

**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)

**SPIRE MISSOURI INC’S RESPONSE TO STAFF REPORT AND
REQUEST FOR ACCOUNTING AUTHORIZATION
TO DEFER AMOUNTS EXCLUDED FROM ISRS CHARGES
FOR CONSIDERATION IN ITS NEXT RATE CASES**

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 Response to Staff’s Report and its Request for Accounting Authorization to Defer Amounts Excluded from ISRS Charges for Consideration in its Next Rate Cases. In support thereof, Spire Missouri states as follows:

1. On April 24, 2019, the Commission issued its Order in the above referenced cases in which it directed the Commission Staff to perform calculations “using the same methodology Staff used in the 2018 ISRS cases to remove the cost of the replacement of ineligible plastic mains and service lines from Spire Missouri’s ISRS cost recovery.” The Commission’s Order gave the Company and OPC until April 30, 2019 to respond to Staff’s filing.

2. On April 25, 2019, the Commission Staff dutifully complied with the Commission’s directive and submitted its Report in which it identified approximately \$14.8 million in ISRS “costs” that should be excluded. With the correction filed by Staff on April 29, the Company believes that the Staff has accurately calculated the amounts to be excluded from the Company’s ISRS request in accordance with the Commission’s directive.

3. The Company does not believe, however, that the amounts excluded by Staff represent an actual cost of replacing plastic. The Company fully understands the Western District’s decision that plastic facilities that are not worn out or in a deteriorated condition are not ISRS-eligible and has not argued otherwise in these cases. Instead, given the non-eligibility of this plastic, the task undertaken by the Company and the Staff in these cases was how to calculate the cost incurred to replace the plastic that is not in a worn out or deteriorated condition.

4. Since the Company is already replacing cast iron (CI) and bare steel (Steel) in its ISRS-eligible main replacement programs, the cost to replace plastic (Plastic) is simply the difference between the cost to replace CI, Steel and Plastic, minus the cost to replace just CI and Steel. Stated as a mathematical formula:

$$\text{(Cost to replace CI + Steel + Plastic)} - \text{(Cost to replace CI + Steel)} = \text{Cost to replace Plastic}$$

In these cases, Spire Missouri, with Staff’s concurrence, performed this calculation 509 times and, where the “Cost to replace Plastic” was positive, that is, where the cost to replace plastic was higher than if the Company had not replaced the plastic, the Company subtracted those ineligible costs from its ISRS.

5. In projects where the formula showed that the “Cost to replace Plastic” was negative, this indicated that the replacement of plastic actually saved money compared to the cost to keep that plastic in service, and just replace CI and Steel. In these cases, Spire Missouri did not subtract anything from the cost of the project, *not* because the Company believed the plastic was ISRS-eligible, but simply because replacing that plastic did not cause any costs. The eligibility of

the plastic did not change; there simply were not any incremental costs to replace the plastic, so there were no costs to subtract.

6. In Case Nos. GO-2018-0309 and 0310 (the “2018 ISRS Cases”), the Commission established an evidentiary roadmap for calculating the cost to replace plastic facilities in connection with the Company’s cast iron and bare steel replacement programs. (See Report and Order in the 2018 ISRS Cases, dated September 20, 2018, pp 16-17). The Company and Staff worked together very closely to follow the evidentiary roadmap and, after literally hundreds of hours of intensive work, the Company submitted the 509 cost/engineering analyses covering all of its ISRS projects in compliance with the roadmap.

7. Now it appears from the Commission’s April 24 Order and agenda discussion that a majority of Commissioners are prepared to reject, at least in part, the cost/engineering analyses that were prepared by the Company and instead exclude ISRS costs based on a percentage methodology that every party has acknowledged bears no relationship to the actual cost impact of replacing rather than reusing plastic. It would be extremely disappointing for the Commission to depart from the evidentiary roadmap that it so clearly articulated just seven months ago. The cost/engineering studies submitted by the Company in these cases pursuant to that roadmap were closely modeled on those presented in the Company’s last ISRS cases. Far from criticizing the design, structure or results of those studies, the Commission simply suggested that the Company needed to do more of them – i.e. for each ISRS project. So the Company hopes the Commission understands its frustration and disappointment with the Commission’s apparent conclusion that such studies are now insufficient to justify the inclusion of all of the Company’s ISRS costs. This is especially true since the Company’s analysis, verified by Staff, showed that the ISRS

replacement process yielded the highest system integrity and lower costs than piecemealing the system with other incidental components, including plastics.

8. The Company sincerely hopes that the Commission will reconsider its discussion on this matter and accept the efforts made by the Company and Staff to adhere to the Commission's evidentiary roadmap and remove the ineligible costs to replace plastic piping that was not worn out or deteriorated. However, if the Commission is intent on pursuing a different course, the Company respectfully requests that it grant the accounting authorization discussed below – an action that would permit the Commission to effectuate its interpretation of the ISRS Statute while still encouraging programs to be undertaken in a way that saves money for customers and makes them safer.

