

**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-2019-0115**
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-2019-0116**
Replacement Surcharge in its Spire Missouri)
West Service Territory)

STAFF’S BRIEF

COMES NOW the Staff of the Missouri Public Service Commission (“Commission”), by and through counsel, and for its Brief states as follows:

Background

On October 29, 2018, Spire Missouri, Inc. (“Spire”, “Spire East”, “Spire West”, or “Company”) filed *Spire Missouri, Inc.’s Request for Waiver of Rule 4 CSR 4.017(1) for ISRS Case Filings, or in the Alternative, Notice of Intended Case Filings*.¹ On December 17, 2018, the Commission granted Spire a waiver of the 60 day notice requirement.

On January 14, 2019, Spire filed its *Verified Application and Petition of Spire Missouri, Inc. to Change its Infrastructure System Replacement Surcharge for its Spire Missouri East Service Territory* (“Spire East Application”)² and its *Verified Application and Petition of Spire Missouri, Inc. to Change its Infrastructure System*

¹ “ISRS” is Infrastructure System Replacement Surcharge.

² The Spire East Application sought to increase its ISRS revenues by \$9,203,991 annually to produce total ISRS revenues of \$11,811,601 annually.

Replacement Surcharge for its Spire Missouri West Service Territory (“Spire West Application”).³

On January 15, 2019, the Commission issued its *Order Directing Notice, Setting Intervention Deadline, Directing Filing, and Suspending Tariff Sheets*. Staff filed its recommendation on March 15, 2019 and the same day the Office of the Public Counsel (“OPC”) filed its objections to Spire’s ISRS Applications.

On March 20, 2019, the Commission issued its *Order Scheduling Evidentiary Hearing, Establishing Procedural Schedule and Other Procedural Requirements* (“Order”). That same day, Staff filed a motion in both dockets to dismiss the portions of the ISRS applications of Spire East and Spire West that are now under review by the Western District Court of Appeals. On March 22nd, Spire filed its response to Staff’s motions and on March 25th, Staff filed its reply to Spire’s response.

An evidentiary hearing was held on April 3rd and 4th for the Spire East and Spire West ISRS Applications in which the Staff, OPC, and the Company (“Parties”) participated. At the hearing, the Regulatory Law Judge stated she would take Staff’s motions with the case.

On April 8, 2019, the Company and Staff filed a *Stipulation and Agreement Regarding Income Tax Issue* with OPC not objecting.

On April 11, 2019, the Parties filed a *Stipulation and Agreement Regarding Overheads*.

³ The Spire West Application sought to increase its ISRS revenues by \$9,769,606 annually to produce total ISRS revenues of \$15,181,399 annually.

Staff's Brief addresses the issues as posed in the list of issues filed by Staff on behalf of the Parties.

Issues and Brief

Issue A: *Are all costs included in the Company's ISRS filings in these cases eligible for inclusion in the ISRS charges to be approved by the Commission in this proceeding?*

Staff Position Updated and Adjusted in Recognition of Tax Issue Settlement⁴

No. Staff's ISRS recommendations for Spire East and Spire West are only for "new" ISRS-eligible costs ("New Request") incurred for the period of July 1, 2018, to January 31, 2019.

Staff supports ISRS surcharge revenues for Spire East in the amount of an incremental pre-tax revenue amount of \$7,142,199⁵ with a total current and cumulative ISRS surcharge of \$9,749,809 and recommends the Commission authorize Spire East to file an ISRS rate for each customer class as reflected in the Staff Direct Report Schedule 1, which generates \$9,749,809⁶ annually with an effective date no later than May 14, 2019.

⁴ After the filing of direct testimony, Staff and Spire Inc. had identified a small error in the amount of deferred taxes contained in both the revenue requirements of Staff and Spire Inc. for Spire West. The *Stipulation and Agreement* filed by the Parties resolves this error and the tax issue (C) as to how tax is calculated for the ISRS revenue requirement. OPC is a non-objecting party.

⁵ Exh. 104, Staff Late-Filed Exhibit; Staff revised revenue requirement for Spire East, Case No. GO-2019-0115.

⁶ Exh. 102, Staff Direct Report Schedule 1 "ISRS Rate Design" revised for Spire East, Case No. GO-2019-0115.

For Spire West, Staff supports ISRS surcharge revenues in the amount of an incremental pre-tax revenue amount of \$7,129,659⁷ with a total current and cumulative ISRS surcharge of \$12,541,452 and recommends the Commission authorize Spire West to file an ISRS rate for each customer class as reflected in the Staff Direct Report Schedule 1, which generates \$12,541,452⁸ annually with an effective date no later than May 14, 2019.

