



CIVIL PROCEDURE FORM NO. 8-A(2)

IN THE _____ JUDICIAL CIRCUIT, _____ COUNTY, MISSOURI

Judge or Division:	Circuit Court Case Number: GO-2018-0309 and GO-2018-0310		FILED NOV 1 ^{5ma} 2018 Missouri Public Service Commission 12:30pm MA
Plaintiff/Petitioner: The Office of the Public Counsel	Appellate Number:	<input type="checkbox"/> Filing as an Indigent	
	Date of Judgment/Decree/Order: (ATTACH A COPY) Issued: September 20, 2018 Effective: October 1, 2018	Court Reporter:	
vs.	Date Post Trial Motion Filed: September 29, 2018	<input type="checkbox"/> Sound Recording Equipment	
Defendant/Respondent: The Missouri Public Service Commission	Date Ruled Upon: November 15, 2018	The Record on Appeal will consist of: ___ Legal File only or <input checked="" type="checkbox"/> Legal File and Transcript	

Notice of Appeal to Missouri Court of Appeals - Civil

District: Western Eastern Southern

Notice is given that The Office of the Public Counsel appeals from the judgment/decree/order entered in this action on September 20, 2018 (date).

Appellant's Name (If multiple, list all or attach additional pages) Marc Poston, Acting Division Director – Office of the Public Counsel	Respondent's Name (If multiple, list all or attach additional pages) Ryan A. Silvey, Chairman – Missouri Public Service Commission
Address 200 Madison Street, Suite 650 PO Box 2230 Jefferson City, MO 65102	Address 200 Madison Street PO Box 360 Jefferson City, MO 65102
Appellant's Attorney/Bar Number (If multiple, list all or attach additional pages) Marc Poston, Mo. Bar # 45722	Respondent's Attorney/Bar Number (If multiple, list all or attach additional pages) Shelley Brueggemann, Mo. Bar # 52173
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Brief Description of Case (May be completed on a separate page) Application of Spire Missouri Inc. to Change its Infrastructure System Replacement Surcharge in its Spire Missouri East Service and Spire Missouri West Service Territories	
Issues Expected To Be Raised On Appeal (May be completed on a separate page. Appellant is not bound by this list.) The Public Service Commission's misapplication of the law in denying the Office of the Public Counsel's motion to dismiss; the Public Service Commission's misapplication of the law and failure to include sufficient evidence to support its conclusion regarding the eligibility of Spire's claimed replacements under the infrastructure system replacement surcharge statutes; and the Public Service Commission's misapplication of the law and failure to include sufficient evidence to support its conclusion regarding the eligibility of Spire's claimed relocations under the infrastructure system replacement surcharge statutes.	
Signature of Attorney or Appellant 	Date 11/15/18

Certificate of Service on Persons other than Registered Users of the Missouri eFiling System

I certify that on November 15, 2018 (date), a copy of the foregoing was sent to the following by facsimile, hand-delivery, electronic mail or U.S. mail postage prepaid to their last known addresses.

The Missouri Public Service Commission

Appellant or Attorney for Appellant

Directions to Clerk

Transmit a copy of the notice of appeal and all attached documents to the clerk of the Court of Appeals and to any person other than registered users of the eFiling system in a manner prescribed by Rule 43.01. Clerk shall then fill in the memorandum below. See Rule 81.08(i). Forward the docket fee to the Department of Revenue as required by statute.

Memorandum of the Clerk

I have this day served a copy of this notice by regular mail registered mail certified mail facsimile transmission to each of the following persons at the address stated below. If served by facsimile, include the time and date of transmission and the telephone number to which the document was transmitted.

I have transmitted a copy of the notice of appeal to the clerk of the Court of Appeals, Western District.

Docket fee in the amount of \$70.00 was received by this clerk on _____ (date) which will be disbursed as required by statute.

No docket fee was received because:

a docket fee is not required by law under Rule 100.02(b) (cite specific statute or other authority).

a motion to prosecute the appeal in forma pauperis was received on _____ (date) and was granted on _____ (date).

11/15/2018
Date

Melissa Anderson
Clerk

Additional Parties and Attorneys

List every party involved in the case not listed on page 1, indicate the position of the party in the circuit court (e.g. plaintiff, defendant, intervenor) and in the Court of Appeals (e.g. appellant or respondent) and the name of the attorney of record, if any, for each party. Attach additional pages to identify all parties and attorneys if necessary.

Party Name	Attorney Name
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Address	Address
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	E-mail Address
	Telephone

LIST OF PARTIES TO THE COMMISSION PROCEEDINGS

(As required by § 386.510 RSMo)

The following parties participated in Public Service Commission Case Numbers GO-2018-0309 and GO-2018-0310.

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STATEMENT OF THE ISSUES

(As required by § 386.510 RSMo)

Appellant Public Counsel will raise the following issue on appeal:

The Office of the Public Counsel challenges the lawfulness and reasonableness of the Public Service Commission's September 20, 2018 *Report and Order* authorizing Spire Missouri Inc.'s two operating units (Spire East and Spire West) to recover certain costs through their Infrastructure System Replacement Surcharges.

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

In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) File No. GO-2018-0309
Replacement Surcharge in its Spire Missouri)
East Service Territory)

In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) File No. GO-2018-0310
Replacement Surcharge in its Spire Missouri)
West Service Territory)

ORDER APPROVING RECONCILIATIONS OF CONTESTED ISSUES

Issue Date: October 12, 2018

Effective Date: October 12, 2018

Section 386.420.4, RSMo 2016, requires the Commission to prepare and approve a detailed reconciliation regarding the dollar value and rate or charge impact of the contested issues decided by the Commission in these cases. The law requires the Commission to allow the parties an opportunity to provide written input regarding that reconciliation.

On September 28, 2018, the Commission directed its Staff to prepare the required reconciliations. Staff filed the reconciliations on October 9, 2018. No other party objected or responded to the reconciliations by the deadline established by the Commission. The Commission finds that the reconciliations submitted by Staff are an accurate representation of the dollar value and rate or charge impact of the issues decided by the Commission. The Commission further finds that the submitted reconciliations satisfy the requirements of Section 386.420.4, RSMo 2016, so the Commission will approve the reconciliations filed by Staff.

