

In the Matter of:

The Application of Spire Missouri Inc. to Change Its Infrastructure

GO-2019-0115 GO-2019-0116, VOL. I

April 03, 2019



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

April 3, 2019

Jefferson City, Missouri

Volume 1

In the Matter of the Application of)
Spire Missouri Inc. to Change its) GO-2019-0115
Infrastructure System Replacement)
Surcharge in its Spire Missouri)
East Service Territory)

In the Matter of the Application of)
Spire Missouri Inc. to Change its) GO-2019-0116
Infrastructure System Replacement)
Surcharge in its Spire Missouri)
West Service Territory

NANCY DIPPELL, Presiding
SENIOR REGULATORY LAW JUDGE

RYAN A. SILVEY, Chairman,
WILLIAM P. KENNEY,
DANIEL Y. HALL,
SCOTT T. RUPP,
MAIDA J. COLEMAN,
COMMISSIONERS

REPORTED BY:
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A P P E A R A N C E S

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1 (Exhibits 5, 6, 7, 8 100, 101, 200 and
2 201 were marked for identification.)

3 JUDGE DIPPELL: This is December [sic]
4 3rd, 2019 and we are here today in the Case Numbers
5 GO-2019-0115 and GO-2019-0116. My name is Nancy
6 Dippell. I'm the Regulatory Law Judge assigned to
7 hear this matter. And we -- these are Spire's --
8 Spire Missouri's request to change its Infrastructure
9 System Replacement Surcharge in both its east and west
10 territory. We have combined these cases for hearing
11 purposes.

12 I'm going to begin with entries of
13 appearance. So can we start with Staff?

14 MR. BERLIN: Thank you, Judge. Appearing
15 on behalf of the Staff of the Missouri Public Service
16 Commission are Kevin Thompson, Bob Berlin, and Ron
17 Irving at the Commission's offices at Post Office Box
18 360, Jefferson City, Missouri 65102.

19 JUDGE DIPPELL: And the Office of the
20 Public Counsel.

21 MR. CLIZER: Good morning, Your Honor.
22 Appearing on behalf of the Office of Public Counsel is
23 John Clizer and Lera Shemwell. And we have provided
24 our information with the court reporter.

25 JUDGE DIPPELL: And Spire?

1 MR. PENDERGAST: Thank you, Your Honor.
2 Appearing on behalf of Spire, Missouri, Michael
3 Pendergast and Rick Zucker. And we too have provide
4 our address and business information to the court
5 reporter.

6 JUDGE DIPPELL: Okay. I will remind
7 everyone to silence your cell phones and other
8 devices. And we will -- I believe you've all already
9 given your exhibits to the court reporter; is that
10 correct? Your premarked exhibits. I received exhibit
11 lists from everyone. Looks like those have already
12 been given to the court reporter.

13 MR. ZUCKER: Your Honor?

14 JUDGE DIPPELL: Yes.

15 MR. ZUCKER: We -- we gave our Exhibits
16 Numbers 5, 6, 7 and 8 to the reporter. 1, 2, 3 and 4
17 are our applications and our updates to those
18 applications. They're very voluminous and they're in
19 ISRS and I'm wondering if --

20 MR. THOMPSON: EFIS you mean?

21 MR. ZUCKER: Yeah. That's the second
22 time I've done that.

23 JUDGE DIPPELL: The court reporter is
24 still going to need a copy just so that we can have
25 those officially marked.

1 MR. ZUCKER: Okay. We will get something
2 to her.

3 JUDGE DIPPELL: So can you get those to
4 her later?

5 MR. ZUCKER: Yes, Your Honor.

6 JUDGE DIPPELL: Okay. Thank you. As far
7 as everybody else on those, everybody else I believe
8 has access to those, so.

9 So we delayed start this morning a little
10 bit because you all were discussing the tax issue.
11 And I believe you've reached some kind of agreement in
12 principle, is that correct, on that issue?

13 MR. PENDERGAST: Yes, Your Honor.

14 MR. BERLIN: Yes, Judge.

15 JUDGE DIPPELL: All right. So then we'll
16 expect to have updates or whatever when you get firm
17 numbers and so forth along the way.

18 There's a pending Motion to Dismiss part
19 of this case that Staff filed earlier. The Commission
20 is just going to take that motion with the case as a
21 whole, so in case you were wondering about that.

22 Are there any other issues that need to
23 be discussed before we begin with opening statements?
24 All right.

25 MR. CLIZER: I have one question.

1 JUDGE DIPPELL: Yes. Go ahead.

2 MR. CLIZER: Because the cases are
3 consolidated for hearing but not officially
4 consolidated, with the introduction of exhibits do we
5 need to specify a case number or we -- can we assume
6 if no case number is specified, it's for both cases?

7 JUDGE DIPPELL: Right. The way it's
8 going to work is we're just -- this -- this hearing is
9 for both cases in combination. So the transcripts and
10 the exhibits and everything are going to be put in
11 both records.

12 So if it is specific to East or West -- I
13 know Staff -- for instance, Staff's reports deal only
14 with one or the other -- please, you know, signify
15 that the -- the evidence is specific to that case, but
16 as far as the hearing goes, all of the evidence for
17 both cases is going to be duplicated in each of those
18 records. Does that make sense?

19 MR. CLIZER: Yes, it does. Thank you.

20 JUDGE DIPPELL: Okay. Any other
21 questions about that? All right then. Let's go ahead
22 then.

23 I received your list of issues and your
24 order of witnesses and opening statements. And we're
25 going to generally adopt that unless there's some

1 changes that need to be made along the way. So we'll
2 go ahead and begin with opening statements. And Spire
3 is our first opening.

4 MR. PENDERGAST: Thank you, Your Honor.
5 If it please the Commission, we are here today to
6 continue our ongoing discussion regarding what can and
7 should be recovered through our state's Infrastructure
8 Replacement System Surcharge, or ISRS, mechanism.

9 And I'm pleased to report that as a
10 result of previous discussions and the guidance
11 provided by this Commission in the Company's last ISRS
12 cases, we've taken some important steps forward toward
13 clarifying that issue. There's also been a step or
14 two taken backward, at least from our perspective, but
15 let's start with the positive news first.

16 And the positive news begins with the
17 most recent development that we alerted you to today.
18 Staff and the Company -- and I think OPC does not
19 object -- have reached a resolution to the tax issue.
20 We're simply trying to quantify what the value of that
21 is and also work on some language where the parties
22 are committing to meet shortly and talk about how we
23 reconcile what we think happens in rate cases with
24 what should happen in ISRS cases.

25 Obviously the parties had different

1 positions on that and pursuant to the process we just
2 went through where we had an extended dialogue on the
3 issue of our engineering cost analysis and what they
4 say in terms of the impact of plastic replacements,
5 we're looking forward to having a similar discussion
6 on the tax issue in the future and see if we can
7 meek -- make progress there.

8 Other positive steps, one of the largest
9 components of the costs that are included in our ISRS
10 filing are those expenditures that have been booked to
11 what we call blanket work orders. These are costs
12 associated with much smaller-scale projects such as
13 replacing a leaking line or a line that is corroded,
14 as well as facility relocations that are being
15 undertaken pursuant to a mandate by a local or state
16 governmental entity as part of a public improvement
17 project.

18 The Company provided a much more granular
19 set of analyses in these cases, which group these
20 blanket work order expenditures into various
21 categories, those that are clearly ISRS eligible. And
22 we then looked at all the transactions or we looked at
23 the transactions associated with it and came up with a
24 figure for what should be included and what should be
25 excluded.

1 I think Staff has had an opportunity to
2 go ahead and look at that database and that categor--
3 categorization of these various transaction and has
4 determined that it's satisfied that these are ISRS
5 eligible investments. OPC has also taken a look at
6 these and at least it has indicated that for those
7 blanket work order charges done for leaking lines that
8 were replaced or relocations, it's on board with those
9 too. So I think that's been a positive step forward.

10 A second step forward was the truly
11 remarkable progress made in performing and presenting
12 the more extensive analyses that the Commission
13 advised the Company to pursue if it wanted to renew
14 its claim that the replacement rather than re-use of
15 plastic facilities as part of its main replacement
16 programs actually served to reduce, rather than
17 increase, its ISRS costs and charges.

18 As you may recall, during the last ISRS
19 case, the Company presented engineering analyses on
20 ten projects. I think I still remember Commissioner
21 Kenney said that didn't quite meet his expectations
22 and he thought that more information should have been
23 provided.

24 And to that end, the Commission provided
25 what we call an evidentiary roadmap in its Report and

1 Order that basically said if we want to try and
2 include these as eligible expenditures in the future,
3 they wanted to go ahead and see the same kind of
4 analysis done for all of our ISRS projects.

5 To that end, we took the Commission's
6 guidance very seriously and have now prepared and
7 submitted 509 individual engineering cost studies for
8 all of our ISRS projects that are included in this
9 case.

10 In those instances where a study showed
11 that replacement rather than re-use of plastic
12 actually increased cost, the Company elim-- eliminated
13 from its ISRS ask the incremental increase associated
14 with that particular project. In those instances
15 where the study showed that replacement rather than
16 re-use of plastic reduced cost, the Company included
17 the actual cost of the ISRS project. That means that
18 to the extent that it did save money, those savings
19 were flowed through to customers as part of our ISRS
20 filing.

21 In total, these 509 analyses on a net
22 basis showed that replacing rather than re-using
23 plastic facilities reduced the Company's ISRS costs
24 and charges for all of Spire Missouri by approximately
25 1.6 million dollars.

1 I want to say that we're very
2 appreciative to the Staff. They cooperated closely
3 with the Company in reviewing these cost studies and
4 in suggesting various enhancements that would help
5 facilitate its review. And Staff has also indicated
6 in its recommendation and testimony that such studies
7 comply with the evidentiary roadmap that was
8 established by the Commission, and demonstrate the
9 eligibility of the Company's ISRS costs.

10 And just on a personal note, I want to
11 say that I think this was an example of regulation at
12 its best. You know, the Commission put something in a
13 Report and Order that said, you know, this is really
14 what we need to see. And then its Staff worked very
15 hard to coordinate with us in meeting what the
16 Commission's expectations were.

17 And, you know, in these quick ISRS cases
18 where you don't have a lot of time to discuss and
19 amplify and elaborate on issues, having a multi-month
20 process where parties could go ahead, engage in a
21 deliberative, collaborative iterative process for
22 trying to find a specific answer was I think a very
23 good example of how good regulation can be carried
24 out.

25 Unfortunately, not everyone took the same

1 step forward. Although invited to participate in the
2 process for determining the impact of plastic
3 replacements, OPC, as its states in its testimony,
4 whether because of resource limitations or otherwise,
5 did not really review these studies or otherwise
6 engage in the analytical process.

7 Instead, OPC continues to oppose the
8 recovery of these costs on the theory that there must
9 be some cost to replacing plastic facilities even
10 though the studies that they ignored say otherwise.
11 Even worse, OPC is now arguing that the cost of
12 replacing 100-year-old cast iron mains should not be
13 recoverable under the ISRS because the Company has not
14 sufficiently demonstrated that they are in a worn out
15 or deteriorated condition.

16 This is a new argument that wasn't even
17 addressed by the Western District Court of Appeals in
18 its order that remanded this issue to the Commission
19 some time back.

20 In making this assertion, the OPC has not
21 only disassociated itself completely from the
22 analytical process we went through in compliance with
23 the Commission's evidentiary roadmap, but it's also
24 seeking to effectively re-litigate the issue of
25 whether these facilities are in a worn out or

1 deteriorated condition and necessary to comply with
2 safety requirements, something that the Commission
3 specifically determined was the case in its last
4 Report and Order.

5 In taking this position that they --
6 these facilities aren't worn out or in a deteriorated
7 condition, I think OPC simply ignores the fact that
8 many of these facilities already are well past the
9 useful service life that their own witness who deals
10 with depreciation has previously estimated or
11 endorsed.

12 Now, you know, I think OPC makes much of
13 the fact that you can't rely on the useful life of a
14 facility alone to make a determination of whether it's
15 worn out or deteriorated. And, you know, we agree.
16 It -- taken alone, it's not a completely decisive
17 factor.

18 But it also doesn't mean nothing. Okay?
19 It is something that's important. Depreciation
20 professionals look not only at the pace of what the
21 utility under examination is replacing facilities at.
22 They took at what's happening with other utilities and
23 what their experience is. And so when you have cast
24 iron main that's 100 years old and it's got a
25 depreciable useful life of 80 years, you know, that

1 would suggest that it may be time to do something.

2 And you combine those with the numerous
3 federal and state admonishments over the past decade
4 urging the expedited replacement of these kind of
5 facilities in the wake of catastrophic failures that
6 resulted in death, injury and property destruction.

7 I think it also ignores the
8 susceptibility of these materials to corrosion and
9 cracking, as well as the deterioration that naturally
10 and inevitably incurr-- occurs when something is
11 buried in the ground for a century.

12 Instead of recognizing these laws of
13 physics and chemistry, OPC suggests we return to a
14 time before these events occurred and before gas
15 utilities like Spire implemented Distribution
16 Integrity Management Plans in which cast iron and
17 unprotected steel is viewed as a high risk right after
18 third-party damage.

19 In fact -- and suggest we return to a
20 time before those events occurred and simply use prior
21 criteria relating to the number of leaks within a
22 certain specified period of time that the Commission
23 used as kind of a minimum standard when it first
24 approved these replacement programs. And I emphasize
25 that these were minimum replacement requirements, just

1 in the same way that the Commission's whole safety
2 standards are minimum standards.

3 And, you know, after we've experienced
4 what we've experienced, after we've seen leaks and
5 graphitization and corrosion occur on these facilities
6 and we look at the fact that many of them are well
7 past their useful life, we don't believe relying on
8 certain critical mass of leaks to occur on a
9 facility -- while it should be used for prioritizing
10 what you replace, it shouldn't be the first warning
11 that you have that this facility needs to be replaced.

12 Escaping gas is not a good early warning
13 system. Bad things can happen when gas escapes. And
14 the idea is to get ahead of it and be proactive and
15 make sure that these susceptible, high-risk facilities
16 are replaced hopefully before something bad happens.
17 And I would hope that the Commission agrees with that
18 proactive approach.

19 Another issue we have in this case that
20 was raised by OPC is overheads. And OPC is suggesting
21 for the first time that the overhead costs assigned to
22 ISRS projects is too high and should be eliminated in
23 their entirety. OPC also suggests that these
24 overheads may in some way already be included as an
25 expense or otherwise in base rates and so assigning

1 and capitalizing them as part of an ISRS project may
2 be double recovery of those costs.

3 We believe OPC is simply wrong on this
4 point. And more to the point, this is a classic
5 example of an issue that should be raised and dealt
6 with in a rate case. As you may recall from the rate
7 case, all rate cases that we had at the end of 2017
8 and early part of 2018, one of the issues was how does
9 Spire allocate and spread costs to various functions.

10 And I think our controller, Tim Krick,
11 went into a detailed discussion of the four-step
12 process we use for that. And, you know, it's in the
13 context of that kind of proceeding that this sort of
14 issue I think should be raised.

15 But in any event, Staff [sic] has filed
16 testimony. They've selected some ISRS projects and
17 they've said well, 55 to 57 percent of the cost of
18 these projects are overhead. And I'm not sure what
19 they think people should make of that, you know.
20 Sheer number doesn't really tell you anything about
21 whether costs have been properly allocated and
22 assigned to these projects.

23 But just to be clear, I think it reflects
24 a misunderstanding of what goes into a successful ISRS
25 project or a misunderstanding of where costs

1 associated with those projects are put.

2 And if you look at the overheads, first
3 of all, those overheads include -- include all of the
4 employee benefits. I mean from medical to, you know,
5 401K matches, on and on and on. And a rule of thumb
6 that's been used in the past is the cost of an
7 employee, about 40 percent of it's going to be
8 benefits.

9 Not only do we have that in the
10 overheads, but if you're going to do this ISRS work,
11 you don't just send the guys out into the field and
12 say start digging and put some pipe in. There's a lot
13 of engineering analysis, a lot of drafting that goes
14 in to determining where you put these facilities to
15 make sure that they comply with all state and federal
16 safety requirements, to make sure the operational
17 pressures are what they should be.

18 And a number of the engineers that worked
19 hard to provide 509 cost studies in this case do that
20 kind of work and their work is properly chargeable as
21 an overhead to these projects.

22 There are other things that are included
23 in those overhead costs, including leasing the
24 vehicles necessary to take the people to their job
25 site, the equipment that is used on those job sites,

1 gas that is used. You know, there's a variety of
2 expenditures like that.

3 And you know, if you look at what goes in
4 that bucket, you're going to look at 55 percent or
5 54 percent or 53 percent and you're going to say that
6 looks pretty -- you know, meets my expectations. That
7 does not look unusual. I want to emphasize that, you
8 know, this isn't something that we just started doing.
9 We've had the same kind of allocation of overhead
10 costs in roughly the same proportion for a number of
11 years now.

12 And OPC seems to suggest that maybe
13 you're doubling up on something that was done in a
14 rate case, but the rate-base that was included in the
15 rate case, you know, is entirely separate from the
16 rate-base that we're putting in now.

17 And to the extent that we've capitalized
18 these overheads, that's going to show up in a future
19 rate case. It's going to show up as oh, you're doing
20 this amount of capital work versus your employees are
21 doing this amount of O and M work that's just expense.

22 And because it shows up in that
23 calculation, you are, by its very nature, reducing
24 your O and M expense. In fact, I think Spire had
25 relatively low O and M expenses and you can't possibly

1 be doubling up on these things. It all factors from
2 an accounting standpoint through the process.

3 And again, you know, when we capitalize
4 these overheads, what you've got to remember is we're
5 capitalizing them. That means we're not asking
6 customers to pay 100 percent of the cost of whatever
7 employee or whatever function is being allocated to
8 these overheads.

9 Because they're capitalized, we're asking
10 customers to pay 10 to 15 percent of it by way of a
11 return of and return on those facilities, rather than
12 just the full amount of their wages and salaries at
13 the time. So from the standpoint of customers, it's a
14 pretty good deal. And it's a pretty appropriate deal,
15 because by capitalizing it, you stretch out your
16 recovery of these costs that were incurred on this
17 project over many years, just as the cost of the pipe
18 is spread out over many years. It's an appropriate
19 thing to do.

20 And the other thing is -- and I don't
21 want to mention the tax issue, I don't want to upset
22 up anything, but one of the things is that by
23 capitalizing these overheads, we do get tax deductions
24 for them. And it's the 2638 tax deduction we've
25 talked about. And in the past, we've flowed through

1 those tax deductions to customers.

2 So here's the deal. I'm assigning
3 overheads to these ISRS projects. You only have to
4 pay a relatively small portion of it and I'm giving
5 you a tax benefit besides and flowing it through
6 rates. You know, pretty good deal. And this
7 Commission has, in the past, recognized that to the
8 extent utilities can use the tax laws to get this
9 source of financing and provide benefits to its
10 customers, it should do that.

11 In any event, getting rid of this and
12 reducing the amount we capitalize, we think it would
13 be counterproductive. We don't think it would serve
14 our customers well. But if we are going to do
15 something like that, we ought to do it in the context
16 of a rate case, as I think Staff observed as well in
17 its position of statement.

18 We shouldn't do it in an ISRS proceeding
19 where you have five days to kind of address the issues
20 that have been raised rather than the more deliberate
21 process you get in a rate case.

22 The Judge has already indicated that
23 we're going to go ahead and take Staff's Motion to
24 Exclude from the ISRS those investments that weren't
25 recovered in the last rate case, so I have no

1 intention of rearguing the law on that.

2 I would just simply note that the same
3 process that we went through to prove up the
4 eligibility of the investments that were included --
5 the new investments that were included in this case
6 were applied to the old investments and they had the
7 same results. So to the extent we've demonstrated the
8 eligibility of the newer investments, we've also I
9 think demonstrated the eligibility of the older
10 investments.

11 And since under the ISRS statute as long
12 as it wasn't included in rate-base in your last rate
13 case, which none of these older ISRS investments were,
14 they're eligible to be considered by the Commission.
15 So we would simply urge you to do that. There's no
16 good reason to sit there and make us wait to begin
17 recovering these eligible investments.

18 And here's the section on income taxes,
19 which I get to skip. So that sort of summarizes my
20 points. If you have any questions, I'd be happy to
21 answer them.

22 JUDGE DIPPELL: Are there Commissioner
23 questions? Commissioner -- Mr. Chairman?

24 CHAIRMAN SILVEY: Thank you.

25 BY CHAIRMAN SILVEY:

1 Q. So the Company is claiming that the
2 replacements made between October 17th and June 18th
3 meet the requirements of ISRS eligibility under
4 Sections 393.1009?

5 A. Yes.

6 Q. All right. How can a Commission decision
7 on eligibility for that time period not alter or
8 modify the Commission's existing decision in
9 GO-2018-0309 and 2018-310?

10 A. Yeah. And I'm glad you asked that.
11 First of all, that prior decision deals with a
12 different period of time. We are not asking you to
13 revisit that issue. We are not asking you to give us
14 the ISRS revenue that we have foregone.

15 Since that time, that is a matter that is
16 up before the appellate courts and they will make that
17 decision. And if they decide in our favor, they can
18 provide, under 386.520, a temporary rate adjustment
19 for the period that would go up to the time that new
20 rates based on new evidence went into effect in this
21 case.

22 The thing is, the Western District Court
23 of Appeals doesn't have the benefit of the new
24 evidence that we've provided pursuant to your
25 evidentiary roadmap in this case. It's dealing with

1 older evidence. And so I don't think there's any
2 conflict with that.

3 And if I could just give an example, we
4 had some of our ISRS costs under appellate review in
5 the last rate case. That didn't stop the Commission
6 from exercising its regulatory power and rebasing
7 those ISRS amounts.

8 And I think you just, from my
9 perspective, need to be very careful about allowing
10 appellate courts to go ahead and determine what it is
11 that you can do in exercising your own rate-making
12 powers. You know, the courts have a mootness doctrine
13 that over the year they had an issue raised. The
14 Commission went ahead and had another rate case,
15 exercised its rate-making power and the Court said
16 well, it looks like that's mooted; I can't provide
17 relief. Now it can with this special statutory
18 section.

19 But it's the Commission that drives the
20 bus on how and when it exercises its rate-making
21 powers, not the Court. And you can imagine how
22 difficult things might be if you had this ongoing
23 series of costs that couldn't be considered, whether
24 it's in a FAC, whether it's in an ISRS, whether it's
25 in a rate case because somebody at the appellate level

1 is reviewing some issue based on other evidence
2 associated with those costs.

3 And I don't think that's the way the
4 appellate courts work. I think they respond to what
5 you do, rather than you responding to what it does.

6 Q. So on that point, in State ex rel.
7 Missouri Cable Telecommunications Association via
8 Missouri Public Service Commission from 1996, the
9 Court said that while a Commission decision is being
10 appealed, the Commission cannot modify, extend or
11 issue a new order on that issue.

12 A. You know, and -- and once again,
13 Commissioner, we're not asking you to do that. We're
14 not asking you to change your old order in any way.
15 You made your decision. You said we didn't provide
16 sufficient evidence to justify the inclusion of those
17 ISRS costs and we're not saying go back and change
18 that decision.

19 But what's happened now is you have
20 another ISRS proceeding, just like commissions have
21 had new rate case proceedings. There's new evidence
22 that has been introduced. And you do not have to
23 wait, just because some of these costs are under
24 review under a different set of evidence, to go ahead
25 and defer action on this.

1 And like I said, if you start doing that,
2 you know, kind of where does it stop? I'm not aware
3 of rate cases where you come into a rate case and
4 because some issue is on appeal, it's that we can't
5 consider these costs in this rate case.

6 I mean what happens is you move forward,
7 you exercise your rate-making powers. And if you
8 supersede the rates that were in effect, then the
9 Court will say, you know, maybe I can't provide relief
10 because the Commission has acted. There are new rates
11 in effect based on new evidence and I, the Court, have
12 to respond to that rather than the Commission having
13 to say I can't move forward and exercise my
14 rate-making powers because something's going on up
15 here.

16 Q. Okay. So in that case we decided
17 eligibility. And in this case you're arguing
18 eligibility. So how is that different?

19 A. It's different because we're arguing it
20 on the basis of new evidence. We're arguing it on the
21 basis of the evidence that we developed pursuant to
22 the evidentiary roadmap that you gave us. This is
23 evidence that's not included in the appeal. It's not
24 evidence that can go ahead and be considered by the
25 Western District because it wasn't in the last case.

1 But it is in this case now.

2 And my point is you don't have to defer
3 your rate-making powers to not consider this evidence
4 and to go ahead and say we're stuck and frozen in time
5 until appellate courts decide something about this
6 past period.

7 Like I said, if the Court upholds the
8 Commission, you know, well, then it will be a moot
9 issue, to use that word. And if it should rule in
10 favor of us under 386.59-- or 520, it would provide a
11 temporary rate adjustment for the period between when
12 your last order went into effect and when a new order
13 approving ISRS went into effect.

14 So there's a mechanism there, and that
15 mechanism was basically designed to address the very
16 mootness issue that parties kept on running into when
17 the Commission would go forward, exercise its
18 rate-making power based on new evidence in a rate case
19 or whatever and decided new rates while the Court was
20 still considering an appeal involving, you know, some
21 element of cost of revenues that is now involved and
22 superseded by the rate case.

23 Q. So to be eligible for ISRS under Section
24 393.1009, the project needs to demonstrate those two
25 factors in the statute to be installed to comply with

1 state or federal regulation or to be in a worn out or
2 deteriorated condition. So how do the cost avoidance
3 studies for the projects that you include for these
4 plastic replacements demonstrate either of those two
5 statutory requirements?

6 A. Well, I think what the cost avoidance
7 studies do is they're directly responsive to Western
8 District's, you know, opinion that we had a remand
9 proceeding on where it said I want the Commission to
10 determine what costs, if any, are associated with
11 replacing plastic.

12 And, you know, we had 10 studies in our
13 last ISRS case that tried to verify that there was no
14 cost. Now we have 509 studies that verify that by
15 re-using that -- or by replacing that plastic rather
16 than re-using it, there is no added cost; in fact, it
17 reduces ISRS charges and costs. And as I said, the
18 Staff has -- has agreed.

19 Now, as far as meeting the standards, you
20 determined in the last rate case that our bare steel
21 and cast iron replacement programs were indeed
22 replacing worn out or deteriorated -- worn out or
23 deteriorated facilities and that they were necessary
24 to comply with safety requirements.

25 So I think you've decided that once and I

1 think the evidence that we've provided with the
2 engineer we're going to have testify today, what we
3 talked about in our Direct Testimony indicates that
4 these facilities are definitely worn out or
5 deteriorated.

6 I mean almost everything deteriorates
7 with age. I'm a prime example of that. Whether
8 you're talking about people or you're talking about
9 facilities, they deteriorate with age. And when
10 they've gone 10, 20 years past their estimated useful
11 life, I think you can fairly conclude that these are
12 worn out or deteriorated in compliance with that
13 statute.

14 I mean when our guys go down and they
15 want to remove a cast iron main in Tower Grove Park
16 and they go down and they try and dig it up and it
17 crumples, you know, into a pile of dust, you know,
18 that's just an indication that it's worn out or
19 deteriorated.

20 That's why PHMSA sent the Commission I
21 think a letter, sent utilities letters saying these
22 kind of facilities have demonstrated some real risk
23 and real problems and you need to go ahead and replace
24 them. And I think they specifically mentioned the
25 ISRS mechanism as the kind of thing that makes that

1 possible.

2 So I don't think there's any question
3 and, you know, our engineer will be happy to tell you
4 that he knows that this cast iron bare steel is
5 deteriorated with metaphysical certitude. There's
6 absolutely no question and we need to go ahead and get
7 it out sooner rather than later.

8 Q. Yeah, but I think the question is about
9 the plastic components that we're talking about.

10 A. Well, and what we've done with the
11 plastic components is we've done what the Court told
12 us to do and we've determined what the cost of those
13 plastic components were. And if we were trying to
14 recover costs associated with those plastic
15 components, I think we might have a problem.

16 But we're not trying to recover costs.
17 We are, by replacing that plastic rather than re-using
18 it, reducing our ISRS costs and charges compared to
19 what they would have been incurred if we'd actually
20 tried to re-use that plastic.

21 Q. So are you going to be arguing that the
22 costs are incidental?

23 A. Yeah, I think they're incidental.

24 Q. That the costs are incidental or that the
25 components themselves are incidental?

1 A. I think the replacement plastic in many
2 of these instances is incidental. But -- but we're
3 not incurring costs to replace it. We are avoiding
4 costs to replace it. And you folks are well aware of
5 the avoided cost concept. And you can't sit there and
6 say this plastic is causing a cost that we're trying
7 to recover in our ISRS when it's not.

8 Getting rid of this plastic, you know,
9 because -- replacing it rather than re-using it
10 reduces costs, it's a freebie. I mean, you know --
11 and -- and we're avoiding all of the problems
12 associated with trying to re-use this plastic and have
13 a, you know, sort of Rube Goldberg type of
14 distribution system where you have a main here and
15 you're trying to take it up here and putting joints
16 on.

17 And not only are we able to avoid that
18 kind of situation, but we're able to save the customer
19 money in the process. That, to us, is a fantastic
20 result and justifies including everything we have in
21 our ISRS.

22 I mean if you wanted to say what do I do
23 about the plastic, you could say since you've incurred
24 a negative 1.6 million with replacing that plastic, I
25 want to exclude all impacts from the plastic, you'd

1 probably increase our ISRS rates by 1.6 million.
2 We're not suggesting that you do that, but certainly
3 there is no basis -- no economic basis for not
4 including them in our ISRS filing.

5 Q. Does the Company have an internal policy
6 for determining which inc-- incidental costs are
7 expensed versus which are capitalized?

8 A. Sure. Yeah. I mean, we have a very
9 robust system for doing that and it's really tied
10 to --

11 Q. And how do you determine which ones are
12 expensed and which ones are capitalized --

13 A. Well --

14 Q. -- as it pertains specifically to
15 incidental expenses?

16 A. Well, I think the general rule is that
17 you look at what the person is working on and are they
18 working on a capital project or are they, you know,
19 working on a non-capital project. For example, all of
20 our people that go out and do leak surveys and that
21 sort of thing, they're not working on capital
22 projects, so they get completely expensed.

23 When you look at our engineers, most of
24 our engineers are doing construction, planning,
25 drafting and mapping so most of their costs are going

1 to be allocated to capital.

2 Q. Okay. Those are all my questions for
3 now. Thank you.

4 JUDGE DIPPELL: Thank you.

5 Commissioner Kenney?

6 COMMISSIONER KENNEY: Yeah. Thank you.

7 BY COMMISSIONER KENNEY:

8 Q. Just going back with the Chairman's
9 questions, I appreciate your cost efficiency study and
10 I'm very sympathetic to the process. And I watched
11 Spire, Missouri Gas, I've watched them install pipe,
12 splice pipe, replace pipe and that makes a lot of
13 sense and I can understand the reasoning.

14 But how do you get by the Court's
15 decision that it has to be worn out or deteriorated?
16 Because your tes-- the testimony was so sparse on that
17 that this is worn out and deteriorated. It has
18 nothing -- that's the reason it was kicked back. It
19 was not because of a cost savings. And I'm -- I'm --
20 hey, I understand and I agree with that. I can
21 support that. But how do we get by that argument
22 that's being made?

23 A. Well, I -- I think how you get by it is
24 you look at the fact that to the extent any of these
25 plastic facilities aren't worn out or deteriorated, we

1 need to determine what it costs to replace them rather
2 than re-use them.

3 Q. Well, but you -- your witnesses don't
4 make mention of -- that they're worn out or
5 deteriorated. That's what surprised me. Just a
6 statement they're worn out or deteriorated, I --
7 that's -- that meets that criteria.

8 A. I -- I guess, Commissioner, what I'm
9 saying is they didn't spend much of any time on
10 talking about the plastic being worn out or
11 deteriorated because while some of it may be, some of
12 it may be old enough that you could go ahead and say
13 that.

14 That issue kind of became irrelevant
15 because the Court determined, you know, I'm not at all
16 convinced that this plastic, you know, is -- is worn
17 out or deteriorated. So tell me, Commission,
18 determine what are the costs associated with replacing
19 that plastic.

20 And what we've done with these 509
21 engineering studies is go ahead and say when we
22 replace this plastic rather than re-use it, you know,
23 there are usually going to be cost savings. It's
24 always going to be -- it's not always going to be
25 cheaper to do it, but usually cheaper to do it. Where

1 it was more expensive if you replaced rather than
2 re-used it, we took out the added expense so that
3 we're not including anything for these arguably not
4 worn out or deteriorated facilities. And when it was
5 cheaper to do it by replacing those rather than
6 re-using it, we flowed through the benefits of it.

7 So I guess my question would be that
8 given that economic analysis that Staff I think has
9 now endorsed, whether they're worn out or deteriorated
10 doesn't make any difference anymore because there's no
11 cost to getting rid of them.

12 Q. Okay. Thank you.

13 MR. ZUCKER: Well, Commissioner -- I'm --
14 Commissioner Kenney, are you asking whether the
15 plastic is worn out or deteriorated or whether the
16 cast iron?

17 COMMISSIONER KENNEY: I'm not talking
18 about cast iron. I just remember when we had
19 discussion about the plastic -- replacing the plastic
20 and -- and it was argued that we shouldn't -- you
21 know, and I -- I was -- just wanted to make -- find
22 that argument out.

23 MR. PENDERGAST: And I apologize. I
24 thought you were on the plastic. And if you're on the
25 cast iron --

1 COMMISSIONER KENNEY: No. I'm not on the
2 cast iron. I'm just --

3 MR. PENDERGAST: Oh, you're not. Okay.

4 COMMISSIONER KENNEY: No. I -- I
5 understand that process. I was just talking about the
6 plastic.

7 MR. PENDERGAST: Okay. Okay.

8 COMMISSIONER KENNEY: And you were --

9 MR. PENDERGAST: And that's why, you
10 know, we -- we don't think it merits a lot of
11 discussion because there's no cost associated with
12 getting rid of it.

13 COMMISSIONER KENNEY: All right. Thank
14 you.

15 JUDGE DIPPELL: Commissioner Rupp, did
16 you have any questions?

17 COMMISSIONER RUPP: No, I didn't.

18 CHAIRMAN SILVEY: I have a follow-up.

19 JUDGE DIPPELL: Mr. Chairman.

20 CHAIRMAN SILVEY: Thank you.

21 BY CHAIRMAN SILVEY:

22 Q. So back on that point that the
23 Commissioner was just talking about, in the Court's
24 decision in footnote five it says, We recognize that
25 the replacement of worn out or deteriorated components

1 will, at times, necessarily impact and require the
2 replacement of nearby components that are not in a
3 similar condition. Our conclusion here should not be
4 construed to bar -- to be a bar to ISRS eligibility
5 for such replacement work that is truly incidental and
6 specifically required to complete the replacement of
7 worn out and deteriorated components.

8 However, we do not believe that Section
9 393.1009 sub 5, sub A allows ISRS eligibility to be
10 bootstrapped to components that are not worn out or
11 deteriorated simply because they are interspersed
12 within the same neighborhood system of such
13 components.