Spire's Engineering/Cost Studies Add Evidentiary Support for ISRS Recovery

Mr. Rob C. Atkinson, Director, Pipeline Management at Spire Missouri, sponsored testimony that explains the individual, project-level engineering/cost analyses the Company prepared in support of its Spire East and Spire West ISRS Applications.⁹

Mr. Atkinson relied on the Commission's Report and Order in Spire's previous ISRS applications, stating:

*"The primary purpose of conducting these analyses was to expand upon the engineering analyses that have previously been conducted and discussed in prior ISRS and rate case proceedings and to comply with the evidentiary roadmap laid out by the Commission at pages 15 to 16 of its Report and Order in Case Nos. GO-2018-0309 and GO-2018-0310. In that Order, the Commission stated the following:"*¹⁰

In the future, if Spire Missouri wished 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

⁷ Exh. 104, Staff Late-Filed Exhibit; Staff revised revenue requirement for Spire West, Case No. GO-2019-0116.

⁸ Exh. 103, Staff Direct Report Schedule 1 "ISRS Rate Design" revised for Spire West, Case No. GO-2019-0116.

⁹ Exh. No. 6, Direct Testimony of Rob C. Atkinson, p.1 In 4 and p. 2 Ins. 18-23.

¹⁰ Exh. No. 6, p. 3 In 17 to p. 4 In. 2. (*citing internally to Commission Report and Order in Case Nos. GO-2018-0309 and GO-2018-0310, pp. 15 – 16*).

be replaced in conjunction with the replacement of other worn out or deteriorated components.”

Mr. Wesley E. Selinger, Manager, Rates and Planning at Spire Missouri, explained that the Company prepared and applied the results of an individual engineering/cost analysis for each project included in its ISRS filings, with the exception of relocation projects mandated by governmental entities, projects related to pipe found to be in an angle of repose, and projects in which no plastic pipe was abandoned.¹¹

The Company applied the results of each individual project engineering/cost analysis to each project specific addition amount to determine the amount of that addition that would be included in the Company’s ISRS revenue requirement. If an individual project analysis demonstrated that it was more costly to use the Company’s approach (which involved a more costly approach of replacing plastic pipe rather than reusing the existing plastic pipe), the Company adjusted that addition amount by the percentage difference between the two approaches.¹²

Mr. Selinger cites an example where a project cost \$100, and the Company’s engineering /cost analysis for that project showed that using the existing plastic pipe would have cost 3% less than what the Company did, the 3% difference would be applied to the project addition amount and the Company would only include \$97 of the total \$100 project cost in its ISRS filing.¹³

Questioned by Commissioner Hall at hearing, Mr. Selinger further explained that in the situation where the replacement of plastic pipe was more expensive than the alternative of re-using the plastic pipe, the Company eliminated from its request the

¹¹ Exh. No. 8, Direct Testimony of Wesley E. Selinger, p. 1 ln 5 and p. 5 lns. 10 – 18.

¹² Exh. 8, p. 5 lns 16 – 22.

¹³ Exh. 8, p. 5 ln 22 – p. 6 ln 5.

incremental cost of installing new plastic pipe. This means the Company did not seek to collect any added cost of replacing plastic pipe in an ISRS project. The Company sought only the lesser cost of re-using the existing plastic pipe.¹⁴

At hearing, Mr. Atkinson testified:

“...So there’s a cost involved with the plastic. But what we’re saying is that it is, in most cases, cheaper to replace it th[a]n what it would have cost us to re-use that plastic so there’s an avoided cost. Not that there’s no cost, but it’s – it’s a less cost than it would be to re-use it.”¹⁵

Though most of the engineering/cost studies for each ISRS project show that the costs requested in ISRS for the replacement of plastic pipe were done in a more cost-effective manner, the Company used those studies to demonstrate that it requested ISRS recovery only for the lesser amount of either replacing the plastic or re-using it.

Mr. Atkinson further explained how the Company determined the scope of its ISRS projects, affirming that the driver behind scoping each project was the replacement of worn and deteriorated pipe:

“The majority of our ISRS projects are related to our systematic or strategic main replacement program. Those individual sections of our system – of our overall system are broken up into specific scoped projects that can be completed in a relatively short amount of time, properly opened and closed so that they’re not open for long periods of times.”¹⁶

Q: Okay. So the real driver behind what’s --- what you look at to scope that project is the actual replacement of worn or deteriorated pipe?

