

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone/internet audio conference on the 29th day of April, 2020.

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

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

**ORDER SETTING A PROCEDURAL SCHEDULE INCLUDING A
LIMITED EVIDENTIARY HEARING ON REMAND**

Issue Date: April 29, 2020

Effective Date: April 29, 2020

On March 18, 2020, the Missouri Court of Appeals, Western District, issued its mandate remanding Spire Missouri Inc.'s¹ infrastructure system replacement surcharge (ISRS) cases in File Nos. GO-2018-0309 and GO-2018-0310 (referred to as the "2018 Cases") for further proceedings at the Commission.² These cases were on appeal from the Commission's Report and Order issued September 20, 2018. On April 15, 2020, the Commission denied the motion to consolidate the 2018 ISRS cases with the four other

¹ Spire Missouri Inc. was previously known as "Laclede Gas Company" and its east and west service territories were previously known as "Laclede" and "Missouri Gas Energy," respectively.

² On March 18, 2020, the Missouri Court of Appeals, Western District, also issued mandates remanding the other four Spire Missouri ISRS cases on appeal, File Nos. GO-2016-0332 and GO-2017-0333 (the "2016 Cases") and File Nos. GO-2017-0201 and GO-2017-0202 (the "2017 Cases").

ISRS cases remanded on the same date to the Commission. The Commission also directed the parties to state their proposals for how the Commission should move forward with complying with the Court's Mandate, and to file a proposed procedural schedule.

The parties filed a joint procedural schedule on April 21, 2020, including dates for an evidentiary hearing. However, the Office of the Public Counsel (Public Counsel) stated that it did not believe any further hearing was necessary and a further hearing should not be held. In contrast, Spire Missouri related that the Commission should hold a further hearing and allow it to provide new evidence including evidence to provide:

- A. A better understanding of "worn out OR in deteriorated condition."
- B. Additional evidence regarding the pace at which bare steel deteriorates.
- C. Expert testimony regarding the condition of the Spire Missouri's cast iron and bare steel facilities.
- D. New physical evidence regarding the condition of the Spire Missouri's cast iron and bare steel facilities.
- E. New evidence relating to leak experience on bare steel and cast iron facilities.
- F. New evidence of the nationwide consensus regarding the need to replace cast iron and bare steel facilities because of their problematic condition.
- G. New depreciation evidence that substantiates the worn out or deteriorated condition of the Company's facilities.

Spire Missouri also filed a response to the Public Counsel's position statement in which it suggests that the Commission should receive evidence from and take official notice of its Reports and Orders in the two sets of ISRS cases that followed the 2018 ISRS cases.

The Court reversed the Commission's Report and Order "to the extent it allowed ISRS recovery for structures not shown to be worn out or deteriorated. The case [was] remanded for the sole purpose of removing the cost incurred to replace cast iron and bare steel mains and service lines not shown to be worn out or deteriorated from the ISRS revenue awarded to Spire."³ The Court further directed that ratepayers "be refunded that

³ Matter of Spire Missouri Inc., 593 S.W.3d 546, 555 (Mo. Ct. App. 2019), reh'g and/or transfer denied (Dec. 12, 2019), transfer denied (Mar. 17, 2020).

amount by the most expeditious and authorized means available.”⁴ Thus, the Commission determines that Spire Missouri was previously given the opportunity to provide evidence to show that the facilities it was claiming were eligible for recovery through the ISRS were in fact eligible. The Court has explicitly said that the Commission should remove the cost to replace the bare steel and cast iron facilities *that were not shown to be in worn out or a deteriorated condition*. Therefore, the Commission will only hold a limited hearing to make that specific determination to calculate the cost of the bare steel and cast iron facilities that were not shown to be worn out or in a deteriorated condition and the best method to expeditiously refund the correct amount to ratepayers.

The Commission does not intend to hear new evidence that would allow Spire Missouri to relitigate the issues for which it did not meet its burden of proof at the first hearing. The Commission will not allow Spire Missouri to provide new witnesses or new testimony about how its cast iron and bare steel facilities are worn out or in a deteriorated condition. The parties may point to evidence already in the record as to which bare steel and cast iron facilities have already been shown to be worn out or in a deteriorated condition; evidence regarding what the calculation of that cost is; and evidence of the best method to expeditiously refund that amount to ratepayers. That being said, the Commission is not making any evidentiary rulings prior to that evidence being offered. Spire Missouri may prepare and pre-file evidence that it believes it would need to make an offer of proof.

