

**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) **File No. GO-2019-0115**
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-2019-0116**
Replacement Surcharge in its Spire Missouri)
West Service Territory)

STATEMENT OF POSITION OF SPIRE MISSOURI INC.

COMES NOW Spire Missouri Inc. (“Spire Missouri” or “Company”), on behalf of itself and its two operating units Spire East and Spire West and submits its Statement of Position pursuant to the Commission’s March 20, 2019 Order in these cases on the issues identified by the Parties to these proceedings. In support thereof, Spire Missouri states as follows:

A Are all costs included in the Company’s ISRS filings in these cases eligible for inclusion in the ISRS charges to be approved by the Commission in this proceeding?

Yes, the Company believes that all of the costs included in its ISRS filings for Spire East and Spire West in these proceedings should be approved by the Commission and included in the Company’s ISRS charges. These include:

Projects involving the replacement rather than reuse of plastic

Pursuant to the evidentiary roadmap provided by the Commission in Case Nos. GO-2018-0309 and 0310 for demonstrating the ISRS eligibility of those main replacement projects that involve some replacement of plastic facilities, the Company performed over 500 individual engineering/cost studies to calculate the cost impact of replacing rather than reusing the plastic

facilities. In those instances where a study showed that replacement rather than reuse of plastic increased cost, the Company eliminated from its ISRS costs the incremental increase. In those instances where the study showed that replacement rather than reuse of plastic reduced cost, the Company included the actual cost of the ISRS project, thereby passing through to its customers the associated savings. In total, the replacement rather than reuse of plastic facilities reduced the Company's ISRS costs and charges for Spire Missouri by approximately \$1.6 million. The Staff cooperated closely with the Company in reviewing these cost studies and in suggesting various enhancements to facilitate its review. Staff has indicated in its recommendation and testimony that such studies comply with the evidentiary roadmap established by the Commission and demonstrate the eligibility of the Company's ISRS costs. OPC continues to oppose the recovery of at least a portion of such costs.

Costs booked to blanket work orders

In its recommendation and testimony, Staff supports the recovery of costs charged to blanket work orders, such as smaller scale replacements done to address leaking or corroded facilities, relocations, etc. OPC has also indicated it supports recovery of costs related to leaks that are captured in the Company's blanket work orders. The ISRS eligibility of such costs have also been further demonstrated by a more granular set of analyses than those submitted by the Company in prior ISRS cases. For all of these reasons, such costs should be included in the Company's ISRS costs and charges approved in this proceeding.

Costs not recovered in last ISRS cases

The Company has also submitted for inclusion in its ISRS costs and charges investments that were made in its prior ISRS case, but not recovered because of the Commission's determination that the analyses provided by the Company to support the ISRS eligibility of those

costs was not extensive enough. For purposes of these ISRS cases, the Commission's finding has been addressed by the Company's far more extensive and more granular analyses. Spire has analyzed and treated these prior capital investments exactly as it has treated the projects that were first introduced in these proceedings. Spire is requesting that, on a going forward basis, the Company be authorized ISRS ratemaking treatment for these capital investments. Since the ISRS eligibility of all of these prior costs has now been established, and because they all qualify for inclusion under the criteria set forth in the ISRS statute (including not being recovered in the Company's last rate case), the Commission should approve recovery of such costs along with the new costs and charges in this filing.

- B. If a Party believes that certain costs are not eligible for inclusion in the ISRS charges to be approved by the Commission in this proceeding, what are those costs and why are they not eligible for inclusion?

