

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

In the Matter of the Application of Spire)	
Missouri, Inc. to Change its Infrastructure)	<u>Case No. GO-2018-0309</u>
System Replacement Surcharge in its)	Tariff No. YG-2018-0163
Spire Missouri East Service Territory)	

In the Matter of the Application of Spire)	
Missouri, Inc. to Change its Infrastructure)	<u>Case No. GO-2018-0310</u>
System Replacement Surcharge in its)	Tariff No. YG-2018-0163
Spire Missouri West Service Territory)	

**OFFICE OF THE PUBLIC COUNSEL’S RESPONSE
TO THE STAFF’S RECOMMENDATION**

COMES NOW the Office of the Public Counsel (“OPC” or “Public Counsel”) and in in response to the Commission’s June 8 *Order Directing Notice, Setting Intervention Deadline, and Directing Filing*, submits one day out of time its Response to the Commission Staff’s (“Staff”) Recommendation in this case states:

1. On June 7, 2018, Spire Missouri Inc. (formerly known as Laclede Gas Company) filed its Verified Applications and Petitions to Establish an Infrastructure System Replacement Surcharge for Its Spire Missouri East (“Spire East” or “Company”) Service Territory (the “Application”) pursuant to Sections 393.1009, 393.1012 and 393.1015 RSMo Commission Rule 4 CSR 240-3.265 which authorize gas corporations to recover certain eligible infrastructure replacement costs through an infrastructure system replacement surcharge (“ISRS”).

In its Current Application, Spire filed the exact same type of infrastructure for replacement it had filed in its 2016 and 2017 cases. This forced Commission Staff to determine the amount of plastic mains and services replaced “in order to exclude the costs which the recent Western District Court

of Appeals Decision” *PSC v. Office of Pub. Counsel (In re Laclede Gas Co.)*, 539 S.W.3d 835 (Mo. App. 2017)(*In re Laclede*).

2. Spire should have excluded plastic pipe in its ISRS Application because the Western District has been deemed such infrastructure to be ineligible for recovery under the ISRS statutes. *In re Laclede* the Court held that the plastic pipe was not worn out or deteriorated, and could not be recovered under the ISRS statute. 539 S.W.3d at 839 (no party contests that the plastic mains and service lines were not in a worn out or deteriorated condition). Nonetheless, Spire submitted that plastic pipe for recovery under its verification it was filing pursuant to the ISRS statutes.

3. This left Staff with the burdensome task of removing all the plastic pipe from Spire’s calculations. This is on top of the review and calculations Staff has performed “due to the Western District Court of Appeals opinion in Cases No. GO-2016-0332 and GO-2016-0333, Staff’s workload has significantly increased in relation to both the initial months and the requested update months.

4. This coupled with Spire’s late filing of documents detailed in Staff’s Recommendation. These documents include July 18, 2018 - Work order authorizations over \$50,000 for May and June 2018; July 26, 2018 – Work order authorizations over \$25,000 for May and June 2018; July 27, 2018 – Work order charge details for May and June 2018.

5. These documents were not filed until late in the audit process, leaving Staff inadequate time for review.

6. Not only were documents late filed the documents do not comply with the Commission rules that require specific identification of the “requirements being satisfied by the infrastructure replacements for each:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state safety requirements;
2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;
3. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;
4. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;
5. 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;
6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;
7. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and
8. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state, or a political subdivision of this state, having the power of eminent domain;

7. While Staff's Recommendation is reasonably designed to allow the Commission to comply with the Western District's Opinion which held that plastic pipe was not recoverable under ISRS and further rejected all Spire's arguments to the contrary. The Opinion is final and unappealable, and binding on the Commission.

8. Public Counsel recommends the Commission reject the Application as the Commission is unable to perform its required analysis in this ISRS case due to Spire's late filing of information necessary for Staff to evaluate the Application, and Spire's failure to comply with the Commission rules noted above.

9. Public Counsel reserves its right to further address the inadequacies of Spire's filing as additional information becomes available for review through discovery of other means.

WHEREFORE Public Counsel requests the Commission reject Spire Application as inconsistent with the requirements of the ISRS statutes and Commission rules.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY: /s/ Lera L. Shemwell

Lera L. Shemwell
Senior Counsel (Bar #43792)
P. O. Box 2230
Jefferson City, MO 65102
(573) 751-5565 (Telephone)
(573) 751-5562 (Fax)
lera.shemwell@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 17th day of August 2018.

/s/Lera L. Shemwell