

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

In the Matter of the Application of Laclede)
Gas Company to Change its Infrastructure) **File No. GO-2016-0332**
System Replacement Surcharge in its)
Missouri Gas Energy Service Territory)

In the Matter of the Application of Laclede Gas)
Company to Change its Infrastructure System) **File No. GO-2016-0333**
Replacement Surcharge in its Laclede Gas)
Service Territory)

In the Matter of the Application of Laclede Gas)
Company to Change its Infrastructure System) **File No. GO-2017-0201**
Replacement Surcharge in its Missouri Gas)
Energy Service Territory)

In the Matter of the Application of Laclede Gas)
Company to Change its Infrastructure System) **File No. GO-2017-0202**
Replacement Surcharge in its Laclede Gas)
Service Territory)

In the Matter of the Application of Spire Missouri)
Inc. to Change its Infrastructure System) **File No. GO-2018-0309**
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-2018-0310**
Replacement Surcharge in its Spire Missouri)
West Service Territory)

**MOTION TO CONSOLIDATE REMAND CASES
AND SET PREHEARING CONFERENCE**

COMES NOW Spire Missouri Inc. (“Spire”) and submits this *Motion to Consolidate Remand Cases and Set Prehearing Conference*, and in support thereof respectfully states as follows:

1. On March 18, 2020, the Missouri Western District Court of Appeals (the “Court”) issued mandates in three separate consolidated appeals of ISRS cases,

including WD82199 for GO-2016-0332 and 0333 (the “2016 Cases”), WD82200 for GO-2017-0201 and 0202 (the “2017 Cases”), and WD82302 for GO-2018-0309 and 0310 (the “2018 Cases”). The 2016, 2017 and 2018 Cases are sometimes referred to as the “Remanded Cases.” Pursuant to §386.520 RSMo., the Commission is required to issue an order on remand within 120 days of the mandate.

2. The 2016 Cases were remanded back to the PSC for further proceedings consistent with the Court’s November 19, 2019 Opinion (the “2016 Opinion”). The 2016 Opinion found that Spire should refund the costs of replacing ISRS-ineligible plastic. The 2016 Opinion was also clear that the PSC may conduct further evidentiary proceedings to determine the required rate adjustments. (2016 Opinion, p. 15)

3. The 2017 Cases were remanded back to the PSC for further proceedings consistent with the Court’s November 19, 2019 Opinion in the 2017 Cases (the “2017 Opinion”). The 2017 Opinion found that Spire should refund the costs of replacing ISRS-ineligible plastic in the same manner as is done in the 2016 Cases.

4. The 2016 and 2017 Cases are both limited to the issue of the refund of the cost to replace ISRS-ineligible plastic. The Commission has approved a methodology known as the “percentage method” to calculate this cost.¹ As explained in detail in Attachment 1, the calculation of this cost in August 2018 in the original remand cases was done hastily in a very short time frame, and was inaccurate. Spire maintains that the calculations made in the 2016 cases do not accurately reflect the effect of the percentage method. In succeeding ISRS cases, Spire and Staff have done a more thorough review

¹ Spire does not believe that the percentage method captures the actual cost to replace plastic, and in fact maintains that the percentage method far overstates the cost to replace plastic. In recent cases, the Staff has not supported the percentage method either.

of the facts and have reached an understanding on how to calculate the Staff's percentage method to arrive at a "cost" to replace ISRS-ineligible plastic for purposes of complying with the Commission's orders and the Court's opinions. Spire believes that Spire and Staff can reach an agreed upon figure to represent the percentage method's calculation of the cost to replace ISRS-ineligible plastic for both the 2016 and 2017 Cases. To the extent there are differences, those differences can be hashed out as part of the Commission's procedural schedule in the Remanded Cases.

5. The 2018 Cases were also mandated back to the PSC for further proceedings consistent with the Court's November 19, 2019 Opinion in the 2018 Cases (the "2018 Opinion"). The 2018 Cases were mandated to the Commission for the sole purposes of refunding the cost incurred in those cases to replace cast iron and bare steel mains and service lines not shown to be worn out or deteriorated. Since there was no calculation of the cost to make such replacements, Spire anticipates that the Commission will hold further proceedings on this issue.