THE COMMISSION ORDERS THAT:

1. The reconciliations filed by Staff on October 9, 2018, are approved.

2. This order shall be effective when issued.



BY THE COMMISSION

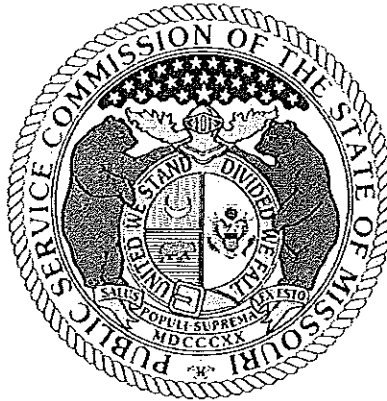
A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Michael Bushmann, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 12th day of October, 2018.

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



In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) File No. GO-2018-0309
Replacement Surcharge in its Spire Missouri)
East Service Territory)

In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) File No. GO-2018-0310
Replacement Surcharge in its Spire Missouri)
West Service Territory)

REPORT AND ORDER

Issue Date: September 20, 2018

Effective Date: October 1, 2018

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

In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) File No. GO-2018-0309
Replacement Surcharge in its Spire Missouri)
East Service Territory)

In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) File No. GO-2018-0310
Replacement Surcharge in its Spire Missouri)
West Service Territory)

APPEARANCES

Appearing for **SPIRE MISSOURI, INC.:**

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Rick Zucker, Zucker Law LLC, 423 (R) South Main St., St. Charles, Missouri,
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Appearing for **OFFICE OF THE PUBLIC COUNSEL:**

Lera Shemwell, Senior Public Counsel, and John Clizer, Associate Public Counsel,
PO Box 2230, 200 Madison St., Ste. 650, Jefferson City, Missouri, 65102-2230.

Appearing for the **STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:**

Jeffrey A. Keevil, Deputy Staff Counsel, Mark Johnson, Senior Counsel, and
Whitney Payne, Associate Counsel, PO Box 360, 200 Madison Street,
Jefferson City, Missouri 65102.

SENIOR REGULATORY LAW JUDGE: Michael Bushmann

REPORT AND ORDER

I. Procedural History

On June 7, 2018, Spire Missouri, Inc. ("Spire Missouri") filed applications and petitions with the Missouri Public Service Commission ("Commission") to change its Infrastructure System Replacement Surcharge ("ISRS") in its East and West service territories. Spire Missouri requests an adjustment to its ISRS rate schedules to recover costs incurred in connection with infrastructure system replacements made during the period October 1, 2017 through April 30, 2018, with pro forma ISRS costs updated through June 30, 2018. The Commission issued notice of the applications and provided an opportunity for interested persons to intervene, but no intervention requests were submitted. The Commission also suspended the filed tariffs until October 5, 2018.

On August 6, 2018, the Staff of the Commission filed its reports proposing a number of corrections and adjustments to Spire Missouri's calculations. Staff recommended that the Commission reject the original tariff sheets and approve ISRS adjustments for Spire Missouri based on Staff's determination of the appropriate amount of ISRS revenues. Staff updated its reports in direct testimony, providing corrections and information for the update months of May and June 2018.

On August 16, 2018, Spire Missouri filed a motion objecting to the Staff recommendations and requesting that the Commission schedule an evidentiary hearing. The Office of the Public Counsel filed a motion to dismiss Spire Missouri's applications. The Commission held an evidentiary hearing on August 27, 2018 in response to the Spire Missouri request for hearing.¹ In total, the Commission admitted the testimony of ten witnesses and 29 exhibits into evidence and took official notice of several documents.

¹ Transcript ("Tr."), Volume 3.

Post-hearing briefs were filed on September 6, 2018, and the case was deemed submitted for the Commission's decision on that date when the Commission closed the record.²

II. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. Spire Missouri is an investor-owned gas utility providing retail gas service to large portions of Missouri through its two operating units or divisions, Spire Missouri East and Spire Missouri West.³

2. Spire Missouri is a "gas corporation" and a "public utility", as each of those phrases is defined in Section 386.020, RSMo 2016.

3. The Office of the Public Counsel ("OPC" or "Public Counsel") "may represent and protect the interests of the public in any proceeding before or appeal from the public service commission."⁴ Public Counsel "shall have discretion to represent or refrain from representing the public in any proceeding."⁵ Public Counsel did participate in this matter.

4. The Staff of the Missouri Public Service Commission ("Staff") is a party in all Commission investigations, contested cases and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.⁶

² "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 4 CSR 240-2.150(1).

³ Ex.1 and 2, p. 2.

⁴ Section 386.710(2), RSMo 2016; Commission Rules 4 CSR 240-2.010(10) and (15) and 2.040(2).

⁵ Section 386.710(3), RSMo 2016; Commission Rules 4 CSR 240-2.010(10) and (15) and 2.040(2).

⁶ Commission Rules 4 CSR 240-2.010(10) and (21) and 2.040(1).

