

**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 ) Case No. GO-2019-0356  
Surcharge in its Spire Missouri East )  
Service Territory )

In the Matter of the Application of )  
Spire Missouri, Inc. to Change its )  
Infrastructure System Replacement ) Case No. GO-2019-0357  
Surcharge in its Spire Missouri West )  
Service Territory )

**THE MISSOURI OFFICE OF THE PUBLIC COUNSEL’S OBJECTIONS TO  
SPIRE MISSOURI’S APPLICATION TO CHANGE ITS INFRASTRUCTURE  
SYSTEM REPLACEMENT SURCHARGE AND REQUEST FOR AN  
EVIDENTIARY HEARING**

**COMES NOW** the Office of the Public Counsel (“OPC”) and, for its *Objections to Spire Missouri’s Application to Change its Infrastructure System Replacement Surcharge and Request for an Evidentiary Hearing*, states as follows:

1. Spire Missouri Inc. (“Spire”) filed verified applications in the above referenced cases on July 15, 2019, seeking Commission approval to change its Infrastructure System Replacement Surcharges (“ISRS”).

2. The Public Service Commission of the State of Missouri (“Commission”) filed an *Order Directing Notice, Setting Intervention Deadline, and Directing Filings* on July 17, 2019, which ordered, in part, that “[n]o later than September 13, 2019,

the Office of the Public Counsel and any other party shall file any objections or hearing requests.”

3. Pursuant to the Commission’s *Order*, the OPC raises the following objections to the verified applications filed by Spire and formally requests an evidentiary hearing in this matter.

**Spire’s applications seek recovery of certain overhead costs not permitted under Commission rules**

4. The total costs of each of the projects for which Spire seeks recovery in its ISRS applications include certain administrative and general costs (and others) that commonly fall within the broad definition of “overhead costs.”

5. Spire cannot directly attribute all of these overhead costs to ISRS related construction projects or else show a definite relation to construction for some of these costs.

6. Some of these overhead costs are instead being added to the direct construction costs of each ISRS project using arbitrary general allocation percentages.

7. The *Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act* (“USoA gas”) prohibits the allocation of overhead costs to construction projects using arbitrary general allocation percentages.

8. The Commission adopted the USoA gas and incorporated it in Commission rule 4 CSR 240-40.040. The USoA gas is thus applicable to Spire.

9. Spire's allocation of overhead costs that do not have a definite relationship to ISRS construction projects using arbitrary general allocation percentages is therefore a clear violation of Commission rules.

10. The OPC consequently objects to the inclusion of overhead costs that do not have a definite relationship to ISRS construction projects for recovery through Spire's ISRS.

**Spire's applications seek recovery for the replacement of protected steel pipes for which there is no state or federal mandate to replace and no evidence that the pipes are in a worn out or deteriorated condition**

11. Spire's application seeks recovery for replacement of numerous pipes that it claims as ISRS eligible "[g]as utility plant projects" as defined in section 393.1009(5)(a), in that they are "[m]ains, 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."

12. 4 CSR 240-40.030 (15) (c) & (e) mandates the creation of a replacement program for **unprotected** steel service lines and mains respectively. There is, however, no such replacement program mandated for **protected** steel service lines or mains.

13. The information Spire has thus far provided to the OPC does not readily distinguish the steel service lines and mains being replaced as being protected or non-protected. Further, the OPC's initial audits of the information Spire has provided

leads the OPC to conclude that Spire is replacing protected steel pipes and seeking recovery of the costs related to those replacements in its ISRS applications.

14. Because there is no state or federal mandate to replace protected steel mains and service lines, the cost of any such replacements may not be included in the ISRS under the definition of “[g]as utility plant projects” found in section 393.1009(5)(a).

15. In addition, there is no evidence to show that Spire’s protected steel mains and service lines have “worn out or are in deteriorated condition,” which is again a requirement for eligibility under the definition of “[g]as utility plant projects” found in section 393.1009(5)(a).

16. The OPC therefor objects to Spire’s ISRS applications to the extent that they include costs related to the ISRS-ineligible replacement of protected steel service lines and mains.

**Spire’s applications seek recovery for replacement of cast iron and bare steel mains and service lines that are not ISRS eligible as there is no evidence to show that such pipes are worn out or in a deteriorated condition**

17. Spire’s application seeks recovery for replacement of cast iron and steel mains and service lines which it claims are ISRS eligible “[g]as utility plant projects” as defined in section 393.1009(5)(a), in that they are “[m]ains, 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.”