14 So going back to my question, how are we
15 determining that they are truly incidental and
16 required for the replacement of the ones that are
17 clearly worn out and deteriorated. Right? So if
18 you -- if you have to replace say a joint -- and I'm
19 not an engineer so I'm just trying to conceptualize
20 this in my head.

21 So if you have to replace something, I
22 would assume that the components that connect to what
23 you're replacing would be incidental. But the
24 components that attach to that component, probably
25 not, at least in my mind. So how far out is the

1 epicenter from the worn out and deteriorated component
2 to when it no longer becomes incidental?

3 A. Yeah. Well, I -- I can say on a more
4 broad basis that none of these plastic facilities are
5 being replaced just to replace them. They're all
6 being replaced rather than reused because we need to
7 do that in conjunction with a main replacement
8 program.

9 Now, the Court may say, that, you know,
10 once you start replacing a certain number of them at a
11 certain distance, we don't think it's incidental
12 anymore. But what we did was say, okay, we're going
13 to go ahead and look at what the Western District I
14 think told the Commission to do. And that's if it's
15 not something that qualifies as incidental, tell me
16 what the costs are for replacing it.

17 And if it has a zero cost, if it has a
18 negative cost, you do not have any -- from my
19 perspective -- policy or economic basis for saying I
20 need to go ahead and reduce ISRS costs and charge us
21 for these non-existing costs.

22 Q. Well, the Court clearly contemplates that
23 there's a difference between what is incidental for
24 replacement and what is being bootstrapped and not
25 necessarily necessary. So in the Company's mind where

1 is that threshold between when it becomes -- when it
2 crosses from incidental to being bootstrapped?

3 A. You know, I would say that, you know,
4 it's -- it's, you know, going to depend on a wide
5 variety of factors that I'd kind of be foolish to try
6 and set something out that does that. And -- and, you
7 know, we haven't tried to go ahead and make that
8 determination now that we have gone ahead and done
9 something that the Court never saw.

10 It never saw this the first time this was
11 appealed. It never saw this cost analysis. It never
12 knew that you actually saved money by replacing these
13 plastic facilities rather than re-using it. That's
14 what we tried to go ahead and demonstrate in the last
15 rate case. Is -- the Commission said, Chairman, not
16 good enough.

17 So we went ahead and said okay, fine.
18 We'll do what you said. If we want to renew this
19 argument, we'll evaluate each and every replacement
20 project to determine what the impact is of replacing
21 plastic.

22 We have now done that. If replacing
23 plastic had a cost, we eliminated that incremental
24 cost. And if it saved us money, we flowed those
25 savings through to customers. And I don't think

1 there's anything in the Western District Court of
2 Appeals opinion that says you have to ignore economic
3 reality, you have to ignore what's actually happening
4 when these projects are undertaken and when you're
5 replacing some plastic rather than re-using it.

6 Q. But is there anything in the decision
7 that justifies going beyond the statute?

8 A. Well, I -- I don't think you're going
9 beyond the statute. I think you're falling squarely
10 within the statute when you're -- you know, to say we
11 have to eliminate a cost because you incidentally
12 replace some plastic in connection with this would be
13 to say I don't care if that replacement of plastic
14 caught -- costs nothing, I don't care if that
15 replacement of plastic actually saved money. I
16 someha-- somehow have to allocate some cost to it.

17 And I don't think from an avoided cost
18 standpoint, which this Commission has well recognized
19 in the past, from a cost causation standpoint that
20 you're under any requirement to go ahead and respond
21 to the Western District in a way that says we've
22 ignored economic reality here at the Commission and
23 we're just going to disallow some costs to disallow
24 some costs that really aren't costs at all.

25 Q. So insofar as the Court has contemplated

1 there is a difference between what is incidental and
2 what is bootstrapped, the Company is not taking a
3 position on where that -- the line is?

4 A. Well, I -- I -- I would venture to say
5 that most of these are incidental in nature, depending
6 on how you want to read the mind of the Court in what
7 it had, but --

8 Q. What is the Company's threshold for
9 incidental?

10 A. Well, I mean, you know, since we've done
11 engineering studies and we've shown that replacing
12 this plastic saves customers money and it doesn't have
13 any net cost to it whatsoever, we haven't been very
14 concerned about the incidental aspect of it because we
15 are saving our customers money. There is no cost
16 associated with replacing this plastic, period.
17 There -- there's no cost.

18 Q. Well, I'm certainly familiar with the
19 difference between attaining policy goals and
20 following the statute. I just struggle from a
21 regulatory perspective with knowing how to handle that
22 situation when the statute clearly lays out, the case
23 law clearly contemplates. And then you're coming at
24 me with an argument of well, but it's -- it saves
25 money, which is a greater goal. It seems like that's

1 more of a valid -- value proposition than actually
2 statutory construct.

3 A. I'm -- I'm -- I'm -- and what we've tried
4 to do is be completely responsive to what the Western
5 District said you should do. And what they said you
6 should do is let me know what costs -- excuse me, what
7 costs are associated with taking this plastic out of
8 the ground. Whether it's incidental or not, I want
9 you to determine what those costs are.

10 And I'm just here to tell you, Chairman,
11 based on 509 engineering studies, there's no cost.
12 It's a freebie. And -- and there's nothing in the
13 ISRS statute that I think you can construe to say, you
14 know, disallow costs whether those costs exist or not.

15 Q. Okay. Thank you.

16 JUDGE DIPPELL: Any other Commissioner
17 questions?

18 QUESTIONS BY JUDGE DIPPELL:

19 Q. Okay. I have just a couple more.

20 A. Sure.

21 Q. And I don't want to beat a dead horse
22 here, but I just want to make sure that I understand
23 your -- your argument.

24 So is the Company saying that because the
25 plastic has a negative cost, it doesn't -- you don't

1 have to reach the point of worn out or deteriorated
2 because the Company is not asking to be reimbursed for
3 any costs associated with that plastic? Is that --

4 A. I think that's basically correct, yes.
5 It's -- it's -- it's a freebie, it's a non-cost
6 proposition and, therefore, there's nothing to exclude
7 from the ISRS. And if you wanted to exclude from the
8 ISRS the costs associated with replacing this plastic,
9 it would be a negative cost of 1.6 million and you
10 would need to increase the ISRS by that amount. We
11 haven't asked to do that, but that's how you would go
12 ahead and say I want to exclude the costs associated
13 with replacing rather than re-using this plastic.

14 Q. So the Company could have come in here
15 with just the steel and cast iron, ignored the plastic
16 and it would have been 1.6 million dollars more?

17 A. If -- if -- if we had said based on our
18 engineering studies we want to reflect in our ISRS
19 what the impact of replacing this plastic was rather
20 than re-using it but we've excluded the plastic, we'd
21 have to say increase our ISRS rates by 1.6 million.

22 Q. Okay. And then back to the cast iron and
23 the steel and the worn out and deteriorated. What
24 specifically was your evidence with regard to that
25 that the cast iron and the steel -- we've been talking

1 today about what we all know, but we're in the
2 situation where we have to have evidence. We can't
3 just know it.

4 A. Yeah. And -- and we relied pretty
5 extensively on the Commission's own finding in the
6 last ISRS case that these facilities were in a worn
7 out or deteriorated condition and, that, you know,
8 they were necessary to comply with safety
9 requirements.

10 Now, Public Counsel is choosing to
11 re-litigate that issue and we will go -- we had some
12 in our Direct Testimony that talked about it and we'll
13 talk about it more in our Rebuttal Testimony now that
14 we've seen their Direct Testimony.

15 Q. Okay. One last question just -- and this
16 is just -- I'm -- I'm asking for free legal opinions
17 here. So in the Commission's order denying the ISRS
18 costs that are on appeal, is it your interpretation of
19 the Commission's order that they deemed the costs to
20 be ineligible or that they said that there wasn't
21 enough evidence to determine eligibility or does that
22 matter? Does it matter?

23 A. I -- my own view is that if you look at
24 how that case progressed and what the Commission said
25 in its Report and Order, I think that they thought we

1 were on the right track as far as these engineering
2 cost analyses that we were doing. Analyses that no
3 party has ever disputed even though we've done them a
4 number of times now.

5 And so when the Commission said if you
6 want to renew your objective of recovering these
7 plastic facilities that really don't have a cost, we
8 want you to do this kind of analysis for each and
9 every project.

10 And so like I said, we took what the
11 Commission said very seriously. We went out and we
12 did the analysis for each and every project, took 509
13 of them to do it. The Staff was very cooperative in
14 looking at the analysis. They were very cooperative
15 in suggesting enhancements that would facilitate their
16 review. And in the end, I think we did what the
17 Commission's evidentiary roadmap told us it wanted us
18 to do.

19 Q. Okay. And one -- one last thing. In
20 your position statement on page 3 we're -- under the
21 topic of it's -- it's B, If a party believes that
22 certain costs are not eligible for an inclusion in an
23 ISRS charges to be improv-- approved by the Commission
24 in this proceeding, what are those costs and why are
25 they not eligible for inclusion -- it's that issue.

1 And the furt-- the bullet point down
2 there talks about OPC's proposal to disallow costs for
3 projects that involve the replacement rather than
4 re-use of plastic facilities simply ignores the
5 numerous cost studies that have demonstrated that such
6 replacements serve to reduce rather than increase the
7 Company's ISRS costs and charges and is based on the
8 discredited theory that such facilities are not worn
9 out in -- in a worn out or deteriorated condition.

10 When you say based on a discredited
11 theory, are you discussing discredited by your
12 evidence or discredited somewhere else?

13 A. Well, I think it's discredited by our
14 evidence, but I was referring primarily to this
15 Commission's own finding in its last Report and Order.

16 Q. Okay. Thank you.

17 JUDGE DIPPELL: Seeing no more questions
18 for you then, thank you very much, sir.

19 MR. PENDERGAST: Thank you very much.

20 JUDGE DIPPELL: Okay. I think then we
21 are ready for Staff.

22 MR. THOMPSON: Thank you, Judge.

23 May it please the Commission. January
24 2019 Spire East filed its application and tariff
25 seeking increased annual ISRS revenues of 9,203,991

1 dollars. On the same day, Spire West filed its
2 application and tariff seeking increased annual ISRS
3 revenues of 9,769,606 dollars.

4 Staff has completed its audit and
5 recommends that the Commission grant Spire East an
6 annual ISRS revenue increase of 6,480,670 dollars and
7 to Spire West an annual ISRS revenue increase of
8 6,563,189 dollars. Those numbers are going to change
9 because the tax issue has been resolved and I do not
10 yet have the new calculations from the auditors.

11 But from Staff's perspective, there were
12 two issues in this case. As I said, the tax issue has
13 been resolved. There remains one issue. The
14 applications contain certain transactions that were
15 presented to the Commission in Spire's last ISRS
16 application and whose recovery was denied by the
17 Commission. Spire appealed that determination and
18 that is now pending.

19 Since the ISRS recovery of those
20 transactions is now before the Court of Appeals, Staff
21 contends that the Commission lacks jurisdiction to
22 consider the ISRS eligibility of those transactions.
23 Staff filed a Motion to Dismiss in each case, bringing
24 that issue with appropriate citations of authority to
25 the Commission. And Staff's calculation of the

1 appropriate annual ISRS revenue increase for Spire
2 East and for Spire West that I just mentioned excludes
3 those transactions.

4 In its Motions to Dismiss, Staff cited
5 Reynolds versus Reynolds for the proposition that as a
6 general matter, upon filing of a Notice of Appeal, a
7 trial court loses almost all jurisdiction in a case.
8 Reynolds was a dissolution of marriage case. The
9 issue was a nunc pro tunc order issued by the trial
10 court after the Notice of Appeal had been filed. That
11 order was held to be improper because it changed the
12 property division rather than simply correcting a
13 clerical error.

14 As recently as 2015, the Southern
15 District of our Court of Appeals cited Reynolds for
16 the same proposition that we have cited it for in the
17 case Nicholson versus Surrey Vacation Resorts, which
18 is at 463 S.W. 3d 358. Reynolds itself had cited an
19 earlier case, State ex rel. Stickleber versus Nixon,
20 which held that a court was without authority to grant
21 a Motion for Change of Judge after a Notice of Appeal
22 has been filed. There are also earlier cases that say
23 the same thing.

24 Ren-- another case, Top Craft, Inc.
25 versus International Collection Services, 258 S.W. 3d

1 488, explains that -- and I quote -- the general rule
2 against simultaneous trial and appellate court
3 jurisdiction exists for a good reason. We need not
4 even begin to list illustrations why the alternative
5 would be practically unworkable.

6 Spire filed a lengthy response to Staff's
7 motions raising a number of arguments, none of which
8 explain why this principle would not be applicable
9 here. Staff contends that it does apply here and that
10 Spire has not shown that it does not.

11 Mr. Pendergast in his opening statement,
12 in response to questions from the Bench, spoke about
13 rate cases and how the fact that something's on appeal
14 has never stopped the Commission from proceeding with
15 a rate case. If you think about it, however, it's
16 because of a difference in the time period involved.
17 It's kind of like taxes. In taxes, every year is a
18 new cause of action. So the fact that a decision was
19 made on my 2019 taxes wouldn't stop me from raising
20 the same issue in 2020.

21 So in a rate case, you're being asked to
22 set new prospective rates, rates that are going to
23 apply in the future. So the fact that the last rate
24 case is on appeal doesn't stop you from deciding what
25 the future rate's going to be for a new period.

1 Consequently, the arguments about rate cases simply
2 have no applicability here.

3 It's also Staff's position that the
4 overhead issue raised by the Office of the Public
5 Counsel is properly a rate case issue. If you look at
6 Mr. Schallenberg's testimony, you'll see that he talks
7 about prudence. We know for a fact that prudence is
8 not an issue in an ISRS case. The -- the issues in an
9 ISRS case are eligibility and the accuracy of the
10 calculations.

11 Staff is going to present five witnesses
12 in this case. J Luebbert is Staff's policy witness.
13 Kim Bolin and Keith Foster are auditors; they will
14 answer any questions you have about auditing matters,
15 including computations. Chuck Poston is an engineer.
16 He will talk about engineering matters. And finally
17 Dave Sommerer is Staff's rate design witness. Thank
18 you.

19 JUDGE DIPPELL: Are there questions for
20 Mr. Thompson? Mr. Chairman?

21 BY CHAIRMAN SILVEY:

22 Q. Just real quick. Does Staff think that
23 the cost avoidance studies demonstrated that there was
24 a worn out or deteriorated condition for the projects
25 which included plastic?

1 A. Yes. Staff does believe that.

2 Q. And why does Staff believe that?

3 A. Staff accepts the argument that
4 Mr. Pendergast gave you that where the cost is zero or
5 negative, that it doesn't matter. In other words, the
6 ISRS is a way for the Company to recover money without
7 having to go through a general rate case for certain
8 capital improvements; namely, the replacement of worn
9 out mains and other distribution infrastructure.

10 So if what was replaced cost nothing,
11 then it doesn't matter because you're not asking the
12 ratepayers to pay more money for something that
13 doesn't fit within the eligibility requirements. If,
14 in fact, what was replaced reduces the amount that
15 you're asking the ratepayers to pay, then Staff views
16 that as a good thing.

17 So it could be that the Court of Appeals
18 will decide that that line of reasoning is wrong. In
19 that case, we're all back to square one again. But
20 Staff accepts at this point that where the plastic
21 pipe that repla-- was replaced does not add to the
22 ISRS request in terms of the amount of money requested
23 or even reduces it, then it's permissible.

24 Q. Okay. Thank you.

25 JUDGE DIPPELL: Are there other

1 Commission questions for Mr. Thompson?

2 COMMISSIONER KENNEY: No, thank you.

3 BY JUDGE DIPPELL:

4 Q. I just have a couple for you.

5 A. Yes, ma'am.

6 Q. So just to clarify again, what is
7 currently in -- in Staff's current recommended --
8 recommendation for the ISRS amount, what is included
9 or excluded from that? So that doesn't include the
10 old request. I'm calling it the old request.

11 A. Right.

12 Q. And now the tax issue is settled, so --

13 A. Which is going to change the numbers.

14 Q. Right. So that's not -- is there
15 anything else that Staff excluded?

16 A. No.

17 Q. Okay. Okay. That's what I wanted to
18 know. Thank you.

19 A. Thank you, Judge.

20 JUDGE DIPPELL: All right then. We are
21 ready for Public Counsel.

22 MR. CLIZER: May it please the
23 Commission. Spire cannot collect costs through an
24 ISRS unless they prove those costs are ISRS eligible.
25 This is perhaps the most basic and fundamental aspect

1 of an ISRS application.

2 The problem in this case is that Spire
3 has failed to prove that all of its costs are, in
4 fact, ISRS eligible. Specifically, Spire has failed
5 to prove that the replacements it made meet the
6 definition of utility -- gas utility plant project,
7 which is a requirement for ISRS eligibility, and they
8 have failed to prove that their overhead costs are
9 justified.

10 Let's go through both of those in turn.
11 With regard to the failure to prove that the pipes
12 that are replaced are ISRS eligible, the problem is a
13 fairly simple one. They simply have put forward no
14 evidence to show that any of the pipes they released
15 are worn out or in a deteriorated condition.

16 Now, just real quick, Mr. Pendergast
17 suggested this is a new argument. It's not. We
18 actually raised this in the last case as well. But
19 beyond that, let's discuss the reason basically for
20 why Spire has decided it doesn't need to put on any
21 evidence.

22 Spire has stated in its DR responses that
23 it doesn't have to prove that the pipes that are
24 replaced are worn out and deteriorated because they
25 are, by definition, worn out and deteriorated. In

1 fact, they simply say that as long as they're making
2 replacements pursuant to their replacement program,
3 they are de facto worn out, deteriorated.

4 The problem is that this has been
5 directly contradicted by the Missouri Supreme Court.
6 And I'm going to quote -- this is from the Verified
7 Application and Petition of Liberty Energy Midstates
8 Corp. versus Office of Public Counsel. The -- this
9 case, the Supreme Court basically explains what the
10 definition of deteriorated was.

11 And it stated at the end, The PSC erred
12 in relying upon its presumption that any change to a
13 gas utility plant project qualifies for an ISRS
14 surcharge. Only infrastructure which is in a worn out
15 or deteriorated condition, as stated herein, is
16 eligible for an ISRS surcharge. Hence, the PSC's
17 order is not lawful because it is contrary to the
18 plain language of the statute, which limits projects
19 that qualify for an ISRS surcharge.

20 So as you can see, it's very simple. You
21 have to prove that the pipes you replace are worn out
22 and deteriorated in order for you to get ISRS
23 recovery. And, again, Spire has simply put forward no
24 evidence on that point.

25 And it's not like that's -- it's not like

1 there isn't evidence they could have put forward. For
2 example, Missouri American Water is another company
3 that has an ISRS. It's a different statute, but it's
4 essentially the same kind of rules. The way that
5 they've solved this problem in their last case --
6 because we raised this to them. We said how do you
7 know the pipes are worn out and deteriorated?

8 Well, they said, we have a program that
9 tracks the number of leaks we have in our lines. And
10 enever we have -- whenever we have so many leaks
11 within a certain section of pipe within a certain time
12 limit, we go and replace that pipe. And we at the
13 OPC, we said, yeah, actually that makes sense. If you
14 have pipes that are leaking constantly, they're
15 probably worn out and deteriorated. Yeah, we're okay
16 with that.

17 So what about Spire? Well, we asked
18 Spire where is your leak reports? And they basically
19 said all the leak repair that we're doing is in the
20 blanket work orders, which is something you heard
21 Pendergast say just here today. Whenever they're
22 doing leak repairs, whenever they're doing repairs for
23 the pipes, they're putting the blanket work orders.
24 Which is why we are not challenging the blanket work
25 orders. If they're repairing leaks, they're probably

1 worn out and deteriorated.

2 But what about the other thousands of
3 feet of pipe, literally miles and miles of pipe that
4 they replaced? If it's not leaking, what other
5 evidence do they have? You know, they could have gone
6 out and gotten physical evidence. They could have
7 tested the pipes, taken small samples, just said is
8 this corroded? Is there signs of graphitization? Is
9 there signs of other deterioration?

10 But they didn't. They didn't put on --
11 they didn't give us any evidence of anything they
12 replaced outside of the blanket work orders that's
13 actually worn out and deteriorated. And that's the
14 problem we have. It's a very, very simple one.

15 Now, I'm going to address this cost thing
16 that's -- that's been brought up here. And the first
17 thing I want to address is Mr. Pendergast -- or rather
18 I should just say Spire has -- has made the argument
19 that there was no costs involved in replacing plastic
20 pipes. That's -- that's simply not true. I mean, the
21 only way that's true is if some magic fairy is coming
22 out, waving their wand and the pipes are coming out or
23 being replaced, you know, for free.

24 That's not, in fact, the case. We know
25 that they spent money to replace plastic pipes because

1 that's what they're trying to collect in this ISRS
2 case. If they didn't spend money, if they had no
3 costs, we would not be here.

4 Their argument is we had no costs because
5 we compared what we did spend to some hypothetical
6 situation where we could have spent more, we could
7 have acted essentially imprudently by spending more.
8 And because we didn't act imprudently, therefore, we
9 had no costs. That doesn't make any sense, to me at
10 least. And I -- I would love to have somebody explain
11 it to me in a way that could make sense.

12 The simple fact of the matter is Spire
13 spent money replacing plastic pipes. And we know that
14 because that's what they're here trying to collect.
15 Those pipes weren't worn out and deteriorated and the
16 Courts have told us they cannot collect those through
17 an ISRS. They can still collect it through a rate
18 case. We're not challenging that. They just can't
19 collect it through an ISRS.

20 I urge the Commission, if it has any
21 other questions on this, to address those to our
22 expert witness, Mr. John Robinett. He knows a lot
23 about this issue. He's worked on these cases several
24 times now and is an excellent resource for -- for
25 understanding this particular problem.

1 So turning to the second problem that the
2 OPC identified, the problem with Spire's overhead.
3 Okay. So overheard -- and this is explained in the
4 Direct Testimony of our other witness,
5 Mr. Schallenberg. Overhead represents the ongoing
6 business expenses a company incurs which are unrelated
7 to labor and material costs. They're the costs that a
8 company has on a day-to-day, you know, business
9 operating standard. They're normally a fixed cost,
10 one that generally doesn't go up and down very often
11 and one that generally should make up a rather small
12 percentage of a company's overall costs.

13 The problem here is that Spire's overhead
14 costs are making up 50 percent or more of the total
15 costs that are being incurred for each of these
16 projects. What that means is if you take the cost of
17 all the pipe that Spire installed and all the costs
18 that they paid in labor to install that pipe and all
19 the costs that they paid for the tools to install that
20 pipe, which is all separately listed as line items on
21 their individual analyses, and you add up all those
22 costs, it is still less than the amount they're
23 charging in overhead, which we think is utterly
24 ridiculous.

25 I mean, it literally means that for every

1 million dollars Spire spent on replacing pipes, they
2 spent a million dollars more just for the increase to
3 their day-to-day operations related to just these ISRS
4 projects. That's on a project-by-project basis
5 essentially.

6 I really can't explain any clearer why I
7 think that's a problem, which again, is why I would
8 just recommend that if the Commission has questions,
9 they address them to our expert I've already
10 identified, Mr. Schallenberg. He's -- he's an
11 accounting master with decades of years understanding
12 this issue and he's every well equipped to answer any
13 questions you might have on that.

14 I will also say, because it has been
15 brought up, whether or not this should be addressed
16 here in an ISRS case. The OPC's position is
17 essentially that Spire cannot prove the costs are ISRS
18 eligible because they have not proven -- provided
19 evidence to show that they are, in essence.

20 If the Commission is to find that this
21 should wait for a prudence review case, then the OPC
22 will pursue it there obviously. We're not letting up
23 on the issue, of course, is essentially what I'm
24 saying there.

25 Just to close, I'm going to touch on a

1 few other issues. We've heard on the Motion to
2 Dismiss. I think that Mr. Thompson has explained that
3 issue exceptionally well and I really can't add
4 anything to that. The tax issue hopefully will now be
5 settled to some degree, so I won't address that.

6 Which leads me just to one last thing.
7 And it's -- I want to drive home a point that
8 sometimes gets lost here. This ISRS proceeding is not
9 about whether or not Spire can collect or whether they
10 should, in fact, be doing these replacements. They
11 should. That's -- that's definitely the case.

12 Spire should be making the replacement it
13 needs to make because it's required to. It's required
14 to replace cast iron. It's required to replace bare
15 steel. The question here is simply and solely should
16 they recover through the ISRS or should they recover
17 it through a rate case. And in order to recover the
18 costs of the ISRS, they have to prove its ISRS
19 eligible. If they don't, it goes to a rate case.

20 The OPC isn't saying they shouldn't do
21 it, the OPC isn't saying they can't collect it. It's
22 all a matter of when it gets collected. And the when
23 should be in a rate case. And that's fairly it.

24 JUDGE DIPPELL: Questions, Mr. Chairman?

25 BY CHAIRMAN SILVEY:

1 Q. Okay. So kind of on that last point. So
2 if the Company were to decide to perform replacements
3 that cost more because they're going to come back and
4 do it in a rate case instead of during these ongoing
5 ISRS projects, you kind of alluded to the fact that
6 you would argue that that's imprudent.

7 A. Yes.

8 Q. So how are they supposed to recover? If
9 you're saying they can't recover during ISRS and if
10 they do it the way that you believe the statute
11 dictates they do it, it's imprudent --

12 A. This is an important point. We have
13 never stated they're supposed to repla-- re-use
14 plastic. That is not our position. Our position is
15 they can't recover the cost to replace it in ISRS. If
16 it's more prudent to do the replacements, they should
17 do the replacements. They should then go to a rate
18 case to collect the money for it.

19 Q. So you would or would not argue that
20 those costs were imprudent, being higher than they
21 would have been had they been done during the same
22 projects that were recovered for ISRS?

23 A. We want Spire to act prudently. If
24 Spire's avoided cost studies shows that it was more
25 prudent for them to have replaced as rather than

1 re-used, then they should have replaced because that
2 was the prudent course of action. But prudence is not
3 a question for an ISRS, which the other parties have
4 themselves pointed out.

5 The fact that it was more prudent for
6 Spire to have done replacement of plastic as opposed
7 to re-use of plastic, that's fine. That's not a
8 question of el-- eligibility for an ISRS. It's just
9 not ISRS eligible.

10 Q. So you're suggesting that physically
11 during these projects, certain components, the costs
12 associated with replacing them, should be recovered
13 through the ISRS and certain components should not be
14 recovered during ISMS -- ISRS but recovered during the
15 next rate case?

16 A. I am saying that anything that Spire can
17 prove is ISRS eligible they're entitled to recover.
18 But they have to actually prevent -- sorry, provide
19 evidence to prove that point.

20 Q. Okay. Thank you.

21 JUDGE DIPPELL: Questions?

22 MR. CLIZER: Was that clear? I'm sorry.

23 COMMISSIONER COLEMAN: Clear as mud.

24 JUDGE DIPPELL: That's all right. Did --

25 COMMISSIONER COLEMAN: I said it was

1 clear as mud.

2 JUDGE DIPPELL: Did you have any
3 additional questions, Commissioner? Okay. Let me
4 look -- look at my list here for you.

5 BY JUDGE DIPPELL:

6 Q. Is there --

7 COMMISSIONER COLEMAN: We get you.

8 MR. CLIZER: I hope so.

9 BY JUDGE DIPPELL:

10 Q. Is there somewhere in your testimony that
11 Public Counsel provided a figure of what you thought
12 was recoverable as an ISRS?

13 A. Oh. Regrettably, no. We weren't
14 actually able to crunch the numbers ourselves. We
15 have been -- we have a lot of cases going on.

16 Q. I -- I --

17 A. As you know, empire is coming up and our
18 experts are working on that just as hard as this.

19 Q. Okay. So what you're challenging --
20 you're -- you're not challenging the blanket work
21 orders with regard to whether that -- those pipes were
22 worn out and deteriorated, but you would still
23 challenge whether or not overhead in those blanket
24 work orders should be included?

25 A. I would say that's a fairly accurate

1 statement. And just to be clear, we're only
2 challenging replacements that were made. The
3 relocations, cathodic protection that might have
4 occurred in the blankets, we're also fine with that.

5 Again, it's because Spire actually came
6 to us and they said here are the relocation orders
7 that we received. And we said yep, those are --
8 that's evidence. So we're okay with the relocations,
9 cathodic protection and any replacements made to
10 actually leaking pipes.

11 Q. But not the overhead?

12 A. Right.

13 Q. Okay. And --

14 A. Also -- I'm sorry. I cut off.

15 Q. No, go ahead.

16 A. I also wanted to make clear, we're -- we
17 have no problem with the capitalization aspect of the
18 overhead either. This is simply and solely an amount
19 thing. We're not challenging the fact they can
20 capitalize it. That was a point that was brought up
21 in Pendergast. I just wanted to make sure that was
22 clear.

23 Q. So how does the percentage of the total
24 costs that the overhead is, how does the
25 reasonableness or unreasonableness of that relate to

1 whether or not the pipe was worn out and deteriorated?

2 I mean the --

3 A. What -- are you saying the over-- how
4 does overhead relate to whether the pipes are worn out
5 or deteriorated?

6 Q. No.

7 A. No.

8 Q. You -- in the testimony, there was
9 discussion about well, this overhead is unreasonable
10 because it's such a great percentage of the total
11 cost. And I was missing a step then that led me to
12 say oh, well, since that's unreasonable, it shouldn't
13 be included in a ra-- ISRS.

14 A. I see. Essentially our argument is
15 simply that Spire has to prove the eligibility of all
16 of its costs and, therefore, would have to prove the
17 reasonableness of all of its costs. This is -- and I
18 can't -- well, no. I can quote the statute. I lied.

19 I would quote generally the 393.150.2.
20 At any hearing involving a rate sought to be
21 increased, the burden of proof to show that the
22 increased rate or proposed increased rate is just and
23 reasonable shall be upon the gas corporation, and then
24 et cetera, et cetera, all the other corporations.

25 Our point is essentially just that that

1 includes an ISRS case. They have to prove that their
2 costs are reasonable. If they can't prove that, then
3 they shouldn't be allowed to include those costs.

4 Q. Okay. Okay. Do you know if overhead has
5 been included in past ISRS cases for any company?

6 A. I'm not entirely sure I would say no, but
7 let me put it this way, it absolutely wouldn't
8 surprise me. I expect that it was.

9 Q. Okay. Okay. I think that's all the
10 questions I have. Thank you.

11 COMMISSIONER KENNEY: Hey, Judge --

12 JUDGE DIPPELL: Yes. I'm sorry.

13 COMMISSIONER KENNEY: -- I'd like to
14 ask -- I'd like to ask Mr. Pendergast another
15 question.

16 JUDGE DIPPELL: Okay. That's fine.

17 Mr. Pendergast --

18 MR. CLIZER: Okay. Should I -- I
19 should --

20 JUDGE DIPPELL: Go ahead and step down.
21 Thank you.

22 COMMISSIONER KENNEY: You can stay
23 seated. It doesn't matter to me.

24 JUDGE DIPPELL: You can stay where you
25 are.

1 MR. PENDERGAST: Sure.

2 (Questions responded to by
3 Mr. Pendergast.)

4 BY COMMISSIONER KENNEY:

5 Q. You mentioned that you followed the
6 Commission's evidentiary roadmap from GO-2018-0309 and
7 0310 regarding I believe it was if Spire wants to
8 revisit the argument that the replacements were either
9 no cost or lower cost, that you could do a separate
10 cost analysis for each project, you could provide
11 evidence that it was a worn out or deteriorated -- the
12 pipe or that you could argue that the plastic pipe
13 replaced was incidental or -- or replaced with the
14 components.

15 Can you tell me what per-- of those 500
16 individual analyses, how many of them dealt with the
17 pipe being worn out or deteriorated? Or any of them?

18 A. I suspect we'll have a witness that can
19 probably answer that better than I can, but that it
20 was a mixed bag.

21 Q. It was a mixed bag?

22 A. I mean --

23 Q. Because you have to do a -- I mean the
24 only way to know if they're worn out is to dig -- dig
25 them up.

1 A. Yeah. And what I can tell you,
2 Commissioner, is that, you know, all of these projects
3 included bare steel and cast iron main. And we know
4 with certainty that those were in a deteriorated --

5 Q. I'm not worried about -- I'm just going
6 on a plastic pipe right now. I understand --

7 A. Yeah. And then --

8 Q. I don't doubt any of that. I'm not --

9 A. And on the plastic pipe, you know, we
10 principally relied on the cost analysis that showed
11 there was no cost --

12 Q. Okay. That's what I figured.

13 A. Yeah.

14 Q. Probably -- probably none on the -- well,
15 because you relied on the Commission and not what the
16 Court of Appeals stated. That's my -- that's my only
17 concern is that -- I understand, but it's -- we still
18 have to weigh that because we have to -- under my
19 understanding, we have to prove it was worn out or
20 deteriorated.

21 A. Well, I think that under the roadmap we
22 were given by the Commission, you need --

23 Q. That was one of the options.

24 A. One of the options. And that's the
25 option that we basically took. And --

1 Q. That makes sense.

2 A. Yeah.

3 Q. I see that. Okay. But thank you.

4 A. Thank you.

5 JUDGE DIPPELL: All right. Any other
6 questions for the attorneys?

7 All right. Seeing none then, I guess we
8 can go ahead and get started with our witnesses. And
9 Spire is first up with Mr. Kuper.

10 MR. ZUCKER: Thank you, Your Honor.
11 He -- Mr. Kuper is -- his testimony pertains to the
12 tax issue. And I'm wondering if we can just enter his
13 testimony into evidence along with Ms. Bolin's on --
14 on that issue since we've settled it.

15 MR. CLIZER: We have no problem.

16 MR. ZUCKER: Would you mind, Your Honor?

17 JUDGE DIPPELL: This might be a good
18 opportunity then to take a short break so that you all
19 can discuss the admissibility of that testimony and
20 how you want to handle that, as well as the numbers
21 then. So actually let's take about a ten-minute --
22 well, yeah. Let's take about a ten-minute break and
23 come back at ten till.

24 (A recess was taken.)

25 JUDGE DIPPELL: We're back on the record

1 after a break. The tax folks who are crunching
2 numbers, just go ahead and do your thing and we're
3 going to jump ahead in the schedule then and start
4 with the second witness, who's Mr. Atkinson.

5 MR. BERLIN: Are we doing the second
6 witness?

7 MR. PENDERGAST: Yeah. Yeah. We're not
8 going to put Chuck up since he's the tax guy.

9 JUDGE DIPPELL: We'll -- we'll come back
10 and deal with the tax issue and that evidence and the
11 numbers and everything when we -- when we get a
12 chance.

13 So Mr. Atkinson, could you raise your
14 right hand?

15 (Witness sworn.)

16 JUDGE DIPPELL: Thank you.

17 Mr. Pendergast. I guess I should have
18 said as the procedural order said, we -- since the
19 short time frame, we had written direct filed and then
20 we were going to do live rebuttal. So I will just
21 have you, you know, present your witness and your
22 testimony like we would normally do, but then also
23 your live rebuttal and then we'll take
24 cross-examination on the whole thing. Is everyone
25 good with that? Okay.

1 MR. PENDERGAST: Yeah. Your Honor, on
2 the live rebuttal, we took the liberty of sort of
3 working on our live rebuttal and reducing the
4 questions I was going to ask and the answers he was
5 going to give to paper. And we thought it might
6 expedite things if I could hand out copies of this and
7 I could have him, you know, sponsor his live rebuttal
8 in written form and provide it to you. Or I can -- we
9 could just go through the process.