5. The last general rate cases applicable to Spire Missouri are File Nos. GR-2017-0215 and GR-2017-0216, which were decided by the Commission by order issued on March 7, 2018 and effective on March 17, 2018, with new rates effective on April 19, 2018.⁷ As part of those general rate cases, Spire Missouri's existing ISRS were reset to zero.⁸

6. Spire Missouri filed verified applications and petitions ("Petitions") with the Commission on June 7, 2018 for its East and West service territories, requesting an ISRS to recover eligible costs incurred with infrastructure system replacements made during the period October 1, 2017 through April 30, 2018, with pro forma ISRS costs updated through June 30, 2018.⁹ These Petitions are Spire Missouri's first ISRS filings since the rate cases described above.¹⁰

7. Sections 393.1009 through 393.1015, RSMo 2016, permit gas corporations to recover certain infrastructure system replacement costs outside of a formal rate case through a surcharge on its customers' bills. In conjunction with its Petitions, Spire Missouri filed tariff sheets that would generate a total annual revenue requirement for Spire Missouri East in the amount of \$4,807,507 and for Spire Missouri West in the amount of \$7,085,762.¹¹

8. The ISRS requests in the Petitions exceed one-half of one percent of Spire Missouri's base revenue levels approved by the Commission in Spire Missouri's most recent general rate case proceedings, and Spire Missouri's cumulative ISRS revenues,

⁷ Amended Report and Order, *In the Matter of Laclede Gas Company's Request to Increase Its Revenues for Gas Service*, GR-2017-0215, and *In the Matter of Laclede Gas Company d/b/a Missouri Gas Energy's Request to Increase Its Revenues for Gas Service*, GR-2017-0216, March 7, 2018; Order Approving Tariff in Compliance with Commission Order, *In the Matter of Laclede Gas Company's Request to Increase Its Revenues for Gas Service*, GR-2017-0215, and *In the Matter of Laclede Gas Company d/b/a Missouri Gas Energy's Request to Increase Its Revenues for Gas Service*, GR-2017-0216, issued April 4, 2018.

⁸ Section 393.1015.6, RSMo 2016.

⁹ Ex. 1 and 2.

¹⁰ Ex. 102, Newkirk Direct, Schedule CNN-d1, p. 7; Ex. 104, Arabian Direct, Schedule AA-d1, p. 7.

¹¹ Ex. 102, Newkirk Direct, Schedule CNN-d1, p. 6; Ex. 104, Arabian Direct, Schedule AA-d1, p. 6.

including the Petitions, do not exceed ten percent of the base revenue levels approved by the Commission in the last Spire Missouri rate cases.¹²

9. Spire Missouri attached supporting documentation to its Petitions for completed plant additions. This included documentation identifying the type of addition, utility account, work order description, month of completion, addition amount, depreciation rate, accumulated depreciation, and depreciation expense.¹³ The company also provided estimates of capital expenditures for projects completed through June 2018, which were subsequently replaced with updated actual cost information and provided to Staff.¹⁴

10. Spire Missouri also attached tables to its Petitions identifying the state or federal safety requirement, with a citation to a state statute or Commission rule, mandating each work order.¹⁵ Spire Missouri is required to implement a program to replace cast iron and steel pipes.¹⁶

11. Historically, Spire Missouri had used a piecemeal approach to pipe replacement by replacing pipes when they were failing or about to fail. After careful analysis, in approximately 2010 the company changed to a more systemic and economical approach where it retires pipes in place and installs new plastic pipes often in a different location. The new location is more accessible and efficient to maintain than the location of the old pipes which were often under a street.¹⁷

12. Spire Missouri's current neighborhood replacement program replaces, or retires in place and no longer uses, cast iron, steel, and plastic pipes.¹⁸

¹² Ex. 102, Newkirk Direct, Schedule CNN-d1, p. 8; Ex. 104, Arabian Direct, Schedule AA-d1, p. 8. See, Section 393.1012.1, RSMo.

¹³ Ex. 1 and 2, Appendix A, Schedules 1 and 2.

¹⁴ Ex. 102, Newkirk Direct, p. 2; Ex. 104, Arabian Direct, p. 2.

¹⁵ Ex. 1 and 2, Appendix A, Schedule 3.

¹⁶ Tr. Vol. 3, p. 413.

¹⁷ Tr. Vol. 3, p. 388-391; Ex. 103, Sommerer Direct, p. 5.

¹⁸ Tr. Vol. 3, p. 368.

13. Most of the cast iron pipes being replaced are over a hundred years old. Cast iron pipes are unsafe to use because they undergo a process called graphitization, in which the iron leaches out making the pipe subject to cracking and leaking. The steel pipe being replaced is bare and not cathodically-protected, so those pipes corrode relatively quickly and need to be replaced.¹⁹

14. Some of the plastic pipes that Spire Missouri replaced or retired in place are not worn out or in a deteriorated condition.²⁰ Spire Missouri did not conduct a review to determine if that plastic pipe was worn out or deteriorated before replacing it.²¹ The polyethylene plastic pipe that Spire Missouri uses should last indefinitely.²²

15. Spire Missouri's work order authorization sheets did not explain if a main or service line being replaced was worn out or deteriorated.²³

16. Spire Missouri did not provide sufficient information for Staff to determine whether any plastic pipe being replaced was incidental to and required to be replaced in conjunction with the replacement of other worn out or deteriorated components.²⁴

17. Spire Missouri has not attempted to calculate the amount of plastic pipe replaced that was worn out or in a deteriorated condition.²⁵

18. Staff reviewed more than 100 work orders provided by Spire Missouri, which excluded work orders for projects totaling less than \$25,000, some blanket work orders, and some estimates.²⁶

¹⁹ Tr. Vol. 3, p. 373-374.

²⁰ Tr. Vol. 3, p. 368.

²¹ Tr. Vol. 3, p. 369.

²² Tr. Vol. 3, p. 375.

²³ Tr. Vol. 3, p. 449.

²⁴ Tr. Vol. 3, p. 466.

²⁵ Tr. Vol. 3, p. 483.

²⁶ Tr. Vol. 3, p. 473-474, 502.

19. Blanket work orders are not designed for a specific project and do not have a specific end date.²⁷ Some of the blanket work orders involved replacing or repairing plastic pipes that were not worn out or deteriorated.²⁸

20. Staff reviewed the work orders provided by Spire Missouri and developed a recommendation for the Commission, also based on the opinion of the Western District Court of Appeals in previous Spire Missouri ISRS cases, File Nos. GO-2016-0332 and GO-2016-0333 ("2016 cases"), which were considered by the Commission on remand from the Court concurrently with the present cases.²⁹

21. In these present cases, Staff followed the methodology used in the remand 2016 cases to remove the cost of the replacement of ineligible plastic mains and service lines from Spire Missouri's ISRS cost recovery. Staff reviewed all of the work order authorizations provided by the company to determine the feet of main and service lines replaced and retired by the type of pipe (plastic, cast iron, steel, etc.). Staff applied the actual individual plastic main and services line percentages to the work order cost to determine the value of the replacement of plastic pipe for the work order. Staff did not remove any amounts for work orders that were associated with relocations required by a governmental authority, encapsulation work orders, and meter and regulator replacement work orders.³⁰

22. For work order authorizations that Spire Missouri did not provide, or that included estimations, Staff calculated an average of plastic mains and service lines

²⁷ Tr. Vol. 3, p. 379, 446.

