONSUMER ADVOCATE'S MOTION FOR LEAVE TO FILE A REPLY TO SPIRE'S
OPPOSITION TO THE CONSUMER ADVOCATE'S MOTION TO TAKE
ADMINISTRATIVE NOTICE

Pursuant to Rule 1220-01-02-.06(3), the Consumer Advocate Division of the Office of the Attorney General ("Consumer Advocate") respectfully submits this request for leave to file a reply to the *Opposition of Spire to the Motion for Administrative Notice* ("Objection") filed yesterday. The Consumer Advocate's Motion for Administrative Notice ("*Motion for Notice*") sought notice of a Tennessee Court of Appeals opinion and its use of the terms "base rates" and "gas costs" and did not contain argument or brief the merits of this docket. Also, Spire's expert witness relies upon the same court opinion for the legal conclusions he expresses in his pre-filed rebuttal testimony.¹

In response to the Consumer Advocate's *Motion for Administrative Notice*, Spire filed a twelve-page brief and labeled it as an objection to the *Motion for Administrative Notice*. The *Objection* goes beyond the *Motion for Administrative Notice* and straight to the merits of a legal issue in this case while framing the Consumer Advocate's expert testimony and legal positions,

¹ *Rebuttal Testimony Of David Yonce*, p. 6, fn. 4, TPUC Docket 26-00042 (August 21, 2026) specifically cites *Consumer Advoc. & Prot. Div. of Off. of Atty. Gen. of Tennessee v. Tennessee Regul. Auth.*, No. M2011-00028-COAR12CV, 2012 WL 1964593 (Tenn. Ct. App. May 30, 2012), the same case as cited by be Consumer Advocate's *Motion for Notice*.

none of which were offered or discussed in the *Motion for Administrative Notice*. Despite the title, Spire's *Objection* constitutes a lengthy pre-hearing legal brief on the issue of base rates that is not contemplated by the procedural schedule.

The Consumer Advocate has considered the available remedies and elected to ask the Administrative Judge for leave to file a reply that will allow the Consumer Advocate to provide a succinct response to the Company's arguments in its *Objection*.

WHEREFORE, the Consumer Advocate respectfully requests the Administrative Judge grant leave to the Consumer Advocate to file a reply to Spire's *Objection*.

RESPECTFULLY SUBMITTED,



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TPUC Docket No. 26-00042

*Motion for Leave to File a Reply to Spire's Opposition
to the Motion to Take Administrative Notice*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail, with a courtesy copy by electronic mail, upon:

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This the 2nd day of September, 2026.



RYAN MCGEHEE (BPR No. 025559)
Assistant Attorney General

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**CONSUMER ADVOCATE’S REPLY TO THE OPPOSITION OF SPIRE TO THE
MOTION TO TAKE ADMINISTRATIVE NOTICE**

The Consumer Advocate Division of the Office of the Attorney General (“Consumer Advocate”) respectfully submits this reply to the *Opposition of Spire to the Motion for Administrative Notice* (“*Objection*”) filed yesterday. The Consumer Advocate’s Motion for Administrative Notice (“*Motion for Notice*”) did not contain an argument or brief the issues, but rather sought administrative notice a court opinion for which there should be no genuine factual dispute.

In fact, Spire relies on the same case that the Consumer Advocate is requesting administrative notice of.¹ On one hand, Spire’s expert testimony cites and relies upon a court opinion, yet on the other hand, Spire objects to taking administrative notice of the exact *same* court opinion.² Nevertheless, the twelve-page response in opposition serves more as a pre-hearing legal

¹ *Rebuttal Testimony of David Yonce*, p. 6, fn. 4, TPUC Docket No. 26-00042 (August 21, 2026) specifically cites *Consumer Advoc. & Prot. Div. of Off. of Atty. Gen. of Tennessee v. Tennessee Regul. Auth.*, No. M2011-00028-COAR12CV, 2012 WL 1964593 (Tenn. Ct. App. May 30, 2012), the same case as cited by be Consumer Advocate’s *Motion for Administrative Notice*.

² *Id.*

brief on the meaning of “base rates” while trying to pose as a credible objection to administratively noticing a Tennessee Court of Appeals opinion.

Rather than seek a motion to strike, the Consumer Advocate submits three brief points for the clarity of the record. First, the Consumer Advocate *Motion for Notice* cited *Consumer Advoc. & Prot. Div. of Off. of Atty. Gen. of Tennessee v. Tennessee Regul. Auth.*, No. M2011-00028-COAR12CV, 2012 WL 1964593 (Tenn. Ct. App. May 30, 2012) and clearly indicated the gravitas of the notice is the recognition of how the Tennessee Court of Appeals used the terms “base rates” and “costs of gas.” Given the extensive briefing on the subject by Spire in its *Objection*, the Consumer Advocate’s reference to “base rates” and “costs of gas” in the *Motion for Administrative Notice* clearly hit the mark. There should be no genuine dispute that the Consumer Advocate has met the statutory requirements for granting the *Motion for Administrative Notice*.

Second, Spire’s claim that the ARM tariff defines “base rates” as including gas costs, encompassing gross revenues, sidesteps the fact the Company’s tariff contains contradictory definitions and applications of the same term.³ The Commission’s order in Docket 25-00074 does not contain a single reference to Tariff 318 or its definitions. In fact, the Commission went on to express its intent that the 4% cap was applicable to the revenue requirement and “shall not exceed 4% for any individual temporary Annual Rate Review Mechanism filing.”⁴

Third, Spire’s *Objection* frames the Consumer Advocate’s position as ignoring three years of the tariff in practice. However, what the term “base rates” means and how it is applied has only become an issue because the Commission employed base rates as part of the newly imposed 4%

3 *Corrected Pre-Filed Testimony of David Dittmore*, p. 15, TPUC Docket 26-00042 (August 20, 2026).

4 *In re: Application of Piedmont Natural Gas Company, Inc. and Spire Tennessee Inc. For Approval of a Transfer of Authority to Provide Utility Services Pursuant to Tenn. Code Ann. 65-4-113 and Related Authorizations*, Docket No. 25-00074, *Order Approving Transfer of Authority to Provide Utility Services and Related Authorizations*, p. 45, TPUC Docket No. 25-00074 (June 2, 2026).

cap. Thus, the term “base rates” has never been an issue in prior ARM proceedings. As a practical matter, the ARM tariff has never been applied to set a revenue requirement for gas costs. As accurately described in the court opinion the Consumer Advocate seeks to have noticed, gas costs are audited and accounted for in the Purchased Gas Adjustment (“PGA”) mechanism.⁵ The PGA is a pass-through mechanism for all regulated Tennessee LDCs regardless of whether a company has an ARM or not. ARMs have nothing to do with gas costs. It is the market, with its dips and spikes, that drives gas costs. The attempt to distinguish how base rates and gas costs are different for Piedmont/Spire versus other regulated Tennessee gas utilities rings hollow.

WHEREFORE, the Consumer Advocate respectfully moves the Commission to approve this motion to take administrative notice of the above.

RESPECTFULLY SUBMITTED,



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⁵ *Consumer Advoc. & Prot. Div. of Off. of Atty. Gen. of Tennessee v. Tennessee Regul. Auth.*, No. M2011-00028-COAR12CV, 2012 WL 1964593*2-3 (Tenn. Ct. App. May 30, 2012).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail, with a courtesy copy by electronic mail, upon:

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This the 2nd day of September, 2026.



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