A. “Yes. Absolutely.”¹⁷

¹⁴ Tr. p 144 ln 19 to p. 145 ln 14.

¹⁵ Tr. p. 131, lns. 17-23.

¹⁶ Tr. p. 92, lns. 10 – 17.

¹⁷ Tr. p. 93, lns. 1 – 4.

Mr. Atkinson also testified that many ISRS projects included incidental pieces of pipe that may not be worn out or deteriorated by themselves, but as a project whole, they're part of the project and going to be replaced. The engineering analyses in the project cost studies considered the replacement and cost of these incidental items.¹⁸

As to the matter of why the Company replaced plastic pipe at all, Mr. Atkinson testified that the replacement of plastic pipe in an ISRS project is incidental to the replacement of worn or deteriorated mains and service lines required by the project:

*"I would say the majority of the plastic being replaced in our – in our—in our replacement program is due to the service lines that are being replaced. There is certainly, as we've discussed, main segments where there's plastic, you know, incrementally in those things that we have replaced earlier. But the majority of the plastic being replaced is – is the service lines."*¹⁹

"...in my opinion, I feel like as – if you look at our replacement program as a whole, the amount of plastic that is in the mains that we're replacing is incidental to the amount of cast iron that we're replacing. I don't know the exact percentages, but it's – it's – I could consider it to be an incidental amount."

*The service lines that are plastic that we're replacing come along with the fact that we're replacing the entire system and we found that it's more cost effective to replace those plastic services by putting a new service line so we can get the meter outside. And we've shown that that is cost negative to – to the ISRS cost. But the – plastic main portions I would consider to be incidental to our—our entire replacement program."*²⁰

Spire witness Atkinson further explained at hearing that service line transfers were required due to the required replacement of cast iron mains.²¹ Mr. Atkinson testified:

*"...it's cheaper to run a new service from the point where you've put the new main in to the --- new meter location that's going to be outside and on the side of the customer's home, as opposed to digging down to the old service line, trenching to it in the street, reconnecting it and then it serving it from – with the meter inside the basement."*²²

¹⁸ Tr. p. 93, Ins. 5-25

¹⁹ Tr. p. 123 ln 21 to p.124 ln 3

²⁰ Tr. p. 125 ln 20 to p.126 ln10.

²¹ Tr. p. 141, Ins. 1 – 16.

²² Tr. p. 121, ln 23 to p. 122, ln 5.

As a further cost consideration, Mr. Atkinson testified when a new main is installed, there will always be a need to make a tie-in of either the existing service line, which would require an additional fitting and create a safety implication, or simply tying a new service line to the new main without the need of an additional fitting.²³

Audit and Engineering Analysis Staff Recommend Approval of the New Request

Based on Staff's review of a sampling of work orders included in the Company's filing, Staff concluded that each of the projects reviewed meets the ISRS rule qualifications²⁴, with the exception of costs associated with replacement of plastic mains and services when such cost was greater than the estimated cost of using existing plastic pipe.²⁵

As a result of Staff's review and analyses of the avoided cost studies and supplemental detail provided by Spire, Staff found the level of detail in the avoided cost studies related to the replacement or reuse of plastic service lines was sufficient to make conclusions about the reasonableness of the construction decisions made by Spire. After examination of the Company's avoided cost studies, Audit Staff and Engineering Analysis Staff took the position the Company has complied with the Commission's ISRS rule and fulfilled the evidentiary guidance set forth in the Commission's *Report and Order* in the Company's previous ISRS cases (Case Nos. GO-2018-0309 and GO-2018-0310) ("*Report and Order*"). Staff reached this conclusion because Spire provided evidence in

²³ Tr. p. 122, ln 6 to p. 123, ln12.

²⁴ Commission Rule 4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges set forth the definitions of natural gas utility plant projects that are eligible for ISRS treatment.

²⁵ Exh. No. 100, Staff Direct Report with Appendix 1 for Spire East (GO-2019-0115), p. 4 and Exh. No. 101, Staff Direct Report with Appendix 1 for Spire West (GO-2019-0116), p. 4.

support of the Company's proposed recovery of certain plastic mains and services replacement costs.²⁶

In Spire's previous ISRS cases, the Commission's *Report and Order* had found, in pertinent part, that "...*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.*" To address this evidentiary deficiency in the future, the Commission offered the following guidance:²⁷

*"...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.**" (emphasis added)*

The Commission's evidentiary guidance to Spire closely follows dicta in Footnote 5 of the Western District Court of Appeals opinion *In the Matter of the Application of Laclede Gas Company to Change Its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory v. The Office of Public Counsel*, 539 S.W.3d 835 (Mo. App., W.D. 2017) (***MGE and Laclede v. OPC***).