²⁸ Tr. Vol. 3, p. 377-378.

²⁹ Ex. 100, Bolin Direct, p. 2. See, *Matter of Application of Laclede Gas Co. to Change Its Infrastructure Sys. Replacement Surcharge in Its Missouri Gas Energy Serv. Territory v. Office of Pub. Counsel*, 539 S.W.3d 835, 841 (Mo. App. 2017), *reh'g and/or transfer denied* (Dec. 14, 2017), *transfer denied* (Mar. 6, 2018).

³⁰ Ex. 100, Bolin Direct, p. 2-3.

replaced for the work order authorizations that had actual information provided and applied that percentage to work order authorizations that were not provided or estimated.³¹

23. In evaluating Spire Missouri's work orders, Staff did not consider any cost savings resulting from Spire Missouri's replacement program. Staff only looked at the percentage of plastic pipe replaced.³²

24. Staff's witnesses provided credible testimony on the correct methodology for determining the costs of ineligible plastic pipe replacements, and Staff's evidence on this issue was the best evidence presented at the hearing.

25. Staff made appropriate adjustments to Spire Missouri's ISRS request based on the plastic pipe replaced and calculated a revised ISRS revenue requirement (the "Adjusted ISRS").³³ The Adjusted ISRS as recommended by Staff results in Spire Missouri collecting ISRS revenues in the amount of \$2,607,610 for its East service territory and \$5,411,793 for its West service territory.³⁴

26. The Adjusted ISRS does not include any refunds or credits for ineligible ISRS amounts from Spire Missouri's previous ISRS cases, File Nos. GO-2016-0332, GO-2016-0333, GO-2017-0201, or GO-2017-0202.³⁵ The submitted calculation regarding refunds or credits is calculated separately.³⁶

27. Staff also recommended an updated rate design based on the billing determinants from Spire Missouri's most recent rate cases, GR-2017-0215 and GR-2017-

³¹ Ex. 100, Bolin Direct, p. 3.

³² Tr. Vol. 3, p. 451.

³³ These adjustments do not include any refunds related to over-collections from previous ISRS cases.

³⁴ Ex. 102, Newkirk Direct, Schedule CNN-d2; Ex. 104, Arabian Direct, Schedule AA-d2; Ex. 108; Ex. 109.

³⁵ Ex. 108 and 109.

³⁶ *Id.*

0216. The updated rate design included an adjustment to return to customers the credit recommended by Staff in the previous 2016 and 2017 Spire Missouri ISRS cases.³⁷

28. Neither OPC nor Spire Missouri provided a calculation of the amount of ineligible plastic pipe included in Spire Missouri's work orders in these cases.³⁸

29. The verified Petitions of Spire Missouri state that any relocation projects listed in the appendix to the Petition are eligible for ISRS cost recovery because they are "unreimbursed infrastructure facility relocations due to the construction or improvement of a highway, road, street, public way or other public work required by or on behalf of the United States, the State of Missouri, a political subdivision of the State of Missouri, or another entity having the power of eminent domain."³⁹

III. Conclusions of Law and Discussion

Spire Missouri is a "gas corporation" and "public utility" as those terms are defined by Section 386.020, RSMo 2016.⁴⁰ Spire Missouri is subject to the Commission's jurisdiction, supervision, control, and regulation as provided in Chapters 386 and 393, RSMo. The Commission has the authority under Sections 393.1009 through 393.1015, RSMo, to consider and approve ISRS requests such as the one proposed in the Petitions. Since Spire Missouri brought the Petitions, it bears the burden of proof.⁴¹ The burden of proof is the preponderance of the evidence standard.⁴² In order to meet this standard, Spire Missouri must convince the Commission it is "more likely than not" that its allegations are

³⁷ Ex. 103, Sommerer Direct, p. 3, Schedule DMS-d3; Ex. 105, Sommerer Direct, p. 3, Schedule DMS-d3.

³⁸ Tr. Vol. 3, p. 483, 560, 569.

³⁹ Ex. 1, p. 4; Ex. 2, p. 4.

⁴⁰ Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri, as codified in the year 2016.

⁴¹ "The burden of proof, meaning the obligation to establish the truth of the claim by preponderance of the evidence, rests throughout upon the party asserting the affirmative of the issue". *Clapper v. Lakin*, 343 Mo. 710, 723, 123 S.W.2d 27, 33 (1938).

⁴² *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996).

true.⁴³ Section 393.1015.2(4), RSMo, states that “[i]f the commission finds that a petition complies with the requirements of sections 393.1009 to 393.1015, the commission shall enter an order authorizing the corporation to impose an ISRS that is sufficient to recover appropriate pretax revenue, as determined by the commission pursuant to the provisions of sections 393.1009 to 393.1015”.

OPC Motion to Dismiss

The first issue for determination is whether the Commission should dismiss Spire Missouri’s ISRS Petitions. OPC alleges that Spire Missouri’s Petitions should be dismissed because (1) Spire Missouri failed to submit sufficient supporting documentation at the time the Petitions were first filed, and (2) included claims for the cost of infrastructure replacements that the Western Dist. Court of Appeals has determined do not qualify for ISRS recovery.