**REQUEST FOR ACCOUNTING AUTHORIZATION TO DEFER
DISALLOWED COSTS FOR CONSIDERATION IN NEXT RATE CASES**

9. The Company requests that as part of its Report and Order in these cases the Commission grant it an accounting authorization to defer for potential recovery in its next rate cases any costs incurred on and after July 1, 2018 that have been excluded in these cases based on the methodology adopted by the Commission. Such deferral would include the depreciation, return, and taxes associated with such costs, all to be calculated in the same manner as that used for non-excluded costs. The granting of such relief is (i) warranted by the circumstances of these cases; and (ii) is well within the Commission's lawful discretion to approve.

10. In terms of the first consideration, the Company truly did everything it could to follow the Commission's instructions to determine the cost to replace rather than reuse plastic that was not worn out or deteriorated, and showed that such replacement in general served to reduce ISRS costs rather than increase them. The Company's efforts to replace cast iron and bare steel

quickly, safely and economically is consistent with good public policy and should be encouraged by the Commission. To the extent that costs incurred by the Company are not covered by the ISRS, in the interests of advancing good public policy outcomes, the Commission should make use of its other regulatory powers to encourage such results. Simply put, if a utility, like the Company, is performing safety work in the most cost-effective manner possible and, in the process, saving customers' money, then it should not be penalized for doing so by disallowing costs, especially if there are other regulatory tools the Commission can employ to avoid such a result.

11. Granting the deferral authority requested herein would largely cure this serious public policy defect by permitting the Company to defer outside of the ISRS mechanism, and potentially recover in a future rate case, the expenditures made to generate these savings. At the same time, such an approach would permit the Commission to avoid any conflict with its interpretation of the ISRS Statute. In short, such a deferral would permit the Commission to simultaneously: (a) effectuate its apparent interpretation of what the ISRS Statute requires; (b) promote a sound and enlightened public policy result by not penalizing a utility that is doing the right thing for its customers; and (c) help to preserve safety replacement programs that both federal and state officials have lauded for their efficacy in advancing public safety.

12. In terms of the second consideration, it is also clear that the Commission has abundant authority to grant such relief. The Western District Court of Appeals has repeatedly upheld the Commission's power to grant such accounting authorizations. *See Office of the Public Counsel v. Pub. Serv. Comm'n*, 301 S.W.3d 556 (Mo.App.W.D. 2009); *Mo. Gas Energy v. Pub. Serv. Comm'n*, 210 S.W.3d 330 (Mo.App.W.D. 2007); *Mo. Gas Energy v. Pub. Serv. Comm'n*, 978 S.W.2d 434, 438 (Mo.App.W.D.1998).

13. Moreover, before the ISRS Statute was enacted, the Commission routinely authorized the deferral of safety-related investments such as those included in the Company's ISRS filing for potential recovery in subsequent cases. For example, see in *Re: Missouri Gas Energy*, Case No. GR-98-140, Report and Order issued August 21, 1998, in which Missouri Gas Energy was granted a new accounting authority order wherein it was authorized to defer and book safety line replacement program ("SLRP") costs, including property taxes, and depreciation costs for the period beginning the day after the effective date of the Report and Order and continuing through the end of the true-up period as applied in the next rate case filed by the Company. See also *Re: Laclede Gas Company*, Case No. GR-98-374, Report and Order issued October 27, 1998, in which the Commission authorized Laclede to defer all costs incurred by the Company:

1) to replace Company service and yard lines and to move and reset and/or replace meters in connection therewith; 2) to replace cast iron mains and to transfer services from the old main to the new main in connection therewith; 3) to replace and/or cathodically protect unprotected steel mains and to transfer services from the old main to the new main in connection therewith; and 4) to survey buried fuel lines for leaks.

14. Perhaps more significantly, the Commission has also granted accounting authorization to defer safety related expenditures *even during* times when an ISRS was simultaneously in effect. For example, in *Re Laclede Gas Company*, Case No. GR-2005-0284, the Commission approved the terms of a Stipulation and Agreement that allowed the Company to establish a regulatory asset to recover safety-related expenditures that had been previously deferred as the result of an accounting authorization granted in a prior case and to recover that asset over a 10 year period. (See paragraph 10 of Stipulation and Agreement dated August 31, 2005). At the same time, the Commission also authorized the Company to reset to zero and include in base rates the ISRS costs that the Company had been collecting during the same deferral period. (See paragraph 16 of the Stipulation and Agreement).

15. As these cases clearly establish, the power to grant such accounting authorizations is separate and distinct from the ISRS statute. There is also nothing in the provisions of the ISRS statute to suggest that the Commission cannot independently exercise this authority in the manner it deems appropriate. Given the undisputed evidence in these cases that the Company is doing the right thing for its customers by implementing its replacement programs in the most cost-effective manner possible, the Company believes there is a compelling justification for exercising such power in this instance. For all of these reasons, the Company respectfully requests that the Commission authorize it to defer for potential recovery in its next rate cases any revenues or costs excluded in these cases.

WHEREFORE, Spire Missouri respectfully requests that the Commission grant its ISRS request, which has already deducted the cost to replace ineligible plastic where such costs occurred. If the Commission decides, however, to adopt the percentage method used in the previous case, then the Company (i) agrees with Staff's calculation of the excluded costs, as corrected by Staff on April 29; and (ii) asks the Commission to authorize the Company to defer for consideration in its next rate cases any such ISRS costs excluded in these cases.

Respectfully Submitted,

SPIRE MISSOURI INC.

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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 30th day of April, 2019, to all counsel of record.

/s/Michael C. Pendergast

Michael C. Pendergast