6. In pre-2018 Spire ISRS cases, all of the parties, including OPC, had always accepted the fact that the cost to replace cast iron and bare steel was ISRS-eligible, since it was understood that the removal of cast iron and bare steel was a key component of the gas ISRS in Missouri for Spire East and West. In the 2018 ISRS Case, Spire provided evidence that cast iron and bare steel was worn out or deteriorated, but did not provide the more extensive evidence that it would have provided had the parties not established a course of dealing over the past 15 years that acknowledged the worn

out or deteriorated nature of Spire's ancient cast iron and bare steel.²

7. Nevertheless, the Court has now found that that Spire must provide more evidence showing that cast iron and bare steel segments are worn out or deteriorated. Spire is prepared to provide that evidence in the 2020 ISRS Cases, to be heard in April 2020, and can do so for the 2018 Cases as well. In fact, the parties have been meeting to discuss the worn out or deteriorated nature of cast iron and bare steel, and from Spire's perspective, the parties should continue to work to narrow the issues for both the 2020 cases and the 2018 Cases.

8. The 2016, 2017 and 2018 Opinions were all issued on the same day and all pertain to the worn out or deteriorated nature of Spire's ISRS replacements. As such, there is some commonality of law and fact in all of these cases. Holding joint hearings for the Remanded Cases would be administratively expedient in that it would allow for the Commission to hear these related cases in a single hearing.

9. Commission Rule 20 CSR 4240-2.110(3) allows the Commission to order a joint hearing when pending actions involve related questions of law or fact, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

10. Accordingly, Spire requests that the Commission consolidate the Remanded Cases for hearing purposes. The issues in the consolidated cases would be (i) the cost to replace plastic facilities that are not worn out or deteriorated in the 2016 and 2017 Cases; and (ii) the cost to replace cast iron and bare steel facilities that are not worn out or deteriorated in the 2018 Case.

² The risk of a damaging incident arising from the presence of this ancient cast iron and bare steel in utility networks was recognized 30 years ago, and addressed by Commission rules, and more recently was addressed again in federal rules in 2011 following another series of gas incidents relating to these materials.

11. Spire also requests that the Commission issue an order setting a date for a prehearing conference and the filing of a proposed procedural schedule.

WHEREFORE, Spire respectfully requests a Commission order consolidating the Remanded Cases for hearing purposes and setting a date for a prehearing conference and the filing of a proposed procedural schedule.

Respectfully submitted,

/s/ Goldie T. Bockstruck

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ATTORNEYS FOR SPIRE MISSOURI INC.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 6th day of April, 2020.

/s/ Goldie Bockstruck

ATTACHMENT 1

Timeline of Prior Remand Case

On March 7, 2018, the Court remanded the 2016 Cases to the Commission to determine the issue of the cost incurred, if any, for Spire to replace plastic components that were not worn out or deteriorated and thus not ISRS eligible. At OPC's insistence, the parties agreed to argue the matter based on the original record, and the Commission so ordered. Briefs were filed in June and July 2018, and the Commission heard an oral argument on August 9, 2018.

The Commission discussed the matter at its August 15, 2018 Agenda meeting. However, instead of reaching a decision on the issue that had been briefed and argued, the Commission determined that it needed more evidence on the cost to replace plastic. The Commission issued an order on August 15, 2018 directing written evidence to be filed five business days later, on August 22, and a hearing was held on August 27.

Under these circumstances, no party was adequately prepared to put on its case, and as indicated in the body of this pleading, the results of this first attempt to calculate the cost to replace ISRS-ineligible plastic was flawed. In its September 20, 2018 order, the Commission found that cost calculations from 10 sample work orders that Spire produced were far too few for the Commission to use to determine cost. At the same time, the Commission also noted the flaws in the Staff's percentage method.³

³ See 2016 Opinion, p. 19, which refers to the August 27, 2018 Hearing Transcript, EFIS 129 in Case No. GO-2016-0332, p. 475, where Chairman Hall stated: "There clearly are problems with the [percentage] methodology and they've been aired publicly all day today."