Because the Company believes that all of the costs it has included in its ISRS charges should be approved by the Commission in these cases, it has not identified any costs that should be disallowed. For the reasons set forth in its direct and rebuttal testimony, the Company also does not believe that the other parties have provided tenable reasons for disallowing any costs. Specifically,

- OPC's proposal to disallow costs for projects that involve the replacement rather than reuse of plastic facilities simply ignores the numerous cost studies that have demonstrated that such replacements served to reduce rather than increase the Company's ISRS costs and charges and is based on a discredited theory that such facilities are not in a worn out or deteriorated condition – a theory that has already

been rejected by the Commission and that is further refuted by the evidence provided in these proceedings;

- OPC's proposal that the overhead costs assigned to ISRS projects is too high and should be eliminated because their inclusion results in a double recovery of overhead costs expensed and included in base rates in the Company's most recent rate case proceedings should be rejected because such overheads were assigned and capitalized in the same way as in the rate cases and, as a matter of simple mathematics, their capitalization in these cases cannot result in a double recovery of such amounts.
- The Staff and OPC's positions that the Commission should not approve in these ISRS cases the investment costs that were not recovered in the Company's last ISRS proceedings should be rejected because: (a) the eligibility of such costs has been demonstrated by the additional analyses provided by the Company in this proceeding; (b) the ISRS statute provides that such costs are eligible for inclusion because they were not included in rate base in the Company's last rate case proceedings; and (c) the Staff's legal objections to including such amounts are not well taken for the reasons specified in the Company's response to Staff's Motion to Dismiss a portion of the Company's applications in these cases.

C. How should income taxes be calculated for purposes of developing the ISRS revenue requirement in these cases?

The difference between the Company and Staff on income taxes boils down to whether tax deductions Spire takes under Internal Revenue Code §263A for self-construction of assets should be used to reduce ISRS revenues by \$975,000 at Spire East, and \$808,000 at Spire West. This

issue is covered in the direct testimonies of Spire's Director of Tax, Chuck Kuper, and Staff's Kim Bolin (see Staff Direct Report, pp. 12-13, and Schedule 2).

Section 263A allows Spire to expense certain costs for tax purposes while capitalizing them on the books. This creates a one-time tax deduction benefit, which Spire flows through to its customers in rate cases, effectively lowering the income tax expense in the cost of service. Since the last rate case in April 2018, Spire's tax expense is being reduced *each year* by \$27 million in §263A deductions. This is illustrated in Kuper Direct, Schedule CJK-1, which is Staff's Income Tax Calculation in the last Spire East and West rate cases. Page 1 of the Schedule shows a §263A deduction of \$16.2 million for Spire East (line 17). Page 2 of the Schedule shows a §263A deduction of \$10.85 million for Spire West (line 12).

Staff now wants to use §263A deductions to reduce income tax expense and the corresponding revenues in these ISRS cases, lowering Spire's revenues by a total of nearly \$1.8 million. Spire opposes Staff's §263A deduction for two reasons.

First, *the deductions have already been taken, and they continue to be taken*. The 263A deductions have already lowered base rates by reducing the income tax expense component of the cost of service. In fact, Spire will flow through \$27 million annually to customers for these deductions, regardless of the level of capital work. Staff is trying to get the Company to pay the same bill twice. The Commission should not permit it.

Second, even if this was not a double dip, the ISRS Statute does not allow §263A tax deductions to be recognized in ISRS rates. Where income taxes are involved the Statute has two rules: (i) recognize accumulated deferred income tax, which is done (See Staff Direct, Schedule 2); and (ii) determine pre-tax revenue by considering only the current tax rates. The language is

clear that the Commission is only to apply current tax rates, and is not to explore deductions such as §263A deductions.

WHEREFORE, Spire Missouri Inc. respectfully submits this Statement of Position and requests that the Commission consider and accept it.

Respectfully Submitted,

SPIRE MISSOURI INC.

/s/ Michael C. Pendergast #31763
Of Counsel, Fischer & Dority, P.C.
423 (R) South Main Street
St. Charles, MO 63301
Telephone: (314) 288-8723
Email: mcp2015law@icloud.com

/s/ Rick Zucker #49211
Zucker Law LLC
14412 White Pine Ridge
Chesterfield, MO 63017
Telephone: (314) 575-5557
E-mail: zuckerlaw21@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 2nd day of April, 2019, to all counsel of record.

/s/ Rick Zucker