

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

In the Matter of the Application of)
Spire Missouri, Inc. d/b/a Spire to)
Change its Infrastructure System) Case No. GO-2020-0229
Replacement Surcharge in its Spire)
Missouri East Service Territory)

In the Matter of the Application of)
Spire Missouri, Inc. d/b/a Spire to)
Change its Infrastructure System) Case No. GO-2020-0230
Replacement Surcharge in its Spire)
Missouri West Service Territory)

**THE MISSOURI OFFICE OF THE PUBLIC COUNSEL’S RECOMMENDATION
REGARDING SPIRE MISSOURI’S APPLICATION TO CHANGE ITS
INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE**

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

1. Spire Missouri Inc. (“Spire”) filed verified applications in the above referenced cases on February 3, 2020, seeking Commission approval to change its Infrastructure System Replacement Surcharges (“ISRS”). Spire filed corrected verified applications on February 13, 2020.

2. The Public Service Commission of the State of Missouri (“Commission”) filed an *Order Directing Notice, Setting Intervention Deadline, Directing Filings, and suspending Tariff Sheets* on February 18, 2020, which ordered, in part, that “[n]o later

than April 3, 2020, the Office of the Public Counsel and any other party may file a recommendation.”

3. Pursuant to the Commission’s order, the OPC presents the following recommendation regarding the corrected verified applications filed by Spire.

The Commission should deny Spire’s application because the Company’s applications seek recovery for the replacement of cathodically protected steel pipes for which there is no state or federal mandate to replace.

4. Spire’s application seeks recovery for replacement of numerous cathodically protected bare steel 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.”

5. For the vast majority of its replacements, Spire has identified 393.130 RSMo, 4 CSR 240-40.030(13)(B), 4 CSR 240-40.030(15), and 4 CSR 240-40.030(17) as the state or federal “mandates” on which it relies. None of these provisions are applicable to the replacement of cathodically protected bare steel pipes.

6. 20 CSR 4240-40.030(15) requires the replacement **or** cathodic protection of bare steel pipes, not both. Because all of Spire’s bare steel pipes are already cathodically protected, this provision does not apply.

7. 393.130 RSMo, 4 CSR 240-40.030(13)(B), and 4 CSR 240-40.030(17) are all related to the replacement, repair, or removal of **unsafe** pipeline segments. Spire

has offered no evidence to demonstrate how the cathodically protected bare steel pipeline segments it replaced are “unsafe” when compared to similar pipes that Spire is not replacing. In fact, Spire has not proven how the cathodically protected bare steel pipes are unsafe at all. Therefore, these provisions do not apply to cathodically protected bare steel pipes.

8. Because there is no state or federal mandate to replace cathodically protected bare 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).

9. The Commission should therefore either deny Spire’s application or approve Spire application subject to the removal of the cost to replace cathodically protected bare steel pipes.

The Commission should deny Spire’s application because the Company’s applications seek recovery for replacement of cast iron and bare steel mains and service lines for which there is insufficient evidence to show that such pipes are worn out or in a deteriorated condition.

10. Spire’s application seeks recovery for replacement of numerous cast-iron and cathodically protected bare steel 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.”

11. For many of these replacements, Spire has not presented evidence that the pipes being replaced “have worn out or are in deteriorated condition,” and therefore has not presented sufficient evidence to show that the pipes meet the definition of “[g]as utility plant projects” found in section 393.1009(5)(a).

12. Moreover, Spire’s case primarily relies on general assertions regarding the nature of cast-iron and cathodically protected steel pipes and does not present evidence regarding specific pipe replacements save for a small handful of samples.

13. This is a problem because there is strong evidentiary support for the fact that pipes degrade at widely different rates. As such, there is no way to definitively establish that any given pipe segment is worn out or deteriorated based solely on general observations regarding cast-iron and cathodically bare steel pipes.

14. Without providing evidence specific to the replacements being performed, there is no way for Spire to meet its requirement to prove the replacements meet the definition of “[g]as utility plant projects” found in section 393.1009(5)(a).

15. The Commission should therefore either deny Spire’s application or approve Spire application subject to the removal of the cost to replace the cast-iron and cathodically protected bare steel pipes Spire claims are ISRS eligible under the definition of “[g]as utility plant projects” found in section 393.1009(5)(a).

The Commission should deny Spire’s applications because the Company’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.

1. Spire's applications seek 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 condition" as those terms are used in the definition of "[g]as utility plant projects" found in section 393.1009(5)(a).

2. This is a direct contravention of the Missouri Court of Appeals for the Western District decisions issued in *PSC v. Office of Pub. Counsel (In re Laclede Gas Co.)*, 539 S.W.3d 835 (Mo. App. W.D. 2017); *Laclede Gas Co. v. Mo. PSC*, Nos. WD82199, WD82299, 2019 Mo. App. LEXIS 1819, (Mo. App. WD Nov. 19, 2019); *Spire Mo., Inc. v. Mo. Pub. Serv. Comm'n'n (In re Laclede Gas Co.)*, Nos. WD82200, WD82297, 2019 Mo. App. LEXIS 1821, (Mo. App. WD Nov. 19, 2019); and *Spire Mo. Inc. v. Office of Pub. Counsel*, Nos. WD82302, WD82373, 2019 Mo. App. LEXIS 1815, (Mo. App. WD Nov. 19, 2019).

3. 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.

4. The Commission should therefore either deny Spire's application or approve Spire application subject to the removal of the cost to replace plastic mains and service lines.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Recommendation* and rule in the OPC's favor on all matters discussed herein.

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this third day of April, 2020.

 /s/ John Clizer