10 JUDGE DIPPELL: Well, I think we're all
11 still going to need to hear it and -- you know, in
12 order for the counsel and the Commission to be able to
13 answer -- or ask questions of their own and so forth.
14 So while I don't mind if you want to have it as a
15 follow-along or -- or offer it as an exhibit even, I
16 think I'd still like to hear the question --

17 MR. PENDERGAST: Okay.

18 JUDGE DIPPELL: -- and answers

19 MR. PENDERGAST: Would people like copies
20 of what he's about to say or just have it live?

21 COMMISSIONER COLEMAN: Live is fine.

22 MR. PENDERGAST: Okay. Great.

23 JUDGE DIPPELL: Okay. I guess we'll
24 just -- but thank you for --

25 MR. PENDERGAST: Sure.

1 JUDGE DIPPELL: -- doing that. Anything
2 that shortens things is usually good, so.

3 MS. SHEMWELL: Before we get started,
4 could I ask, are you withdrawing Mr. Kuper? Is that
5 where we are in the --

6 MR. PENDERGAST: We were just waiting to
7 kind of finish up the final massaging of the numbers.
8 And we don't believe he's going to have to take the
9 stand unless the Commission wants him to, but we
10 figured we'd move on and -- and do Rob in the
11 meantime.

12 MS. SHEMWELL: Thank you.

13 JUDGE DIPPELL: All right. Go ahead,
14 Mr. Pendergast.

15 MR. PENDERGAST: Thank you, Your Honor.

16 ROB C. ATKINSON, having been first duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION BY MR. PENDERGAST:

19 Q. Mr. Atkinson, would you please state your
20 name and business address for the record.

21 A. Yes. My name is Rob C. Atkinson and I
22 work for Spire at 700 Market, St. Louis, Missouri
23 63101.

24 Q. And are you the same Rob C. Atkinson who
25 prev00 previously caused to be filed in this

1 proceeding Direct Testimony that has been premarked as
2 Exhibit 6?

3 A. Yes.

4 Q. Do you have any corrections to make to
5 that Direct Testimony?

6 A. No, I do not.

7 Q. If I were to ask you the same questions
8 today that appear in your pre-filed Direct Testimony,
9 would your answers be the same?

10 A. Yes, they would.

11 Q. And are those answers true and correct,
12 to the best of your knowledge and belief?

13 A. Yes, they are.

14 MR. PENDERGAST: Okay. At this time I
15 would offer Mr. Atkinson's pre-filed Direct Testimony
16 into evidence.

17 JUDGE DIPPELL: Okay. And that -- that
18 has previously been marked as Exhibit 6.

19 MR. PENDERGAST: Yes.

20 JUDGE DIPPELL: And so are any objections
21 to the Direct Testimony of Rob C. Atkinson?

22 MR. CLIZER: No, Your Honor.

23 MR. BERLIN: No, Judge.

24 JUDGE DIPPELL: Seeing none, I will admit
25 that into evidence.

1 (Exhibit 6 was received into evidence.)

2 BY MR. PENDERGAST:

3 Q. Mr. Atkinson, have you had the
4 opportunity to review the Direct Testimony filed by
5 the Office of Public Counsel and the Direct Report
6 filed by the Staff in these cases?

7 A. Yes, I have.

8 Q. Do you have any rebuttal to Staff's
9 Direct Report?

10 A. No. Other than just to say that we
11 appreciated Staff's working with us on the -- the
12 analysis that we did to be able to provide additional
13 analysis on the costs for the -- the plastic that was
14 replaced in our -- in our replacements for ISRS.

15 Q. Do you have any rebuttal to the Direct
16 Testimony filed by OPC?

17 A. Just on Mr. Robinett's Direct Testimony.

18 Q. Please proceed.

19 A. Yes. So there was -- obviously
20 Mr. Robinett had several issues with our ISRS, mainly
21 on -- not on the analyses, but on the fact that the --
22 the pipe is worn out and deteriorated. One of the
23 items was that the -- that the Company had not
24 provide -- provided evidence that -- that the pipeline
25 was worn out and deteriorated.

1 We believe that we have provided that
2 evidence. We feel that the -- the pipe as -- as we've
3 received orders from the Commission, as well as our
4 federal regulators, show that the cast iron and bare
5 steel pipes are in a worn out, deteriorated
6 standpoint. We also have our -- our DIMP plans that
7 show that. And we do testing on those pipelines
8 to -- as we do breaks and leak repairs to show that
9 those lines were worn out and deteriorated as well.

10 Q. When you say DIMP, could you please
11 elaborate for the Commission what DIMP means?

12 A. Yeah. DIMP is our company's Distribution
13 Integrity Management Program. It is a way for our us
14 to define all of the risks to our pipeline system, and
15 it's categorized and ranked by -- by risk. And our
16 cast iron and -- and our bare steel are ranked higher
17 in the -- in the DIMP program as part of that -- as
18 part of that ranking.

19 Q. And how does cast iron and bare steel
20 rank in the DIMP of Spire Missouri?

21 A. Well, high-- higher than -- than most of
22 the other items. The highest in our system that's
23 ranked in the DIMP program is third-party damage, but
24 cast iron and bare steel are ranked right below those
25 in our -- in our program.

1 Q. And why would they be ranked at that
2 level in the Company's DIMP?

3 A. Well, over the years, certainly the --
4 the many years that they've been in -- in service,
5 they have been shown that they've wo-- been worn out
6 and deteriorated. They are -- have the li-- the
7 highest likelihood of leaks and breaks in our system.
8 And we've -- we've shown that through the years in
9 our -- in our minimum mandated program that we use on
10 both sides of the state.

11 Q. And you mentioned that federal safety
12 officials have actively encouraged gas utilities like
13 Spire to replace these cast iron and unprotected steel
14 facilities; is that correct?

15 A. Yes. That's correct. DOT and -- and
16 PHMSA have issued joint statements to regulating --
17 you know, the United States regulating authorities
18 that they recommend accelerated replacements of those
19 systems. And they specifically bring out cast iron
20 and bare steel in those.

21 And they also mention the utilization of
22 ISRS programs as a way -- as a methodology for gas
23 companies to -- to utilize those rat-- rate recovery
24 programs for these -- these replacement programs.

25 Q. And can you recall when these federal

1 safety officials communicated these views?

2 A. Yeah. I believe it was December of 2011.

3 MR. PENDERGAST: Okay. If I could
4 approach the witness.

5 JUDGE DIPPELL: Yes, go ahead.

6 BY MR. PENDERGAST:

7 Q. Mr. Atkinson, can you please identify the
8 document I just handed you?

9 A. Yes. This is a document co-sponsored by
10 USDOT and PHMSA and addressed to the National
11 Association of Regulatory Utilities Commissioners.
12 The date is December 19th, 2011.

13 Q. And is that one of the communications you
14 were referring to?

15 A. Yes, it is.

16 Q. And can you just briefly state what they
17 were communicating in that letter?

18 A. Well, in the first paragraph they -- they
19 are telling NARUC that they continue to support
20 efforts to accelerate the repair, rehabilitation and
21 replacement of high-risk infrastructure in pipeline
22 systems. And then in the next page they talk about
23 effective programs for these pipelines and
24 specifically call out cast iron gas mains and bare
25 steel pipe.

1 Q. Okay. And in your view, would that
2 emphasis on replacing those kind of facilities be made
3 because there's a judgment that those facilities are
4 either in a worn out or deteriorated condition?

5 A. Yes, that would be my -- my thoughts as
6 well. And I also wanted to mention that on the first
7 page in the last paragraph, they mention that the
8 Commissions have encouraged timely repair using the
9 special rate mechanisms and they talk about ISRS
10 replacement programs in that statement as well.

11 Q. Thank you. Are you aware of OP's
12 position about doing additional testing to determine
13 the worn out or deteriorated condition?

14 A. Yes, I am.

15 Q. And do you think that that testing is
16 necessary to make a judgment that cast iron and bare
17 steel main is worn out or deteriorated?

18 A. No, I do not.

19 Q. Okay. And why do you say that?

20 A. Well, we believe that the -- the pure
21 fact that these -- these pipelines have been in
22 service for many, many years -- many beyond their
23 useful life -- that their -- the testing needs would
24 be exorbitantly cost-- costly to our ratepayers
25 without adding any value.

1 When we do dig these -- these item --
2 these pipelines up to do the replacements, we see
3 regularly that they are in a worn out or deteriorated
4 condition. Many times with cast iron there's not much
5 left of -- of the ability for that pipe to -- to be
6 viable for that gas line.

7 And what we're trying to do is be
8 proactive in replacing these pipelines as opposed to
9 being reactive when leaks occur that can be certainly
10 very hazardous and dangerous to the public. We're
11 trying to get ahead of that. And so it would take
12 many years to try to test all of those pipelines to
13 determine what we already know, that they're worn out
14 and deteriorated.

15 Q. Yeah. And to your knowledge and based on
16 your experience with, you know, cast iron and
17 unprotected steel being taken into the ground, how
18 often do you encounter a situation where tho-- where
19 those facilities are not in a worn out or deteriorated
20 condition?

21 A. I -- I've never seen a case where we've
22 dug up cast iron or bare steel pipe that has not shown
23 to be in some -- some sort of deteriorated state.

24 Q. You mentioned the useful life of these
25 facilities. Do you recall that?

1 A. Yes.

2 Q. Does the Company believe that the fact
3 that a cast iron main is at or exceeded its useful
4 life alone means that it's in a deteriorated
5 condition?

6 A. No. We've never said that -- Spire's
7 never said that the age alone has -- determines that
8 the -- the pipe is worn out and deteriorated. We're
9 also relying heavily on Commission's own findings, as
10 well as our -- our federal regulators that cast iron
11 and -- and bare steel are past their useful life as --
12 as well as being worn out, deteriorated. Our DIMP
13 programs reflect the -- the fact that these pipes are
14 worn out and deteriorated.

15 So there's many other factors, but
16 certainly the age is something that should be
17 considered, but it's not the only consideration.

18 Q. Okay. And do you think that the cast
19 iron may in other facilities have exceeded their
20 useful life, while not a factor that should be
21 considered to the exclusion of all others, do you
22 think that has some meaning?

23 A. Certainly. Absolutely.

24 Q. And do you have -- what's your
25 understanding of what an estimated useful life is?

1 A. Well, I think they've got a different,
2 you know, useful life for each side of the state, but
3 there's -- you know, one shows cast iron at 50 years
4 and one shows 80 years. But, you know, in many cases
5 we're well over 80 years. In some cases we're not.
6 But by the time we get to replacing all of them, they
7 will certainly be up to their -- that depreciated life
8 for those -- for those facilities.

9 Q. And when you say the depreciated life,
10 will they, on average, be over their average --

11 A. Yeah.

12 Q. -- estimated useful life?

13 A. Yes, they will.

14 Q. And do you have a sense of what goes into
15 determining an estimated useful life?

16 A. Well, I -- I'm not an expert on the
17 depreciation part of it so I wouldn't probably be able
18 to answer how they determine that, but I assume
19 there's some sort of studies that have been done based
20 upon what they feel the average life span of -- of
21 those facilities and place it as part of our
22 depreciation rates.

23 Q. And do you know whether that analysis or
24 study is based on a assessment of actual facilities of
25 the utility and its performance?

1 A. I don't know that.

2 Q. Okay. Can you just give a brief
3 explanation of how bare steel and a cast iron main
4 deteriorates over time?

5 A. Yes. With cast iron, its metallurgy
6 tends to graphitize, becoming not per se rusted but
7 becomes brittle to the point where it cracks and then
8 can cause leakage as well as water infiltration
9 causing outages and things like that.

10 Bare steel, on the other hand, when it
11 was installed without proper protection, it did not
12 have the ability to -- to have the protection to keep
13 it from being corroded and -- and -- and removing of
14 wall thickness, which again, causes the ability to --
15 to have leaks and holes in the pipeline that can cause
16 leaks for those pipes.

17 Q. And you're aware of Mr. Robinett's
18 testimony regarding 553 testing and how that can
19 contribute to an understanding of whether something's
20 worn out or deteriorated. Do you recall that?

21 A. Yes. That 553 program is something we've
22 got in place in Missouri West for our bare steel
23 pipes.

24 Q. And what is that 553?

25 A. It's a measure of the -- the active leak

1 rate of those pipelines based upon the years of leaks
2 and -- and -- and length of the pipelines.

3 Q. And does the Company use that to
4 prioritize how it replaces pipe?

5 A. It does. We use that as a -- in our
6 minimum mandatory program to look at pipelines that
7 are the highest priority for current active leaks on
8 the system.

9 Q. Okay. But this is in connection with
10 minimum levels of replacement?

11 A. That's correct.

12 Q. Okay. Do you have any response to
13 Mr. Robinett's claim that service line renewals done
14 in connection with main replacements are not ISRS
15 eligible because they are primarily done so that
16 inside meters could be moved outside?

17 A. Yes, I do. I believe that statement is
18 incorrect. So to -- to expand on that, our company
19 when it worked to come up with a strategic main
20 replacement project, determined that the proper way to
21 do that was to replace these low pressure utiliz--
22 utilization systems, which is where the pressures --
23 the main is the pressure that the home uses, to
24 replace those with the more updated higher pressure
25 60-pound MEOP systems.

1 To do that, we would -- and if we left
2 the larger pipes in using a utilization pressure, we
3 would be leaving the meters inside with a higher
4 pressure, which would be a very -- you know, a poor
5 safety practice to leave that higher pressure inside.
6 So as part of our overall program, that we decided
7 to -- strategically to replace these lower pressure
8 systems with higher pressure systems. The -- the
9 obvious choice was to move the meters outside as part
10 of this. But it was because of our strategic program
11 for how we were going to replace the -- the cast iron
12 mains and the -- and the bare steel mains that were a
13 lower pressure to do that.

14 Q. Okay. And was there an added cost
15 associated with moving those meters to the outside?

16 A. There was not. So in -- what we've done
17 is a cost study of what it costs to just re-use that
18 service line with the meter inside as opposed to
19 running a new service and relocating the meter
20 outside. And have found that the -- the cost is
21 cheaper to move the meter outside and run a new
22 service as opposed to transferring the line and
23 leaving the meter inside where it would have higher
24 pressure on the inside of the home.

25 Q. Okay. And would that be something that

1 would be confirmed by the -- some of the 509 cost
2 engineering studies that the company did?

3 A. Yes. Our 509 studies included that as
4 part of the -- the -- the -- the cost avoidance issue.
5 And while we used an average cost for our service
6 lines, the -- the studies show that the -- you know,
7 on the average, that the service line cost would be
8 cheaper to move the meter outside and run a new
9 service as opposed to transferring the service and
10 leaving the meter inside.

11 Q. Okay. And these are the studies that, to
12 your knowledge, OPC has not had an oppo-- or has not
13 reviewed?

14 A. That's correct.

15 Q. Okay. And you mentioned transferring.
16 Are you also aware of Mr. Robinett's claim that some
17 portion of the cost-of-service transfers should not be
18 included in the Company's ISRS case?

19 A. Yes. So when he talks about the
20 transfers and the -- the -- the costs that are
21 associated with replacing certain portions of that --
22 of that transfer line, there are going to be, you
23 know, a certain amount of that transfer that even if
24 you do the transfer, you're going to, in effect, not
25 use some of the -- the line because you're converting

1 it over to the new main.

2 So that -- that piece of plastic that's
3 no longer used is just -- it's part of the process of
4 transferring it over. There's no avoidance of that.
5 And in fact, that's -- we -- what we thought OPC would
6 have -- would have liked to have seen is the use of
7 the transfers instead of the replacements, as -- as
8 they've argued. And so we just say that the transfer
9 costs are an incidental part of -- of the replacement
10 of -- of those lines.

11 Q. Okay. And once again, if you're going to
12 re-use the line, you -- do you have to transfer it
13 onto the new main?

14 A. Yes. You do. If you're going to -- if
15 you're going to trans-- if you're going to re-use the
16 plastic, that pipeline has got to be attached to the
17 new main in order to keep service to those customers.
18 And so there's going to be some portion of that line,
19 whether it's a short side or a long side transfer
20 that's going to be not used after the transfer is
21 complete.

22 Q. Okay. So would it be your opinion that
23 that cost has to be incurred no matter what --

24 A. That's correct.

25 Q. -- just to continue providing service?

1 A. Yes. That's correct.

2 Q. Thanks. Just let me ask a little bit
3 about some of Mr. Robinett's claims regarding leak
4 reporting. And in the haste of trying to answer DRs
5 in a day or two, I'd like you to clarify. Does the
6 Company keep track of where leaks are occurring on its
7 system?

8 A. Yes, we do. All of our leaks are -- are
9 marked as against a specific facility, whether it's a
10 main or service line, in our systems.

11 Q. Okay. And does the Company report leak
12 information to the DOT in reports that are publicly
13 available?

14 A. Yes. Every year we file reports to DOT
15 about our -- our pipeline in general. It includes
16 main footages by -- by material, but it also includes
17 leak data as well.

18 Q. Okay. And does it identify main footage
19 replacements by the kind of main that's being
20 replaced?

21 A. It do-- it does, yes.

22 Q. Does it say how much cast iron was
23 replaced, how much unprotected steel?

24 A. Right. There's a separate report that's
25 provided to -- to the Commission that -- or to DOT

1 that provides those details of how much cast iron was
2 eliminated, how many leaks there were from year to
3 year.

4 Q. Let me just ask you about the older ISRS
5 investments that the Company is seeking to recover
6 here. Do you recall Mr. Robinett's claim that the
7 Staff and Company have not properly responded to the
8 instructions of the Western District Court of Appeals'
9 opinion relating to plastic?

10 A. Yes.

11 Q. And I'm not asking you to play the role
12 of an attorney here, but these cost studies that you
13 participated in, were they designed principally to
14 determine what the actual cost of replacing plastic
15 was versus re-using it?

16 A. Yes. They were a cost estimate using our
17 compatible units that we use for all of our pipeline
18 projects to come up with a relative cost of re-using
19 versus replacing.

20 Q. And just to be clear, in those instances
21 where one of your project cost engineering studies
22 showed that replacing plastic rather than re-using it
23 was more expensive, what did you do with the
24 incremental cost associated with it being more
25 expensive?

1 A. Right. So when we made the ISRS filing,
2 we only included the incremental cost to -- to replace
3 if it was more expensive than to re-use.

4 Q. Let me ask that again.

5 A. Okay.

6 Q. If it was more expensive to replace than
7 re-use, would you include the more expensive portion
8 of that cost?

9 A. The incremental cost above the
10 replacement for how much it would be to re-use. Is
11 that -- maybe I'm misunderstanding your question.

12 Q. Yeah. I guess what I'm trying to go
13 ahead and figure out, if we did an analysis and we
14 found that it was more expensive to replace than
15 re-use, did we try and include in the ISRS that
16 incremental additional cost of replacing?

17 A. Yes, we did. Maybe I'm saying that
18 wrong. I -- maybe I'm not understanding the question.
19 I'm sorry.

20 Q. Well, let me go at it another way. If we
21 found that it was less expensive to replace rather
22 than re-use --

23 A. Yes.

24 Q. -- did we flow through to customers the
25 savings associated with that?

1 A. Yes, we did.

2 Q. Okay. And if we go on the other side and
3 it was actually more expensive to replace than re-use,
4 did we try and include that added cost or did we not
5 include it in our ISRS cost?

6 A. Oh, we did not include it in our ISRS
7 cost. Yes, I'm sorry. I was thinking about the other
8 way around. Sorry about that.

9 Q. As long as we get it right eventually --

10 A. Yeah.

11 Q. -- that's what matters.

12 A. Yeah.

13 Q. You know, as an engineer who's had a lot
14 of experience with cast iron and bare steel main, has
15 seen samples of our existing system and those of
16 facilities, is there any doubt in your mind that our
17 cast iron and bare steel mains are in a worn out or
18 deteriorated condition?

19 A. No, not at all. And, you know, I -- we
20 agree with the findings that we've got from the
21 Commission and from our federal regulators that
22 those -- those systems are worn out and replacing them
23 is -- in the fashion we're doing is the correct --
24 correct thing to do.

25 Q. I'm just going to hand you a copy of the

1 Commission's Report and Order from our last rate
2 cases -- last ISRS cases and ask you to read paragraph
3 13 there.

4 A. Okay.

5 JUDGE DIPPELL: And just to clarify, that
6 is the 309 and 310 --

7 MR. PENDERGAST: Yes.

8 JUDGE DIPPELL: -- cases?

9 MR. PENDERGAST: Yes.

10 THE WITNESS: Yes.

11 Most of the cast iron pipes being
12 replaced are over 100 years old. Cast iron pipes are
13 unsafe to use because they undergo a process called
14 graphitization in which the iron leaches out, making
15 the pipe subject to cracking and leaking. The steel
16 piping replaces bare and not cathodically protected,
17 so those pipes corrode code relatively quickly and
18 need to be replaced.

19 BY MR. PENDERGAST:

20 Q. Do you agree with those conclusions or
21 findings in the Commission's Report and Order?

22 A. I do.

23 Q. Thank you. And are you aware in the last
24 ISRS cases, once again 309/310, did the Company
25 provide testimony of two of its engineers, Mr. Lauber

1 and Mr. Hoeflerlin, that talked about the various worn
2 out and deteriorated conditions of cast iron and bare
3 steel pipe?

4 A. Yes.

5 Q. Okay. And to your knowledge, did they
6 also testify that they were worn out or deteriorated?

7 A. They did.

8 Q. Okay. I have no further questions.

9 MR. PENDERGAST: I'll tender the witness
10 for cross-examination.

11 JUDGE DIPPELL: All right. Is there
12 cross-examination from Staff?

13 MR. BERLIN: Yes, Judge. Just a couple
14 questions.

15 CROSS-EXAMINATION BY MR. BERLIN:

16 Q. Good morning, Mr. Atkinson.

17 A. Good morning.

18 Q. I just have a question regarding the 509
19 engineering analysis studies that the Company
20 submitted with its ISRS application.

21 A. Yes.

22 Q. Is it -- is it correct to understand that
23 each of those studies refers to or relates to an ISRS
24 eligible project?

25 A. Yes.

1 Q. And does each ISRS eligible project have
2 a scope of work that attaches to it?

3 A. It does.

4 Q. How -- how do you determine the scope of
5 work on a project?

6 A. Well, there's many different ways. So as
7 part of our mandated program, we've got specific
8 sections of pipe that we are replacing that are the
9 highest priority items.

10 The majority of our ISRS projects are
11 related to our systematic or strategic main
12 replacement program. Those individual sections of our
13 system -- of our overall system are broken up into
14 specific scoped projects that can be completed in a
15 relatively short amount of time, properly opened and
16 closed so that they're not open for long periods of
17 time.

18 So our engineering staff scopes those
19 projects out. Generally they're based upon the
20 regulator station that is -- is -- has a forward trace
21 of the -- of the gas flow that provides gas to that
22 section of these -- of the system. And that is --
23 becomes a project that may become five, ten phases
24 that are scoped out individually, designed, estimated
25 and then constructed.

1 Q. Okay. So the real driver behind
2 what's -- what you look at to scope that project is
3 the actual replacement of worn or deteriorated pipe?

4 A. Yes. Absolutely.

5 Q. Okay. And so when you get into a
6 particular project, is it fair to say that there are
7 certain ancillary items, perhaps incidental items that
8 are not worn or deteriorated but are subject to or
9 fall underneath the requirement to -- that would fall
10 underneath the requirement of replacing the -- the
11 IS-- the worn or deteriorated line?

12 A. Yes. For those projects that are -- you
13 know, in a number of cases there's going to be inc--
14 incidental pieces of pipe that may -- may not be worn
15 out, deteriorated by themselves but as a project
16 whole, they're part of the project that -- that
17 they're going to be replaced.

18 Q. And -- and am I correct in understanding
19 that the engineering analysis that was performed on
20 each of these studies takes that into consideration?

21 A. That's correct.

22 Q. Along with the costs --

23 A. That's correct.

24 Q. -- associated?

25 A. That's -- that's correct.

1 Q. Okay. I have no further questions.
2 Thank you.

3 JUDGE DIPPELL: Thank you. Is there
4 cross-examination by OPC?

5 MR. CLIZER: Yes, Your Honor.

6 CROSS-EXAMINATION BY MR. CLIZER:

7 Q. Morning, Mr. Atkinson.

8 A. Good morning.

9 Q. Did I pronounce your name correctly?

10 A. Yes.

11 Q. Thank you. Let's start with the subject
12 of leaks. Just real quick, can you verify for me that
13 there are no leak repairs occurring as part of this
14 ISRS application outside of the blanket work orders?

15 A. No, that is not true.

16 Q. Okay. Do you have a copy of John
17 Robinett's testimony in front of you?

18 A. I do not.

19 Q. May I borrow your copy?

20 A. And I want -- I want to clarify my
21 statement. You said leak repairs. So as part of our
22 mandated program, there are leaks that have
23 accumulated on certain sections that we've prioritized
24 and those are the -- the -- the projects I'm talking
25 about that are replacing a section of pipe due to the

1 leaks and breaks that were occurring on those pipes.
2 Those are specific projects, not -- not blanket
3 projects.

4 Q. I'm sorry. Can you say that again?

5 A. Yes. So our mandated -- our minimum
6 mandated program is based upon the leak rate and
7 breaks on certain sections of pipe that prioritize
8 higher replacements of -- of sections of pipe. We --
9 we prioritize those and replace those sections of pipe
10 based upon those leaks and breaks. And those are
11 specific projects, not part of the blankets.

12 Q. So you're making repair-- sorry.
13 You're -- you're making replacements for the purposes
14 of repairing leaks, but they're not leak repairs?

15 A. Well, it's -- it -- in effect, it's
16 repairing the leak by replacing the main.

17 Q. So they're repairs of leaks. They are --
18 they're replacements for the purpose of repairing
19 leaks?

20 A. Leaks and break sections that are
21 determined that that section of pipe is a higher
22 priority main to be replaced.

23 Q. All right. I'm going to hand you a copy
24 of Mr. Robinett's testimony. And can you turn to
25 Schedule 2? That's tabbed, I believe. And

1 particularly page 5 of Schedule 2 if you can find it.

2 A. Okay. I've got it here.

3 Q. So Schedule 2 here is a copy of the DR
4 responses that we received from Spire in this case.
5 You would agree with me that DR 537 on page 5 of
6 Schedule 2 reads, Please identify by work order number
7 each and every work undertaken for the purpose of
8 repairing leaks that were not designated as a blanket
9 work order.

10 You would agree with that -- that's what
11 that says?

12 A. Yes.

13 Q. You would also agree that the response
14 reads, As discussed in the Company's application, such
15 leak repairs would be customarily charged to blanket
16 work orders so that the Company has not accumulated
17 information for leak repairs not charged to a blanket
18 work order and so does not believe that there will be
19 any material level of such repairs.

20 A. I see that.

21 Q. That is -- that is what that says?

22 A. Yes.

23 Q. All right. Thank you very much. I'm
24 going to move onto the -- the discussion regarding the
25 moving of meters. Just to be clear, are you saying

1 that Spire expended no money to move meters?

2 A. No, no. I'm not saying that at all.

3 Q. So Spire did spend money to move these
4 meters?

5 A. Yes.

6 Q. Okay. And the moving of these meters,
7 that was, as you said, a result and a decision of
8 Spire to change the gas pressure in its service
9 system. Correct?

10 A. That's correct.

11 Q. How much of the pipe that was retired in
12 these cases was actually dug up? I know you probably
13 can't give me a --

14 A. I couldn't say.

15 Q. -- specific number, but could you give me
16 rough estimate percentagewise? Ball park it for me.

17 A. There would be no way for me to ball park
18 it.

19 Q. How much of it did you actually see, did
20 you personally observe?

21 A. I couldn't say how much I've actually
22 personally seen.

23 Q. The pipe that's being put in -- sorry.
24 The plastic pipe that's being put into the ground as a
25 replacement, that's polyethylene. Right?

1 A. Yes.

2 Q. Yes. Would you agree with me that that
3 polyethylene wears out much slower than cast iron or
4 bare steel -- or rather should?

5 A. No, I couldn't say that. I think cast
6 iron has got an 80-year life. I don't think -- I'm
7 not sure what the active life of plastic is.

8 Q. So you're saying that plastic wears out
9 faster than cast iron?

10 A. No. I'm saying I -- I don't know what
11 the -- the -- what the relative -- plastic is fairly
12 new so I don't know that we have that sort of
13 knowledge right now of how long the plastic -- you
14 know, its active life.

15 MR. CLIZER: Want to hand these out for
16 me?

17 MS. SHEMWELL: Sure.

18 MR. CLIZER: Hopefully that's ten. I'm
19 not sure. I'm going to wait for just a minute to make
20 sure everybody gets a copy of that.

21 BY MR. CLIZER:

22 Q. Mr. Atkinson, I'm going to pose it to you
23 that what I've just handed you is the cross of Ca--
24 Craig R. Hoeflerlin that was done in the evidentiary
25 hearing on 8/27/2018 in the last ISRS case. And you

1 will see on page 374 of the document I just handed to
2 you, there's a question, Is it your opinion that
3 plastic is going to last longer than cast iron or
4 unprotected steel?

5 And the answer, Yeah. The industry right
6 now -- no indication that there will be any issues
7 with plastic. Early on when the plastic was first
8 involved, there was some issues with what's called
9 legacy plastic. We do not have any of that, for
10 instance, in Missouri East. Other companies may have
11 a little bit of that. They're going to replace it.
12 But the plastic we're putting in, the polyethylene, it
13 should last indefinitely.

14 I just want to confirm. Are you -- would
15 you agree or do not -- agree or disagree with that
16 statement?

17 A. I wouldn't -- I wouldn't disagree with
18 that statement.

19 Q. I would not disagree?

20 A. All I would say is indefinitely is --
21 is -- is a variable that I don't think is -- you know,
22 we could say for sure.

23 Q. All right. Just for my personal
24 education, did you -- are you a professional engineer?

25 A. No, I'm not.

1 Q. Okay. Thank you.

2 MS. SHEMWELL: Judge, may I ask a
3 question about the paper that Mr. Pendergast handed to
4 Mr. Atkinson?

5 JUDGE DIPPELL: Are you asking if you can
6 ask me a question --

7 MS. SHEMWELL: No.

8 JUDGE DIPPELL: -- or Mr. Pendergast or
9 the witness?

10 JUDGE DIPPELL: No.

11 MS. SHEMWELL: Mr. Atkinson.

12 JUDGE DIPPELL: Certainly. Go ahead.

13 CROSS-EXAMINATION BY MS. SHEMWELL:

14 Q. Mr. Atkinson, the paper that
15 Mr. Pendergast handed you, is that a white paper
16 written for NARUC?

17 A. Are you talking about the DOT and PHMSA?

18 Q. Yes.

19 A. Yes, I believe it is. It's -- it has an
20 enclosure of a white paper with the initial letter.

21 Q. Is that part of any PHMSA rule?

22 A. Not that I know of. I'm not --

23 Q. Or any federal rule?

24 A. I'm not the -- the expert on -- on the
25 rulemaking part of it, but I do not know if it is or

1 not.

2 Q. Can NARUC mandate that a utility take any
3 particular action?

4 A. I do not know that.

5 Q. You said you have been out and seen
6 pipeline that's deteriorated when you've dug it out.
7 Have you documented that?

8 A. Personally, no.

9 Q. That's all I have. Thank you. That's
10 all I have. Thank you. We're through.

11 JUDGE DIPPELL: All right.

12 MR. PENDERGAST: Your Honor, could I have
13 three minutes to converse with OPC about something
14 before we continue?

15 JUDGE DIPPELL: Okay. We can go off the
16 record for just a couple minutes.

17 (Off the record.)

18 JUDGE DIPPELL: Okay. So we're back on
19 the record. The reason we took a little break there
20 was counsel for Spire had some updated DR response
21 information to provide to Public Counsel that they
22 thought they might need in cross-examination of this
23 witness. That's undetermined because they haven't had
24 a chance to look at it and review it.

25 The Commissioners have their regularly

1 scheduled agenda at noon and it's almost a quarter
2 till. So I think what we're going to do then is go
3 ahead and take our lunch break. And that will give
4 Public Counsel time to look at that and we can just
5 continue with Mr. Atkinson after -- after lunch.

6 So we're going to go ahead and break
7 until 1:30. That will give the Commission time to
8 have their agenda and actually have some lunch. So if
9 you think of any other procedural issues and so forth,
10 I would encourage you to try to think of those and get
11 those taken care of during the lunch break so that we
12 can just plow ahead in the afternoon and hopefully
13 wrap this up still today.

14 MR. PENDERGAST: Thank you, Your Honor.

15 MS. SHEMWELL: Thank you, Judge.

16 JUDGE DIPPELL: Thank you. We can go
17 ahead and go off the record and we'll be in recess
18 until 1:30.

19 (Off the record.)

20 JUDGE DIPPELL: So we are back on the
21 record even though it is not after lunch. The parties
22 suggested that we go ahead and hear their tax
23 settlement issues and -- so that they can put their
24 tax people back to work, at least heading back to the
25 office today. So we are going to go ahead and deal

1 with that and then break for lunch. That should just
2 take a few minutes. So do I need to go ahead and
3 swear Mr. Kuper in then?

4 MR. ZUCKER: I don't think so. I think
5 he's just reporting a settlement.

6 JUDGE DIPPELL: Okay. Did you want to
7 share with us then, Mr. Kuper, what -- what the terms
8 you all have reached? Or. Mr. Zucker, whoever is
9 presenting?

10 MR. ZUCKER: Mr. Kuper?

11 MR. KUPER: Sure. I mean, I'll -- I'll
12 take a stab at it and Kim can fill in some blanks and
13 adjust what we need to.

14 So we've got the -- the tax gross up
15 issue essentially for the revenue requirement for both
16 East and West. So the components of the revenue
17 requirement that the tax gross up is associated with
18 is what on Kim's schedules -- I guess Appendix A,
19 Schedule 8 is the UOI requirement.

20 And based on Staff's recommendation, that
21 number is 3,875,954. So the gross up associated with
22 that, the parties have determined that we will split
23 that difference in half and half would be included in
24 revenue requirement and half would not. So the total
25 of that gross up is 1,323,058.

1 So the parties have agreed that 661,529
2 would be included as the revenue requirement, which
3 would adjust the revenue requirement for that
4 component from 3,875,954 to 4,537,483.

5 Then there are two additional components;
6 one is depreciation expense and one is net property
7 taxes. So based on Staff's recommendation, the sum
8 total of those three components originally as reported
9 was 6,480,670. The adjusted total would be 7,142,199.

10 MR. ZUCKER: And are you referring to
11 Spire East now?

12 MR. KUPER: This is Spire East, correct.

13 MR. ZUCKER: East. Okay. So all of --
14 all of those numbers were --

15 MR. KUPER: All of those numbers were
16 related to Spire East.

17 So the methodology for Spire West is
18 essentially the same; whereas, the tax gross up
19 component is split 50/50. There, per Staff's
20 recommendation, the UOI required was 3,226,502. And
21 the tax gross up -- let me -- the tax gross up was
22 1,101,366, of which half of it is 550,683.

23 So that would be added to the 3,226,502
24 to have the revenue requirement of 3,777,185. Along
25 with the depreciation expense and property tax

1 components, the total would be 7,129,659. And these
2 are based on the Staff recommended original numbers.