In Footnote 5 of the Court's opinion, the Court construed the meaning of ISRS eligible "Gas utility plant projects" to also apply to the replacement of non-worn plastic pipe and components that are incidental to the replacement of worn or deteriorated pipe. Section 393.1009(5)(a) RSMO defines gas utility plant projects as follows:

²⁶ Exh. No. 100, p. 4 and Exh No. 101, p. 4.

²⁷ Commission *Report and Order* in Case Nos. GO-2018-0309 and GO-2018-0310, pp.15 – 16.

(5) "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.

Footnote 5 offers further guidance from the Court on what may be considered acceptable replacements that are incidental to completing the replacement of worn or deteriorated ISRS eligible components under the (5)(a) statutory definition:

"We recognize that the replacement of worn out or deteriorated components will, at times, necessarily impact and require the replacement of nearby components that are not in a similar condition. Our conclusion here should not be construed to be a bar to ISRS eligibility for such replacement work that is truly incidental and specifically required to complete replacement of the worn out or deteriorated components. However we do not believe that section 393.1009(5)(a) allows ISRS eligibility to be bootstrapped to components that are not worn out or deteriorated simply because that [they] are interspersed within the same neighborhood system of such components being replaced or because a gas utility is using the need to replace worn out or deteriorated components as an opportunity to redesign a system (i.e., by changing the depth of the components or system pressure) which necessitates the replacement of additional components."

As a part of his examination of Spire's engineering/cost studies, Staff engineer witness Chuck Poston testified that Spire has complied with the Commission's Report and Order consistent with the guidance from Footnote 5 of the Court's opinion in

MGE and Laclede vs OPC:

1. Spire provided 509 avoided cost studies. Of the 509 avoided cost studies provided, Spire East had 207 projects and Spire West had 302 projects.²⁸
2. Staff engineer Poston performed a review of the 509 studies, looking for a certain base level of information: footage of pipe, footage of main replaced, footage of main re-used, number of services re-used, number of services replaced; narrative

²⁸ Exh. 100, p.6.

description of the project, dollar values associated with the work, appropriate maps, diagrams or schematics to explain construction decisions made by the Company in their cost estimates.²⁹

3. Mr. Poston looked at a smaller subset of the 509 cost studies in greater detail, looking at the reasonableness of what was done on a very granular scale and testified that the point of the engineering / economic analysis, as to the scope of the project, was to show that the analysis included the replacement of incidental or ancillary components. The avoided cost studies considered the cost to re-use as much plastic as possible and compared that cost with the cost of what the Company actually did.³⁰

4. Mr. Poston further testified that Spire's cost studies support the proposition that replacing plastic pipe and services and including those costs are incidental when viewed within the scope of the ISRS eligible project. In response to a question on the approach taken by the Company, Mr. Poston responded:

Q. Okay. So is it fair to say that the replacement of plastic that may be associated with an individual project based on the Company's approach and your analysis, that that plastic that was replaced was incidental to the entire ISRS project?

A. *I believe their avoided cost studies help support that argument.*³¹

In the course of Audit Staff's examination of Spire's ISRS Applications, Staff auditor Keith Foster reviewed supporting workpapers, work order authorizations,

²⁹ Tr. p.225, ln 7 to p.226 ln 1.

³⁰ Tr. p. 226 ln 2 to p. 227, ln 4.

³¹ Tr. p. 227, lns. 5 – 11.

and a sample of invoices supporting the work order authorizations and communicated with the Company when necessary to seek clarification.³²

As part of Staff's work scope in evaluating the Company's ISRS applications, Mr. Foster compared the information contained within each avoided cost study to the information in the Company's revenue requirement workpaper to verify the amounts used to determine the plastic percentage differences matched. He noted any discrepancies and sought clarification from the Company. Audit Staff also obtained a sample of the detailed calculations used to develop the estimated costs for selected avoided cost studies. The samples were then compared to each avoided cost study to verify that the total of the amounts matched each cost element. Staff noted any discrepancies and addressed them with the Company for further clarification.³³ Mr. Foster testified that the Company answered all his questions and resolved all of his observed discrepancies.³⁴