18. There is no evidence in the record to show that the cast iron and steel mains and service lines that Spire has replaced actually meet the definition of “[g]as utility plant projects” found in section 393.1009(5)(a) because there is no evidence in the record to show that these pipes are all “worn out or are in [a] deteriorated condition.”

19. The only evidence Spire has presented regarding the nature or condition of its pipes to show that the cast iron and steel mains and service lines it replaced have “worn out or are in deteriorated condition” is to note that the Commission has found completely unrelated pipes that were replaced in other ISRS cases to have been “worn out or in [a] deteriorated condition.”<sup>1</sup> Obviously, the Commission’s factual findings regarding a completely unrelated set of pipes has no bearing on the present case.

20. Moreover, Spire’s arguments do not differentiate between the cast iron and steel pipes that it replaced (for which it seeks recovery in this ISRS) and those cast iron and steel pipes that Spire still has in service. This is because Spire is attempting to argue that all cast iron and steel pipes are *de facto* “worn out or in [a] deteriorated condition.”

---

<sup>1</sup> Spire also spends a great deal of time discussing the various regulatory bodies who have advocated for the need to replace cast iron and unprotected steel pipes because of the risk that they can pose due to their **ability** to wear out or deteriorate over time. This evidence does not support the claim that **all** of Spire’s cast iron and unprotected steel pipes **are** worn out or in a deteriorated condition; it only shows the prudence of establishing replacement programs in general, which the OPC is not disputing.

21. If Spire is correct, however, then it means that Spire is failing to meet its statutory obligation to provide safe and adequate service to its customers as it is currently using hundreds of miles of worn out and deteriorated pipes to transport natural gas, resulting in a significant safety threat to its customers and the public.

22. Of course, the OPC is not presently arguing that Spire has failed to provide safe and adequate services to its customers because the OPC does not agree with Spire's claim that all cast iron and steel pipes are *de facto* "worn out or in [a] deteriorated condition."<sup>2</sup>

23. Rather, the law requires Spire prove that the pipes it replaced and is claiming as ISRS eligible are "worn out or in [a] deteriorated condition" on a project-by-project basis, which Spire is wholly incapable of doing.

24. The OPC thus objects to the inclusion of costs in Spire's ISRS application that it incurred to replace cast iron and steel pipes for which Spire has presented no evidence of the pipes being worn out or in a deteriorated condition.

**Spire's applications seeks recovery for the replacement of plastic mains and service lines for which there is no state or federal mandate to replace and no evidence that the pipes are in a worn out or deteriorated condition**

25. Spire's application is seeking to recover the cost of replacing plastic mains and service lines for which there is no "state or federal safety requirements" mandating replacement and which are objectively not "worn out or are in deteriorated

---

<sup>2</sup> In particular, the OPC notes that this argument is inconsistent with the Missouri Supreme Court's holding in *Verified Application & in re Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520 (Mo. banc 2015).

condition” as those terms are used in the definition of “[g]as utility plant projects” found in section 393.1009(5)(a).

26. This is a direct contravention of the Missouri Court of Appeals for the Western District decision issued in *PSC v. Office of Pub. Counsel (In re Laclede Gas Co.)*, 539 S.W.3d 835 (Mo. App. W.D. 2017).

27. The Missouri Court of Appeals has already determined that such replacements are not ISRS eligible and hence replacement costs related to those plastic components may not be included in the ISRS schedules. *Id.* at 841.

28. The OPC accordingly objects to the inclusion of costs associated with the replacement of plastic mains and service lines as part of Spire’s applications.

**General objection and request for an evidentiary hearing**

29. The OPC objects to any and all other issues that may arise as a result of its continuing investigation in these cases.

30. Based on the forgoing objections, the OPC believes that an evidentiary hearing will be necessary to resolve these cases and hereby requests such a hearing.

**WHEREFORE**, the Office of the Public Counsel respectfully requests the Commission accept these objections to Spire’s applications filed in Case Nos. GO-2019-0356 and GO-2019-0357 and issue an order scheduling an evidentiary hearing for these ISRS cases.

Respectfully submitted,  
OFFICE OF THE PUBLIC  
COUNSEL

By:           /s/ John Clizer            
John Clizer (#69043)  
Senior Counsel  
P.O. Box 2230  
Jefferson City, MO 65102  
Telephone: (573) 751-5324  
Facsimile: (573) 751-5562  
E-mail: [john.clizer@opc.mo.gov](mailto:john.clizer@opc.mo.gov)

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this thirteenth day of September, 2019.

  /s/ John Clizer