The standard for review for consideration of a motion to dismiss for failure to state a claim has been clearly established by Missouri’s courts as follows:

A motion to dismiss for failure to state a cause of action is solely a test of the adequacy of the plaintiff’s petition. It assumes that all of plaintiff’s averments are true, and liberally grants to plaintiff all reasonable inferences therefrom. No attempt is made to weigh any facts alleged as to whether they are credible or persuasive. Instead, the petition is reviewed in an almost academic manner to determine if the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in that case.⁴⁴

By that standard, the Commission must consider OPC’s motion to dismiss based on the facts alleged in Spire Missouri’s Petitions.

⁴³ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

⁴⁴ *Eastwood v. North Central Missouri Drug Task Force*, 15 S.W.3d 65, 67 (Mo. App. 2000).

With regard to OPC's first allegation, the Court of Appeals has stated in two prior Spire Missouri ISRS cases that Spire Missouri's supplementation of ISRS applications with supporting documentation after they were filed is not unlawful or unreasonable, so long as such late supplementation does not prevent a full and thorough review of the applications.⁴⁵ In this case, Staff had sufficient time to review a much larger sample of work orders than were reviewed in prior cases even though some documentation was provided after the Petitions were filed. The Commission concludes that Spire Missouri's late filing of some supporting documentation did not prevent Staff or OPC from conducting a thorough review of the Petitions or impede the fair resolution of these cases, so dismissal on those grounds is not appropriate.

Regarding OPC's second allegation, for purposes of ruling on a motion to dismiss for failure to state a claim, the Commission must accept the allegations made in the Petitions as true. The Petitions allege that the infrastructure system replacements included in the Petitions and submitted for ISRS cost recovery are eligible under the ISRS statutes. If that fact is accepted as true, then Spire Missouri has successfully stated a claim that can only be resolved through the hearing process. Therefore, dismissing the Petitions without considering the evidence in the record is not appropriate, and OPC's motion to dismiss will be denied.

Eligible Expenses

Section 393.1012.1, RSMo, provides that a gas corporation may petition the Commission to change its ISRS rate schedule to recover costs for "eligible infrastructure

⁴⁵ *Matter of Verified Application & Petition of Laclede Gas Co.*, 504 S.W.3d 852, 860 (Mo. App. 2016); *Laclede Gas Co. to Change its Infrastructure Sys. Replacement Surcharge in its Laclede Gas Serv. Territory v. Office of the Pub. Counsel*, 523 S.W.3d 27, 33-34 (Mo. App. 2017).

system replacements”, which is defined in Section 393.1009(3), RSMo.⁴⁶ In order to be eligible, the project must meet the definition of a “gas utility plant project” in Section 393.1009(5), RSMo.⁴⁷

The issue presented in these cases is whether certain main and service line replacements installed by Spire Missouri are eligible for ISRS recovery. Spire Missouri’s position is that it should be able to collect all of the ISRS charges it requested in the Petitions, since all the projects and work orders included are ISRS-eligible. Staff argues that the plastic pipe that Spire Missouri replaced was not worn out or deteriorated and recommends that the Commission issue an order that excludes all plastic pipe replacements from the amounts Spire Missouri is permitted to recover. OPC argues that Spire Missouri’s ISRS Petitions should be denied in their entirety because 1) Spire Missouri has failed to present any evidence showing that any of the pipes (plastic, cast-iron, and steel) it was replacing were worn out or deteriorated, and 2) Spire Missouri has failed to present any evidence showing that the relocations it is claiming as ISRS-eligible meet the requirements of section 393.1009(5)(c).

⁴⁶ “Eligible infrastructure system replacements”, gas utility plant projects that:

- (a) Do not increase revenues by directly connecting the infrastructure replacement to new customers;
- (b) Are in service and used and useful;
- (c) Were not included in the gas corporation’s rate base in its most recent general rate case; and
- (d) Replace or extend the useful life of an existing infrastructure.

⁴⁷ “Gas utility plant projects” may consist only of the following:

- (a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;
- (b) Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and
- (c) Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain provided that the costs related to such projects have not been reimbursed to the gas corporation.

In its review of the Commission's Report and Order in the 2016 Spire Missouri ISRS cases, the Missouri Western District Court of Appeals stated that Section 393.1009(5)(a) "sets forth two requirements for component replacements to be eligible for cost recovery under ISRS: (1) the replaced components must be installed to comply with state or federal safety requirements and (2) the existing facilities being replaced must be worn out or in a deteriorated condition."⁴⁸

With regard to replacements of cast iron and steel pipes, the evidence showed that Spire Missouri is required to implement a program to replace cast iron and steel pipes and identified the state or federal safety requirement, with a citation to a state statute or Commission rule, mandating each work order. The evidence also showed that cast iron pipes are unsafe to use because they are subject to cracking and leaking, and the steel pipe being replaced is bare and not cathodically-protected, so those pipes corrode relatively quickly and need to be replaced. The Commission concludes that the cast iron and steel pipes were replaced to comply with state or federal safety requirements and were worn out or in a deteriorated condition, so they are eligible for cost recovery under ISRS.

The primary dispute in these cases is whether the plastic pipe replaced by Spire Missouri is also eligible for ISRS cost recovery. The Court of Appeals addressed this identical issue in the 2016 ISRS cases, finding that there was no evidence in those cases of a state or federal safety requirement that mandated the replacement of plastic mains and service lines, and that the plastic mains and service lines at issue in those cases "were not in a worn out or deteriorated condition".⁴⁹ The Court concluded "that recovery of the costs for replacement of plastic components that are not worn out or in a deteriorated condition is

⁴⁸ *Matter of Application of Laclede Gas Co. to Change Its Infrastructure Sys. Replacement Surcharge in Its Missouri Gas Energy Serv. Territory v. Office of Pub. Counsel*, 539 S.W.3d 835, 839 (Mo. Ct. App. 2017), *reh'g and/or transfer denied* (Dec. 14, 2017), *transfer denied* (Mar. 6, 2018)

⁴⁹ *Id.* at p. 839-840.

not available under ISRS”, so the Commission’s Report and Order was reversed and “remanded for further proceedings consistent with this opinion”.⁵⁰