New Request ISRS-Eligible Plant Investment Compliance

Based on the record evidence adduced at hearing and through pre-filed testimony, Staff concludes the Company's New Request for recovery of ISRS eligible investment meets the eligibility requirements of (1) Sections 393.1009 to 393.1015 RSMo and Commission Rule 4 CSR 240-3.265, (2) the case law construing the statutory definition of ISRS eligible gas plant investment *In the Matter of the Application of Laclede Gas Company to Change Its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory v. The Office of Public Counsel*, 539 S.W.3d 835 (Mo. App., W.D. 2017) (***MGE and Laclede v. OPC***), and (3) the "evidentiary roadmap"

³² Exh. 100, p. 10 lns 8 – 11, and Exh. 101, p. 10 lns 15 -18.

³³ Exh. 100, p. 10 ln 27 to p. 11 ln 12, and Exh.101, p.11 lns 4 – 11.

³⁴ Tr. p. 211, lns. 17 – 22.

framework followed by Spire as set out by the Commission in its *Report and Order* in Spire East and Spire West ISRS Case Nos. GO-2018-0309 and GO-2018-0310.

Issue B: ***If a Party believes that certain costs are not eligible for inclusion in the ISRS charges to be approved by the Commission in this proceeding, what are those costs and why are they not eligible for inclusion?***

Staff Position

Staff does not support the requests of Spire East and Spire West to recover the previous ISRS cost recovery requests (“Old Request”) incurred during the period of October 1, 2017 through June 30, 2018, that were denied by the Commission in prior Case Nos. GO-2018-0309 (Spire East) and GO-2018-0310 (Spire West).

Staff Renews its Motions to Dismiss the Portion of Spire East’s and Spire West’s Applications that are Under Review by the Western District Court of Appeals

On March 20, 2019, Staff moved to dismiss those portions of Spire’s ISRS request that were previously presented to the Commission, denied, and which are now part of Spire’s appeal pending before the Missouri Court of Appeals.³⁵ Staff pointed out that, as a general rule, upon filing of a notice of appeal, a trial court loses almost all jurisdiction over a case. ***Reynolds v. Reynolds***, 109 S.W.3d 258, 269–71 (Mo. App., W.D. 2003); ***State ex rel. Stickelber v. Nixon***, 54 S.W.3d 219, 223 (Mo. App., W.D. 2001); ***State ex rel. Steinmeyer v. Coburn***, 671 S.W.2d 366, 371 (Mo. App., W.D. 1984); ***State ex rel. Brooks Erection & Construction Co. v. Gaertner***, 639 S.W.2d 838, 850 (Mo. App., E.D. 1982). The remaining jurisdiction of a trial court is sharply constrained, with few exceptions. ***Stickelber***, *supra*, p. 223. For example, a trial court retains the ability

³⁵ Both Spire and OPC appealed the *Report and Order* in Case Nos. GO-2018-0309 and GO-2018-0310 to the Missouri Court of Appeals, Docket No. WD82302 (consolidated with WD82373).

to exercise functions of a purely ministerial or executive nature. *Id.* Statutes or Supreme Court Rules also convey authority to take up particular motions or applications for relief. *Id.* at 371–72. Beyond such exceptions, the trial court is not permitted to exercise functions of a judicial character. **Stickelber**, *supra*, p. 372. These latter functions are those which entail “the exercise of judgment and discretion whereas ministerial functions invoke no such discretion.” *Id.*

The Commission is in the same position as a trial court and the rule cited above has been applied to the Commission. In **State ex rel. Missouri Cable Telecommunications Ass’n v. Missouri Public Service Comm’n**, 929 S.W.2d 768, 772 (Mo. App., W.D. 1996), the Court held:

*... we can declare the proper rule in Missouri concerning the jurisdiction of the PSC when one of its orders has been challenged in the circuit court. If review of a PSC order is pending before a circuit court, the PSC may not enter a modified, extended or new order. However, if the judgment of the circuit court becomes final, the PSC regains its jurisdiction to act in a manner not inconsistent with the decision of the circuit court.*³⁶

See also **State ex rel. Campbell Iron Co. v. Public Service Commission**, 317 Mo. 724, 731, 296 S.W. 998, 1001 (banc 1927) (“On the issuance of a writ of review [the Commission’s] jurisdiction to make further orders ceases”).

