

**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 ) **File No. GO-2019-0115**  
Surcharge in its Spire Missouri East Service Territory ) Tracking No. YG-2019-0138

In the Matter of the Application of Spire Missouri Inc. )  
To Change its Infrastructure System Replacement ) **File No. GO-2019-0116**  
Surcharge in its Spire Missouri West Territory ) Tracking No. JG-2019-0139

**CONCURRING OPINION OF COMMISSIONER DANIEL Y. HALL  
IN THE REPORT AND ORDER**

I join in the Commission's Report and Order, issued May 3, 2019, in the above-captioned case. I write separately in concurrence to set forth my reasoning with regards to the issue of Infrastructure System Replacement Surcharge (ISRS) eligibility for replacement of plastic components.<sup>1</sup>

Spire began a cast iron and bare steel replacement program over 25 years ago. Until 2010, this program employed a piecemeal approach to pipe replacement by replacing pipes when they were failing or about to fail. In 2010, the company changed to a more systematic and economical approach where it retires all the pipes in a neighborhood including some plastic pipe that is not worn out or deteriorated and installs new pipe often in different locations that are more accessible and efficient to maintain. This approach also

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<sup>1</sup> This rationale is offered to clarify the Commission's Report and Order and is not inconsistent therewith.

presumably allows the system to perform more efficiently by operating at higher pressures and enhances customer safety, convenience, and service by installing metering equipment outside the home.

I believe that good public policy (customer service, cost, efficiency, safety, and reliability) supports Spire's neighborhood main and service line replacement program. The majority of the infrastructure being replaced is composed of cast iron and bare steel, is beyond its useful life, is recognized by US Department of Transportation and the Pipeline and Hazardous Materials Safety Administration as needing to be replaced for purposes of safety and reliability, and is in fact worn out or deteriorated.

However, ISRS is a single-issue rate making mechanism and by its statutory terms must be read narrowly. The courts have reinforced that requirement in recent decisions. And the Commission must give that direction due deference. That direction includes footnote 5 in the Western District's 2017 Opinion,<sup>2</sup> which specifically and expressly prohibits ISRS eligibility for plastic replacement that is not worn out or deteriorated as part of a systematic redesign, and that states ineligible plastic cannot be "bootstrapped" in or deemed incidental to such projects.

As a result, the Commission finds itself in an awkward and difficult position. This is particularly so due to the frequency of these ISRS proceedings, the expedited process set by statute, and the time lag between our decisions and the resolution of the subsequent appeals. It is made even more difficult by the complexity of the engineering and the financials.

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<sup>2</sup> *Matter of Application of Laclede Gas Co. to Change Its Infrastructure Sys. Replacement Surcharge in Its Missouri Gas Energy Serv. Territory v. Office of Pub. Counsel*, 539 S.W.3d 835, 839 (n5) (Mo. Ct. App. 2017), reh'g and/or transfer denied (Dec. 14, 2017), transfer denied (Mar. 6, 2018).

Spire admits that per the Western District's 2017 decision, because the plastic is not worn out or deteriorated, the cost for ineligible plastic replacement must be subtracted from the total cost of the project to determine the eligible portion. However, Spire argues that based on the roadmap the Commission provided in its prior Report and Order concerning Spire ISRS revenues,<sup>3</sup> and the company's analysis of the 509 projects for which it seeks ISRS recovery, when it cost less to replace the plastic than it would have cost to re-use it, there is no incremental cost and nothing to subtract. The problem with this argument is the methodology of the comparison employed by Spire. Spire compared the cost of (A) replacing the plastic as part of the systematic redesign versus (B) maintaining the plastic as part of the systematic redesign. The proper methodology, pursuant to the Western District's direction set forth in footnote 5, is to compare the cost of (A) systematic redesign (replacement of worn out or deteriorated cast iron/bare steel and the plastic) versus (C) patchwork replacement of only the worn out or deteriorated cast iron and bare steel. If that comparison showed it was more expensive to re-use the plastic ( $A > C$ ), then there would be no incremental cost to replace the plastic, and nothing to subtract from the total project cost.<sup>4</sup>

As a result, the methodology relied on by Spire, and supported by Staff, cannot be employed to determine the ISRS revenues. The only alternative, therefore, is to look to the

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<sup>3</sup> Report and Order, *In the Matter of the Application of Spire Missouri Inc. to Change its Infrastructure System Replacement Surcharge in its Missouri East Service Territory*, File No. GO-2018-0309 and *In the Matter of the Application of Spire Missouri Inc. to Change its Infrastructure System Replacement Surcharge in its Spire West Service Territory*, File No. GO-2018-0310, issued September 20, 2018, pp. 15-16.

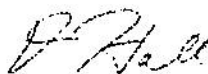
<sup>4</sup> I do not pretend to understand the difficulties involved in such an analysis, but to the extent such an analysis is not possible only highlights the inherent difficulty of trying to get ISRS recovery for systematic redesign projects.

methodology the Commission employed in the last ISRS case,<sup>5</sup> basing ISRS revenues on the feet of pipe retired by the type of pipe (iron and steel versus plastic). While it may be somewhat crude, it is the best evidence available.

I am not happy with this result but I do believe that in light of the statutory language, the courts' interpretation of that language, the evidence presented in this case along with the public policy issues in play, it represents the appropriate balancing of the interests. Going forward, I strongly advocate for a statutory change to (1) ensure efficient systematic replacement of cast iron and bare steel pipe, including incidental portions of plastic pipe; and (2) a clear, transparent and predictable process for timely cost recovery of such expenses.

For the forgoing reasons, I concur.

Respectfully submitted,



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Daniel Y. Hall  
Commissioner

Dated at Jefferson City, Missouri,  
on this 9<sup>th</sup> day of May 2019.

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<sup>5</sup> Report and Order, File Nos. GO-2018-0309 and GO-2018-0310, p. 16.