On remand, the Commission concluded that Spire Missouri’s plastic pipe replacements were not worn out or deteriorated, and therefore not eligible for ISRS recovery.⁵¹ The Commission also found that Staff’s methodology for calculating the cost of those ineligible pipe replacements was reasonable.⁵² Although the Commission found Spire Missouri’s plastic pipe replacements to be ineligible, it also concluded that it did not have statutory authority to refund those ineligible costs to customers, including in these present cases.⁵³ The Commission found that neither the ISRS statute, Section 393.1015, in light of the intervening general rate case, nor the general statute regarding temporary rate adjustments following appeal of a Commission order, Section 386.520, provide any legal authority for the Commission to order refunds to return ineligible costs from the 2016 or 2017 cases.⁵⁴

As with the 2016 cases, in these present cases the evidence showed that Spire Missouri’s plastic pipe replacements were not worn out or deteriorated. The polyethylene plastic pipe that Spire Missouri uses should last indefinitely, but Spire Missouri did not conduct a review to determine if that plastic pipe was worn out or deteriorated before replacing it. Spire Missouri’s work order authorization sheets did not explain if a main or service line being replaced was worn out or deteriorated, and the company made no

⁵⁰ *Id.* at p. 841.

⁵¹ Report and Order on Remand, *In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory*, File No. GO-2016-0332 and *In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Laclede Gas Service Territory*, File No. GO-2016-0333, issued September 20, 2018.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ This determination should not be considered as a restriction to the normal reconciliation process required in Section 393.1015, subsections 5 and 6.

attempt to calculate the amount of plastic pipe replaced that was worn out or in a deteriorated condition. In addition, Spire Missouri did not provide sufficient information to determine whether any plastic pipe being replaced was incidental to and required to be replaced in conjunction with the replacement of other worn out or deteriorated components.

Spire Missouri argues that no adjustment to the company's ISRS charges should be made in connection with plastic pipe replacements because those replacements resulted in no incremental increase in ISRS costs, but instead decreased them. Thus, there are no ineligible costs to exclude. In support of this argument, Spire Missouri presented an analysis of ten work orders from the 2016 cases purporting to show that in nine of those work orders the company reduced, rather than increased, its replacement costs by retiring plastic facilities where it was not operationally or economically feasible to reuse them. Spire Missouri asks the Commission to extrapolate from those nine work orders and reach a similar result in the hundreds of work orders that Spire Missouri did not analyze. However, Spire Missouri's analysis is based on far too few work orders for such a conclusion to be reasonable. Spire also argues that no adjustment to its ISRS revenues or costs is appropriate under ratemaking and cost allocation principles. This argument improperly intermixes the issue of prudence, which is determined in a general rate proceeding, with eligibility, which is the appropriate determination in an ISRS proceeding. So, Spire Missouri's arguments regarding prudence, cost avoidance, and economic efficiency are irrelevant to the Commission's conclusion in these cases.

In the future, if Spire Missouri wishes to renew its argument that plastic pipe replacements result in no cost or a decreased cost of ISRS, it should submit supporting evidence to be considered, such as, but not limited to, a separate cost analysis for each project claimed, evidence that each patch was worn out or deteriorated, or evidence

regarding the argument that any plastic pipe replaced was incidental to and required to be replaced in conjunction with the replacement of other worn out or deteriorated components.

Here, Staff provided the best evidence of a methodology to calculate the costs of those ineligible plastic pipe replacements, which is consistent with Staff's methodology that the Commission approved in the 2016 cases. Staff reviewed all of the work order authorizations provided by the company to determine the feet of main and service lines replaced and retired by the type of pipe, and then applied the actual individual plastic main and services line percentages to the work order cost to determine the value of the replacement of plastic pipe for the work order.

Based on Staff's adjustments to exclude the ineligible costs related to plastic pipe replacements, those corrected ISRS calculations result in Spire Missouri collecting ISRS revenues in the amount of \$2,607,610 for its East service territory and \$5,411,793 for its West service territory. The Commission also concludes that the appropriate rate design is that provided by Staff based on the most recent rate case billing units and allocated using the traditional ISRS rate design, but revised to utilize the ISRS revenues recommended by Staff and approved in this Report and Order.

In its brief, OPC argues that the Commission should exclude from Spire Missouri's ISRS any costs for relocations, alleging that Spire Missouri failed to present sufficient evidence that the relocations meet the requirements for eligibility in Section 393.1009(5)(c) (see footnote 47 above). The only evidence in the record relating to this issue are the Petitions of Spire Missouri, verified under oath, which first state that any relocation projects listed in the appendix to the Petition are eligible for ISRS cost recovery because they are "unreimbursed infrastructure facility relocations due to the construction or improvement of a highway, road, street, public way or other public work required by or on behalf of the United

States, the State of Missouri, a political subdivision of the State of Missouri, or another entity having the power of eminent domain”, and second, identify in the attached tables to its Petitions the state or federal safety requirement, with a citation to a state statute or Commission rule, mandating each work order. OPC did not present any evidence in support of its contention. Since Spire Missouri’s uncontroverted evidence satisfies the eligibility requirements of Section 393.1009(5)(c), the Commission concludes that Spire Missouri has provided sufficient evidence to demonstrate that the relocation projects are ISRS-eligible.

IV. Decision

In making this decision, the Commission has considered the positions and arguments of all of the parties. After applying the facts to the law to reach its conclusions, the Commission concludes that the substantial and competent evidence in the record supports the conclusion that that Spire Missouri has met, by a preponderance of the evidence, its burden of proof to demonstrate that the Petitions and supporting documentation comply with the requirements of Sections 393.1009 to 393.1015, RSMo, subject to the adjustments recommended by Staff. The Commission concludes that Spire Missouri shall be permitted to establish an ISRS to recover ISRS surcharges for these cases in the amount of \$2,607,610 for its East service territory and \$5,411,793 for its West service territory. Since the revenues and rates authorized in this order differ from those contained in the tariffs the company first submitted, the Commission will reject those tariffs. The Commission will allow Spire Missouri an opportunity to submit new tariffs consistent with this order.