In the present case, the matter is slightly different. While the transactions are the same, the Commission’s order would be a new order rather than a modification of the order issued in Case Nos. GO-2018-0309 and GO-2018-0310. However, this situation was addressed by the Missouri Supreme Court in **State ex rel. Kansas City v. Public Service Comm’n**, 360 Mo. 339, 348, 228 S.W.2d 738, 741 (banc 1950), where the Court

³⁶ Prior to the amendment of the *Public Service Commission Law* in 2012, S.B. 628, appeal from the Commission was by writ of certiorari to the circuit court.

found that the Commission had jurisdiction to enter what it called “the Second Order” since the circuit court had already reversed “the First Order” and remanded the matter back to the Commission. The Court made clear that, in the absence of the remand, the Commission would have lacked jurisdiction. *Id.*, 360 Mo. at 349, 228 S.W.2d at 742.³⁷

Since the Commission is without jurisdiction to determine the ISRS eligibility of the “Old Request” portions of Spire’s applications, it should, by analogy to Rule 55.27(g)(3), dismiss that portion of each application.

Thus, for the reasons and the case law cited above, and as articulated in Staff’s motions³⁸ to dismiss the previously requested ISRS recovery amounts now under appeal, and Staff’s reply³⁹ to Spire Missouri’s response to Staff’s motions, Staff prays the Commission grant its motions and dismiss Spire’s Old Request portions of its Applications.

Overhead Capitalization

The matter of overhead capitalization was an issue raised by OPC. The Parties resolved this matter in a *Stipulation and Agreement Regarding Overheads* that provides a path forward for OPC to address its concerns.

³⁷ “[W]e rule that the Commission had jurisdiction to enter the Second Order after it had received the notification from the Circuit Court concerning the entry of the judgment of February 21, 1949, reversing the First Order and remanding the case to the Commission for further proceedings.”

³⁸ See Staff’s *Motion to Dismiss Portion of Spire East’s ISRS Application That is Under Review by the Western District Court of Appeals* (GO-2019-0115) and *Motion to Dismiss Portion of Spire West’s ISRS Application That is Under Review by the Western District Court of Appeals* (GO-2019-0116). (EFIS Item No. 11 in both dockets; filed March 20, 2019).

³⁹ See Staff’s *Reply to Spire Missouri’s Response to Staff’s Motion to Dismiss a Portion of Spire Missouri’s ISRS Request*, Case No. GO-2019-0115 (EFIS Item No. 15) and Case No. GO-2019-0116 (EFIS Item No. 15).

Issue C: *How should income taxes be calculated for purposes of developing the ISRS revenue requirement in these cases?*

On April 8, 2019, Spire and Staff (“Signatories”) filed the *Stipulation and Agreement Regarding Income Tax Issue*, settling the tax calculation issue for the Spire East and Spire West cases. OPC is a non-objecting party to the stipulation.

Core to this settlement, the Signatories agreed that the Total ISRS Revenues will include one-half (50%) of the entire income taxes gross-up that would be derived from multiplying the revenue requirement before gross-up by the marginal income tax rate as illustrated in Schedule A of the Stipulation and Agreement. Also, the Signatories, with an invite to OPC, agreed to meet within 30 days after the effective date of an order deciding the remaining issues in these cases and, if necessary, hold additional meetings thereafter.

WHEREFORE, Staff prays the Commission accept its Brief and issue an order (1) approving the New Request portions of the ISRS Applications of Spire East and Spire West as set forth above, (2) granting Staff’s motions to dismiss the Old Request portions of the Spire East and Spire West ISRS Applications, (3) approving the settlement agreements on the tax calculation and the overhead capitalization issues; and order any other such relief just in the circumstance.

Respectfully submitted,

/s/ Robert S. Berlin

Robert S. Berlin

Deputy Staff Counsel

Missouri Bar No. 51709

(573) 526-7779 (Telephone)

(573) 751-9285 (Fax)

bob.berlin@psc.mo.gov

/s/ Ron Irving

Ron Irving
Legal Counsel
Missouri Bar No. 56147
573) 751-8702 (Telephone)
(573) 751-9285 (Fax)
ron.irving@psc.mo.gov

/s/ Kevin A. Thompson

Kevin A. Thompson
Chief Staff Counsel
Missouri Bar No. 36288
(573) 751-6514 (Telephone)
(573) 526-6969 (Fax)
kevin.thompson@psc.mo.gov

Attorneys for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 15th day of April, 2019, to all counsel of record.

/s/ Robert S. Berlin