3 JUDGE DIPPELL: And then you all are
4 going to -- you've agreed that you're going to meet
5 and discuss these things with regard to future cases.
6 Is that my understanding?

7 MR. ZUCKER: Yes, Your Honor.

8 MR. KUPER: That is correct.

9 MR. ZUCKER: So -- yeah, this doesn't
10 permanently settle the issue. It compromises it for
11 this case. And then we're going to then work together
12 and OPC will -- is welcome to participate and I'm sure
13 will.

14 JUDGE DIPPELL: And are you also then
15 going to reduce that to a written form with those
16 figures?

17 MR. ZUCKER: Yes.

18 JUDGE DIPPELL: And give those to us so
19 that we --

20 MR. ZUCKER: We wouldn't have it any
21 other way.

22 JUDGE DIPPELL: Okay.

23 MS. BOLIN: If -- if the Commission would
24 have a different decision, we would still apply the
25 same methodology --

1 JUDGE DIPPELL: Right, right.

2 MS. BOLIN: -- but for now, the numbers
3 are that.

4 MR. KUPER: Yeah. So based on these
5 figures, that's what the adjustments would be, but if
6 the ultimate result of the -- the case has adjustments
7 to the figures, the tax component could have an
8 adjustment to it.

9 JUDGE DIPPELL: Right. Okay.

10 MR. ZUCKER: And -- and I think we've all
11 agreed to enter into evidence Mr. Kuper's testimony --
12 Direct Testimony and Ms. Bolin's testimony,
13 particularly on the tax issue. She covers other
14 ground. And I don't think OPC had any testimony on --
15 specific to tax.

16 JUDGE DIPPELL: Okay.

17 MR. ZUCKER: Is that acceptable?

18 JUDGE DIPPELL: Mr. Berlin.

19 MR. BERLIN: Yes, Judge. I just want to
20 clarify that this settlement is actually, you know,
21 indicative of prior settlements of this tax issue, is
22 it not?

23 MR. ZUCKER: Well --

24 MR. BERLIN: Or close.

25 MS. BOLIN: Close. Some -- yeah.

1 JUDGE DIPPELL: Okay. Okay. Then -- so
2 I basically then had an offer of Mr. Kuper's
3 testimony, which has been marked as Exhibit 5. Would
4 there be any objection to that? Seeing none, I
5 will --

6 MR. BERLIN: No.

7 JUDGE DIPPELL: -- enter Mr. Kuper's
8 testimony into evidence.

9 (Exhibit 5 was received into evidence.)

10 JUDGE DIPPELL: And then with regard to
11 Ms. Bolin's testimony, since that's part of the Staff
12 report as a whole, we'll just wait and take that when
13 that's offered as a whole.

14 All right. Is there anything further
15 that the parties need to present to the Commission?

16 MR. ZUCKER: Seeing none --

17 JUDGE DIPPELL: Seeing none, then we will
18 break and not come back on the record until 1:30.
19 Thank you. We can go off the record.

20 (A recess was taken.)

21 JUDGE DIPPELL: Let's go ahead and go
22 back on the record. So we left off at our lunch break
23 with Mr. Atkinson, so I'd ask him to come back to the
24 stand. Is Public Counsel going to have further
25 cross-examination?

1 MR. CLIZER: No.

2 MS. SHEMWELL: Thank you, Judge.

3 JUDGE DIPPELL: All right. Are there
4 Commission questions? Commissioner Kenney, you had
5 some questions?

6 COMMISSIONER KENNEY: Thank you.

7 QUESTIONS BY COMMISSIONER KENNEY:

8 Q. See where we are. Good afternoon.

9 A. Good afternoon.

10 Q. All right. How many miles of pipe does
11 Spire have left in its footprint of copper or bare
12 steel?

13 A. Cast iron or bare steel?

14 Q. Yes. Cast iron or bare steel, excuse me.

15 A. I don't have the number off the top of my
16 head, but we can certainly provide that to you.

17 Q. Any range?

18 A. Say roughly 600-ish miles of cast iron.

19 Q. How -- how --

20 A. And -- and we've got two sides of the
21 state, so I don't have the numbers that I can give
22 you.

23 Q. Right now does -- Spire has a program in
24 place. What do you -- what's Spire's plan? How many
25 miles do they try to do in a year from east or west?

1 A. So -- so on the east side of the state,
2 we've been replacing roughly 60 to 65 miles of cast
3 iron. And on the west side of the state, we've been
4 doing much more. More like 120 miles of cast iron and
5 bare steel pipe.

6 Q. Why is that?

7 A. They have a wider -- they have more than
8 Missouri East and it's over wider areas of their
9 territory. So we're able to get into, you know,
10 bigger areas with more -- more of our contractors to
11 be able to replace more pipe --

12 Q. Okay.

13 A. -- on the west side. And I also want to
14 say that the west side we don't -- we're not moving or
15 replacing the service and moving the meters outside.
16 So that has, you know significant time.

17 Q. Is that just because in those areas you
18 don't -- meters are already outside?

19 A. That's correct. And Missouri West
20 they're in -- the majority of the meters are already
21 outside with service lines that have been replaced.

22 Q. So MGA -- MGE probably already did that
23 at one point?

24 A. That's correct.

25 Q. Okay. How -- how do you prioritize where

1 the Company's going to go in each -- in each district,
2 west or east?

3 A. Yeah. It's based upon our DIMP plan, so
4 our Distribution Technical Management Plan, looking at
5 the risks to our system. They -- they do a heat map
6 based upon leaks, water infiltration, breaks. Several
7 different fa-- you know, many different factors go
8 into that DIMP plan to build a heat map of the
9 priorities of -- of the mains to be replaced.

10 Q. Is everything based on -- the majority of
11 it based on safety?

12 A. I would say the majority is based on
13 safety. There's probably some based upon maybe O and
14 M costs, but the majority is based upon safety.

15 Q. Now, when you remove the -- the meters
16 and -- and replacing those to outside, is that based
17 prio-- primarily on -- on safety because of the
18 metrics involved now with the -- with the change in
19 Company policy?

20 A. No. I mean --

21 Q. Regarding the -- the pressure?

22 A. So on the Missouri East side with --
23 where most of the meters are on the inside on our cast
24 iron system, the -- the decision to replace that
25 system with a higher pressure system really

1 necessitated moving the meters outside so that we
2 weren't introducing higher pressure into the
3 basements.

4 Q. Safety issue?

5 A. Safety issue, yes.

6 Q. Okay.

7 A. But also, you know, we -- we have shown
8 that there is no additional costs for doing those
9 replacements, moving meters outside.

10 Q. How -- how do you -- how do you say
11 there's no additional cost? Does the meter cost?

12 A. Yes. But I'm saying as opposed to
13 transferring the service line and leaving the meter
14 inside, we've done a cost analysis of that with
15 replacing the service line and moving the meter
16 outside and we've shown in those analyses that it's
17 cheaper to --

18 Q. If you --

19 A. -- replace the service line --

20 Q. If you're replacing a service line, it's
21 cheaper to replace the meter --

22 A. That's correct.

23 Q. -- at that time?

24 A. That's correct.

25 Q. Okay. Are we dealing with -- when --

1 on -- regarding the plastic, are we dealing with main
2 that's been replaced and service lines --

3 A. Yes.

4 Q. -- that are going to be replaced --

5 A. That's correct.

6 Q. -- or have been replaced?

7 A. There's -- there's plastic both in the
8 mains that are being replaced and the services that
9 are being replaced.

10 Q. Okay. So -- and when you're replacing
11 the main, ex-- explain to me the process. Let's say
12 the Company has -- has identified a 1,320-foot section
13 of pipe and there's already been 100 feet replaced
14 in -- like two 50-foot sections have already been
15 replaced in plastic --

16 A. Correct.

17 Q. -- and the Company says we're going to
18 replace the whole thing. It's cheaper. Why?

19 A. Okay. So generally when we replace those
20 small sections of cast iron with plastic in the past,
21 they were inserted inside the old cast iron. So
22 they're physically part of that cast iron main.
23 They're inside and reconnected to the other cast iron
24 sections that are still there.

25 Q. How is that done? How do you connect

1 the -- if you redo it -- if you put a piece of -- you
2 insert it within the existing cast iron?

3 A. That's correct.

4 Q. And --

5 A. That -- that's -- that was the old method
6 of how we replaced sections of --

7 Q. Let's say I have a 100 foot -- I've
8 changed the parameters. I have a 100-foot pipe and
9 I'm going to insert a 20-foot piece at the section
10 that I know is -- is compromised.

11 A. Right.

12 Q. How do you seal that?

13 A. Well, there's con-- there's connection --
14 there's fittings that -- that connect plastic to cast
15 iron. And so you can --

16 Q. E-- without -- I understand if I take
17 a -- a PEX pipe and plumbing and I connect it to a
18 piece of steel pipe --

19 A. Yeah.

20 Q. -- I understand that. But you said it's
21 inside of it. So how do you connect --

22 A. Well, you're basically taking out that
23 old piece of cast iron. It's now becoming abandoned
24 in place and there's a piece of plastic inside.

25 Q. Do you -- do you cut it out and then

1 connect the piece of plastic?

2 A. It's inserted inside of that old piece of
3 cast iron.

4 Q. And how does that connect?

5 A. And so on the other ends of it where --
6 where you're connecting back to -- to the old cast
7 iron that's still going to stay in place, there's
8 fittings that connect those two. You're just
9 utilizing the cast iron as a conduit for the new
10 plastic pipe.

11 Q. Okay. So if that's the case and now it's
12 been determined -- you -- you've done that fix in the
13 past. Let's say that fix was -- how many years ago
14 could that have been going back? How far?

15 A. Oh, 30 years maybe.

16 Q. Okay. Let's say it's 25 years ago.

17 A. Okay.

18 Q. You did a fix and -- of that 1,320-foot
19 quarter mile section of pipe, you did, as I mentioned,
20 two -- two changes, two fittings.

21 A. Yep.

22 Q. And -- and now you're going to replace
23 that hi-- that entire length. Is it the -- is OPC
24 complaining that they don't want you to do that
25 because you already have those pieces of -- in there

1 already?

2 A. I believe what they're saying is they
3 would like us -- they would -- I don't know exactly
4 what they're saying, but they're saying that the
5 portion of plastic that -- that we're replacing out of
6 that should be ineligible because it's not worn out or
7 deteriorated. And what we're saying is that the
8 method we would replace that is cheaper to replace it
9 then to re-use it.

10 Q. Yeah. So you'd have -- they would want
11 you to either replace it for free or -- or no, excuse
12 me. Let's say okay, they want you to replace it,
13 which would mean you'd have to -- now, when you --
14 when you put in -- right -- currently when you put in
15 gas, do you bore it now?

16 A. Generally, it's bored as much as
17 possible. There -- there will be sections --

18 Q. What si-- what size line do you bore up
19 to?

20 A. So -- oh, we'll bore up to, you know --

21 Q. Six inch?

22 A. -- eight inch --

23 Q. Eight inch?

24 A. -- even eight-inch main. But generally
25 the pipes that are being put in are two inch and four

1 inch for the -- for the cast iron replacement.

2 Q. Most of what you're -- what we're talking
3 about, replacement, is two inch?

4 A. Yes. Most of it.

5 Q. So you've got to bore out the majority of
6 those?

7 A. Yes. Where possible, right.

8 Q. Okay Otherwise, you would have to go in
9 with the trencher, dig it up?

10 A. And we're putting it in a different
11 location from where the current cast iron is. The
12 cast iron is generally in the street and so we're --

13 Q. Right.

14 A. -- we're going in the parkways or, you
15 know, outside of the street area to put the new
16 plastic pipe in.

17 Q. So -- so -- so the argument on behalf of
18 Spire is that if you have to go in there and dig up
19 the street, you have to replace street, you're going
20 to have to bore so much of a pipe, you have to dig it
21 up, dig out the existing pipe, connect it. So I
22 imagine you would --

23 A. It's at a different depth. It's a deeper
24 depth than the old stuff than compared to what we put
25 it in now, so there's a depth change.

1 Q. You put it in deeper now?

2 A. We put it in less deep. It was normally
3 five to six feet deep in the old way --

4 Q. So with gas, do you have to do rolling
5 fittings, like 22.5 or 45s or can you do a straight
6 80 or 90?

7 A. With -- with plastic, you can, you
8 know -- you can bend some of it. But there -- you
9 know, if -- if you're tying onto a transfer, you're
10 going to be using fittings to do that. There's
11 going --

12 Q. I understand that.

13 A. Yeah.

14 Q. But no, not bending the pipe --

15 A. Yeah.

16 Q. -- but when you use a fitting, you have
17 to go down. Do you have to roll them? Do you know
18 what I mean by that from --

19 A. No.

20 Q. -- an engineering standpoint?

21 A. No.

22 Q. Well, you can't do a straight elbow
23 because -- like on water, you can't. You have to roll
24 it maybe 22.5 and a --

25 A. Yeah. For the --

1 Q. For the -- so it doesn't --

2 A. Yeah.

3 Q. -- get a throw factor against the wall,
4 it doesn't displace that.

5 A. Yeah. We would --

6 Q. You don't have to do that with gas?

7 A. No, no. But -- but to make that -- that
8 di-- difference in depth change, we would generally be
9 using fittings to be able to make those angles from
10 the new main to the old main to the -- to the service
11 line that has to be reconnected.

12 Q. Okay. So when you -- on the main, when
13 you take that -- those two 50-foot sections, it's
14 just -- you're saving money, number one, a street;
15 number one, trenching. You can just bore one
16 continuous --

17 A. That's correct.

18 Q. And no the two inches, do they -- does
19 that come in -- what size sticks does that come in?

20 A. It comes in rolls, so --

21 Q. Okay. Not like the eight inch? It comes
22 in like a --

23 A. That's correct.

24 Q. -- a 24 or 30 foot stick?

25 A. Two inch and three inch come in rolls,

1 and four inch and larger come in sticks.

2 Q. Okay. So you can just roll that out?

3 A. That's correct.

4 Q. And it would be a continuous one and then
5 you connect them and you go so far?

6 A. That's correct.

7 Q. That makes a lot of sense to me, why it
8 would be economically feasible --

9 A. Yes.

10 Q. -- on the main.

11 Now, getting to the res-- the
12 residential. Are components considered the fittings
13 that go from a main to a residential?

14 A. Say that one more time.

15 Q. The components that are mentioned that --
16 when -- you have -- when you -- when you tee into a
17 main --

18 A. Uh-huh.

19 Q. -- or splice into it some way and you run
20 it to a residence --

21 A. Yes.

22 Q. -- is that a half-inch or three-quarter
23 inch?

24 A. Well, generally -- they're different
25 sizes, but they range basically for residential half

1 inch, one inch, inch and a quarter, something like
2 that so.

3 Q. What determines that?

4 A. The -- the -- you know, the load of the
5 home that is being served and -- you know, at the
6 time, certainly the pressure. So a low pressure
7 service line would have had to have been maybe a
8 little bit bigger than a intermediate pressure
9 60-pound system just because the pressure drop would
10 be greater across a lower pressure main than it would
11 be for a higher pressure main.

12 Q. Okay. So why is it -- so when you --
13 from connecting to -- what's -- okay. Let's say you
14 have a -- from the -- you're in an easement now, not
15 in the street. Correct?

16 A. Well, you're in the customer's property.
17 We -- we won't get an easement --

18 Q. No, no. I'm not talking about the --
19 the -- I'm talking about your main. It's going to be
20 in an easement.

21 A. No, it would generally be in the
22 right-of-way.

23 Q. The right-of-way. Okay.

24 A. But not in the -- not actually in the
25 pavement.

1 Q. Yeah, I would consider that an easement.

2 A. Yeah.

3 Q. Okay. It's the right-of-way.

4 A. Yeah.

5 Q. And you're allowed to go into with

6 AT&T and --

7 A. Yep.

8 Q. -- all -- anybody else?

9 A. That's correct.

10 Q. And so you run it from there, you run it
11 to the house. So it could be -- in older houses it
12 might be a hundred foot run, newer house might be
13 fifty, anywhere -- it ranges. Right?

14 A. Yeah. In the city, generally they're --
15 they're not that long. But they -- they certainly can
16 run anywhere from, you know, 30 to a hundred feet,
17 sure.

18 Q. So is it your testimony that boring
19 directly to the house is less expensive than
20 disconnecting the house line and reconnecting it to
21 the new main?

22 A. Right. That's correct. The -- the --
23 the cost difference -- there's a -- it's cheaper to
24 run a new service from the point where you've put the
25 new main in to the -- the new meter location that's

1 going to be outside and on the side of the customer's
2 home, as opposed to digging down to the old service
3 line, trenching to it in the street, reconnecting it
4 and then it serving it from -- with the meter inside
5 the basement.

6 Q. Refresh my memory from a later case. I
7 don't know if you were the witness or not. An earlier
8 case, excuse me. Where -- what type of -- on these
9 ones you're replacing, what type of line currently is
10 in existence?

11 A. Well, different -- it varies. In
12 Missouri West, many of those are plastic services.
13 Some are still bare steel. There's some hard copper
14 services and things like that. But the majority
15 are -- would be plastic -- existing plastic services.

16 Q. And there's -- is there any safety
17 concern by hooking up to the existing one versus
18 running a new one?

19 A. Well, you're -- you're adding the
20 additional fitting of where you have to tie in that
21 service line. But the other part of it is the fact
22 that it's serving a meter that is sitting inside the
23 basement of that home.

24 Q. So that's a safety aspect on that end?

25 A. Yes.

1 Q. What's the safety aspect -- you still
2 have to hook it up -- you still have to join it to a
3 new line, whether it's a new run or an old run?

4 A. Correct. But you don't have that
5 additional fitting where you're tying into the
6 existing service. You're always going to have the tie
7 into the new main, yes.

8 Q. Regardless?

9 A. Regardless. But you're not going to have
10 that additional fitting where you're now connecting
11 back to an existing piece of service line that is a
12 potential for a failure.

13 Q. On the ISRS, do you have -- do you have
14 an -- an -- a percentage that we're talking plastic
15 replacement only between the main lines and the
16 residential?

17 A. Say that one more time. I'm sorry.

18 Q. Well, do you have -- are the majority of
19 the plastic replacements the -- the runs going to the
20 homes versus the --

21 A. I would say the majority of the plastic
22 being replaced in our -- in our -- in our replacement
23 program is due to the service lines that are being
24 replaced. There is certainly, as we've discussed,
25 main segments where there's plastic, you know,

1 incrementally in those things that we have replaced
2 earlier. But the majority of the plastic being
3 replaced is -- is the service lines.

4 Q. And I apologize, but -- I mean this is
5 probably a question for OPC but maybe you can answer
6 it. Does OPC continue to argue the fact of choosing
7 different homes -- ho-- residences that are wealthier
8 residences getting service versus lower income
9 residences --

10 A. I haven't heard that argument.

11 Q. -- being prioritized?

12 A. I have not heard that argument.

13 Q. Is that argument what came up in a case
14 earlier because --

15 A. Okay. I never heard --

16 Q. -- running a line to a -- to a 700,000
17 dollar house, why should they have a free line?

18 A. Yeah. I'm not aware of that argument,
19 but yeah.

20 Q. Okay. I think that's all my questions.
21 Thank you.

22 A. Okay.

23 JUDGE DIPPELL: Thank you. Chairman
24 Silvey, did you have questions?

25 QUESTIONS BY CHAIRMAN SILVEY:

1 Q. I do briefly. Thank you. And I think
2 Commissioner Kenney covered a lot of the ground that I
3 was interested in, but specifically if you remember
4 back -- were you in the -- in the room this morning
5 when I was questioning the attorney on opening?

6 A. Yes.

7 Q. Okay. So in looking at the case and --
8 and the section that I had read out of the case
9 talking about what is truly incidental and
10 specifically required to be replaced as opposed to not
11 bootstrapping components that are not worn out or
12 deteriorated.

13 So from your perspective as someone who
14 is kind of in charge of this process, where does
15 incidental end and bootstrapping begin? Because
16 clearly the Court has contemplated that that exists
17 somewhere. So how would you define that?

18 A. Yeah. I -- I listened to Mike's response
19 on that and it certainly is a gray area. But in -- in
20 my opinion, I feel like as -- if you look at our
21 replacement program as a whole, the amount of plastic
22 that is in the mains that we're replacing is
23 incidental to the amount of cast iron that we're
24 replacing. I don't know the exact percentages, but
25 it's -- it's -- I could consider it to be an

1 incidental amount.

2 The service lines that are plastic that
3 we're replacing come along with the fact that we're
4 replacing the entire system and we found that it's
5 more cost effective to replace those plastic services
6 by putting a new service line so we can get the meter
7 outside. And we've shown that that is cost negative
8 to -- to the ISRS cost. But the -- the plastic main
9 portions I would consider to be incidental to our --
10 our entire replacement program.

11 Q. So you're defining the word "incidental"
12 by looking at the entire universe of things to be
13 replaced?

14 A. Tha-- that's wh-- that's what I say. If
15 you look at project by project, you may see that one
16 project has more plastic than another. But if you
17 look at the -- the program as a whole, the amount of
18 plastic in our low pressure system is -- is what I
19 would consider to be incidental to the amount of cast
20 iron.

21 Q. And forgive me if this was covered before
22 I stepped back in, but plastic pipe itself, how long
23 is it supposed to last? Or is there -- is there a
24 physical or scientific time at which it becomes
25 deteriorated? I mean somebody used the word

1 "indefinitely" earlier today so could you --

2 A. Yeah.

3 Q. -- explain that to me?

4 A. Yeah. I'll try. So we've looked at what
5 the depreciated life -- average service life has --
6 has been set at for plastic.

7 Q. Set by who?

8 A. I'm not sure -- I'm not sure who it was
9 set by, but it's in the -- our depreciation rates. So
10 I'm assuming it's coming through the Commission --
11 it's approved through the Commission, but it's part of
12 our depreciation rates.

13 Q. And you're --

14 A. But I --

15 Q. -- speaking depreciation as a financial
16 instrument depreciation?

17 A. That -- that's correct. That's correct.
18 But th-- but within that, the average service life is
19 set. And that's where the 80 -- 80 years of life is
20 set for mains for cast iron and steel for Missouri
21 East. For plastic and copper, it's 70 years is what
22 is set for -- for plastic mains. On the west side of
23 the state, for Missouri West, all mains are set at 50
24 years; plastic, cast iron, steel. Service lines are
25 44 years for Missouri East and 40 years for Missouri

1 West.

2 Q. Do you have any 70-year-old plastic?

3 A. No.

4 Q. How old is the oldest plastic right now?

5 A. It would have been installed in probably
6 the early '70s. So 40 plus, fi-- close -- getting
7 closer to 50 years at the most.

8 Q. Okay. All right. Those are -- that's
9 all my questions for right now.

10 COMMISSIONER KENNEY: I have just a quick
11 follow-up. I'd like to apologize. I was getting
12 American Water confused with Spire. But I have an
13 excellent excuse for that. I have NFL concussion
14 syndrome.

15 JUDGE DIPPELL: Commissioner Hall, did
16 you have questions?

17 COMMISSIONER HALL: I have no questions.
18 Thank you.

19 QUESTIONS BY JUDGE DIPPELL:

20 Q. Okay. I had just a few for you.

21 A. Sure.

22 Q. Okay. When you were giving your rebuttal
23 earlier, you mentioned that the cast iron and bel--
24 bare steel were ranked higher in your program. What
25 do you mean by ranked higher?

1 A. So our -- our DIMP program, which is the
2 Distribution Integrity Management Program, is -- is --
3 was put together to look at the risks to our pipeline
4 system. And so there's a ranking based upon potential
5 risks to those pipeline components.

6 And so as I mentioned, third-party
7 damage, others digging and hitting our pipes, is the
8 highest rank of -- in DIMP. But cast iron and bare
9 steel as far as the risk to -- you know, for things
10 like leaks and -- and incidents -- pipeline incidents
11 is ranked higher than some other things like plastic
12 or, you know, coated steel or things like that. So
13 there's a ranking. I don't know the -- the exact
14 ranking, but I know that it's ranked higher in the
15 list -- in our DIMP list.

16 Q. So by ranked higher, you mean it's a
17 higher chance of a leak or an incident?

18 A. That's correct.

19 Q. Is that -- is that program that you
20 talked about in your -- in your testimony on page 2
21 you mentioned an Enterprise Asset Management system,
22 EAM. Is -- how does that figure into your --

23 A. No. Just the -- our EAM system is a
24 system that we utilize to track all of our assets and
25 the work that's being done on them and the work orders

1 that we provide to our construction crews to be able
2 to do the work, track their time and things like that.
3 So that's just the system we utilize to track our
4 assets and our work.

5 Q. So that doesn't have anything to do with
6 ranking the priority --

7 A. No.

8 Q. -- of --

9 A. No, it doesn't.

10 Q. Okay.

11 A. The DIMP is a separate --

12 Q. Okay.

13 A. -- program. Not -- not a system, but
14 just a ranking program.

15 Q. Also during your rebuttal, Mr. Pendergast
16 was asking you about a finding from the prior case
17 that is -- or cases that are now on appeal that we
18 talked about. And he asked you if you agreed with
19 those findings that those pipes were -- or that the
20 cast iron and the bare steel were in deteriorated
21 condition basically?

22 A. Yes.

23 Q. Was your answer -- do you agree with that
24 finding with regard to just that -- those old cases or
25 are you saying that across --

1 A. No.

2 Q. -- the --

3 A. Yeah. I -- I feel that the cast iron and
4 bare steel has been shown. And we've been, you know,
5 told by Commission findings and our federal regulators
6 that it's in a worn out and deteriorated condition,
7 the entire population of it. Not just what we filed
8 with the previous case.

9 Q. Okay. And let me look here. And are you
10 in agreement with what Mr. Pendergast said earlier,
11 that basically the -- the ISRS costs that the Company
12 is trying to recover don't include a cost for the
13 plastic because it would have cost more if you had not
14 replaced it -- the plastic?

15 A. Well, there is a cost inherent to -- you
16 know, to replacing all the pipe that's involved in
17 that. So there's a cost involved with the plastic.
18 But what we're saying is that it is, in most cases,
19 cheaper to replace it than what it would have cost us
20 to re-use that plastic so there's an avoided cost.
21 Not that there's no cost, but it's -- it's a less cost
22 than it would be to re-use it.

23 Q. Okay. And is that a reduced cost of
24 every project or is the 1.6 million a combination of
25 the increases and the decreases?

1 A. The 1.6 million is a combination of both.

2 Q. Sorry. Some of these you've already
3 answered so I'm trying to -- is -- in your opinion, is
4 there an increased risk of a -- of a pipe -- no matter
5 what -- what it's made out of, is there an increased
6 risk of a leak if it's in service past its useful
7 depreciated life?

8 A. I think there's reason -- that's
9 reasonable to -- to assess that something that is past
10 its reasonable use-- usefulness is more likely to
11 leak. The -- that's it.

12 Q. And then one last question. You also
13 used the term in your testimony at page 4, you used
14 the term "operationally unfeasible." Can you just
15 tell me what --

16 A. You'll have to help me with the context
17 of it.

18 Q. Okay. It -- you said, Consistent with
19 this guidance -- and you were talking about the
20 guidance provided by the Commission in the last
21 case -- Spire conducted individual engineering
22 analyses on a project-by-project basis comparing the
23 cost of using the Company's approach to retiring aging
24 pipe, which involved retiring plastic facilities where
25 it was economically and operationally unfeasible to

1 re-use them.

2 And you were talking about what you were
3 comparing it with. But what do you mean by
4 operationally unfeasible?

5 A. Well, just the -- the cost to re-use
6 those pipes versus the cost to replace it would be
7 operationally, you know -- you know, un-- maybe
8 infeasible is not the correct term, but it's really
9 based upon the -- the cost avoidance of being able to
10 utilize versus replace.

11 Q. Okay. Well, wouldn't that be the
12 economically unfeasible part? I didn't know if there
13 was a difference between --

14 A. Operationally or economically?

15 Q. -- operationally --

16 A. Yeah.

17 Q. -- unfeasible.

18 A. Yeah. I think it's -- it would be more
19 the economically infeasible.

20 Q. Okay. Okay.

21 COMMISSIONER KENNEY: I got another
22 question.

23 JUDGE DIPPELL: Are there other
24 questions? Commissioner Kenney.

25 FURTHER QUESTIONS BY COMMISSIONER KENNEY:

1 Q. I'll be real brief. Did you use the term
2 "useful life"?

3 A. Depreciation average service life.

4 Q. Explain that to me.

5 A. Well, I'm not a depreciation expert.
6 There will be probably a witness that will be able to
7 explain that better, but --

8 Q. Is it --

9 A. -- in our depreciation rates there's a
10 set average service life of each of our asset types.

11 Q. So how long is it -- so then you're
12 saying that whatever that depreciation schedule is?

13 A. No. I'm just saying that's -- that's one
14 of the guidelines that's used to determine operational
15 service life or average service life of different
16 assets.

17 Q. Well, yeah. But like -- you can have a
18 car -- I mean I had a car that was depreciated in
19 2003. The federal government let me depreciate it the
20 first year.

21 A. Right.

22 Q. I had it for 13 years. And you can
23 depreciate computer equipment, what, three years. So
24 that's -- so that's just same type of thing we're
25 talking about?

1 A. Yes. Similar, but -- so yeah. You're
2 correct.

3 Q. And one -- one question I forgot to ask
4 you. Of the 500-plus projects that were examined
5 between October 1st, 2017 and January 2018, I think it
6 was --

7 A. Yes.

8 Q. -- did -- did the Company find any of
9 those, using the terms "worn out or deteriorated,"
10 that they could prove that they were worn out or
11 deteriorated, or was all the study based on other
12 parameters that we discussed earlier?

13 A. Well, the studies were done based upon
14 the projects that we have deemed ISRS recoverable
15 because they were majority cast iron or bare steel
16 replacement. That was -- that was a determining
17 factor of -- that we're -- we're stating that those
18 pipes are -- are ISRS recoverable.

19 Q. I understand that.

20 A. Okay.

21 Q. But -- but we talked earlier -- not you,
22 but some of us talked earlier about the Court decision
23 and the term "worn out" or --

24 A. Oh, right.

25 Q. -- "deteriorated."

1 A. Yeah.

2 Q. Was your studies focused on that at all?

3 A. No. It was focused on the cost
4 avoidance.

5 Q. Okay. Thank you.

6 A. Yes. Yes.

7 COMMISSIONER HALL: Yeah, I'm sorry.

8 JUDGE DIPPELL: Commissioner Hall.

9 That's fine.

10 COMMISSIONER KENNEY: Uh-oh. Look what I
11 did.

12 JUDGE DIPPELL: That's what we're here
13 for.

14 QUESTIONS BY COMMISSIONER HALL:

15 Q. Good afternoon. I'm going to ask you a
16 couple of questions that may not be fair because I'm
17 going to -- I'm going to ask you to explain not
18 something that's in your testimony but that's in the
19 Company's position statement.

20 A. Okay.

21 Q. Because it -- for me it was clear and I
22 want to make sure that it is what was in your
23 testimony as well. So trying to comply with the
24 Western District opinions and the Commission's prior
25 order in this case. The Company conducted an analysis

1 for each of these projects where there was plastic
2 replacement to determine whether or not it was, in
3 fact, cheaper to do the plastic replacement than it
4 would be to re-use the plastic. Correct?

5 A. That's correct.

6 Q. Okay. So when the -- when it was, in
7 fact, cheaper to -- to replace the plastic, the
8 Company is seeking ISRS inclusion for that particular
9 project --

10 A. Yes.

11 Q. -- in -- in its total amount?

12 A. Yes.

13 Q. Where it was determined to be cheaper to
14 re-use the existing plastic -- I'm looking at your
15 position statement, the Company's position
16 statement -- and it said that the Company eliminated
17 from its ISRS costs the incremental increase.

18 A. That's correct.

19 Q. Explain to me what incremental means
20 there.

21 A. So the incremental would be the
22 difference between the cost that we estimated between
23 what was being replaced versus the cos-- the estimated
24 cost of re-using.

25 Q. And how is that consistent with our prior

1 order? Because it seems to me that in our prior order
2 we said that if it's not -- if it's not less costly,
3 it's not to be included.

4 A. Well, we took the position that we were
5 still being able to utilize what -- the best way to do
6 it, but only showing the incremental difference
7 between what it would have cost to replace it versus
8 re-use it.

9 Q. Okay. So that -- but that's -- so that
10 was your attempt to comply with the order, but -- but
11 there's nothing in the order that says that? I mean
12 the order itself says that -- said that it's not to be
13 included, did it not?

14 A. I'm not sure exactly what the order is.
15 There wasn't my part of it. That's --

16 Q. Okay. All right. Thank you.

17 A. Okay.

18 JUDGE DIPPELL: All right then. Are
19 there any further cross-examinations questions from
20 Staff?

21 MR. BERLIN: No, Judge. Thank you.

22 JUDGE DIPPELL: Any further
23 cross-examination from Public Counsel?

24 MR. CLIZER: Yes, Your Honor.

25 FURTHER CROSS-EXAMINATION BY MR. CLIZER:

1 Q. This is going to be a bit of a
2 paraphrasing just because the topic's been covered
3 multiple ways, but -- and so I mean feel free to tell
4 me if you don't think this is correct. But is your
5 position essentially that all cast iron pipes are, by
6 definition, worn out and deteriorated?

7 A. We do believe that the cast iron pipes
8 are in a deteriorated condition, yes.

9 Q. But is that all cast iron?

10 A. Yes.

11 Q. So if I installed a piece of cast iron
12 pipe tomorrow, your position would be that that pipe
13 is worn out, deteriorated? Brand new.

14 A. We haven't -- we haven't installed cast
15 iron pipe --

16 Q. No, no. I'm asking you if I installed a
17 piece of cast iron pipe tomorrow, would that piece of
18 cast iron be worn out, deteriorated?

19 A. No. We --

20 Q. What's the difference between that cast
21 iron and the cast iron that Spire replaced?

22 A. It's 60 to 100 years old.

23 Q. Age?

24 A. Age.

25 Q. Age alone?

1 A. That's -- that's one factor, but there's
2 also the fact that those pipes have been shown to
3 leak, have breaks, they are -- they have risks in our
4 DIMP program and they've been noted from the
5 Commission findings and from our federal regulators
6 that we should -- those were --

7 Q. That applies to all cast iron, doesn't
8 it?

9 A. It does.

10 Q. Right.

11 A. Yes.

12 Q. So that's not -- we're not talking about
13 all cast iron. Because you're already said I can
14 install cast iron tomorrow and it's not worn out and
15 deteriorated.

16 A. But no cast iron --

17 Q. The only difference between that cast
18 iron and your cast iron is age.

19 A. If you want to say it that way. But the
20 cast iron -- we wouldn't install cast iron today, so
21 that -- that point is really moot.

22 Q. Fine. You also said that the
23 installation of services was cost negative?

24 A. Yes.

25 Q. Okay. So just to be clear --

1 A. In certain situations, yes.

2 Q. -- if you -- if you had not touched
3 services at all, if you had just replaced mains and
4 only mains, you would have cost more money?

5 A. That's correct. Because of the transfer
6 costs to -- to -- to -- to move the -- the -- the ma--
7 the old service line from the old main to the new
8 main.