Section 393.1015.2(3), RSMo, requires the Commission to issue an order to become effective not later than 120 days after the petition is filed. That deadline is October 5, 2018, so the Commission will make this order effective on October 1, 2018.

THE COMMISSION ORDERS THAT:

1. The Office of Public Counsel's Motion to Dismiss Spire Missouri, Inc.'s Infrastructure System Replacement Surcharge Applications for its Spire Missouri East and Spire Missouri West Service Territories filed on August 21, 2018, is denied.

2. Spire Missouri, Inc. is authorized to establish Infrastructure System Replacement Surcharges sufficient to recover ISRS revenues in the amount of \$2,607,610 for its East service territory and \$5,411,793 for its West service territory. Spire Missouri, Inc. is authorized to file an ISRS rate for each customer class as described in the body of this order.

3. The tariff sheets filed by Spire Missouri, Inc. on June 7, 2018, and assigned Tariff Tracking Nos. YG-2018-0163 and YG-2018-0164, are rejected.

4. Spire Missouri, Inc. is authorized to file new tariffs to recover the revenue authorized in this Report and Order.

5. This order shall become effective on October 1, 2018.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, and
Coleman, CC., concur.
Rupp, C., dissents.

Bushmann, Senior Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Spire)
Missouri Inc. to Change its Infrastructure)
System Replacement Surcharge in its) File No. GO-2018-0309
Spire Missouri East Service Territory)
)

In the Matter of the Application of)
Spire Missouri Inc. to Change its)
Infrastructure System Replacement) File No. GO-2018-0310
Surcharge in its Spire Missouri West)
Service Territory)

APPLICATION FOR REHEARING

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Application for Rehearing* of the Public Service Commission’s (“Commission”) September 20, 2018 *Report and Order* (“Order”) in the above styled cases, states as follows:

Pursuant to RSMo. section 386.500,¹ the OPC seeks rehearing of the Commission’s Order because the Order is unlawful, unjust, and/or unreasonable in that it misapplies the law in denying the OPC’s motion to dismiss, misapplies the law and is unsupported by sufficient evidence with regard to the eligibility of Spire’s claimed replacements, and misapplies the law and is unsupported by sufficient evidence with regard to the eligibility of Spire’s claimed relocations.

I. The Commission erred in denying the OPC’s motion to dismiss.

The OPC filed a motion to dismiss Spire’s petition in this case on August 21, 2018. As the Commission’s Order correctly notes, one of the reasons for the dismissal of Spire’s petition set forth in OPC’s motion is the fact that the petition “included claims for the cost of

¹ All references are to the Revised Statutes of Missouri (2016) unless otherwise noted.

infrastructure replacements that the Western Dist. Court of Appeals has determined do not qualify for ISRS recovery.”² However, the Commission errs when it finds that Spire’s petition alleges facts to prove “the infrastructure system replacements included in the Petitions and submitted for ISRS cost recovery are eligible under the ISRS statutes.”³ A review of Spire’s petition demonstrates it includes no such facts. Instead, Spire’s petition contains merely a conclusion of law claiming that all of the projects for which Spire seeks recovery through ISRS meet the statutory definition of “gas utility plant” found in section 393.1009.⁴

Missouri law clearly states that “[l]egal conclusions cannot be pleaded as ultimate facts.”⁵ “Missouri rules of civil procedure demand more than mere conclusions that the pleader alleges without supporting facts.”⁶ “A conclusion must be supported by factual allegations that provide the basis for that conclusion, that is, ‘facts that demonstrate how or why’ the conclusion is reached.”⁷ “Where a petition contains only conclusions and does not contain the ultimate facts or any allegations from which to infer those facts[,] a motion to dismiss is properly granted.”⁸

Because Spire’s petition contains only a barebones legal conclusion that the projects for which it seeks recovery through ISRS meet the statutory definition of “gas utility plant”

² EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pg. 10.

³ *Id.*

⁴ EFIS, GO-2018-0309 & GO-2018-0310, Verified Application and Petition of Spire Missouri Inc. to Establish an Infrastructure System Replacement Surcharge, pg. 9.

⁵ *Jordan v. Peet*, 409 S.W.3d 553, 560 (Mo. App. W.D. 2013) (quoting *Musser v. Musser*, 281 Mo. 649, 221 S.W. 46, 50 (Mo. 1920)).

⁶ *Id.* (quoting *In re Transit Cas. Co.*, 43 S.W.3d 293, 302 (Mo. banc 2001)).

⁷ *Id.* (quoting *Westphal v. Lake Lotawana Ass’n, Inc.*, 95 S.W.3d 144, 152 (Mo. App. W.D. 2003)).

⁸ *Lotawana Ass’n, Inc.*, 95 S.W.3d at 152 (quoting *Berkowski v. St. Louis County Bd. of Election Comm’rs*, 854 S.W.2d 819, 823 (Mo. App. E.D. 1993)).

found in section 393.1009, Spire has pleaded no facts upon which relief can be granted and the OPC's motion to dismiss should be granted.

II. The Commission erred in determining that Spire's claimed replacement of cast-iron and bare steel pipes were ISRS eligible.

The Order correctly sets forth the two requirements that must be met before component replacements may be recovered through an ISRS: "(1) the replaced components must be installed to comply with state or federal safety requirements and (2) the existing facilities being replaced must be worn out or in a deteriorated condition."⁹ Yet the Order does not cite to any evidence showing that the cast-iron and bare steel pipes Spire replaced are actually "worn out or in a deteriorated condition."

The closest that the Order comes is to state that these pipes *can* wear out or deteriorate over time; *i.e.* that cast-iron pipes are "*subject*" to cracking and leaking and that bare steel pipes corrode "*relatively quickly*." However, the question of whether the cast-iron and bare steel pipes Spire replaced are *capable* of wearing out or deteriorating was never an issue. Instead, the real question before the Commission is whether the pipes Spire replaced were *actually* worn out or deteriorated. The record is bereft of any evidence to prove this fact, as demonstrated by the Order's failure to cite to anything. Nor could Spire ever hope to produce any evidence to support its argument as it has readily admitted that it does not even test the pipes that it is abandoning.¹⁰ Instead, the record shows that Spire simply considers any pipe subject to the steel and cast-iron replacement program to be "by definition worn out or in [a] deteriorated condition."¹¹

⁹ EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pg. 13.