⁴ Matter of Spire Missouri Inc., 593 S.W.3d 546, 555 (Mo. Ct. App. 2019), reh'g and/or transfer denied (Dec. 12, 2019), transfer denied (Mar. 17, 2020).

Because of the short time frames in this remand and the need to refund these costs to ratepayers, the Commission will shorten the proposed schedule provided by the parties as set out below.

THE COMMISSION ORDERS THAT:

1. A limited hearing on remand is scheduled for File Nos. GO-2018-0309 and GO-2018-0310 on May 26-27, 2020, beginning at 9:00 a.m. The hearing will be held at the Commission’s office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission’s Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing. Due to the COVID-19 emergency, further accommodations for an electronic hearing may be arranged closer to the hearing upon request of the parties or by the Commission on its own motion.

2. The hearing will be held for the limited purpose of determining the costs of the cast iron and bare steel mains and service lines that were not shown to be worn out or deteriorated and the method of refunding those amounts to ratepayers. The parties may present evidence at the hearing about what that amount should be, but may not present new evidence about why cast iron and bare steel are categorically worn out or deteriorated.

3. The following procedural schedule is established:

Date	Event
May 13, 2020	Direct Testimony
May 20, 2020	Rebuttal Testimony
May 21, 2020	Issues Lists, Order of Witnesses, Order of Cross Examination, and Position Statements
May 22, 2020	Pre-marked Exhibit Lists Submitted to RLJ

Date	Event
May 26-27, 2020	Hearing
June 1, 2020	Expedited transcripts due
June 12, 2020	Briefs (and Proposed Findings of Fact and Conclusions of Law – optional)

4. The response time for data requests shall be two business days to provide the requested information, and one business day to object or notify that more than two business days will be needed to provide the requested information.

5. The parties shall comply with the following additional procedural requirements:

- A. All parties shall provide copies of testimony (including schedules), exhibits and pleadings to other counsel by electronic means and in electronic form essentially concurrently with the filing of such testimony, exhibits or pleadings where the information is available in electronic format. Parties shall not be required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

- B. Workpapers that were prepared in the course of developing a witness' testimony should not be filed with the Commission but should be submitted to each party on the same day as the filing of the particular testimony without further request. Workpapers containing confidential information should be appropriately marked. Since workpapers for certain parties may be voluminous and generally not all parties are interested in receiving workpapers or a complete set of workpapers, a party shall be relieved of providing workpapers to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers. Counsel shall undertake to advise other counsel within the time period for providing workpapers if the sponsored witness has no workpapers related to the round of testimony.

- C. Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs, if available in the original format, the party providing the workpaper or response shall provide this type

of information in that original format with formulas intact. Workpapers shall be provided in electronic format by e-mailing or by delivery of a compact disc or other electronic storage media.

- D. Except as specifically ordered, all filings made through the Commission's Electronic Filing and Information System (EFIS) will be timely filed if filed before midnight on the date the filing is due. Documents filed in EFIS are considered properly served by serving the same on counsel of record for all other parties via e-mail essentially contemporaneously with the EFIS filing.
- E. Direct testimony shall be pre-filed as defined in Commission Rule 20 CSR 4240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.
- F. Although not all parties may agree upon how each issue should be described or on whether a listed issue is in fact a proper issue in this case, the parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, the order of party cross-examination for each witness, and the order of opening statements. The list of issues shall be stated with particularity. If the parties are unable to agree to an issues list, each party shall file a separate issues list. The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.
- G. Each party shall file a simple and concise statement summarizing its position on each disputed issue. Position statements shall track the list of issues. Any position statement shall set forth any order requested, cite any law authorizing that relief, and allege facts relevant under that law with citations to any pre-filed testimony in support.
- H. All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 20 CSR 4240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the unresolved issues that the parties believe require decision by the Commission.

- I. All parties shall bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.
 - J. Exhibit numbers will continue from those assigned at the original hearing.
 - K. Each party shall prepare a list of its pre-filed, pre-marked exhibits and submit a copy of that list to every other party and to the regulatory law judge by email no later than May 22, 2020. The lists shall not be filed in the EFIS case file. Exhibits that may be offered during live testimony, but which have not been pre-filed, need not be included on the list.
6. This order is effective when issued.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Dippell, Senior Regulatory Law Judge