9 Q. So you would be changing services?

10 A. You would have to install a portion of
11 service line to -- to connect that old service to the
12 new main to be able to -- to serve the customer.

13 Q. So there would be a cost for installing
14 services?

15 A. Yes. The cost to transfer that service
16 line over.

17 Q. Okay.

18 A. And that is cheaper than the cost to
19 replace it.

20 FURTHER CROSS-EXAMINATION BY MS. SHEMWELL:

21 Q. I have one question. Which -- when you
22 say federal regulators, are you talking about PHMSA?

23 A. The PHMSA and DOT guidelines that they
24 put out too.

25 Q. PHMSA DOT -- PHMSA's part of DOT?

1 A. Yes.

2 Q. That's Pipeline and Hazardous Material
3 Safety Administration and they operate under DOT?

4 A. Yes.

5 Q. And they have told you that all of your
6 cast iron and bare steel is in a deteriorated
7 condition?

8 A. No. I'm re-- I'm re-- referring back to
9 the letter that we showed in evidence that they are
10 recommending replacement of -- they -- they --
11 specifically line out cast iron and bare steel systems
12 at an accelerated rate and the use of ISRS for -- for
13 those replacement projects.

14 Q. And in terms of plastic pipe, in January
15 of this year did PHMSA decline to require replacement
16 of PVC pipe?

17 A. I'm not sure. I'm not aware of that.

18 Q. Thank you.

19 JUDGE DIPPELL: Is there redirect?

20 MR. PENDERGAST: Just a few, Your Honor.

21 REDIRECT EXAMINATION BY MR. PENDERGAST:

22 Q. You had some discussion about the Company
23 moving to a higher pressure system as it replaced its
24 cast iron main. And I just want to ask you, was the
25 motivation to replace that cast iron main because the

1 cast iron was in a worn out or deteriorated condition?

2 A. Yes. Absolutely.

3 Q. Okay. And in saying as we replace that
4 pipe we're going to a higher pressure system, can you
5 explain why that decision was made?

6 A. Well, it's -- it's a safer system. The
7 system we have currently that is low pressure is what
8 we call utilization pressure where there's no
9 regulator at the -- the entrance of the service line
10 to the home, so it's using main pressure to serve the
11 home. If there's an issue on the main where it's
12 over-pressurized, that goes directly into the homes.
13 And we've seen incidents of that in the recent past
14 where that's caused problems.

15 These higher pressure systems are -- are
16 cheaper to -- to install because you can use smaller
17 pipe, but they have the added safety benefit of
18 installation of a regulator at the home that -- that
19 avoids that -- that pressure issue inside the home.

20 Q. Okay. And does the fact that you can use
21 smaller pipe have any impact on the installation cost
22 of that hi--

23 A. Si-- significant, yes. We would be
24 installing more like six- and eight-inch pipe where
25 we're installing two- and four-inch pipe and those are

1 significant differences in cost.

2 Q. Okay. And did moving to a higher
3 pressure system have any impact on the number of
4 regulators that need to go ahead and be maintained?

5 A. Yes. We currently have somewhere near a
6 hundred low pressure regulators that serve that
7 utili-- utilization system. When we're done with this
8 low pressure replacement, with the higher pressures
9 we'll have six new regulators that will serve that
10 same area.

11 Q. Okay. So from 80 down to 6?

12 A. Yeah.

13 Q. And does the Company re-use plastic where
14 it's economically feasible to do so?

15 A. Yes, we do. We've looked at studies
16 where -- you know, we -- we are operating pipe and --
17 and re-using areas that have pressure tests. We -- we
18 utilize that pipe as opposed to replacing it.

19 Q. And you were asked by Commissioner Hall a
20 couple of questions about if you have a project where
21 the replacement of plastic was slightly more expensive
22 than re-using the plastic, you eliminated the
23 incremental cost?

24 A. Correct.

25 Q. What impact did that have on whether you

1 were in the end recovering any costs associated with
2 replacement of plastic?

3 A. None.

4 Q. None in terms of there were no costs
5 associated with plastic that you were recovering?

6 A. Well, we -- there certainly were costs
7 involved in those replacements, but we're only
8 recovering the pa-- the portions that were incremental
9 to the -- to the replacement.

10 Q. Correct. And in doing that, are you
11 collecting a cost that reflects any added costs
12 associated with replacing rather than re-using the
13 plastic?

14 A. No.

15 Q. Thank you. I have no further questions.

16 JUDGE DIPPELL: Thank you. Thank you,
17 Mr. Atkinson. You may step down.

18 THE WITNESS: Thank you.

19 JUDGE DIPPELL: Moving right along, we
20 can go to Spire's next witness.

21 MR. PENDERGAST: Thank you, Your Honor.
22 We call Wes Selinger to the stand.

23 JUDGE DIPPELL: Would you please raise
24 your right hand.

25 (Witness sworn.)

1 JUDGE DIPPELL: Can you pronounce your
2 name for me so I --

3 THE WITNESS: It's Wesley Selinger.

4 JUDGE DIPPELL: Selinger.

5 THE WITNESS: Yeah. It's okay. I always
6 say hard G, but you know, it seems like most people go
7 with the soft G.

8 WESLEY E. SELINGER, having been first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION BY MR. PENDERGAST:

11 Q. Yes, Mr. Hard G Selinger. If -- did you
12 file Direct Testimony in this case?

13 A. Yes, I did.

14 Q. And has that previously been marked as
15 Exhibit Number 7? Or 8 --

16 A. Yes.

17 Q. -- excuse me.

18 And if I were to ask you the same
19 questions that appear in that testimony today, would
20 your answers be the same?

21 A. Yes, they would.

22 Q. And do you have any corrections to make
23 to your answers?

24 A. No, I don't.

25 Q. With that, are those answers true and

1 correct, to the best of your knowledge and belief?

2 A. Yes, they are.

3 Q. Okay. I would ask that -- and did you
4 also submit an affidavit separately that has been
5 marked as Exhibit 7?

6 A. Yes, I did.

7 Q. Okay. And is the information contained
8 in your affidavit true and correct, to the best of
9 your knowledge and belief?

10 A. Yes, it is.

11 MR. PENDERGAST: Okay. In that case, I
12 would ask that both of these exhibits be admitted into
13 evidence.

14 JUDGE DIPPELL: Would there be any
15 objection to Exhibits 7 and Exhibit 8?

16 Seeing none then, I will admit those into
17 the record.

18 (Exhibits 7 and 8 were received into
19 evidence.)

20 MR. PENDERGAST: Should I proceed with --

21 JUDGE DIPPELL: Go ahead -- go ahead with
22 rebuttal.

23 BY MR. PENDERGAST:

24 Q. Yes. Do you have any rebuttal to the
25 testimony of Staff or OPC in this case?

1 A. I have rebuttal to the testimony of the
2 OPC.

3 Q. Okay. And can you please identify who
4 you have rebuttal to?

5 A. I would address a small portion of
6 Mr. Robinett's Direct Testimony, but primarily
7 Mr. Schallenberg's testimony.

8 Q. Okay. Speaking to Mr. Robinett's
9 testimony, at page 13 of his Direct Testimony, he
10 characterizes the Company's replacement plastic
11 facilities with no added cost as being a prudence
12 issue. Do you agree that it's just a prudence issue?

13 A. No, I do not. I believe the prudence
14 issue is irrelevant in this case. I have
15 demonstrated -- I think everybody's on the same page
16 that prudence is not really a relevant factor here.

17 Q. Okay. To your view, what is the primary
18 motivating factor behind and results of the analysis
19 that the Company did? Is it an economic issue?

20 A. Yes. It's primarily to demonstrate that
21 the approach that Spire took to replace pipe that
22 involved the incidental replacement of plastic was
23 more cost effective than using the approach to where
24 we utilize the pipe in place.

25 Q. And in your view, is that why it's ISRS

1 eligible?

2 A. Yes. Because in that case, what
3 essentially results is a cost savings and not an ISRS
4 cost. And any of the plastic pipe we've already shown
5 as being essentially driven by the retirement of the
6 plan-- pipe that's in a worn out or deteriorated
7 condition.

8 Q. Okay. And in your view is the fact that
9 it also happens to be a prudent thing to do make it
10 not ISRS eligible?

11 A. No.

12 Q. Do you have anything else with regard to
13 Mr. Robinett's testimony?

14 A. I do not.

15 Q. Moving along, do you have any rebuttal to
16 the testimony filed by OPC witness Robert
17 Schallenberg?

18 A. I do.

19 Q. Please proceed.

20 A. I'd like to address the issue of the
21 overhead costs that was raised in Mr. Schallenberg's
22 testimony.

23 Q. Okay. And what is your understanding of
24 what Mr. Schallenberg is saying in his Direct
25 Testimony?

1 A. Well, he raises several points.
2 Specifically one statement he made is that overhead by
3 its nature is not normally an eligible ISRS cost. I
4 would disagree with that. First and foremost, because
5 the ISRS statute does not distinguish between
6 indirect, direct costs. It lays out construction
7 costs associated with ISRS eligible projects.

8 I think there's a variety of functions
9 that go into designing, implementing, recovering the
10 costs associated with ISRS projects from -- whether
11 that's the engineers that design that to the folks out
12 in the field that do the work to HR people that make
13 sure the people that do the work out in the field are
14 hired and trained and fit to perform that work. I
15 think there -- it's just an inaccurate statement to
16 say that the ISRS is primarily meant to reflect
17 construction costs and not overheads.

18 Q. And are the costs associated with those
19 engineering and other support staff that you've
20 mentioned, have they been included in your overhead
21 assigned to these projects?

22 A. Yes.

23 Q. Okay. And in your view, are these people
24 critical to making sure that these facilities are
25 installed correctly?

1 A. Yes.

2 Q. Okay. Are they critical to making sure
3 that the employees going to work are fit and competent
4 and trained?

5 A. Yes.

6 Q. Okay. You mentioned some of the
7 functions that are included in there. Are employee
8 benefits also included in these overheads?

9 A. Yes, they are.

10 Q. And what kind of employee benefits would
11 those be?

12 A. Well, your pension, insurance.

13 Q. Medical?

14 A. Yes. Medical.

15 Q. Okay. Is that a significant portion of
16 those workers' costs?

17 A. I believe it is. I'm not an expert on
18 that, but I would say that from my experience and
19 interaction with folks in our company, that yes, it
20 is.

21 Q. Okay. And once again, those would be
22 included in the overheads?

23 A. Yes.

24 Q. Is non-productive time included in the
25 overheads?

1 A. Yes, it is.

2 Q. Okay. And just for the Commission's
3 benefit, would you explain what non-productive time
4 is?

5 A. Well, so assume -- we'll take one of
6 those groups, like the HR or Human Resources
7 Department. Essentially you're going to have to take
8 their time, which would include vacation time, sick
9 time, things like that. Not necessarily directly
10 related to I guess the direct functions of their
11 department, but then you would allocate that time
12 using the productive time that they -- that they are
13 working on specific tasks.

14 Q. Okay. And where is the non-productive
15 time of the employees actually out in the field doing
16 the work captured?

17 A. I believe in the same -- it would be
18 allocated among their department.

19 Q. Okay. And would be collected in the
20 overheads?

21 A. Yes.

22 Q. Okay. So to the extent somebody has two
23 or three weeks of vacation, which is what we call
24 non-productive time, they have sick leave that they're
25 taking, whatever, that would all be included in the

1 overheads?

2 A. Yes.

3 Q. Okay. Are there any costs included in
4 the overheads associated with leasing vehicles,
5 gasoline expense, leasing equipment, that sort of
6 thing in connection with the work?

7 A. Yes, there are.

8 Q. Okay. And when you look at all these
9 items that have to be -- oh, and the engineers have to
10 have a place to work. Right?

11 A. Yes.

12 Q. Okay. Same thing with the other support
13 staff and -- is the cost of that space also included
14 in overheads?

15 A. I believe so, yes.

16 Q. Okay. Given those costs, do you see
17 anything alarming or unexpected by the fact that
18 overheads might make up approximately 55 percent of
19 the overall project costs?

20 A. Not when I consider all those items that
21 you mentioned. No, I don't think it seems alarming.

22 Q. Okay. And, you know, were allocations
23 and how we go about charging time to things and that
24 sort of -- sort of stuff, was that addressed in the
25 Company's last rate cases?

1 A. Yes, it was. And the testimony of our
2 controller, Tim Krick, we-- went over specifically our
3 cost allocation process and how these things are
4 distributed.

5 Q. Okay. And to your knowledge, did
6 everybody have an opportunity to question how that was
7 being done and whether they had any concerns with it?

8 A. Yes, they did.

9 Q. Okay. And is what we're doing by way of
10 assigning overheads to these projects any different
11 than what we've done in prior ISRSs or in the rate
12 case?

13 A. No, it's not.

14 Q. Okay. Thank you. I don't believe I have
15 any other questions. Excuse me.

16 JUDGE DIPPELL: Can I have the court
17 reporter read back the last question and answer?

18 THE COURT REPORTER: "Question: Okay.
19 And is what we're doing by way of assigning overheads
20 to these projects any different than what we've done
21 in prior ISRSs or in the rate case?"

22 "Answer: No, it's not."

23 JUDGE DIPPELL: Thank you.

24 BY MR. PENDERGAST:

25 Q. Yeah, just one last question or two. And

1 you worked -- did you work closely with Staff in
2 developing and enhancing these cost studies?

3 A. I think so. I -- I thought it was
4 closely, in my opinion. I think they would agree. I
5 think we met at least -- I would say six technical
6 discussions. I can't even count the amount of phone
7 calls to sort out issues.

8 Q. And -- and in looking at these projects,
9 do you know if the Staff looked at both those projects
10 that are included in kind of the new ISRS investments
11 as well as the older ISRS investments?

12 A. In their recommendation and their Direct
13 Report, I don't believe that they've essentially
14 stated that. I think the position on the -- what's
15 called old cases -- or old projects is that they
16 shouldn't be allowed for legal pur-- or legal reasons.

17 But as far as the review, data requests,
18 additional evidence that they requested from us and we
19 provided, I would assume that they gave them the same
20 review that they gave to projects covering July
21 through January.

22 Q. Okay. And all those older investments
23 were analyzed in the same way?

24 A. That's my understanding.

25 Q. And did they come up with similar

1 results?

2 A. I assume so.

3 Q. Okay. Thank you. I have no further
4 questions.

5 JUDGE DIPPELL: Thank you. Is there
6 cross-examination by Staff?

7 MR. BERLIN: Yes, judge. One question.

8 CROSS-EXAMINATION BY MR. BERLIN:

9 Q. Mr. Selinger, you were asked some
10 questions about the determination of overheads.

11 A. Uh-huh.

12 Q. Is it your view that the question or
13 matter of determining the amount of overheads or the
14 allocation of overheads is better or more
15 appropriately handled in a general rate case
16 proceeding?

17 A. Yes.

18 Q. Okay. Thank you. No further questions.

19 JUDGE DIPPELL: Is there
20 cross-examination by Public Counsel?

21 MR. CLIZER: Yes, Your Honor.

22 CROSS-EXAMINATION BY MR. CLIZER:

23 Q. Good morning, Mr. Selinger. I should say
24 good afternoon.

25 A. Good afternoon.

1 Q. Did I pronounce your name correctly?
2 Selinger?

3 A. No. I think you did the soft G.

4 Q. Oh, Selinger?

5 A. Yeah.

6 Q. Oh, thank you. Okay. Really quick, you
7 mentioned that the overheads were calculated as part
8 of the last rate case. They were also included in
9 base rates as part of that last rate case --

10 A. Uh-huh.

11 Q. -- correct?

12 Right. So we would agree that any
13 overheads to be collected as part of this ISRS have to
14 be incremental additions brought on by this ISRS
15 itself essentially?

16 A. I do agree with that.

17 Q. Okay. I might have misheard this and it
18 might have just been part of your discussion of what's
19 down time was it or -- no, non-productive time.

20 A. Non-productive.

21 Q. Yes. But was HR staff time included in
22 these ISRS overhead costs?

23 A. There may have been a portion of it
24 applied to each project.

25 Q. Okay.

1 JUDGE DIPPELL: Mr. Selinger, can I
2 make -- get you to make sure --

3 THE WITNESS: Yes.

4 JUDGE DIPPELL: -- you're speaking into
5 the microphone.

6 THE WITNESS: Sorry.

7 JUDGE DIPPELL: Thank you.

8 BY MR. CLIZER:

9 Q. Going to the subject of your Direct
10 Testimony, the Company's essentially taken the
11 position that the replacement of plastic resulted in
12 no cost additions. Is that -- you'd say that's
13 accurate?

14 A. Correct.

15 Q. I just want to run through a quick
16 hypothetical to make sure I understand this. If -- if
17 you were to, say, go out to replace your car, right?
18 And you went to a car lot and you bought a 20,000
19 dollar car -- I'm not sure if that's a good price, but
20 let's say for a second you just bought a 20,000 dollar
21 car. And at that car lot there was also a 40,000
22 dollar car but you didn't buy that.

23 A. Uh-huh.

24 Q. You bought the 20,000 dollar car. What
25 would you say was the cost to replace your car?

1 A. Well, I would say that the cost to
2 replace my car was 20,000 dollars.

3 Q. Okay. Because that's what you spent.
4 Right?

5 A. Well, and -- yes, but I would also say
6 that compared to the alternatives, I saved 20,000
7 dollars. I had two options. I chose this option --
8 if -- say that option's not available, I've only got
9 40,000 dollars. If I'm going to choose -- going down
10 the second path to the 40,000 dollar car.

11 Q. Well, we can agree that you've spent
12 20,000 dollars. You incurred a 20,000 dollar cost?

13 A. Yes.

14 Q. Yes.

15 MR. CLIZER: Do you have anything else?

16 MS. SHEMWELL: No. Thank you.

17 MR. CLIZER: We are done. Thank you.

18 JUDGE DIPPELL: Are there questions from
19 the Commission? Mr. Chairman?

20 CHAIRMAN SILVEY: Thank you.

21 QUESTIONS BY CHAIRMAN SILVEY:

22 Q. I still have some questions about this --
23 these overheads. Who are these people? Are they
24 contractors? Are they employees of Spire?

25 A. I think typically they're employees of

1 Spire.

2 Q. They're employees of Spire. So how many
3 people are employed by Spire?

4 A. I don't know off the top of my head. I
5 would guess somewhere in the 2-- 2- to 3,000 range --

6 Q. 2- to 3,000?

7 A. -- somewhere in there.

8 Q. How many people would -- are involved in
9 this ISRS application for overheads?

10 A. I'm not aware of that, but I would say
11 that I think any overheads would be related to
12 departments that were related to these capital
13 projects.

14 Q. So if they weren't doing these capital
15 projects, would they -- would they -- they wouldn't be
16 employed?

17 A. Well, they would be doing some other
18 work.

19 Q. They would be doing some other work.

20 A. I don't know if that would --

21 Q. So would they --

22 A. -- result in less work --

23 Q. -- be figured into the rate-base?

24 A. In this case -- yea-- well, a portion
25 would. A portion of the overheads are capitalized and

1 included in plant and then a portion is expensed in
2 the rate case.

3 Q. So I'm struggling to understand how in
4 the rate case you can account for these and --
5 these -- these employees and their benefits and then
6 at the same time ask for ISRS compensation for them
7 when you're -- they've already been accounted for in
8 the rate case.

9 A. Well, see, that's -- there's a
10 distinction there because what -- for each project --
11 so in this case we have 500 different projects. A
12 portion of those overheads goes to -- will go into
13 each project. So when that project goes into service,
14 it's available to be included in rates.

15 So as of 9/30/2017, all of our projects
16 were in rates, that was our true-up cutoff. Anything
17 we're requesting here is a new incremental project.
18 So all the overheads associated with prior projects
19 are already in base rates. Anything in this -- ISRS
20 projects, the incremental projects are not.

21 Q. So none of these overheads are
22 incorporated in the current rate structure for the
23 base operations --

24 A. Correct.

25 Q. -- of Spire?

1 A. So assume I have like a project one and
2 project two. Project one was done before 9/30/2017,
3 the true-up in our last rate case. All the overheads
4 associated with that are in base rates. Now we're
5 onto a entirely new project that's received its
6 allocation of overheads and they are only in the ISRS.
7 It's -- cannot be included in base rates.

8 Q. Okay.

9 CHAIRMAN SILVEY: Thank you, Judge.

10 JUDGE DIPPELL: Thank you. Commissioner
11 Kenney --

12 COMMISSIONER KENNEY: Thank you.

13 JUDGE DIPPELL: -- did you have
14 questions?

15 QUESTIONS BY COMMISSIONER KENNEY:

16 Q. Good afternoon.

17 A. Good afternoon.

18 Q. I'll be brief. On the bottom of page 5
19 of your testimony, top of page 6 you gave a
20 description of a project cost. This says, For
21 instance assume a particular project costs 100 dollars
22 and the Company's engineering cost analysis for that
23 project showed that utilizing existing plastic costs
24 3 percent less than the Company's approach. That
25 percentage would be applied to the spe-- specific --

1 the project-specific additional amount and the Company
2 would only include 97 dollars --

3 A. Correct.

4 Q. -- in their ISRS -- so that 3 percent
5 lowers -- so you just -- you're going to include that.
6 Now, on the bottom of page 7 and the top of page 8 you
7 gave a for instance. And you said, Appendix A,
8 Schedule 5 of Spire East's application demonstrates
9 that a blanket work order -- what do you consider a
10 blanket work order?

11 A. Well, blanket work orders are work orders
12 that we have that capture sort of many, many
13 miscellaneous, small, unplanned work. Like the
14 projects that I said before where we'd have our
15 engineering guys design it and it's got a project
16 number and might have phases to it. Blanket work
17 orders are items that we have to take care of -- you
18 know, mostly like a leak repair or something that's
19 not necessarily related to planned work.

20 Q. And -- and you went on to say that
21 87.7 percent of those expenses would be captured in
22 the Company's ISRS.

23 A. Yeah. So for the blanket work orders,
24 what we did was essentially we used to -- it was --
25 you know, we didn't know exactly how to determine

1 what -- what was being captured under those. I think
2 in our last cases we actually really saw that that
3 was, you know, a deficiency that we needed to remedy.

4 And so we went kind of working with
5 different engineering and business metrics folks in
6 our -- in our company and came up with how can I get
7 the information that's under these blanket work
8 orders. And what we did was found a printout of -- of
9 the jobs, different causes, work order numbers. And
10 what the 87 percent is is that through that process,
11 unfortunately, we did find ineligible items.

12 Q. So that's -- the 12.26 percent was -- you
13 disallowed that?

14 A. So what we do have with the blankets and
15 one limitation we still have is that we don't have a
16 dollar for dollar -- so if I've got 1,500 work orders
17 that are captured under this larger blanket work
18 order, I don't know the specific dollars.

19 Q. Okay.

20 A. So we came up with sort of a percentage
21 approach to say --

22 Q. Is this an annual percentage or does it
23 change every year?

24 A. It will change based on the ISRS period.
25 So when I -- the next time -- let's say we get -- the

1 rates go into effect May --

2 Q. You mean once you true-up or once you
3 have a rate case? Once you -- once we settle things
4 up?

5 A. Yeah.

6 Q. That's when --

7 A. So next time --

8 Q. There will be a new rate at that time?

9 A. And next time if I come in and say all
10 right, I want to recover ISRS investments from say
11 June of this year through December of this year, I'll
12 have all new projects that are captured under those
13 blanket work orders. So that's how it will change.

14 Q. Okay. That -- the difference -- how does
15 that differ on the average individual projects that
16 the Company deems that it would have been more prudent
17 to leave the existing plastic; that 3 percent? What's
18 the overall number on that have you determined?

19 A. On the -- like the analyses specific --

20 Q. No. On your 500-plus projects, the
21 analyses.

22 A. Uh-huh.

23 Q. That if you say that it's been determined
24 that it would have -- it would have been -- the
25 Company would have saved or the ratepayer whatever

1 would have saved 3 dollars -- 3 percent --

2 A. Uh-huh.

3 Q. -- do you have a number that's a --
4 that's a -- that you say --

5 A. That's the 1.6 million dollars.

6 Q. Okay. But is there a -- then what's that
7 percentage? I know 3 percent of the 100 percent is --
8 I understand that one. But do you have -- do you know
9 the overall percentage? Just like you do on the
10 blanket ones, you know it's 87.74 percent.

11 A. I don't know. And that's just -- really
12 the difference there is the approach. So with the
13 blankets, I don't have those analyses. I don't have
14 the detailed analysis.

15 What I have is I could say I've got 100
16 projects here. I did find one that for whatever
17 reason, it was coded wrong, it should not be in here
18 so we've pulled it out. So that's -- and I don't have
19 a specific -- so I'm basically saying every one of
20 those hundred projects is assigned an equal dollar
21 value.

22 Q. And -- and are all these assignments done
23 in-house?

24 A. Yes. With -- in conjunction with Staff
25 and OPC.

1 Q. Just -- Staff and OPC. Do they -- do
2 they review everything just like they would on a rate
3 case?

4 A. I don't know if -- the rate case
5 procedures, but I know we went through specific review
6 on each item. And even up until the last couple weeks
7 we're pulling -- you know, saying hey, I think I might
8 have caught this, discussing.

9 Q. That's all I had. Thank you.

10 A. Yeah.

11 JUDGE DIPPELL: Commissioner Hall, did
12 you have questions?

13 COMMISSIONER HALL: Yeah.

14 QUESTIONS BY COMMISSIONER HALL:

15 Q. Going back, I -- going back I think to
16 the first question that Commissioner Kenney asked on
17 page 5 --

18 A. Uh-huh.

19 Q. -- to 6 of your Direct Testimony,
20 starting at lines 22. Assume a particular project
21 cost a hundred dollars and the Company's engineering
22 cost analysis -- analysis for that project showed that
23 utilizing the existing plastic cost 3 percent less
24 than the Company's approach. Going on to page 6, that
25 percentage difference would then be applied to the

1 project-specific addition amount and the Company would
2 only include 97 dollars as the additional amount to be
3 included in the ISRS filing.

4 A. Right.

5 Q. You indicated that -- that you had
6 numerous conversations and communications with -- with
7 Staff about the methodology to -- to be employed in
8 this case?

9 A. Uh-huh.

10 Q. Is it your understanding that -- that
11 that approach which is set forth in your testimony
12 pages 5 and 6 that we just -- that -- that I just
13 read, that that methodology was approved by Staff as
14 well?

15 A. In my opinion, yes.

16 Q. And are you the individual who -- who
17 developed this -- this methodology or was it somebody
18 else with the Company?

19 A. I think yeah, maybe when we first started
20 it -- because I think we started kind of working with
21 Staff and putting forward these ideas as early as the
22 end of September of last year. So I know you guys
23 might be familiar with Glenn Buck from our company.
24 He was involved in getting this started. But I'd say
25 that I was pretty much leading this process from about

1 late October, November of last year.

2 Q. Would you be able to direct me to any
3 portion of the Commission's prior order in this case
4 or the Western District's opinion that gives some
5 support to that methodology?

6 A. Well, I would -- let's see. Have I got
7 that in here? So where -- in the Commission's last
8 orders in the 0309, 0310 cases, it said, In the
9 future, if Spire Missouri wishes to renew its argument
10 that plastic pipe replacements result in no cost or a
11 decreased cost of ISRS, it should submit supporting
12 evidence to be considered such as but not limited to a
13 separate cost analysis for each project claimed.

14 So in my -- I mean my original
15 interpretation was can I show this as an overall
16 package? Can I say 1.6 mil-- here's all the analyses
17 and here's a total of 1.6 million dollars for each
18 one. I determined -- you know, and with Staff I think
19 that we kind of mentioned that no, this needs to be on
20 a project-by-project basis. And used some -- I guess
21 our interpretation that that would qualify.

22 Q. Anything else in the order that I should
23 look at to find support for that methodology that
24 you're aware of?

25 A. No.

1 Q. Okay. Can you -- can you explain to me
2 again what the 1.6 million figure represents?

3 A. Well, so we did over 500 cost analysis --
4 individual cost analysis.

5 Q. And that 500 is for the -- for the new
6 period?

7 A. That's -- that's for the entire period.

8 Q. Okay. So the 1.6 is for the new and the
9 old?

10 A. Yeah.

11 Q. Okay.

12 A. So -- yeah. So I mean essentially if you
13 compared the two approaches for each project, netted
14 up the totals or summed up the totals, you would have
15 come up to 1.6 million dollars saved.

16 Q. Of the new projects, how many did not
17 meet the standard of being cheaper than -- than using
18 existing plastic as opposed to replacing?

19 A. I'm not exactly sure, but it was not
20 many.

21 Q. Is it -- is it set forth in the record
22 somewhere?

23 A. It's in our application. And I --

24 Q. So --

25 A. -- we could follow up with that fairly

1 easily.

2 Q. Okay. So -- so the application actually
3 sets forth those specific projects?

4 A. You can see on each line where it's
5 100 percent included and where the percentage is
6 applied. So there would be a project that says
7 100 percent included. That one met the threshold. If
8 you go to the next line and there's one that says
9 97 percent, then you would know that that --

10 Q. Okay.

11 A. -- was where the 3 percent --

12 Q. So then it would be very simple math to
13 simply pull those projects out of the figure?

14 A. I think so.

15 Q. Can you explain to me where the Company
16 and Staff disagree as to the new ISRS period?

17 A. Can you say that one more time?

18 Q. I'm -- I'm -- I'm trying to figure out
19 where the Company and Staff disagree as to the -- as
20 to the new ISRS period, if at all?

21 A. I -- I think we had the tax issue that
22 we've settled this morning, and I don't think there's
23 any disagreement beyond that.

24 Q. Okay. Thank you.

25 JUDGE DIPPELL: Commissioner Coleman?

1 COMMISSIONER COLEMAN: None. Thank you.

2 QUESTIONS BY JUDGE DIPPELL:

3 Q. All right. I just have a few for you.

4 And they may have already been answered. Hold on.

5 What does Spire consider to be the high
6 priority areas of its replacement program?

7 A. Honestly, I think Mr. Atkinson was
8 probably better to answer that one.

9 Q. Okay. And I think he did answer that. I
10 just --

11 A. Yeah. I j-- I'm not the engineering guy.

12 Q. Okay. What -- well, I think Commissioner
13 Hall was sort of just asking this, but I'm going to
14 ask it again. What percentage of Spire's ISRS
15 projects is related to the cast iron replacement, do
16 you know?

17 A. Not off the top of my head.

18 Q. Do you know what percentage is related to
19 the replacement -- the cathodic protection program
20 unprotected --

21 A. What percentage of our -- like the
22 capital investment?

23 Q. Of the ISRS --

24 A. Like revenues?

25 Q. -- request?

1 A. Yeah, I think the cathodic protection is
2 not -- I mean it's somewhere in the 25,000 dollar
3 range. I could look at our application if I -- if I
4 had that on me, but those were pretty small buckets.

5 Q. Okay. And if we look at those
6 attachments on the applications, we can see which ones
7 were included where, but is there any summary among
8 those numbers? I mean that's a lot of -- a lot of
9 little numbers.

10 A. No, I -- I understand. So we do have a
11 summary sheet in the application that will show you
12 each project number and sort of the different total
13 costs between scenario one and two and then the
14 percentage difference and even some commentary on the
15 job that was done.

16 Q. Okay. Okay. Okay. I think that's all I
17 have.

18 JUDGE DIPPELL: Is there
19 cross-examination based on questions from the Bench
20 from Staff?

21 MR. BERLIN: No, Judge. Thank you.

22 JUDGE DIPPELL: Public Counsel?

23 MS. SHEMWELL: Thank you, Judge.

24 FURTHER CROSS-EXAMINATION BY MS. SHEMWELL:

25 Q. Mr. Selinger -- and I've always called

1 you Selinger, I know -- are expenses for salaries in
2 your current base rates?

3 A. Yes.

4 Q. They were set in your last rate case?

5 A. Yes.

6 Q. Are expenses for car leases included in
7 your current base rates?

8 A. To the extent they're associated with
9 projects that are included in our base rates.

10 Q. For expenses, you get a return of the
11 expense. Correct?

12 A. Yes.

13 Q. But for capitalized items such as those
14 in rate-base, you get a return of and on?

15 A. Uh-huh.

16 Q. That's all I --

17 JUDGE DIPPELL: Mr. Selinger, can you --

18 THE WITNESS: Oh, yes.

19 JUDGE DIPPELL: -- answer?

20 THE WITNESS: Sorry. Yes.

21 JUDGE DIPPELL: Okay.

22 MS. SHEMWELL: That's all I have. Thank
23 you, Judge.

24 JUDGE DIPPELL: Thank you. Is there
25 further redirect?

1 MR. PENDERGAST: Just a little, Your
2 Honor.

3 REDIRECT EXAMINATION BY MR. PENDERGAST:

4 Q. Mr. Selinger, we've had some discussion
5 about the Western District Court of Appeals decision
6 and I'd just like you to read this sort of last
7 section of it where it talks about what it's doing and
8 what it's instructing the Commission to do.

9 MS. SHEMWELL: May I see that, please?

10 MR. CLIZER: I have a copy actually.

11 THE WITNESS: There's some brackets
12 around the portion he's talking to, I think.

13 MS. SHEMWELL: Okay. Thank you.

14 THE WITNESS: Sure. Okay. It says, We
15 reverse the Commission's order to the extent that it
16 allowed cost recovery through adjustment to the ISRS
17 rate schedules for the replacement of plastic
18 components that were not in a worn out or deteriorated
19 condition and the case is remanded.

20 BY MR. PENDERGAST:

21 Q. Yeah. And I'd just like to ask you your
22 view of that and your elimination from the ISRS
23 filing, any excess costs associated with replacing
24 rather than re-using plastic when your cost studies
25 showed that's what had happened. In your view, is

1 eliminating that excess cost associated with replacing
2 rather than re-using plastic trying to achieve that
3 objective of excluding costs associated with plastic?

4 A. Yes.

5 Q. You were asked a number of questions
6 about your overhead comments. And we have both
7 overheads and then we have sort of the direct payroll
8 to people that are doing the work. Right?

9 A. Yes.

10 Q. Okay. And is the direct payroll the
11 people doing the work also capitalized?

12 A. Yes. Of course.

13 Q. Okay. And were that direct payroll costs
14 of those people that did prior ISRS projects or other
15 capital projects reflected in base rates?

16 A. Yes.

17 Q. Okay. Is anybody saying that because you
18 had these direct payroll costs that are now being
19 capitalized for new projects and you had direct
20 payroll costs that were capitalized for older costs,
21 that there's some double counting going on?

22 A. No.

23 Q. Is there conceptual difference whatsoever
24 between the overhead issue and the direct payroll
25 issue when it comes to that double counting issue?

1 A. Not in my opinion, no.

2 Q. Okay. And when you do go ahead and
3 capitalize these items in the rate case, will the
4 capitalization that's been going on be reflected in
5 how you allocate the time of your employees between
6 capital items and O and M expense?

7 A. Yes.

8 Q. And to the extent that you've got ISRS
9 and you've got people working on ISRS and their time's
10 being capitalized, will that reduce the amount of
11 O and M expense you're able to reflect in rates?

12 A. It will.

13 Q. Okay. And I think you've said both MGE
14 and -- and -- well, MGE Spire East and Spire West have
15 relatively low O and M percentages?