¹⁰ EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 207, pgs. 2-3.

¹¹ EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 206, pg. 1.

The only other evidence cited in the Order that even remotely touches on this issue is a single unsupported statement by one of Spire's witnesses that "[m]ost of the cast iron pipes being replaced are over a hundred years old."¹² However, this statement is directly contradicted by Spire's own business records that show that the majority of the pipes being abandoned are *not* more than 100 years old.¹³ The Commission should not place more evidentiary weight on the lone, unsupported statement of Spire's witness over and above Spire's own uncontested business records. Even if it did, the age of the pipes alone does not show that they are worn out or deteriorated.

The Commission correctly points out that "[s]ince Spire Missouri brought the Petitions, it bears the burden of proof."¹⁴ This means "Spire Missouri must convince the Commission it is "more likely than not" that its allegations are true."¹⁵ Spire cannot prove that its more likely than not that the cast-iron and bare steel pipes it replaced are worn out or in a deteriorated condition because Spire has presented literally no evidence to prove that point. Instead, the Commission has granted Spire some sort of unlawful evidentiary presumption by assuming that just because pipes *can* wear out, they *are* worn out. The Order's conclusion that the cast-iron and bare steel pipes Spire replaced are worn out or deteriorated is thus the direct result of the Commission misapplying the law regarding Spire's burden of proof.

III. The Commission erred in determining that Spire's claimed relocation of pipes were ISRS eligible.

¹² EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pg. 6.

¹³ EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 208, pg. 10; EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 209, pgs. 8-9.

¹⁴ EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pg. 9.

¹⁵ *Id.* pg. 9-10.

The Order finds that Spire's relocations are ISRS eligible by relying solely on the legal conclusion stated in Spire's petition that all of the relocations for which recovery was sought meet the statutory definition of "gas utility plant" found in section 393.1009.5(c). Again, Missouri law states that "[l]egal conclusions cannot be pleaded as ultimate facts."¹⁶ "Missouri rules of civil procedure demand more than mere conclusions that the pleader alleges without supporting facts."¹⁷ "A conclusion must be supported by factual allegations that provide the basis for that conclusion, that is, 'facts that demonstrate how or why' the conclusion is reached."¹⁸ In its Order, the Commission has already found that Spire offered *absolutely no facts to support its legal conclusion.*¹⁹

The OPC also notes that: the individual who signed the verification for this legal conclusion is not an attorney and is not admitted to practice law;²⁰ the same sentence containing the statement on which the Commission is relying also states that all of the replacements for which Spire sought recovery were ISRS eligible (which the Commission's Order determines to be objectively false given the inclusion of plastic components that are not worn out or in a deteriorated condition);²¹ that this legal conclusion is directly

¹⁶ *Jordan v. Peet*, 409 S.W.3d 553, 560 (Mo. App. W.D. 2013) (quoting *Musser v. Musser*, 281 Mo. 649, 221 S.W. 46, 50 (Mo. 1920)).

¹⁷ *Id.* (quoting *In re Transit Cas. Co.*, 43 S.W.3d 293, 302 (Mo. banc 2001)).

¹⁸ *Id.* (quoting *Westphal v. Lake Lotawana Ass'n, Inc.*, 95 S.W.3d 144, 152 (Mo. App. W.D. 2003)).

¹⁹ The Petition states that "[t]he *only* evidence in the record relating to this issue are the Petitions of Spire Missouri" (emphasis added). EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pg. 16.

²⁰ EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 5, pg. 2; EFIS, GO-2018-0309 & GO-2018-0310, Verified Application and Petition of Spire Missouri Inc. to Establish an Infrastructure System Replacement Surcharge, pg. 10.

²¹ EFIS, GO-2018-0309 & GO-2018-0310, Verified Application and Petition of Spire Missouri Inc. to Establish an Infrastructure System Replacement Surcharge, pgs. 4,14.

contradicted later in the same petition when Spire lists the cost of replacements as being “net” of reimbursements;²² and that it is further directly contradicted by the testimony of Spire’s witness Glenn Buck who testified that Spire was performing relocations not because they were required due to construction or improvement of a highway, road, street, public way, or other public work, but rather, to correct issues regarding the pipe’s “angle of repose”.²³

Finally, the OPC notes that the Commission again has misapplied the law regarding burden of proof by finding that “OPC did not present any evidence in support of its contention.”²⁴ The Commission has already stated that “[s]ince Spire Missouri brought the Petitions, it bears the burden of proof.”²⁵ This means “Spire Missouri must convince the Commission it is ‘more likely than not’ that its allegations are true.”²⁶ As such, the OPC does not *need* to present evidence to show that Spire failed to meet its burden of proof regarding the ISRS eligibility of the relocations. Instead, it is Spire who needs to present evidence to show that the relocations are ISRS eligible. Spire has failed to do so and the Commission should therefore deny Spire recovery for these costs.

"WHEREFORE, the Office of the Public Counsel respectfully requests a rehearing of the Commission’s September 20, 2018 *Report and Order* pursuant to the authority of RSMo section 386.500.

²² EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 1, Appendix B, pg. 2; EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 2, Appendix B, pg. 2.

²³ EFIS, GO-2018-0309 & GO-2018-0310, Exhibit 6, pg. 5.

²⁴ EFIS, GO-2018-0309 & GO-2018-0310, Verified Application and Petition of Spire Missouri Inc. to Establish an Infrastructure System Replacement Surcharge, pg. 17.

²⁵ EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pg. 9.

²⁶ EFIS, GO-2018-0309 & GO-2018-0310, Report and Order, pgs. 9-10.

