

**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 POSITION STATEMENTS

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its Position Statements states as follows:

Issues:

- 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:

No. Staff's ISRS recommendations for Spire East and Spire West are for "new" ISRS-eligible costs 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 \$6,480,670 with a total current and cumulative ISRS surcharge of \$9,088,280 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 \$9,088,280 annually with an effective date no later than May 14, 2019.

For Spire West, Staff supports ISRS surcharge revenues in the amount of an incremental pre-tax revenue amount of \$6,563,189¹ with a total current and cumulative ISRS surcharge of \$11,974,982 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 \$11,974,982 annually with an effective date no later than May 14, 2019.

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 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).

The *Report and Order* in Case Nos. GO-2018-0309 and GO-2018-0310 was appealed to the Missouri Western District Court of Appeals by Spire Missouri Inc. and the Office of the Public Counsel, Docket No. WD82302 (consolidated with WD82373). Because the

¹ After the filing of direct testimony, Staff and Spire Inc. identified a small error in the amount of deferred taxes contained in both the revenue requirements of Staff and Spire Inc. for Spire West. Staff and Spire Inc. intend to make a joint filing correcting this error and to address this correction at hearing.

Western District has not yet issued an opinion ruling on the appeal of the ISRS recovery denied by the Commission in the underlying cases (Case Nos. GO-2018-0309 and GO-2018-0310), Staff did not address Spire's renewed request for ISRS recovery while both previous requests are before the Court of Appeals. Through settled case law, jurisdiction over the matter of the previous ISRS requests now lies with the Western District Court of Appeals. Because the Commission lacks jurisdiction over the previous requests, the Commission's only recourse as to the previous requests is dismissal. Accordingly, and for the reasons and the case law cited in Staff's motions² to dismiss the previously requested ISRS recovery amounts now under appeal, Staff recommends the Commission grant Staff's motions.

With regard to the overhead capitalization issue raised by the Office of the Public Counsel, Staff's position is that such matters are more appropriately examined in the context of a general rate case proceeding and not in ISRS petitions.

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

² 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).

Staff Position:

Income taxes should be calculated in accordance with Staff's calculation done in accordance with Sections 393.1009(1) and (a) and (b) as explained on pages 12 through 13 of Staff's Direct Reports for GO-2019-0115 and GO-2019-0116.

There are certain tax deductions associated with ISRS plant additions that should be taken into account in determining the amount of state and federal income taxes applicable to ISRS net operating income. All of these tax deductions are directly associated with and incremental to the ISRS plant additions in this proceeding.

The tax deductions that Spire can claim for construction of ISRS property are interest expense, and Internal Revenue Code (IRC) Section 263A transfers. For Spire East, these deductions result in income tax savings of approximately \$2.4million, which more than offsets the calculation of the \$1.3 million of ISRS related income taxes stated prior to the consideration of any income tax deductions. For Spire West, these deductions result in income tax savings of approximately \$2 million, which more than offsets the calculation of the \$1.1 million of ISRS-related income taxes stated prior to the consideration of any income tax

WHEREFORE, Staff submits its Position Statements as directed by the Commission.

Respectfully submitted,

/s/ Robert S. Berlin

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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 2nd day of April, 2019, to all counsel of record.

/s/ Robert S. Berlin