16 A. Relative to?

17 Q. Well, what --

18 A. I don't --

19 Q. -- are the O and M expenses?

20 A. I don't find it alarming. I mean both
21 have around 50 percent -- 50 to 60 percent.

22 Q. Of capitalized?

23 A. Of capitalized. So their O and M
24 percentage would actually be the -- yeah, 45, 40
25 percent.

1 Q. Okay. So is that fair to say that when
2 you look at the cost-of-service, which includes all of
3 the costs, wages, salaries of all the people, that
4 you're going to allocate them to capital or you're
5 going to allocate them to O and M based on these
6 percentages?

7 A. Correct.

8 Q. And to the extent you've been
9 capitalizing this stuff, it's going to go ahead and
10 absolutely reduce the O and M expense expenditure; is
11 that correct?

12 A. Yes, it is.

13 Q. And once again, by capitalizing these
14 overheads, is it true that you're asking current pa--
15 ratepayers to pay 10 to 15 percent of the cost of
16 these overheads on the project?

17 A. Yes.

18 Q. Instead of 100 percent?

19 A. It would pay, yes, the return on and of
20 as opposed to 100 percent of the expense.

21 Q. So current ratepayers are paying a
22 fraction of the cost spent on these projects which
23 will be recovered over many years; is that correct?

24 A. Yes.

25 Q. And if you didn't want to do that and

1 just charge them 100 percent and expense it, would the
2 rates be higher?

3 A. Yes, they would be much higher.

4 Q. Okay. And in capitalizing these costs --
5 and we've talked about tax issue -- but the Company's
6 able to take deductions, is it not?

7 A. As far as the plant -- plant deductions?

8 Q. Yeah. Overheads --

9 A. Yes. Yes.

10 Q. -- you know --

11 A. Yes.

12 Q. -- to the extent 263A and that sort of
13 thing --

14 A. Yes.

15 Q. -- is that correct?

16 A. Yes.

17 Q. Okay. And in the past, the Company has
18 flowed those deductions through to customers; is that
19 right?

20 A. Yes.

21 Q. Okay. So is it fair to say that current
22 customers are both getting -- only having to pay a
23 fraction of the cost of this and other customers in
24 the future as those assets are used will pay more, and
25 they're getting a tax deduction flowed through to them

1 as well?

2 A. Correct.

3 Q. Does that sound like a pretty good deal
4 to you?

5 A. I would like that deal.

6 Q. Thank you.

7 JUDGE DIPPELL: Thank you. Thank you,
8 Mr. Selinger. You may step down.

9 THE WITNESS: Thank you.

10 JUDGE DIPPELL: I think then that
11 concludes Spire's witnesses. Do we want to go ahead
12 and start with Staff?

13 MR. BERLIN: Sure.

14 JUDGE DIPPELL: Okay. Let's go ahead and
15 do Staff witness and then we'll take a short break
16 after -- after that.

17 MR. BERLIN: Staff calls Mr. J Luebbert.

18 (Witness sworn.)

19 JUDGE DIPPELL: Thank you.

20 J LUEBBERT, having been first duly sworn, testified as
21 follows:

22 DIRECT EXAMINATION BY MR. BERLIN:

23 Q. Good afternoon, Mr. Luebbert. Will you
24 please state your name and spell it for the court
25 reporter?

1 A. J Luebbert. It's the letter J,
2 L-u-e-b-b-e-r-t.

3 Q. And how are you employed?

4 A. I'm the case manager for the Missouri
5 Public Service Commission Staff.

6 Q. And how long have you been employed with
7 the Commission?

8 A. Roughly three years.

9 Q. And did you cause to be prepared in a
10 Direct Report format certain report testimony?

11 A. I did.

12 Q. That are -- that is premarked as Exhibits
13 100 and Exhibits 101, which is an Appendix?

14 A. Yes.

15 Q. And could you briefly explain your
16 portion of the testimony?

17 A. Yeah. I was the policy witness.

18 Q. All right. And do you have any
19 corrections to make to your testimony at this time?

20 A. I will have some corrections due to
21 the -- the stipulation that's -- or the agreement
22 that's been made between the Company and Staff. I
23 don't have all of the updated numbers, but those
24 will -- will follow.

25 Q. As regarding the final recommended

1 numbers. Right?

2 A. Yes.

3 Q. Okay. Okay. And, Mr. Luebbert, you do
4 not have any Rebuttal Testimony at this time?

5 A. No, I don't.

6 MR. BERLIN: Judge, I'm not going to
7 offer the Direct Report into evidence at this point.
8 I will wait until we're done with Staff's last
9 witness.

10 JUDGE DIPPELL: That's fine.

11 MR. BERLIN: And right now I would tender
12 Mr. Luebbert for cross-examination.

13 JUDGE DIPPELL: Okay. Is there any
14 cross-examination from Spire?

15 MR. ZUCKER: No, Your Honor.

16 JUDGE DIPPELL: Public Counsel?

17 MR. CLIZER: No, Your Honor.

18 JUDGE DIPPELL: Are there any questions
19 for Mr. Luebbert from the Commission?

20 Okay. Let me look really quick and see
21 if I have any questions. Commissioner Hall, did
22 you --

23 COMMISSIONER HALL: Go ahead.

24 JUDGE DIPPELL: Okay. Well, I'm not -- I
25 don't think I have anything for Mr. Luebbert anyway.

1 So if you have questions, Commissioner?

2 COMMISSIONER HALL: No, I don't. Thank
3 you.

4 JUDGE DIPPELL: Okay. Well, I guess we
5 should have asked all that before we got you up here.
6 Looks like there is nothing further then from you,
7 Mr. Luebbert. Thank you.

8 THE WITNESS: Thank you.

9 JUDGE DIPPELL: Maybe I'll start then
10 with asking the question. Will there be
11 cross-examination questions for Ms. Bolin?

12 MS. SHEMWELL: One or two.

13 JUDGE DIPPELL: Let's go ahead and --

14 MR. IRVING: Good afternoon. At this
15 time, Staff would like to call Ms. Bolin to the stand.

16 JUDGE DIPPELL: Would you please raise
17 your right hand.

18 (Witness sworn.)

19 JUDGE DIPPELL: Thank you. Go ahead.

20 KIMBERLY BOLIN, having been first duly sworn,
21 testified as follows:

22 DIRECT EXAMINATION BY MR. IRVING:

23 Q. All right. Ms. Bolin, would you please
24 state and spell your name?

25 A. My name is Kimberly Bolin. And Bolin is

1 spelled B-o-l-i-n.

2 Q. By whom are you employed and in what
3 capacity?

4 A. I'm employed with the Missouri Public
5 Service Commission as a utility regulatory auditor.

6 Q. Okay. Have you caused to be prepared for
7 the purposes of this proceeding certain report
8 testimony in this case?

9 A. I authored the blanket work order section
10 and the tax income tax section of the report.

11 Q. Okay. Thank you. Do you have any
12 changes that you would like to make to that testimony
13 at this time?

14 A. No, I do not.

15 Q. Okay. If you were to prepare your
16 testimony today, would your testimony be the same?

17 A. It would.

18 Q. Okay. Is your report -- report testimony
19 true and correct, to the best of your information,
20 knowledge and belief?

21 A. It is.

22 MR. IRVING: Okay. As Mr. Berlin
23 indicated before, we would offer her testimony after
24 we've called all of -- all of our witnesses, but at
25 this time I would tender Ms. Bolin for her

1 cross-examination.

2 JUDGE DIPPELL: And there was no
3 rebuttal?

4 MR. IRVING: There's no rebuttal at this
5 time, no.

6 JUDGE DIPPELL: Okay. Thank you. Is
7 there cross-examination from Spire?

8 MR. ZUCKER: No, Your Honor.

9 JUDGE DIPPELL: From Public Counsel?

10 CROSS-EXAMINATION BY MR. CLIZER:

11 Q. Afternoon, Ms. Bolin.

12 A. Good afternoon.

13 Q. You might -- you might not actually be
14 the right person to answer this question. I wasn't
15 sure which of the two Staff people I wanted to ask so
16 if that's the case, just let me know.

17 But did Staff calculate a dollar amount
18 that represented the plastic that was put in place in
19 this ISRS in place of retired plastic? Did that make
20 sense?

21 A. I'm not sure what you're asking.

22 Q. Fair enough. Did Staff come up with a
23 cost for replacing plastic essentially or what -- what
24 Spire spent to replace plastic that already existed in
25 its lines?

1 A. I don't know that we have an exact dollar
2 for that.

3 Q. That's all. Thank you.

4 JUDGE DIPPELL: All right. Are there
5 questions from the Bench? Mr. Chairman? Commissioner
6 Hall?

7 QUESTIONS BY COMMISSIONER HALL:

8 Q. Hopefully just one.

9 A. Okay.

10 Q. Was there any plastic replacement in the
11 blanket work orders?

12 A. Yes, there was. And we considered it
13 ineligible and that is part of the percentage that was
14 removed from the blanket work orders. The Company
15 also removed it also.

16 Q. 100 percent of it?

17 A. Of the plastic. They had different tasks
18 in each work order and if that task they could not
19 identify if it was only cast iron or steel, they
20 considered it plastic and they removed it.

21 Q. Okay. And when you say --

22 A. They removed it as the percentage that
23 was applied to the total cost of the blanket --

24 Q. Walk me through how that percentage
25 removal process worked for the blanket work orders.

1 A. We looked at each task in the blanket
2 work orders and we tried to determine if it was
3 eligible, like it was for copper, cast iron,
4 relocations that were mandated by a governmental
5 entity, angle of reposes, we considered those
6 eligible.

7 Then we also looked at the ones that were
8 ineligible such as the service line relocations due to
9 a customer requesting it, excavation damage. And if
10 it looked like it was removal of plastic or we
11 couldn't identify it, we considered it ineligible.
12 Now if it was plastic removed due to a leak repair, we
13 included it as eligible.

14 Q. Okay. So if there was an ineligible
15 plastic replacement, what was eliminated from the
16 total amount of that blanket work order?

17 A. We then made -- we took the ineligible
18 versus the eligible to determine that percentage of
19 ineligible. And then we applied it to the total cost
20 of the work orders, that percentage.

21 Q. And is that calculation set forth
22 anywhere in the record?

23 A. It may be in the Company's application.
24 I know it's in their work papers, but it may be in
25 their application, but it is not in my -- in Staff's

1 report. The description of the calculation, but not
2 the actual calculation.

3 Q. Okay. Thank you.

4 A. Uh-huh.

5 JUDGE DIPPELL: Any further questions?

6 All right. Is there further cross-examination from
7 Spire?

8 MR. ZUCKER: No, Your Honor.

9 JUDGE DIPPELL: Public Counsel?

10 MS. SHEMWELL: No, thank you.

11 JUDGE DIPPELL: Is there redirect by
12 Staff?

13 MR. IRVING: No, Your Honor.

14 JUDGE DIPPELL: All right. Then,
15 Ms. Bolin, I believe that concludes your testimony.
16 You may step down. I say since we're moving right
17 along, let's keep going.

18 MR. BERLIN: Staff calls Mr. Keith
19 Foster.

20 BY MR. BERLIN:

21 Q. Good afternoon, Mr. Foster. Please state
22 your name and spell it for the court reporter.

23 A. Keith Foster, F-o-s-t-e-r.

24 JUDGE DIPPELL: And let me swear you in.

25 THE WITNESS: Sorry.

1 JUDGE DIPPELL: That's all right. Would
2 you please raise your right hand.

3 (Witness sworn.)

4 JUDGE DIPPELL: I'm assuming you were
5 truthful about your name and spelling?

6 THE WITNESS: I -- I think so, yes.

7 KEITH FOSTER, having been first duly sworn, testified
8 as follows:

9 DIRECT EXAMINATION BY MR. BERLIN:

10 Q. Mr. Foster, please state your position
11 with the Commission.

12 A. I'm a utility regulatory auditor.

13 Q. And how long have you been employed by
14 the Commission?

15 A. Just over 11 years.

16 Q. And did you cause to be prepared certain
17 Direct Testimony in a report format?

18 A. Yes, I did.

19 Q. In both -- pre-labeled as Exhibit 100 and
20 Exhibit 101; 101 being the Appendix?

21 A. Sure.

22 Q. Yes. Okay. And do you have any changes
23 to make to your testimony at this time?

24 A. I do not.

25 Q. And so your testimony is true and

1 correct, to your best information, knowledge and
2 belief?

3 A. It is.

4 Q. Okay. And have you prepared Rebuttal
5 Testimony at this time?

6 A. Yes, I have.

7 Q. And could you please explain to the
8 Commission what your live Rebuttal Testimony is about?

9 A. It's about capitalized overhead expenses.

10 Q. And could you please describe this issue?

11 A. Yes. At pages 1 to 5 of his Direct
12 Testimony, OPC Witness Schallenberg raises concerns
13 about Spire's overhead costs being eligible for ISRS
14 recovery and the amount of overhead costs allegedly
15 being requested for ISRS recovery in the instant ISRS
16 cases.

17 He further recommends that Spire refile
18 its ISRS request with either the overhead request
19 removed or to include documentation supporting their
20 ISRS eligibility while rejecting the current filings.
21 He then offers an alternative conflicting
22 recommendation which is to disallow all overhead costs
23 from the instant cases and to open an investigatory
24 docket.

25 OPC Witness Robinett also addresses this

1 issue on pages 14 to 16 of his Direct Testimony.

2 Q. What are the overhead expenses?

3 A. The term "overhead expenses" typically
4 refers to the types of expenses included in FERC
5 accounts 920, administrative and general salaries, and
6 921, office supplies and expenses, that provide
7 supportive functions to the utility but are not
8 chargeable to a particular utility operating function.

9 Such administrative expenses may be
10 transferred to specific construction costs by
11 crediting the offsetting account 922, administrative
12 expenses, transferred credit and additional examples
13 of overhead costs potentially chargeable to
14 construction projects are also listed on page 2, lines
15 11 through 14 of Mr. Schallenberg's testimony.

16 Q. Are overhead expenses typically included
17 in a company's rates as reflected in both expense and
18 capital accounts?

19 A. Yes. Staff and other parties can choose
20 to review a utility's policies and practices regarding
21 capitalization of overhead amounts in general rate
22 cases and propose adjustments as necessary in this
23 area.

24 Q. Do major utilities typically capitalize a
25 portion of their overhead expenses?

1 A. Yes.

2 Q. And to your knowledge, is the issue
3 identified by Mr. Schallenberg in this proceeding
4 regarding capitalization of overheads specific to ISRS
5 construction projects?

6 A. No. I believe Mr. Schallenberg's
7 concerns appear to be applicable to all of Spire's
8 construction activities, both ISRS eligible and not.

9 Q. Are the issues involving recovery of
10 capitalized overhead expense amounts appropriate for
11 handling in ISRS rate applications?

12 A. Generally, no. A comprehensive
13 examination of a utility's policies and practices
14 regarding capitalization of overhead costs would be a
15 time-consuming business at best. The amount of time
16 that would be needed for this audit activity by the
17 utility staff and OPC exceed the time available in
18 ISRS proceedings, given the statutory maximum 60-day
19 ISRS audit period.

20 Q. If a party believes that all or part of a
21 utility's capitalized overhead expenses should not be
22 allowed rate recovery, what recourse does that party
23 have?

24 A. Well, Staff recommends that such issues
25 first be raised in the utility's general rate

1 proceedings wherein it is likely that additional time
2 and resources will be available to the interested
3 parties compared to the situation in ISRS petitions.

4 Q. And does that conclude your Rebuttal
5 Testimony?

6 A. Yes, it does.

7 Q. Thank you, Mr. Foster.

8 MR. BERLIN: Judge, I tender Mr. Foster
9 for cross-examination.

10 JUDGE DIPPELL: Okay. Thank you. Is
11 there cross-examination from Spire?

12 MR. ZUCKER: There is not.

13 JUDGE DIPPELL: Public Counsel?

14 MR. CLIZER: Yes. Hopefully briefly.

15 CROSS-EXAMINATION BY MR. CLIZER:

16 Q. Good afternoon, Mr. Foster.

17 A. Good afternoon.

18 Q. You were the other person I was
19 considering asking this question to so I'll just ask
20 the same question essentially. Just to verify, did
21 Staff ever determine a dollar amount related to the
22 plastic pipes -- or rather any pipe that Spire
23 installed to replace existing plastic components?

24 A. Not that I'm aware of.

25 Q. So there was no analysis similar to the

1 one performed in 2018 or rather --

2 A. Not -- oh, similar to the one in 2018? I
3 don't think so.

4 Q. Okay. Thank you. That is all.

5 JUDGE DIPPELL: Are there questions from
6 the Commission? Mr. Chairman? Commissioner Hall?

7 QUESTIONS BY COMMISSIONER HALL:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. So you -- you authored in the -- in
11 Staff's Direct Report the section on review and
12 revenue calculations --

13 A. Right.

14 Q. -- on page 9 through 11; is that correct?

15 A. Yes.

16 Q. Anything else in the Staff report?

17 A. Other than the amounts that we've put in
18 later -- oh, page 13 just on the amounts that we came
19 up -- it was sponsored by both Kim Bolin and myself.

20 Q. Okay.

21 A. I forgot to mention that.

22 Q. So let me -- let me first -- on page 11
23 where you say, Based on Staff's review of a sampling
24 of work orders. You did not do a sampling with
25 regards to the plastic replacement work orders.

1 Correct? You -- you looked at each and every one of
2 those?

3 A. Well, the sample -- the sample of work
4 orders was -- would have been -- would have included
5 yes, those that had the plastic replacement.

6 Q. So Staff did not review each of the
7 plastic replacement work orders?

8 A. Well, there's a -- depends on what you
9 mean by work orders. There was the -- there's the
10 actual avoided cost studies that was done and those
11 509 that they talked about earlier.

12 Q. Yes. Okay.

13 A. Now, I didn't look at every one of --
14 well, I did actually look at every one of those and --
15 but it was also looked at from an engineering
16 standpoint from Chuck Poston who will be up next.

17 Q. Okay. So each of those was looked at
18 from an engineering perspective by Mr. Poston and from
19 an auditing perspective by you?

20 A. That is correct.

21 Q. Okay. Well, that -- I just wanted to
22 make sure that we weren't doing a sample there as
23 well.

24 A. No.

25 Q. Okay.

1 A. No.

2 Q. Good. Going to page 10 of -- of -- of
3 the report, and this is an issue that I've raised with
4 a couple of the Company's witnesses. Lines 18 through
5 23 --

6 A. Uh-huh.

7 Q. -- where you say in a -- in a nutshell
8 that if the plastic replacement actually costs more
9 than using the plastic, the -- the percentage
10 difference was deducted from the work order.

11 A. From the actual expenses incurred.

12 Q. Okay.

13 A. Yes. For that work order, yes.

14 Q. Who on Staff made a determination that
15 that was the appropriate methodology, presumably
16 attempting to be consistent with this Commission's
17 prior order in the Western District decision?

18 A. I pu--

19 Q. Was that you or was that somebody else on
20 Staff?

21 A. Well, I think it was a combination of
22 people, including myself and the engineering analysis
23 group, other people on the audit Staff. There were
24 more than one person involved.

25 Q. Because one -- one other approach would

1 have been to simply eliminate that project as an ISRS
2 eligible project if it -- if it -- if replacing the
3 plastic cost more than -- than re-using.

4 A. Okay.

5 Q. I mean th-- whether -- whether -- whether
6 you agree with it, whether -- I mean that is an
7 approach that could have been followed?

8 A. Understood, yes.

9 Q. Okay. Correct? Okay. And I've been
10 trying to find unsuccessfully in the application where
11 those particular projects are set forth. Is that --
12 is that -- could you help me find that?

13 A. Sure.

14 Q. Okay.

15 A. So are you wanting to know where -- what
16 level of detail are you looking for?

17 Q. I'm just trying to find an example of a
18 project where -- where the Company determined that it
19 was more expensive to replace the plastic than to
20 re-use it.

21 A. Well, if you look at the -- if you look
22 at the summary data tab in the work papers -- do you
23 see a summary data -- do you have the work papers up?

24 Q. So --

25 JUDGE DIPPELL: I don't think we have the

1 work papers. We only have what the schedules were
2 attached to the application.

3 THE WITNESS: Well, there would be data
4 requests that were sub-- oh, well, let's see. No.
5 Were those -- those were only submitted as data --
6 were they submitted as a data request? No, they were
7 submitted as part of the application. There were some
8 actual under individual -- individual studies, I
9 believe it was. There's a folder out there.

10 JUDGE DIPPELL: Could Spire help
11 Mr. Foster?

12 MR. PENDERGAST: Perhaps if you reviewed
13 Appendix A, Schedule 4, I think that it --

14 COMMISSIONER HALL: Appendix A, Schedule
15 4.

16 MR. PENDERGAST: -- has a summary of each
17 project.

18 COMMISSIONER HALL: Okay.

19 THE WITNESS: Yeah. I'm sorry I don't
20 have that.

21 JUDGE DIPPELL: Were you able to find
22 that, Commissioner?

23 COMMISSIONER HALL: Yes. Though my
24 eyesight is --

25 JUDGE DIPPELL: You'll have to enlarge

1 it.

2 MR. BERLIN: I have a paper copy here of
3 Appendix A, Schedule 4 that I can bring to you.

4 THE WITNESS: That would be helpful for
5 me.

6 MR. BERLIN: Are you able to -- would you
7 be able to --

8 THE WITNESS: Yeah. Oh, God.

9 COMMISSIONER HALL: And is that for --
10 for East -- East service territory?

11 JUDGE DIPPELL: Mr. Berlin.

12 MR. BERLIN: This is for the 115 case,
13 East case, yes, sir.

14 COMMISSIONER HALL: Okay.

15 BY COMMISSIONER HALL:

16 Q. All right. So there's a number of
17 projects where the -- where there's a zero percent.

18 A. Uh-huh.

19 Q. What does that mean?

20 A. That means that there was no cost
21 difference or in some cases there was no plastic
22 involved.

23 Q. So I was under the assumption that --
24 that all of these projects in this table involved some
25 plastic replacement. Is that not true?

1 A. I would have to defer to the Company, who
2 submitted this.

3 Q. Okay. So there's a number of projects
4 with zero percent and then there's positive 1, 2, 3,
5 4, 5, 6, 7 -- 15 or so and then there's a significant
6 number of zero percents again. And I'm trying to
7 understand the extent to which you went through each
8 of these.

9 A. From a -- from a auditing standpoint,
10 what I did was go through and validate that all of
11 these numbers matched with -- that there was a
12 individual analysis cost study for each one of these
13 that supported the number that was in here.

14 And in addition, I also made sure that
15 for a selected sample of these, particularly ones that
16 had the more positive and the higher dollar amounts,
17 that there was some detailed information that backed
18 up how they computed each of these numbers for both
19 scenarios. And then Chuck Poston can discuss the --
20 what he did as part of his analysis of this.

21 Q. So near the end of that table -- and I
22 don't -- I don't have a page number. There's --

23 A. Isn't it down in the corner, in the lower
24 right? It's pretty small, but --

25 Q. I can't -- oh, well, page 2 of 3.

1 A. Yes.

2 Q. There's one for -- it's Chouteau Avenue
3 and Fourth Street strategic grid.

4 A. I see that.

5 Q. 17841328, I assume that's the work order.
6 I'm not sure. It's the first column.

7 A. Yeah. That or a project number.

8 Q. Okay. So if I'm reading this correctly,
9 the first dollar figure, the \$257,444.67, that is the
10 amount it cost to -- to replace the plastic?

11 A. That's the estimated cost to replace the
12 plastic, yes.

13 Q. And then to -- to re-use the plastic
14 would have been significantly cheaper, would have cost
15 \$173,634.05?

16 A. Correct.

17 Q. Okay. So what the Company did -- and at
18 least my understanding that Staff was on board with
19 this approach, is it took that 32.55 percent
20 difference and deducted that from the 257,444; is that
21 right?

22 A. Well --

23 Q. In other words -- in other words, only
24 173,000 of that project was viewed as ISRS eligible?

25 A. Well, I just want to make sure that it's

1 clear that these two columns are estimates that are
2 used to create these percentages and then the
3 percentages are applied to the actual expense that was
4 incurred.

5 Q. Well, where is the actual expense that
6 was incurred?

7 A. That would have been on the --

8 Q. And why -- why would -- why would we
9 utilize an estimate for -- for a project when we have
10 an actual cost for the project?

11 A. You'll have to ask the Company that.

12 Q. Well, you audited this, didn't you?

13 A. I did. Yes, I did. They put together
14 estimates for -- over a long period of time with a
15 variety of different -- different engineers to put
16 these together. And some of them, you know --

17 Q. And I realize that --

18 A. So if you look at -- if you look at your
19 Appendix -- I ap-- Appendix A, Schedule 1, there's
20 your ISRS work order additions.

21 Q. Okay. I'm sorry.

22 A. So if you look at Appendix A, Schedule 1,
23 I believe that is -- those are all your additions.
24 And there you will see the addition amount towards the
25 center of the page. And, you know, some of these

1 first ones don't have anything because they're
2 actually -- I think they're part -- they're not --
3 they don't have any -- I'm not quite -- well, they're
4 they're categorized by -- like this one first set is
5 total main relocations. So they have no percentages
6 applied.

7 So you start going to page 3 and you see
8 some of the steel mains and the plastic mains. You'll
9 see -- and they're putting in monthly amounts for each
10 of these. They'll have an addition amount followed by
11 a project analysis result, which is the percentage
12 that's being carried over from the -- what we just
13 looked at before this and then that's being applied to
14 it to create -- and then -- to create a different
15 percentage, the difference, and then it's coming up
16 with a revised addition amount. And that's the amount
17 that's actually in the ISRS case. So this is where
18 the percentage is being applied.

19 Q. So why would -- why would we compare an
20 estimate for the project with or without plastic as
21 opposed to comparing the actual cost with what it
22 would cost had the -- had the plastic been not
23 replaced?

24 A. That's the -- that -- I -- with all due
25 respect, I didn't put this -- that together, so --

1 Q. Right.

2 A. -- it's really the Company decided to
3 approach it that way.

4 Q. But -- but you deemed it as reasonable?

5 A. Yes.

6 Q. So just for -- for example, on -- on this
7 particular project that we're talking about, the
8 Chouteau Avenue and Fourth Street strategic grid --

9 A. Okay.

10 Q. -- what was the actual cost of that
11 project?

12 A. Well, this area somewhere -- this is --
13 these are monthly figures here for groups of projects.
14 In my work papers, you know, in some of the stuff that
15 I did, I would have summarized this by actual work
16 order. And I would be able to tell you that number,
17 but I don't have that work paper with me.

18 So you would have to actually look at
19 this and find the -- that particular work order, which
20 is the number in the second field, and select
21 everything from that work order and that would be the
22 total.

23 Q. Well, I'm probably not going to do that.

24 A. Okay. Well, if you want me to do it for
25 you, I'd be happy to do it after this.

1 Q. Okay. So if I wanted to know the amount
2 of the -- the ISRS eligible expenses that the Company
3 is seeking for the -- for the new ISRS --

4 A. Uh-huh.

5 Q. -- if we've got that dollar amount, if I
6 wanted to reduce that amount by the amount of any
7 project where there was a cost associated with the
8 plastic replacement --

9 A. Uh-huh.

10 Q. -- is that an easy process?

11 A. If you were able to identify the exact
12 projects, yeah, I -- I think it would be relatively
13 easy.

14 Q. Do you think it would be a relatively
15 large figure or not?

16 A. I don't know, yeah.

17 Q. Is it -- I mean it would appear that very
18 few of the projects on this chart were -- were more
19 expensive because of the plastic replacement. That's
20 just my -- and I believe there was testimony to that
21 effect as well. Okay. All right. Thank you.

22 A. Uh-huh.

23 JUDGE DIPPELL: Are there other
24 Commission questions? Mr. Chairman?

25 CHAIRMAN SILVEY: Thank you. Real quick.

1 QUESTIONS BY CHAIRMAN SILVEY:

2 Q. Do you know what percentage of overhead
3 expenses were expensed versus capitalized in the last
4 rate case?

5 A. No, I do not.

6 Q. Okay.

7 A. I just -- I didn't work on that case.
8 That's -- I just don't have it. Sorry.

9 Q. Okay. I appreciate that. If, for
10 example -- and I -- this is not an accurate number.
11 I'm just pulling this out.

12 A. Uh-huh.

13 Q. But if, for example, 65 percent were to
14 be expensed and 35 percent to be capitalized, would it
15 make sense that it be treated the same way in this
16 ISRS application; and why or why not?

17 A. Well, I would think the capitalization
18 ratios would be the same. I can't im-- I don't know
19 why they would be different off the top of my head.
20 So there wouldn't -- to my knowledge, there wouldn't
21 be any reason to change that.

22 Q. Okay. Thank you.

23 QUESTIONS BY JUDGE DIPPELL:

24 Q. All right. Mr. Foster, do you know if
25 overhead was included in any other ISRS cases for this

1 or any other company in the --

2 A. I've only worked on two other ISRS cases
3 and that was back in 2009 and 2011. Did not
4 specifically look at overhead. We don't typically
5 look at that level of detail in these ISRS cases, so I
6 don't know.

7 Q. Okay. I think that was the only question
8 I had for you.

9 JUDGE DIPPELL: Is there any further
10 cross-examination from Spire?

11 MR. ZUCKER: Thank you, Your Honor.

12 FURTHER CROSS-EXAMINATION BY MR. ZUCKER:

13 Q. Good afternoon, Mr. Foster.

14 A. Good afternoon.

15 Q. If Spire was replacing a segment of cast
16 iron and that segment had some plastic in it and the
17 cost -- estimated cost to replace the cast iron and
18 the plastic was 100 dollars, okay, and the cost to
19 replace just the cast iron and re-use the plastic was
20 97 dollars, would you agree with me that 3 dollars of
21 that was expended to replace the plastic?

22 A. It sounds that way, yes.

23 Q. And that 97 dollars was expended to
24 replace the cast iron?

25 A. I mean some part -- portion of labor or

1 whatever would have been expended either way, so yeah,
2 it is an incremental difference, so yeah. I mean I
3 would tend to agree with that.

4 Q. Okay. So would you need to assume that
5 the Company was there to replace the cast iron and not
6 to replace the plastic?

7 A. I'm not sure I understand that part.

8 Q. So -- so in order to assign 97 dollars to
9 the cast iron, you would need to assume that the
10 Company -- what the Company's goal was was to replace
11 the cast iron?

12 A. Right. I would agree with that.

13 Q. And if you assume the cast iron is worn
14 out or deteriorated and thus ISRS eligible, that
15 97 dollars should be recoverable. Would you agree
16 with that?

17 A. I would, yes.

18 Q. And if you assume the plastic is not ISRS
19 eligible, the 3 dollars would not be recoverable.
20 Would you agree with that?

21 A. Yes.

22 Q. Maybe the last question. There is
23 another Staff witness who actually did the
24 engineering. You were the auditor. Correct?

25 A. Correct.

1 Q. There's another Staff witness who did the
2 engineering part of this; is that correct?

3 A. That is correct.

4 Q. Okay. And his name is?

5 A. Chuck Poston.

6 Q. Okay. All right. Thank you, sir.

7 A. Thank you.

8 JUDGE DIPPELL: Is there
9 cross-examination from Public Counsel?

10 MR. CLIZER: No, Your Honor. Thank you.

11 JUDGE DIPPELL: Is there any redirect?

12 MR. BERLIN: Yes, Judge. Thank you.

13 REDIRECT EXAMINATION BY MR. BERLIN:

14 Q. Mr. Foster, you had indicated in response
15 to a question that you did -- you looked at a sample
16 of work orders. Can you explain the reason why?

17 A. Well, yeah. We looked at several work
18 orders and -- because part of the process of what we
19 do in the ISRS is we review invoices to make sure that
20 they're -- the expenses match -- we have invoices to
21 expense some of the -- or to match some of the
22 expenses that they're -- they're asking for in this.

23 And so we looked at specific -- we get
24 specific detailed information back from the Company
25 and then we select from that certain line items that

1 we want to review and we request invoices and so we
2 look at those invoices.

3 I also looked at the work orders -- the
4 sample of the work orders that I selected for the --
5 for those particular -- looking at those invoices to
6 make sure that there was a work order authorization
7 form. And ensuring that that -- that there was a form
8 for every one of those and that that was -- report
9 that it designated or denoted that it was an ISRS
10 eligible work order.

11 Q. Okay. And could you briefly explain the
12 difference of -- of, as an auditor, your review of
13 these work orders versus what Mr. Poston did from an
14 engineering standpoint?

15 A. Yeah. It was primarily to make sure that
16 the dollar amounts in terms of the work -- the -- the
17 dollar amounts were correct. And that particularly
18 with the cost avoidance studies, it was the -- part of
19 the deal with the cost avoidance studies is a lot of
20 the -- between the -- what was in their filing and
21 their summary data for what they used to determine the
22 percentages were hard coated numbers that were coming
23 from these individual cost avoidance studies so it was
24 validating that those matched. And when they didn't,
25 we got some clarification on that. In some cases we

1 went from a positive number down to a negative number.

2 We also did more of a sampling because
3 the dollar -- the -- the back-up data to support what
4 went into each one of those cost analysis --
5 individual cost avoidance studies was so very, very,
6 very detailed. So we -- between Chuck and myself, we
7 picked out a sample of those that we wanted to get
8 significantly more detail back.

9 And so then I got that data and made sure
10 that that data matched the individual cost items in
11 those cost avoidance studies. And -- and, you know,
12 the majority of cases they matched, but there were,
13 you know, a couple or so that didn't quite match and
14 we rectified those with the Company. So basically to
15 make sure that everything -- everything supported each
16 other and matched.

17 Q. So were you able to get all your
18 questions answered by the Company on any discrepancies
19 that you observed?

20 A. Every one of them was responded to --

21 Q. Okay.

22 A. -- and -- and resolved, yes.

23 Q. And Commissioner Hall I believe asked you
24 some questions about the use of estimated numbers --

25 A. Yes.

1 Q. -- in terms of the estimate of the cost
2 of the job?

3 A. For -- for the -- for the cost avoidance
4 studies, yes.

5 Q. Right. And would that be something, to
6 your mind, that Mr. Poston could address?

7 A. He may be able to address part -- part of
8 that, yes.

9 Q. Okay. Thank you. I have no further
10 questions. Thank you.

11 JUDGE DIPPELL: Thank you. I believe
12 that concludes your testimony, Mr. Foster. You may
13 step down.

14 We've been going a couple hours, so I'd
15 like to take a short break. It's getting later in the
16 afternoon then I would have liked to have been at this
17 point. And part of our scheduling was to make sure
18 that we got Mr. Robinett's testimony in and on a
19 particular schedule. So let me know when we get back
20 from break how you see the rest of this afternoon
21 playing out and if we need to rearrange witness order
22 or anything like that. So let's go a break and return
23 at 3:45.

24 (A recess was taken.)

25 JUDGE DIPPELL: Let's go back on the

1 record.

2 MR. BERLIN: Staff calls Mr. Chuck
3 Poston.

4 (Witness sworn.)

5 JUDGE DIPPELL: Thank you. You can go
6 ahead Mr. Berlin.

7 CHARLES POSTON, having been first duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION BY MR. BERLIN:

10 Q. Mr. Poston, please state your name and
11 spell it for this court reporter.

12 A. Charles Poston, P-o-s-t-o-n.

13 Q. And how are you employed?

14 A. I'm a utility regulatory engineer for the
15 Missouri Public Service Commission.

16 Q. How long have you been employed with the
17 Commission?

18 A. Five years.

19 Q. And did you cause to be prepared certain
20 Direct Testimony that is in Direct Report format
21 premarked as Exhibits 100 and 101 in both dockets?

22 A. That's correct.

23 JUDGE DIPPELL: And let me just interrupt
24 there for a second, Mr. Berlin. Earlier you said
25 Exhibit 101 was the Appendix, but it's actually not.

1 There's an Appendix to both. 100 is Case Number 115
2 and 101 is 116, at least that's the way they were
3 marked on your exhibit list.

4 MR. BERLIN: We have a Direct Report for
5 both dockets.

6 JUDGE DIPPELL: Yes.

7 MR. BERLIN: And an Appendix for both
8 dockets.

9 JUDGE DIPPELL: And but it's just
10 Appendix 1. Right?

11 MR. BERLIN: That is correct.

12 JUDGE DIPPELL: Okay. The way I have it
13 on here is that it's Staff's report with Appendix 1
14 for GO-2019-0115 is Exhibit 100 and for GO-2019-0116
15 is 101. I believe those reports were different.
16 Correct? Not just the Appendix -- Appendices?

17 MR. BERLIN: Yes, Judge. I apologize.
18 Apparently the exhibit list has a typo in it, but
19 there is a direct report with an Appendix that are
20 premarked as 100 and 101 -- that should be premarked
21 as 100 and 101 for both the 115 docket and the 116.
22 And that's what the court reporter has.

23 JUDGE DIPPELL: Okay. I'll double check
24 with the court reporter and make sure I've got it
25 correct. I'm sorry to interrupt.

1 MR. BERLIN: That's okay.

2 BY MR. BERLIN:

3 Q. Mr. Poston, could you briefly describe
4 the testimony that you prepared?

5 A. Yes. My testimony covers my review of
6 the avoided cost studies provided by Spire.

7 Q. Okay. And is -- are -- excuse me.
8 Do you have any corrections to make to
9 your testimony at this time?

10 A. No.

11 Q. And if you were to prepare that testimony
12 today, would your testimony be substantially the same?

13 A. Yes.

14 Q. And is your testimony true and correct,
15 to your best information, knowledge and belief?

16 A. It is.

17 Q. And did you prepare any Rebuttal
18 Testimony in this matter?

19 A. I did not.

20 MR. BERLIN: Okay. And with that, Judge,
21 I would tender Mr. Poston for cross-examination.

22 JUDGE DIPPELL: All right. Is there
23 cross-examination by Spire?

24 MR. ZUCKER: Real -- real quickly.

25 CROSS-EXAMINATION BY MR. ZUCKER:

1 Q. Did you hear Chair-- Commissioner Hall's
2 questions of Mr. Foster?

3 A. I did.

4 Q. And can you explain how the adjustment
5 was made?

6 A. I can try. I believe the question was
7 about the estimates for the expenses for the avoided
8 cost studies and how they were compared to each other
9 versus being compared to an actual expense.

10 The scenario one that was a part of the
11 avoided cost studies was the work that was completed,
12 as in put in the ground. The scenario two was a
13 hypothetical look at the same job but with an attempt
14 to use as much of the plastic pipe as possible. So
15 that -- scenario two was never actually completed.

16 The Company chose to, for the sake of
17 comparison, go back and re-estimate scenario one with
18 the same comparable units, cost that they used for the
19 hypothetical scenario two. That was -- in the Direct
20 Testimony of Rob Atkinson, there is some information
21 on that starting on page 6, line 22 running to page 7,
22 line 16.

23 But again, the idea was for an -- to
24 allow for an apples-to-apples comparison between the
25 costs of the two different options, scenario one and

1 scenario two. Those re-estimations on scenario one
2 with the estimation of scenario two -- scenario two
3 were then used to find that percentage and then that
4 percentage was applied to the actual costs for the
5 project as it was completed.

6 Q. Oh, I'm sorry. No further questions.
7 Thank you.

8 JUDGE DIPPELL: Is there
9 cross-examination by Public Counsel?

10 MR. CLIZER: Yes, Your Honor.

11 CROSS-EXAMINATION BY MR. CLIZER:

12 Q. Good afternoon, Mr. Poston. Real quick,
13 did Staff ever calculate the total footage of plastic
14 pipe that was retired in this case?

15 A. I did not.

16 MR. CLIZER: That is all. Thank you.

17 JUDGE DIPPELL: Are there questions from
18 the Commission? Commissioner Hall, did you have
19 questions?

20 QUESTIONS BY COMMISSIONER HALL:

21 Q. I appreciate your attempt to explain the
22 differences between scenario one, scenario two,
23 estimates and actual costs, but I'm not sure I
24 understood. So when you say scenario one, I assume
25 what you're talking about is the approximate cost to

1 replace plastic?

2 A. Yes.

3 Q. Okay. And scenario two is the
4 approximate cost to utilize the plastic?

5 A. Yes. Those were estimated costs
6 calculated by Company's engineers.

7 Q. And before we get into a comparison of
8 that with actuals, did you -- to what extent did --
9 did you analyze those two estimates.

10 Q. For the avoided cost studies, my review
11 was focused on the construction decisions that
12 differentiated the two scenarios. And so in a case
13 where there was a segment of plastic main that in
14 scenario one was abandoned and replaced in scenario
15 two, I could go in and look and see how the Company
16 proposed to incorporate that into that hypothetical
17 re-use scenario.

18 Q. So -- well, was it -- was it your
19 understanding that these estimates were done -- this
20 is probably a question I should have asked the
21 Company, but is it your understanding that -- that
22 these estimates were done by the Company on the front
23 end to help determine whether or not to replace the
24 plastic?

25 A. It's my --

1 Q. Or was it done after the fact?

2 A. I believe after the fact.

3 Q. Okay. So the estimates that were -- that
4 were done after the -- after the fact, to what extent
5 were you able to determine how accurate they were?

6 A. Do you mean dollars?

7 Q. Correct.

8 A. That was not a part of my review.

9 Q. Did anybody on Staff review that?

10 A. Auditing Staff verified that the
11 individual line item components that were included as
12 a part of the Company's cost estimates were consistent
13 with the totals that were present in the avoided cost
14 analyses.

15 Q. Okay. But nobody on Staff that you're
16 aware of looked at the approximate cost to utilize
17 plastic on a particular project and determined yes,
18 that 50,000 dollars is -- is a good estimate for that
19 project?

20 A. We made the assumption that the cost
21 estimates the Company made were based upon sound
22 principles and that the -- their estimated cost, their
23 compatible units were acceptable.

24 Q. Okay. So moving onto the process by
25 which the -- the difference between scenario one and

1 scenario two was then applied to the actual cost,
2 can -- can you explain to me why -- why that is the
3 best apples-to-apples approach as opposed to -- to me,
4 it would make more sense to compare the -- the actual
5 cost of the project which involved replacing plastic,
6 with an estimate for what it would have cost to
7 utilize the plastic.

8 A. Again, I would point at Rob Atkinson's
9 Direct Testimony. But you know, in the messy real
10 world, final costs for a project could be impacted by
11 a number of variables that -- weather or who was
12 available on the day to do a job, various things that
13 you can't account for easily in a --

14 Q. Okay.

15 A. -- re-estimation of a hypothetical.

16 Q. Okay. That's -- that -- that is
17 reasonable. I understand that. Okay. All right. I
18 have no further questions. Thank you.

19 JUDGE DIPPELL: Thank you. Commissioner
20 Coleman?

21 COMMISSIONER COLEMAN: No questions.

22 QUESTIONS BY JUDGE DIPPELL:

23 Q. I just have a couple for you. And I'm
24 going to ask you -- I've been asking others. Are you
25 aware -- well, I guess you're from the engineering

1 perspective so I'm pretty sure I know what your
2 answer's going to be but I'll just go ahead and ask
3 it. Are you aware of any situation where the overhead
4 has been included in past ISRS cases?

5 A. That's outside the scope of my expertise.

6 Q. Okay. As soon as I started to say it, I
7 was -- okay. So on page 7 of the report, very last
8 line of your testimony there says, Staff found the
9 level of detail in the avoided cost studies related to
10 the replacement or re-use of plastic mains and plastic
11 service lines was sufficient to make conclusions about
12 the reasonableness of the construction decisions made
13 by Spire.

14 What -- what do you -- can you elaborate
15 on that a little bit for me? What conclusions about
16 the reasonableness of construction decisions?

17 A. Well, one of the things that I was
18 concerned about and wanted to include as a part of my
19 analysis was -- was the Company's method for looking
20 at these avoided cost studies, their method for making
21 these construction decisions that would then feed
22 their cost estimates. Were those assumptions in any
23 way predisposing an outcome? You know, the idea
24 was -- you know, is a finger on the scale. And that
25 would, to me, be unreasonable. And so that was a part

1 of my review and I did not find any evidence of that.

2 Q. And bear with me just a second. Let me
3 find -- find my next one. You're familiar with
4 Mr. Robinett's testimony?

5 A. Yes.

6 Q. Okay. I guess this is just something
7 that came up from -- from that. Can you explain what
8 evidence Staff relied on to determine that the cast
9 iron and bare steel mains and the service lines that
10 Spire replaced were ISRS eligible?

11 A. My understanding is that was a
12 designation made by the Company as a part of their
13 work orders.

14 Q. So you just went with what the Company
15 suggested based on your determination that their
16 construction decisions were reasonable?

17 A. The avoided cost studies did not have any
18 information as a part of the avoided cost study
19 related to ISRS eligibility. That was a cost
20 comparison.

21 Q. And were you just looking at the cost
22 analysis?

23 A. I was looking at the avoided cost studies
24 themselves and the method by which Spire chose to set
25 up their hypothetical scenario twos to make the cost

1 estimates, the construction decisions that fit into
2 those.

3 Q. Did you have any knowledge or information
4 or ability to determine that the cast iron and the
5 bare steel pipes were, in fact, worn out and
6 deteriorated?

7 A. The Company did not provide any
8 information in the avoided cost studies related to any
9 material being worn out or deteriorated.

10 Q. Okay. I think that's all I have.

11 JUDGE DIPPELL: Commissioner Hall, do you
12 have another question?

13 COMMISSIONER HALL: I'm sorry.

14 JUDGE DIPPELL: That's fine.

15 FURTHER QUESTIONS BY COMMISSIONER HALL:

16 Q. I think you discussed this, but I want
17 to -- I want to make sure. Going back to
18 Mr. Atkinson's direct that you referenced on page 6
19 to -- to page 7, this is the -- how the Company went
20 about developing the cost figures for labor,
21 materials, tools and overheads using what's referred
22 to as compatible units?

23 A. Yes.

24 Q. You -- you -- you are familiar with the
25 process that they used?

1 A. Yeah, I'm familiar. That is my
2 understanding -- what his testimony speaks to, that is
3 what I am familiar with.

4 Q. But are you -- are you familiar with that
5 is -- with whether or not that -- do you have an
6 opinion as to whether that is a reasonable approach?

7 A. I believe it is a reasonable approach.

8 Q. So even though you -- you -- you did not
9 look project-by-project to determine whether or not
10 those calculations were accurate, it is -- it is your
11 professional opinion that the overall approach is --
12 is -- is sound and reasonable?

13 A. That is correct.

14 Q. Okay. Thank you.

15 JUDGE DIPPELL: All right. Is there any
16 further cross-examination from Spire?

17 MR. ZUCKER: No, Your Honor.

18 JUDGE DIPPELL: Public Counsel?

19 MR. CLIZER: No, Your Honor. Thank you.

20 JUDGE DIPPELL: Is there redirect?

21 MR. BERLIN: Yes, Judge.

22 REDIRECT EXAMINATION BY MR. BERLIN:

23 Q. Mr. Poston, you were asked about -- or
24 you discussed with Commissioner Hall Mr. Atkinson's
25 testimony on pages 6 and 7. His testimony dealt with

1 compatible units. And Mr. Atkinson states that this
2 created an -- by using this method, this created an
3 apples-to-apples comparison of the engineering
4 decisions that would be made when planning these
5 projects. And do you agree with that statement?

6 A. Yes.

7 Q. Okay. And you reviewed -- well, let me
8 ask you this. You would agree there were about 509
9 individual specific engineering cost studies provided
10 by the Company?

11 A. Yes.

12 Q. And could you just explain what you
13 reviewed out of that 509?

14 A. Out of the 509 avoided cost studies, I
15 did first what I would consider a high level review of
16 all 509. I looked at each of the avoided cost studies
17 to ensure they contained a certain base level of
18 information; footage of pipe, footage of main
19 replaced, footage of main re-used, number of services
20 re-used, number of services replaced.

21 I looked for if there was a brief
22 narrative describing the project. And I looked to see
23 if there were dollar values associated with the work.
24 And finally to see if there were appropriate maps,
25 diagrams or schematics to explain the construction

1 decisions made by the Company in their cost estimates.

2 Beyond that, I looked at a smaller subset
3 of the 509 in greater detail so that I would have a --
4 a deeper dive into what was done beyond merely the
5 presence of the information, but more looking at the
6 reasonableness of what was done on a very granular
7 scale.

8 Q. And so it's your -- your view then that
9 the Company provided an engineering cost avoidance
10 study for each ISRS project -- each ISRS eligible
11 project that they applied for?

12 A. That is correct.

13 Q. All right. Mr. Poston, what -- what's
14 the whole point of these engineering cost analysis
15 studies? And I'm going to ask you that because, you
16 know, I'm trying to understand that it -- it follows
17 each ISRS eligible project, but is the point of that
18 to show -- to provide some engineering or economic
19 analysis to the entire scope of the project that would
20 entail the replacement of incidental or ancillary
21 components?

22 A. Yes. The -- the project -- the avoided
23 cost studies looked at the projects from an
24 engineering and economic point of view. What would it
25 take to re-use as much plastic as possible and then

1 estimated cost to do so compared against what the
2 Company considered to be a best practice or what they
3 actually did for those projects and the cost estimate
4 for that.

5 Q. Okay. So is it fair to say that the
6 replacement of plastic that may be associated with an
7 individual project based on the Company's approach and
8 your analysis, that that plastic that was replaced was
9 incidental to the entire ISRS project?

10 A. I believe their avoided cost studies help
11 support that argument.

12 Q. All right. Thank you.

13 MR. BERLIN: I have no further questions,
14 Judge.

15 JUDGE DIPPELL: Thank you. I believe
16 that concludes your testimony, Mr. Poston. You may
17 step down.

18 Would Staff like to call its next
19 Wednesday?

20 MR. BERLIN: Yes. Thank you, Judge.
21 Staff calls Mr. Dave Sommerer.

22 (Witness sworn.)

23 JUDGE DIPPELL: Thank you.

24 DAVID SOMMERER, having been first duly sworn,
25 testified as follows:

1 DIRECT EXAMINATION BY MR. BERLIN:

2 Q. Mr. Sommerer, please state your name and
3 spell it for the court reporter.

4 A. David Sommerer, S-o-m-m-e-r-e-r.

5 Q. And how are you employed?

6 A. I am the regulatory manager of the
7 Procurement Analysis Department.

8 Q. And how long have you been employed by
9 the Commission?

10 A. Approximately 35 years.

11 Q. And did you cause to be prepared certain
12 testimony in a Direct Report format that's pre-labeled
13 as Exhibits 10-- 100 and 101 in both the Spire East
14 Spire West dockets?

15 A. Yes.

16 Q. And could you briefly explain the
17 testimony that you provided?

18 A. I was responsible for developing the
19 Staff rate design for the ISRS. The rate design
20 essentially takes the Staff revenue requirement and
21 splits it between the various customer classes,
22 pursuant to the statute and Commission rule guidance
23 on how those revenues are to be split.

24 Q. Okay. And do you have any corrections to
25 make to your testimony at this time?

1 A. The only thing that I would point out is
2 that any time the Staff revenue requirement changes,
3 you would need to update the attendant rate design.
4 And my understanding is, is that Staff had a minor
5 adjustment to revenue requirement for Spire West and I
6 believe there's a pleading that supports that.

7 But in addition to that, there was a tax
8 issue that settled today essentially splitting the
9 issue down the middle. And that will impact Staff's
10 revenue requirement. That revenue requirement I
11 believe -- the updated figures were read into the
12 record. And if this is the appropriate time, I could
13 provide an updated copy of Schedule 1 for Spire East
14 and Spire West, which is a rate design that is
15 consistent with the updated Staff revenue requirement.

16 JUDGE DIPPELL: And that's updated from?

17 BY MR. BERLIN:

18 Q. Yes. Can you explain the update?

19 A. The Staff updated its revenue requirement
20 pursuant to an error correction which I believe was in
21 a pleading filed last night.

22 Q. Hold on a minute. That -- that -- that
23 error correction involved a tax -- a very, very minor
24 tax error in Spire West. And so there was no -- we
25 and the Company decided that we would not make a

1 filing on that because the parties had resolved the
2 overall tax issue.

3 A. Understood. Understood. Therefore, I
4 would say the only change necessary to Staff's
5 Schedule 1 from its Direct Testimony would be to
6 reflect the new revenue requirement as agreed to today
7 pursuant to the tax issue agreement.

8 Q. All right. And you have that schedule
9 with you?

10 A. I have schedules and copies for the
11 Commission both for Spire East and Spire West.

12 Q. Okay.

13 A. There are 20 copies -- or 19 copies in
14 each one of those packets.

15 JUDGE DIPPELL: Why don't we mark that
16 instead of, you know, attaching it to the earlier
17 report or whatever. We'll mark that as --

18 MR. BERLIN: Yes. I'd like to mark it as
19 a separate exhibit in each docket.

20 JUDGE DIPPELL: Right. Okay.

21 MR. BERLIN: We'll mark this as --

22 JUDGE DIPPELL: 102 and 103?

23 MR. BERLIN: Well, it would be 102 in
24 each docket.

25 JUDGE DIPPELL: Or 102 and 103, because

1 I'm going to get you straightened out on that other.

2 MR. BERLIN: Okay. Because we were -- we
3 had 100 and 101 for the Appendix. I have different
4 Appendixes. Each -- each docket has their own
5 Appendix.

6 JUDGE DIPPELL: I understand.

7 MR. BERLIN: Okay.

8 JUDGE DIPPELL: As I said in the
9 beginning of the hearing, we've combined these cases
10 for hearing, but not completely. So it is right to
11 have separate information for separate cases. But for
12 purposes of the hearing, we're going to mark
13 everything once and put both copies in each -- each
14 file.

15 MR. BERLIN: I understand.

16 JUDGE DIPPELL: So we'll mark the 115
17 schedule as 102 and the 116 schedule as 103. And
18 that's Updated Schedule 1 to Staff's report.

19 (Exhibits 102 and 103 were marked for
20 identification.)

21 BY MR. BERLIN:

22 Q. Mr. Sommerer, does that complete your
23 corrections to your testimony at this time?

24 A. Yes, it does.

25 Q. Okay. And with that correction, is your

1 Direct Testimony true and correct, to your best
2 information and belief?

3 A. Yes, it is.

4 Q. And in this matter, did you prepare any
5 Rebuttal Testimony?

6 A. No.

7 MR. BERLIN: At this time, Judge, because
8 Mr. Sommerer is our last witness, I would like to
9 offer our Staff Direct Report and supporting
10 Appendix 1 and Exhibits 10-- what you're going to call
11 102 and 103 into evidence in both dockets.

12 JUDGE DIPPELL: And so I'll just clarify
13 again. The way I want these marked -- and the court
14 reporter and I will make sure that it's done at the
15 end -- is -- I mean Staff's Appendix to its report is
16 the -- the case information that the witnesses have
17 participated in. Correct?

18 MR. BERLIN: That's correct.

19 JUDGE DIPPELL: Okay. So that report and
20 its Appendix is one exhibit and it is marked as
21 Exhibit 100 for Case Number GO-2019-0115. And the
22 report and its Appendix 1 for Case Number GO-2019-0116
23 is marked as Exhibit 101.

24 Would there be any objection to either
25 Exhibit 100 and 101 coming into the record?

1 MR. ZUCKER: No, Your Honor.

2 JUDGE DIPPELL: All right. Seeing none,
3 then I will admit Exhibits 100 and 101.

4 (Exhibits 100 and 101 were received into
5 evidence.)

6 JUDGE DIPPELL: And Exhibit 102 is the
7 updated Schedule 1 for Case Number ending in 115 and
8 Exhibit 103 is the updated Schedule 1 for Case Number
9 ending in 0116. Would there be any objection to those
10 coming into the record?

11 MR. ZUCKER: No.

12 MR. CLIZER: No.

13 JUDGE DIPPELL: All right. Thank you
14 (Exhibits 102 and 103 were received into
15 evidence.)

16 JUDGE DIPPELL: Was there any rebuttal
17 for this witness?

18 MR. BERLIN: There's no rebuttal, Judge.

19 JUDGE DIPPELL: Okay.

20 MR. BERLIN: At this point I tender
21 Mr. Sommerer for cross-examination.

22 JUDGE DIPPELL: Excellent. Okay. Is
23 there cross-examination from Spire?

24 MR. ZUCKER: There is not.

25 JUDGE DIPPELL: Is there

1 cross-examination from Public Counsel?

2 MR. CLIZER: No, Your Honor. Thank you.

3 JUDGE DIPPELL: Are there questions from
4 the Bench for Mr. Sommerer?

5 COMMISSIONER HALL: No questions.

6 COMMISSIONER COLEMAN: No questions.

7 JUDGE DIPPELL: Okay. Hold on just one
8 moment. Okay. I don't believe I have any questions
9 for you either Mr. Sommerer. So with that, I guess
10 your testimony is completed and you may step down.

11 THE WITNESS: Thank you.

12 JUDGE DIPPELL: Okay. I believe then
13 since that completes Staff witnesses, we are ready to
14 begin with Public Counsel's witness.

15 MR. CLIZER: Thank you, Your Honor.

16 MR. ZUCKER: Your Honor, may I jump in
17 here real quick --

18 JUDGE DIPPELL: Yes. Yes.

19 MR. ZUCKER: -- and ask if we can enter
20 into evidence Exhibits 1, 2, 3 and 4, which are
21 Spire's applications for Missouri East and Missouri
22 West and the updates for Missouri East and Missouri
23 West?

24 JUDGE DIPPELL: Yes. Would there be any
25 objection to Spire's original application and its

1 appendices and the updated Appendix A for each of the
2 cases coming into the record?

3 MR. CLIZER: Not an objection, per se.
4 Just to clarify, are they not already part of the
5 record being entered in EFIS?

6 JUDGE DIPPELL: They -- they are part of
7 the administrative record, but I would like to make
8 sure that they are included as evidence.

9 MR. CLIZER: Fair enough. No objections.

10 MR. BERLIN: No objections.

11 JUDGE DIPPELL: All right then. So
12 Exhibit 1, which is Spire Missouri East's application
13 in Case Number ending in 0115 is admitted into the
14 evidence.

15 (Exhibit 1 was received into evidence.)

16 JUDGE DIPPELL: Exhibit 2, which is Spire
17 Missouri West's application in Case Number ending in
18 0116 is entered into evidence.

19 (Exhibit 2 was received into evidence.)

20 JUDGE DIPPELL: Exhibit 3, which is the
21 Appendix A, which is the update of the December and
22 January numbers for the case ending in 0115 is entered
23 into evidence.

24 (Exhibit 3 was received into evidence.)

25 JUDGE DIPPELL: And Exhibit 4, which is

1 the update for December and January in Case Number
2 ending in 0116 is entered into evidence.

3 (Exhibit 4 was received into evidence.)

4 JUDGE DIPPELL: Thank you very much for
5 taking care of that.

6 And just on a timing note since we're
7 beginning with Mr. Robinett, I'm assuming that we're
8 going to continue regardless if we have to go past
9 5:00 to complete his testimony today. Is that --
10 everyone's in agreement with that? All right. Okay.
11 Let's go ahead.

12 MR. CLIZER: In that case, the OPC calls
13 John Robinett.

14 (Witness sworn.)

15 JUDGE DIPPELL: Thank you.

16 JOHN ROBINETT, having been first duly sworn, testified
17 as follows:

18 DIRECT EXAMINATION BY MR. CLIZER:

19 Q. Mr. Robinett, could you please state your
20 full name for the record and spell your last name?

21 A. John A. Robinett. And it's
22 R-o-b-i-n-e-t-t.

23 Q. Mr. Robinett, with whom are you employed
24 and in what capacity?

25 A. I'm employed by the Missouri office of

1 the Public Counsel as a utility engineering
2 specialist.

3 Q. And did you prepare or cause to be
4 prepared testimony that has been entered as --
5 pre-filed as Exhibit 200 in this case?

6 A. I did.

7 Q. Do you have any changes to that testimony
8 that you'd like to make at this time?

9 A. I do not.

10 Q. Is that testimony true and correct, to
11 the best of your knowledge and belief?

12 A. It is.

13 MR. CLIZER: At this point I would offer
14 Exhibit 200 into evidence.

15 JUDGE DIPPELL: Would there be any
16 objection to Exhibit 200?

17 MR. ZUCKER: No, Your Honor.

18 MR. BERLIN: No, Judge.

19 JUDGE DIPPELL: Seeing none, I will admit
20 that into evidence.

21 (Exhibit 200 was received into evidence.)

22 JUDGE DIPPELL: And is there any
23 rebuttal?

24 MR. CLIZER: Yes, Your Honor.

25 JUDGE DIPPELL: All right. Go ahead.

1 BY MR. CLIZER:

2 Q. Mr. Robinett, were you here earlier when
3 Commissioner Kenney was questioning I believe it was
4 Atkinson? Are you -- were you here?

5 A. Yes.

6 Q. Do you recall Commissioner Kenney was
7 asking Mr. Atkinson -- and I'm going to paraphrase
8 this a little bit, but essentially he ran him through
9 a hypothetical kind of scenario. And at one point he
10 asked him what the OPC wants. Does that seem familiar
11 with you?

12 A. Yes.

13 Q. I'm not going to try and remember the
14 exact scenario, but just to make a similar situation,
15 if we assume that Spire's replacing a thousand feet of
16 pipe, say, 800 of which is cast iron, 200 is plastic.
17 And we further assume that the cast iron is, in fact,
18 worn out and deteriorated and the plastic is not. And
19 finally, let's assume that Spire has presented a cost
20 avoidance study like the one they've presented in this
21 case that shows that it was cheaper to replace rather
22 than re-use the plastic.

23 Based on all those assumptions, does the
24 OPC have a -- or are we asking Spire to make any one
25 particular decision from an operational standpoint?

1 A. I would not tell Spire how to operate
2 their system or how to make their replacements, no.

3 Q. And if Spire were to replace that entire
4 pipe for a certain cost, what percentage of that cost
5 would you say is attributable to the replacement of
6 plastic? I recall the -- the feet were 800 feet of
7 cast iron, 200 of plastic.

8 A. That would be how the recommendation was
9 done in the 2018 cases.

10 Q. Thank you. Did you review any of the
11 individual analyses -- the individual cost avoidance
12 analyses?

13 A. Some, but probably not to the detail and
14 the level that Staff did.

15 Q. Fair enough. Mr. Robinett, regarding
16 what you've just been handed, are these two of the
17 individual avoided cost analyses that you looked at
18 preparing your testimony?

19 A. Yeah. Going through a high level, these
20 are two of them. I would caveat that the ones that
21 are handed to you are absent the maps that would have
22 been on there.

23 Q. And -- thank you. There's been a lot of
24 discussion today. Various people have commented on
25 the concept of eligibility with regard to the cast

1 iron and bare steel that Spire replaced. Is there
2 anything contained within these particular work order
3 analyses that you believe bears on that question?

4 A. These two projects jumped out to me. The
5 902112 for the Commission is the Missouri East
6 exhibit. And the -- the note there kind of struck me
7 as that it basically says the ISRS project -- it is a
8 100 percent ISRS recoverable project due to there
9 being no mains or services that were plastic being
10 replaced.

11 Q. Is that also the same on the other work
12 order analysis?

13 A. It is, with the caveat that it is
14 specifically related to bare steel.

15 Q. And what conclusion do you draw from
16 that?

17 A. And these are the only two that I recall
18 having 100 percent listed in the individual analysis.
19 That would tell me that there is plastic being
20 replaced as part of the others and reviewed and that
21 that would make the project not 100 percent ISRS
22 eligible.

23 Q. Thank you.

24 MR. CLIZER: I probably should have had
25 these marked a little bit earlier, but I would like to

1 mark these as OPC Exhibits 202 and 203, I believe.

2 Fair enough. Let's do Project Number 902112 as 202
3 and Project Number 801843 as 203.

4 JUDGE DIPPELL: That's good.

5 THE WITNESS: I didn't hand them to her
6 but I wrote on them.

7 MR. BERLIN: Are there two different
8 project numbers? Yeah, I got that. What's the other
9 one?

10 MS. SHEMWELL: 202 is 902112.

11 MR. BERLIN: I just got two copies of the
12 same one.

13 MR. CLIZER: Which one are you missing?

14 MR. IRVING: 203.

15 MR. CLIZER: Here's a copy of that.
16 Sorry about that.

17 (Exhibits 202 and 203 were marked for
18 identification.)

19 MR. CLIZER: At this time I'd like to
20 offer these two exhibits into evidence.

21 JUDGE DIPPELL: Would there be any
22 objection to Exhibits 202 and 203?

23 MR. ZUCKER: I don't think so, Your
24 Honor.

25 JUDGE DIPPELL: Okay. In that case, I

1 will admit Exhibit 202.

2 (Exhibit 202 was received into evidence.)

3 JUDGE DIPPELL: And you said project

4 902112 was 202?

5 MR. CLIZER: Yes.

6 JUDGE DIPPELL: Okay. And Exhibit Number

7 203.

8 (Exhibit 203 was received into evidence.)

9 THE WITNESS: Judge, that Project Number
10 was 801843.

11 JUDGE DIPPELL: Yes.

12 MR. CLIZER: Sorry. Thank you.

13 JUDGE DIPPELL: Thank you. Did -- did
14 you have any more?

15 BY MR. CLIZER:

16 Q. Mr. Robinett, in addition to the
17 individual project analyses, did you also review some
18 of the work order authorization sheets that Spire
19 produced?

20 A. Some, but not all.

21 Q. Do you have a copy of Work Order Number
22 800083 in front of you?

23 A. I do.

24 Q. Is this one of the work orders that you
25 reviewed?

1 A. It is.

2 Q. Were you able to calculate what
3 percentage plastic made up out of the mains and
4 services being replaced or retired?

5 A. I performed two different calculations on
6 this specific one. And if the Commission would turn
7 to page 9 and page 10, that is where -- those are the
8 numbers that I used to perform the calculation.

9 Specifically for mains, I did a
10 percentage of the length replaced using the retirement
11 quantity. And that equaled out to a 17.25 percent for
12 the -- of plastic mains. I also did a percentage
13 based on the actual retired cost. And for that, the
14 percentage was 28.21 percent of this particular work
15 order that was plastic main retired.

16 Similarly for services, I did the same.
17 For this particular project 98.18 percent were plastic
18 service -- for the plastic service of the lengths
19 replaced. And then for the cost, it was 99.2 percent
20 on the dollars.

21 Q. Thank you. Based on those percentages,
22 do you consider the plastic being replaced in these to
23 be incidental?

24 A. Certainly not for the services. And I
25 think I would start to question whether it was

1 incidental for this particular work order for the
2 plastic main length.

3 Q. Was there anything else that struck you
4 as important regarding this particular work order?

5 A. There was. Specifically earlier in the
6 work order, on page 8 the item that struck me here is
7 that we are seeing the replacement of coated steel.

8 Q. And as you understand it, is that -- you
9 know what? Never mind.

10 A. And that's important because if you go to
11 page 1, the budget description here is the replacement
12 of bare steel main.

13 Q. Mr. Robinett, do you also happen to have
14 a copy of Work Order 901048 in front of you?

15 A. Yes.

16 Q. Actually before I get into that, the
17 previous Work Order 800083, was that for Missouri
18 Spire West or Missouri Spire East?

19 A. That is West.

20 Q. And the work order I just referred you
21 to, 901048, is that East or West?

22 A. That is for Missouri East.

23 Q. In a similar fashion to the question I
24 asked before, did you calculate what percentage of the
25 mains and services being replaced were plastic?

1 A. I did.

2 Q. What were the results of that?

3 A. The percentage of plastic length that was
4 retired for this particular work order was 20.65
5 percent. For the plastic main replaced, looking at
6 the retired dollars was 84.6 percent. Then for
7 services, the amount -- the percentage of plastic
8 retired length was 80.12 percent. And then the
9 percentage based on the dollars retired was 79.92
10 percent.

11 Q. And as with the other work order, do you
12 consider these percentages to indicate the plastic
13 being retired as incidental?

14 A. I would not.

15 Q. Was there anything else regarding this
16 work order that you felt worthy of consideration?

17 MR. BERLIN: Judge, I'd like to interject
18 here. I'd like to ask if this is Rebuttal Testimony
19 or is this Supplemental Direct Testimony?

20 MR. CLIZER: This is Rebuttal Testimony
21 with regard to the argument that the plastic that was
22 included is incidental. It has been raised by -- I'm
23 sorry. I probably should have asked to respond first.
24 I just jumped right into it -- with regard to the
25 argument that the plastic being replaced was

1 incidental that has been made by numerous parties.

2 MR. ZUCKER: Your Honor, may I address it
3 also?

4 JUDGE DIPPELL: Go ahead, Mr. Zucker.

5 MR. ZUCKER: Okay. So I am going to
6 object also. He can call it rebuttal if he wants, but
7 these documents are both -- both came -- were
8 delivered early in the case. One's dated in January,
9 one's dated in February. These are the work orders
10 that we would have delivered with -- or shortly after
11 the application was filed so they've had these a long
12 time. March 15th was when they were supposed to make
13 their declaration. March 29th, Direct Testimony was
14 due.

15 Now everyone's filed their testimony.
16 Our witnesses have all gone so we have no witnesses to
17 explain or object to this. And I object to this
18 being -- that -- this evidence being given and
19 portrayed as rebuttal.

20 MR. CLIZER: May I respond again?

21 JUDGE DIPPELL: Go ahead.

22 MR. CLIZER: We did not prepare this as
23 part of direct because we did not anticipate that the
24 argument regarding the incidental -- that these --
25 plastic was incidental, we didn't think that argument

1 would be made based on their size, which is why it's
2 being introduced as part of his rebuttal.

3 As for Mr. Zucker's concerns regarding
4 his ability to address it, he is more than willing to
5 cross -- or not willing. He is more than -- he is
6 able to cross Mr. Robinett as to this testimony.

7 JUDGE DIPPELL: And which Direct
8 Testimony were you saying this was in response to?

9 MR. CLIZER: It was specifically stated
10 in the -- I was going to qualify it as direct. The
11 testimony presented by Mis-- by Marc Poston as part of
12 the Staff on this report --

13 MS. SHEMWELL: Not Marc Poston.

14 THE WITNESS: Not Marc Poston. I
15 apologize. Chuck Poston. Charles Poston. As well as
16 statements he made on rebuttal -- or not rebuttal. I
17 believe it was redirect actually.

18 MR. ZUCKER: So he's saying he's giving
19 it for the purpose of an incidental -- whether it's
20 incidental? Is that what he's saying?

21 JUDGE DIPPELL: Yes. And for that reason
22 I'm going to allow it.

23 MR. CLIZER: Well, what I was going to
24 say is I have not marked either of these two as an
25 exhibit. And my reason for doing so is that I didn't

1 want to be accused of cherry picking these. So I was
2 preparing to ask for all of the work order
3 authorization forms to be introduced into evidence.

4 I have prepared CDs containing all of the
5 work order authorization forms that were submitted to
6 be delivered to the Commission Staff and Spire. And
7 again, that's just to prevent any concern that we're
8 cherry picking information, which is why I would like
9 to -- it might get a little awkward, but I don't know
10 if you want to mark these CDs as Exhibit 204?

11 JUDGE DIPPELL: And -- okay. So the CDs
12 contain these two orders along with all of the other
13 work orders that were provided?

14 MR. CLIZER: Correct. They are in PDF
15 searchable format.

16 JUDGE DIPPELL: And that was -- you
17 informed me earlier that you were going -- going to
18 offer something in this format saying that it was
19 4,000 pages or something; is that correct?

20 MR. CLIZER: Roughly, yes.

21 JUDGE DIPPELL: Okay. We can certainly
22 mark that. I would like to go ahead and just for
23 purposes of being able to see something immediately, I
24 would like to mark these other work orders separately.

25 MR. CLIZER: Fair enough.

1 JUDGE DIPPELL: So I'm going to mark the
2 first work order -- the physical work order that you
3 handed us as -- and that was Work Order 800083, I'm
4 going to mark that as Exhibit 204. I'm going to mark
5 Work Order 901048 as Exhibit 205. And then I will
6 mark your CD, if you will give a copy of that to the
7 court reporter, as Exhibit 206.

8 (Exhibits 204, 205 and 206 were marked
9 for identification.)

10 JUDGE DIPPELL: Now those are marked.
11 They have not yet been offered or admitted, so --

12 MR. CLIZER: Again, I just want to
13 clarify. The CD contains the work authorization forms
14 that Spire submitted as part of its application -- or
15 not necessarily part of its application but submitted
16 to the parties. All the parties actually already have
17 this information or at the very least definitely
18 should have this information.

19 We're just asking it be entered into the
20 record. We have not modified or changed any of this.
21 It's the PDFs exactly as Spire handed them to us. And
22 with that, I would ask to enter into evidence 204, '5
23 and '6.

24 JUDGE DIPPELL: Okay. I'm going to start
25 with 204 and 205. Would there be any objection to

1 those work orders coming into evidence?

2 MR. ZUCKER: Yes, there would, Your
3 Honor. Again, we object. I appreciate Mr. Clizer
4 giving us the opportunity to cross-examine, but we've
5 had no chance to review these documents and I think
6 they -- they're not in a position to authenticate
7 them.

8 MR. BERLIN: Staff joins in that
9 objection.

10 MR. ZUCKER: It's really prejudicial.

11 MR. CLIZER: If I may rebut -- or may I
12 respond?

13 JUDGE DIPPELL: Go ahead.

14 MR. CLIZER: These are Spire's documents.
15 They have all the time in the world to review them
16 because Spire produced them. And we have
17 authenticated them to the extent that they are what we
18 received from Spire.

19 MR. ZUCKER: Yeah, we have -- haven't --
20 we have no opportunity at this point to review these,
21 to verify them, to explain them. You know, we went
22 through an entire process here the last few months
23 working very closely with Staff. OPC was nowhere to
24 be found. And now they show up after all the
25 witnesses have gone and dump a CD onto the record. I

1 think it's really improper, Your Honor.

2 JUDGE DIPPELL: Okay. Well, right now
3 we're just dealing with the two paper copies.

4 MR. ZUCKER: I don't like those either.

5 JUDGE DIPPELL: And I'm going to overrule
6 your objection and admit Exhibits 204 and 205.

7 (Exhibits 204 and 205 were received into
8 evidence.)

9 JUDGE DIPPELL: There's also been an
10 offer then of Exhibit 206, which is a -- is
11 represented to be a CD containing the work orders that
12 Spire submitted to the parties. I'm assuming that --

13 MR. CLIZER: If I may?

14 JUDGE DIPPELL: -- Staff and -- oh, I'm
15 sorry.

16 MR. CLIZER: Just real quick, I have no
17 further cross. So if you would like to take a short
18 break to allow them to observe what's on the CD, for
19 example, I'm just suggesting that as a potential
20 opportunity.

21 MR. ZUCKER: Your Honor, you set up the
22 process to have live rebuttal. Everyone has done live
23 rebuttal in a very, you know, narrow manner trying to
24 just address what we've read in the direct. And now
25 OPC is entering a bunch of information into the record

1 after everyone's done that they have had the -- the
2 opportunity to enter at the very latest last Friday.

3 JUDGE DIPPELL: I understand your
4 objection. And as for Exhibit 206, I am not inclined
5 to sustain your objection --

6 MR. BERLIN: Judge, Staff agrees with the
7 Company on that objection.

8 JUDGE DIPPELL: I -- I understand --

9 MR. BERLIN: This is just dumping into
10 the record. And the Company, you know, had plenty of
11 opportunity to enter these kinds of things into the --
12 into their testimony, but they didn't. And to do this
13 at the last minute and not give us the opportunity to
14 review the documents is -- is just improper.

15 JUDGE DIPPELL: Well, so now I'm going to
16 continue what I was saying before you interrupted me.
17 I was about to say that I'm not inclined to sustain
18 your objections based on the fact that it is not
19 rebuttal; however, since it's a CD purportedly
20 containing 4,000 pages, I'm not inclined to
21 automatically admit it. I am inclined to at least let
22 you have the opportunity to review the CD to make sure
23 that it is what it is purported to be.

24 So I'm not going to rule on the
25 admissibility of that CD right here today. Instead,

1 I'm going to hold that ruling until at least the end
2 of this hearing. And I will give you an opportunity
3 to at least review it and make any further objections
4 in writing. Does that make sense?

5 MR. ZUCKER: What do you mean by --

6 MS. SHEMWELL: Yes, Judge. Thank you.

7 MR. ZUCKER: What do you mean by the end
8 of the hearing, Your Honor?

9 JUDGE DIPPELL: Well, at the end of the
10 hearing -- I don't know when we're going to finish
11 here. So at the end of the hearing, I will tell you
12 how much time you're going to have to look at that CD
13 and give me objections.

14 MR. ZUCKER: Okay.

15 JUDGE DIPPELL: But it will not be
16 through this hearing. Okay? I think -- unless you
17 need the opportunity to cross-examine Mr. Robinett
18 about some of those items in that CD, so.

19 MR. ZUCKER: Wait a minute. Let me look
20 it over.

21 JUDGE DIPPELL: Okay. For now, that
22 ruling is on hold.

23 MR. ZUCKER: Please note my exception to
24 admitting into evidence 204 and 205.

25 JUDGE DIPPELL: It is so noted.

1 MR. CLIZER: As previously stated, I
2 am -- I have no further rebuttal and I tender the
3 witness for cross-examination.

4 JUDGE DIPPELL: All right. Is there any
5 cross-examination from Staff barring the CD? I
6 realize you have not had an opportunity to view what
7 is on that. Is there any other cross-examination from
8 Staff?

9 MR. BERLIN: A little bit, Judge. Thank
10 you.

11 CROSS-EXAMINATION BY MR. BERLIN:

12 Q. So Mr. Robinett, I'm curious. Did you
13 get to review every one of the work orders in the
14 4,000 pages that's purportedly on these CDs?

15 A. You're talking the work order
16 authorization seets --

17 Q. Right.

18 A. -- sheets? Sorry. No.

19 Q. Okay. And if I go to page 12 of your
20 testimony, on line 17 you say -- and I'm going to read
21 it -- Due to the press of business and limitations of
22 our office, I have been unable to independently verify
23 the accuracy of Spire's avoided cost studies.

24 Is that accurate? Is that true?

25 A. That is true. I didn't -- I basically

1 did a very high level overhead review of it. I did
2 not go into the detail that Staff did nor do I have
3 the numbers that would back up their cost estimates.
4 I don't have that knowledge.

5 Q. Okay. So then you go on to say, However,
6 even assuming for the sake of argument that Spire's
7 avoided cost studies are correct, such avoided costs
8 would not make these plastic components replaceable --
9 replacements ISRS eligible.

10 So do I understand that to mean that
11 there's no such thing as any incidental replacements
12 to an ISRS eligible project?

13 A. No. I believe that those plastic
14 components in some instances may have been incidental,
15 some may have not. But the plastic was not worn out
16 or deteriorated and I did not see evidence of a worn
17 out and deteriorated in plastic presented.

18 Q. So you just mentioned that you -- you
19 would -- you would agree that there is such a thing as
20 the incidental replacement of plastic that goes along
21 with an ISRS eligible project?

22 A. There can be, yes.

23 Q. Okay. Thank you. I have no further
24 questions.

25 JUDGE DIPPELL: Is there

1 cross-examination from Spire?

2 MR. ZUCKER: Yes, Your Honor.

3 CROSS-EXAMINATION BY MR. ZUCKER:

4 Q. Mr. Robinett, you participated in the
5 2018 ISRS cases, did you not?

6 A. Yes.

7 Q. And do you recall in those cases Spire
8 witnesses Hoeferlin and Lauber testifying about the
9 inferiority of cast iron and bare steel?

10 A. That they are subject to corrosion, yes.

11 Q. Okay. And let's see. The Commission
12 made findings of fact in that case, including most of
13 the cast iron pipes being replaced are over 100 years
14 old. Do you recall that?

15 A. I don't have the order in front of me.
16 Could you help me with that?

17 Q. Yes. Let me read to you from paragraph
18 13 on page 6, Most of the cast iron pipes being
19 replaced are over 100 years old.

20 Do you have any reason to doubt that?

21 A. The statements "most"? No, I do not.

22 Q. Okay. The next sentence, Cast iron pipes
23 are unsafe to use because they undergo a process
24 called graphitization in which the iron leaches out,
25 making the pipe subject to cracking and leaking.

1 Do you have any reason to disbelieve
2 that?

3 A. Could you repeat that?

4 Q. Uh-huh. Cast iron pipes are unsafe to
5 use because they undergo a process called
6 graphitization in which the iron leaches out, making
7 the pipes subject to cracking and leaking.

8 A. I believe they are subject to
9 graphitization. My one hesitation is that -- is the
10 word "unsafe" due to how much cast iron you may have
11 in your system. And that would tell me that -- what I
12 don't want to believe is that Spire is not meeting its
13 duty for safe and reliable service. I mean, that's --
14 that's my -- that's why I'm --

15 Q. This was a finding of fact from that
16 order that I'm reading to you. So I'm just asking
17 you --

18 A. I mean I don't have it in front of me,
19 but I will take that that that's what that says.

20 Q. All right. The next sentence says, The
21 steel pipe being replaced is bare and not cathodically
22 protected so those pipes corrode relatively quickly
23 and need to be replaced.

24 Do you recall that evidence in the case?

25 A. I don't recall that evidence, but that

1 may be what the order says.

2 Q. Okay. Let's move onto page 13 of this
3 same order. It says here -- this is under the
4 Conclusions of Law and Discussion. The Commission
5 says, The Commission concludes that the cast iron and
6 steel pipes were replaced to comply with state or
7 federal safety requirements and were worn out or in a
8 deteriorated condition so they are eligible for cost
9 recovery under ISRS.

10 Do you recall that?

11 A. I will take your word for that's what
12 that order says.

13 Q. Okay. Can you turn to page 5 of your
14 Direct Testimony?

15 A. I'm there.

16 Q. Okay. On line 6 you say, Therefore,
17 Spire appears to be operating under the assumption
18 that any pipe it replaces as part of a mandated
19 replacement program is, by definition, worn out or
20 deteriorated and that Spire, therefore, does not need
21 to perform any testing or leak analysis to verify that
22 fact.

23 Would you say that that sentence
24 conflicts with the Commission's order in the 2018 case
25 which said that these cast iron and steel pipes are in

1 a worn out and deteriorated condition?

2 MR. CLIZER: Your Honor, I'm going to
3 object. The case he's referring to -- he's talking
4 about factual findings regarding different pipes in a
5 different case. How does that at all relate to this
6 case?

7 MR. ZUCKER: Well, it's all part of the
8 same program --

9 MR. CLIZER: No, it's different pipes.

10 MR. ZUCKER: -- cast iron replacements --
11 cast iron replacement -- cast iron and steel pipes.

12 JUDGE DIPPELL: I'm sorry. What -- what
13 exactly is your objection?

14 MR. CLIZER: They're referring to factual
15 findings made in a different case regarding different
16 pipes and he's trying to tie that to this case. The
17 factual findings of a different case relating to
18 different pipes do not relate to this case.

19 JUDGE DIPPELL: I'm going to overrule the
20 objection and let the witness answer if he knows.

21 THE WITNESS: Could you re-ask the
22 question?

23 BY MR. ZUCKER:

24 Q. Sure. Here's your statement on page 5,
25 line 6, Spire appears to be operating under the

1 assumption that any pipe it replaces as part of a
2 mandated replacement program is, by definition, worn
3 out or deteriorated and that Spire, therefore, does
4 not need to perform any testing or leak analysis to
5 verify that fact.

6 Is your criticism of Spire's approach
7 inconsistent with the Commission's order in September
8 2018, in the 2018 ISRS cases?

9 A. My recommendation here is based on the DR
10 responses that Spire gave me in this case as it was in
11 the last case that the Commission ruled against me.

12 Q. Okay. Well, did the Commission not
13 conclude that cast iron and steel pipes are worn out
14 or in deteriorating condition?

15 MR. CLIZER: I'm going to object to that.
16 Asks for a legal conclusion.

17 BY MR. ZUCKER:

18 Q. I'm just saying isn't that what the
19 Commission said in the 2018 order?

20 A. Again, I don't have the order before me,
21 but I will take your word for that's what it says.

22 Q. Well, you don't have to. Why don't you
23 take a look --

24 MR. ZUCKER: Permission to approach.

25 JUDGE DIPPELL: You may.

1 MR. ZUCKER: Post -- ex post fact.

2 THE WITNESS: You're talking about --

3 BY MR. ZUCKER:

4 Q. Right -- let's see. Right there
5 (indicating).

6 A. Okay.

7 Q. So is it not reasonable to conclude that
8 what the Commission said is that the cast iron and
9 steel pipes were in a worn out or deteriorated
10 condition?

11 A. That is what they said.

12 Q. And are you challenging that in this
13 case?

14 A. I'm not addressing the 2018 case at all.

15 Q. Are you challenging that cast iron and
16 steel pipes are not in a worn out and deteriorated
17 condition?

18 A. I am challenging that I haven't seen
19 evidence from Spire that they are worn out and
20 deteriorated other than the statements today from
21 Mr. Atkinson.

22 Q. Okay. So the -- so what the Commission
23 said was the cast iron and steel pipes are in a worn
24 out and deteriorated condition. Spire is working off
25 the assumption that that's true. Are you saying

1 now -- are you challenging that -- the Commission's
2 finding -- the Commission's conclusion in the 2018
3 case?

4 MR. CLIZER: Are you challenging the 2018
5 case?

6 THE WITNESS: I believe our Comm-- our
7 office has an appeal pending for the 2018 case, yes.

8 MR. ZUCKER: Okay. I would ask that
9 OPC's attorney not help with the answer, but.

10 BY MR. ZUCKER:

11 Q. Do you recall the example that your
12 attorney gave you where there was a thousand feet of
13 pipe, 800 feet was cast iron, 200 feet was plastic?

14 A. Yes.

15 Q. And if -- if that -- if the cost of
16 replacing that pipe was a thousand dollars, how much
17 of that would you say is ISRS eligible?

18 A. This is a struggle because even in the
19 2018 case, I -- I went to the straight percentage and
20 I've still struggled with that. For that answer, it
21 would be 20 percent was ineligible. I've continued to
22 consider whether there is some sort of double ratio
23 that I could apply based on the footage and the cost
24 of what was retired versus what was put into replace
25 that for the efficiency sake.

1 Q. So you've -- you're struggling with the
2 straight percentage approach is what you're saying?

3 A. It was the best I had. I've been trying
4 to come up with a -- another ratio -- a double ratio
5 basically to account for the efficiency criteria that
6 is -- is there due to the switching nature of the
7 system.

8 Q. And while Staff and the Company were
9 working on these analyses, did you participate in any
10 of those meetings and discussions?

11 A. I was present for some of the meetings
12 held down in 110, as well as some blue jean meetings.
13 More than likely I was not part of every meeting that
14 occurred between Staff and the Company.

15 Q. Do you agree that -- with I think what
16 your attorney said earlier, that Spire's approach to
17 cast iron and bare steel replacement is prudent?

18 A. Could you rephrase the question?

19 Q. I don't think so.

20 A. Are you talking about an operational
21 perspective?

22 Q. Well, I guess I'm talking from all
23 perspectives.

24 A. The answer is I don't know. Because I
25 know previously that the Company had addressed

1 concerns about safety with reconnections. And so that
2 would -- my understanding is they are fully replacing.
3 The analysis was just on whether they could re-use.

4 Q. Okay. Well, are you in favor of Spire
5 continuing the program that they are -- the safety
6 replacement program that -- that they're performing?

7 A. Could you better define the safety
8 program?

9 Q. Yeah, the cast iron and bare steel main
10 replacement programs.

11 A. Those are the ones that were approved by
12 the Commission or --

13 Q. The ones that your attorney said that he
14 thought were fine, that he wanted that work to
15 continue. Those programs.

16 A. I guess I don't recall specifically what
17 programs those were. I know that we did not take
18 issue with the relocations because we received
19 documentation for the entities.

20 Q. Okay. That's not the question I asked
21 you. Apparently what you're saying is you're --
22 you're -- you're not in a position to agree with your
23 attorney. Correct?

24 A. I don't know.

25 MR. ZUCKER: One moment, Your Honor.

1 BY MR. ZUCKER:

2 Q. Mr. Robinett, can you tell me about this
3 CD? Is there just raw data on it or is there
4 analysis?

5 A. It is the work order authorization sheets
6 that I received from Spire. So some of those would
7 have been the initial work orders provided, then
8 January actuals and then the December actuals.

9 Q. Okay. And do you recall when you
10 received them?

11 A. I know specifically the -- one of the
12 documents from the file that it was pulled was dated
13 1/22/19. Those would have been the December actuals.
14 I'm assuming the February actuals were given later and
15 I cannot recall when the originals were given to us.
16 I'm assuming it was as part of one of the individual
17 analysis discussions.

18 Q. All right. That's all I have.

19 MR. ZUCKER: Thank you, Your Honor.

20 JUDGE DIPPELL: Thank you. Is there --
21 are there questions from the Commission? Commissioner
22 Hall?

23 COMMISSIONER HALL: Yeah.

24 QUESTIONS BY COMMISSIONER HALL:

25 Q. Good afternoon.

1 A. Good afternoon.

2 Q. You -- you indicated that you thought
3 that it was possible for -- for a plastic replacement
4 to be incidental to a ISRS eligible project. Correct?

5 A. Some incidental, yes.

6 Q. Can you give me any parameter whereby the
7 Commission could determine what plastic replacements
8 are incidental and which ones are not?

9 A. Sitting here right now, I don't think I
10 can. The one that comes to mind is the portion of the
11 service line replacements that would have to be
12 chopped in order to reconnect, if that makes sense.
13 To reconnect to the other main.

14 Q. No. Could you -- could you explain that
15 further?

16 A. It's my understanding that if the
17 scenario was that they would reconnect the services,
18 there is a portion of pipe that you would have to --
19 of that service that you would have to chop in order
20 to remove it from the old system and then be able to
21 connect it to the new system.

22 Q. Do you have any idea how many of the
23 projects at issue in this case involved the scenario
24 that you described?

25 A. Specific number, no, but I know there

1 are -- I don't know if they actually reconnected
2 services versus ran new.

3 Q. Okay. So -- so you don't know if any of
4 the projects at issue would -- would be consistent
5 with the example you just gave?

6 A. Right.

7 Q. Okay. So what you gave was an example.
8 Is there any kind of criteria that you would -- would
9 advocate that the Commission adopt for determining
10 when a plastic replacement is incidental? Should it
11 be the number of feet? Should it be the number of
12 dollars? Should it have -- should it be related to
13 some engineering standard? Help us out.

14 A. I honestly don't know, Commissioner. I
15 mean --

16 Q. And -- and -- and that's because you
17 can't know. It's not -- it's not because you haven't
18 thought about it. It's not because you're -- you're
19 not an intelligent individual knowledgeable in this
20 field. It's because it's impossible to know, isn't
21 it?

22 A. I don't know that I have the information
23 to be able to do that.

24 Q. What information would you need to help
25 you provide some kind of criteria for the Commission

1 for making that determination?

2 A. I would probably need a unit cost of most
3 of the replaced components.

4 Q. Did you ask for that from the Company?

5 A. I did not.

6 Q. I would assume that that unit cost would
7 be part and parcel of the Company's analysis -- the --
8 the cost avoidance analysis that they performed, would
9 it not?

10 A. I believe there's an estimation. I don't
11 know that it is specifically unit cost.

12 Q. Let me turn to page 14 of your Direct
13 Testimony, lines 1 through 3 where you say, Just
14 because it is cheaper to replace the entire main
15 rather than re-use an existing portion does not mean
16 there were no costs associated with the replacement of
17 that portion of main.

18 And you lose me there. And I know that
19 this is the -- one of the significant issues involved
20 in the case, but if it is cheaper to replace the
21 entire main, how can there possibly be a cost
22 associated with replacement of the plastic?

23 A. Inherently you're replacing the entire
24 system. The plastic is a portion of that system;
25 therefore, there is a cost to replace that portion of

1 the system.

2 Q. Even though it is -- it is cheaper than
3 leaving that plastic in place?

4 A. There is still a cost to replace that,
5 yes.

6 Q. And previously -- at least in your Direct
7 Testimony, you -- you advocated that that
8 determination be based upon the methodology that Staff
9 employed and -- and the Commission employed in the
10 prior case, which is just to do the straight number of
11 feet of plastic versus number of feet of the -- of the
12 entire project?

13 A. Yes.

14 Q. Now -- but now on -- on cross you're
15 expressing some skepticism of that approach and are
16 still thinking about the appropriate one?

17 A. It's not skepticism. It was me trying to
18 find if there was another scenario to go along with
19 the idea that it was more efficient. And so what it
20 would end up doing is potentially reducing the amount
21 that we were disallowing for the plastic by doing the
22 double ratio.

23 Q. Okay. Looking at Exhibits 202 -- or I'm
24 sorry -- yeah, 202 and 203, are -- is -- is this your
25 work product?

1 A. No. Those are from the Company.

2 Q. Those are from the Company?

3 A. Those are the -- that is two of the
4 individual analyses that we got, with the only caveat
5 that I removed the --

6 Q. Okay.

7 A. -- maps.

8 Q. Okay. All right. That's all I have.

9 Thank you.

10 A. Thank you.

11 JUDGE DIPPELL: Thank you. Commissioner?

12 QUESTIONS BY JUDGE DIPPELL:

13 Q. Okay. I've got several for you,
14 Mr. Robinett. And I ask you to bear with me because
15 I've got some questions from some Commissioners that
16 had to -- that couldn't be here right now. So let me
17 read through them and make sure I can understand what
18 I'm asking.

19 Do you know what the -- the cost
20 percentage -- let's see. The cost differences from
21 the total amount of the ISRS eligible product --
22 projects -- the total amount of the ISRS eligible
23 projects, what is the difference -- sorry. I'm
24 reading this one wrong so I'm going to come back to
25 it. Okay. Let me start over.

1 What percentage of -- you dealt with the
2 overhead expenses in your testimony too. Correct?
3 Partially?

4 A. Partially, yes.

5 Q. You had on -- on page 15 you said -- at
6 line 20 you said, First, it is evident they are
7 imprudent based on their size alone given that they
8 average approximately 45 percent and 55 percent of all
9 expenses and it goes on.

10 What -- what relevance does the prudence
11 have to whether these were ISRS eligible of the
12 overhead?

13 A. I was basically trying to draw out that
14 the size of those were alarming to me. I don't know
15 that -- I understand that prudence is not something to
16 be reviewed in ISRS. But an overhead cost that high,
17 essentially doubling the cost of the project, is what
18 caught my attention and why it's addressed here.

19 Q. Okay. So do you know what percentage of
20 overhead expenses were expensed versus capitalized in
21 the previous rate case? Do you know that?

22 A. I do not.

23 Q. If the last rate case allowed, just as an
24 example, 65 percent to be expensed, would it be
25 appropriate to limit overhead cost capitalized in the

1 ISRS to the other 35 percent?

2 A. I don't know.

3 Q. Okay. Bear with me just a minute. Okay.

4 If -- if the plastic that was replaced was say less
5 than 5 percent of the total pipe length, would you
6 consider that to be incidental?

7 A. Can I ask a clarif-- clarifying question?

8 Q. Yes.

9 A. Are you talking on a project-by-project
10 basis or --

11 Q. Yes.

12 A. -- on the grand scale?

13 Q. Well, both. Let's -- let's take both.

14 On a project-by-project, would it be incidental to
15 that project or in total? would it be incidental as a
16 total?

17 A. I think it depends on the size of it and
18 the cost of it. So not trying to not answer the
19 question, but I really -- I think it's all going to
20 depend.

21 Q. Do you -- I think Commissioner Hall kind
22 of got into this with you earlier, but do you have --
23 what -- what would be your definition of incidental?

24 A. I don't have one sitting here.

25 Q. Okay. If I said that the dictionary said

1 incidental was being likely to ensue as a chance or a
2 minor consequence, would you agree that something that
3 was a minor consequence was incidental?

4 A. Yes.

5 Q. If the dictionary said minor items as of
6 expense that are not particularliz-- particularized --
7 I can't say it -- a minor item of expense, would you
8 consider that incidental?

9 A. Could you repeat that?

10 Q. An item that is minor in expense, would
11 you consider that incidental?

12 A. I think it could be.

13 Q. What about an item that is subordinate or
14 secondary in importance or position? Would you
15 consider that incidental?

16 A. I don't think I would.

17 Q. Okay. What about an item occurring by
18 chance or in isolation? Would that be incidental?

19 A. It could be, but it could also be very
20 major.

21 Q. How about an item happening as a result
22 of an activity? Would that be incidental?

23 A. I think it could be. It also could be a
24 consequence.

25 Q. Okay. Okay. I'm not done yet. Let me

1 see what else.

2 Okay. So Commissioner Kenney had a
3 hypothetical and Pub-- your -- your counsel referenced
4 it earlier and I'm -- I'm going to try to restate
5 some -- some of that so let me ask you again. Okay.
6 So when your attorney asked you the hypothetical of
7 200 feet of plastic and 800 feet of cast iron, I think
8 you said that that -- that -- you said something about
9 how it was done in 2018. That was how it was done in
10 2018?

11 A. That would have been the calculation of
12 the disallowance would have been based on -- for that
13 specific project would have been the percentage of
14 plastic retired.

15 Q. Okay.

16 A. Would have been the disallowance for that
17 project cost in the 2018 case.

18 Q. And do you remember what that percentage
19 was in the 2018 case?

20 A. In totality, no. I believe it was done
21 by Staff on an individual project basis.

22 Q. Okay. Bear with me a little longer here.
23 Okay. Do you know if overhead has been included in
24 any of the past ISRS cases for any company?

25 A. I believe it has been included for Spire

1 previously. For sure I know we started looking at the
2 issue in the 2016 ISRS cases. And then they were more
3 than likely present in the '17 and '18 cases as well.

4 Q. And what -- what is it that you would
5 consider -- what -- what evidence would you have
6 needed to consider the pipe to be worn out and
7 deteriorated?

8 A. I think there's many things that could
9 have been relied on. I think just the -- sort of
10 their replacement plans that were approved by the
11 Commission kind of laid out that they were doing --
12 any time a hole is opened, that there is a report
13 provided about the condition of the pipe. That would
14 have been helpful.

15 If they had performed any sort of
16 testing -- because I know that for this replacement
17 they have to cap the old system. And specifically in
18 the west it calls for a collection of a coupon, which
19 is a small segment of pipe and it asks for analysis on
20 that pipe specifically looking for graphitization.

21 Q. Okay. If -- so OPC doesn't -- didn't
22 object to the blanket work orders that were dealing
23 with actual lengths. Correct? I mean except for the
24 overhead?

25 A. Correct.

1 Q. So if a pipe is actually leaking, you
2 would consider that worn out and deteriorated?

3 A. Yes.

4 Q. If -- if a pipe was actually leaking,
5 would you just consider that section in front of that
6 leak the worn out and deteriorated part or could it be
7 a bigger section of pipe?

8 A. The answer is yes to both.

9 Q. Okay.

10 A. But there is a minimum length of pipe
11 that Spire would replace. What that is, I'm not sure.

12 Q. Okay. I think -- I think that's
13 everything I wanted to cover with you. I hope I
14 haven't missed anything.

15 JUDGE DIPPELL: Is there any further
16 cross-examination based on questions from the Bench
17 from Staff?

18 MR. BERLIN: No, Judge.

19 JUDGE DIPPELL: Spire?

20 MR. ZUCKER: Just a few.

21 FURTHER CROSS-EXAMINATION BY MR. ZUCKER:

22 Q. In response to Judge Dippell's questions
23 on testing for replacement, is it -- you're -- you're
24 aware that Spire is boring in new main at a different
25 height and at a different location than the old main

1 currently sits; is that correct?

2 A. Assuming they're still doing the similar
3 practices that I reviewed in 2016, yes.

4 Q. Okay. And you're saying that you would
5 like Spire to go to the old main a few feet farther
6 down, out in the street, dig up the street and get a
7 piece of the old main and bring it up to show that it
8 was worn out or in a deteriorated condition; is that
9 correct?

10 A. I believe you have to go down to cap that
11 system anyways so that it's no longer in operation and
12 glass flowing in it. Because all of the projects that
13 I were on and visited that day, the current existing
14 main was exposed.

15 Q. Uh-huh. And so were we to do that, would
16 you then -- and show that that was worn out or
17 deteriorated, would -- would you then withdraw your
18 objection?

19 A. I believe that would be sufficient
20 evidence to alleviate my concerns.

21 Q. Okay. And would you be willing to pay
22 for the cost of that within the ISRS?

23 A. I'm not a Spire customer so I would not
24 be.

25 Q. Would -- would you be willing to not

1 object to the cost of that being included in the ISRS?

2 A. I don't know. It's something we would
3 have to discuss.

4 Q. Now, the -- you're aware that the
5 Commission passed a rule about cast iron main and bare
6 steel replacement programs in 1989; is that correct?

7 A. I'll take your word for it's '89.

8 Q. Okay. Which is now 30 years ago.

9 A. I'm not sure when it was passed, but it's
10 close --

11 Q. Okay.

12 A. -- if it hasn't been.

13 Q. And if it was -- and so 30 years ago the
14 Commission said this stuff is not good, let's get it
15 out of the ground. Correct?

16 A. They provided a set of criteria under
17 15 -- I believe it's sub 15 for the replacement plans,
18 yes. Specifically it addressed high concerns early
19 and then it related to a long-term strategic plan.

20 Q. Okay. All right. One -- one more
21 question. Judge Dippell read you definitions of
22 incidental. Do you recall that?

23 A. I do.

24 Q. One of them was minor in expense. Do you
25 recall that definition?

1 A. Yes.

2 Q. An -- an item minor in expense. Would
3 you consider zero to be minor in expense?

4 A. I don't think there is an expense, so it
5 couldn't be minor.

6 Q. Okay. Thank you.

7 JUDGE DIPPELL: Is there redirect from
8 Public Counsel?

9 MR. CLIZER: I guess I just have one
10 hopefully short thing.

11 REDIRECT EXAMINATION BY MR. CLIZER:

12 Q. When Hall was discussing page 14 of your
13 Direct Testimony, lines 1 through 3, I just want to
14 dig into that a little bit. When Spire does a
15 replacement, what do they do, as you understand it?

16 A. Specifically what type of replacement?
17 Are we talking main or are we talking --

18 Q. Let's say main. When -- when Spire
19 replaces a main, what is the process they go through
20 as you understand it?

21 A. There's an engineering analysis and
22 design to draw and map how the replacement's going to
23 occur. There's also analysis or selection of what
24 pipe that will replace. Then there is the in the
25 field, actually going out and performing the work,

1 which I have not toured the MGE sections. I just was
2 at Spire East in the 2016 cases. And they were using
3 a bore machine at the one location and then the other
4 location was an open trench in Dogtown, if I recall
5 correctly.

6 Q. Is Spire putting new pipe in the ground
7 to replace old pipe? Is that not what's happening
8 here?

9 A. Yes.

10 Q. And can you assign a cost to that new
11 pipe?

12 A. That would be the cost that they are
13 seeking through this ISRS process.

14 Q. So there's a cost to replace pipe
15 regardless of whether or not it's cheaper to re-use
16 versus replace?

17 A. Yes. These ISRS filings are not zeroes.

18 Q. That is all.

19 JUDGE DIPPELL: Okay. Mr. Robinett, are
20 you still available tomorrow or --

21 THE WITNESS: Yes.

22 JUDGE DIPPELL: -- are you planning to be
23 here?

24 THE WITNESS: Just Friday I can't.

25 JUDGE DIPPELL: Okay. Well, I think that

1 that's going to conclude the testimony for today, but
2 I'm not going to release you completely in case in
3 conjunction with the final item there are more
4 questions, or if I completely messed up some of the
5 Commission questions and they should want to ask you
6 something else tomorrow.

7 THE WITNESS: Understand. Thank you.

8 JUDGE DIPPELL: All right. But I think
9 that is going to conclude for today.

10 Mr. Pendergast?

11 MR. PENDERGAST: Yes, Your Honor. I know
12 that Chairman Silvey asked about the capitalization
13 percentages in the rate case. And I believe that our
14 witness indicated that it was around 55 percent
15 capitalized. But I don't think that's a controversial
16 set of figures and if it would be helpful to file a
17 late-filed exhibit or something that shows what the
18 capitalization percentage was in Spire East and Spire
19 West, we think it's sixty-twenty-three for Spire West
20 and fifty-four-thirty-three for LAC, but we could
21 verify that with the parties if that would be helpful.

22 JUDGE DIPPELL: I think it would since it
23 was of interest to the Chairman, but only if there are
24 no objections to that information, so.

25 MR. CLIZER: No objection.

1 JUDGE DIPPELL: Okay. If you would like
2 to go ahead and maybe just prepare a short exhibit --

3 MR. PENDERGAST: Okay.

4 JUDGE DIPPELL: -- with those numbers on
5 it and then we can deal with that tomorrow.

6 MR. PENDERGAST: Okay. Thank you.

7 JUDGE DIPPELL: I appreciate that. All
8 right. I -- is there anything else that we need to
9 discuss today?

10 MS. SHEMWELL: What time in the morning?

11 JUDGE DIPPELL: 8:30 is that -- okay. We
12 will start up again tomorrow at 8:30. And I would ask
13 if I could get copies for the Commissioners who
14 weren't here of Exhibits 102, 103, 202 through 205.
15 If I could -- if you could actually bring paper copies
16 for myself and all the Commissioners.

17 MR. CLIZER: Would you like those
18 tomorrow or --

19 JUDGE DIPPELL: Yeah. Tomorrow is fine.

20 MR. IRVING: I can --

21 JUDGE DIPPELL: Okay. If you have them,
22 I'll take them now. But we can do that off the
23 record. So if there's nothing else, then we will
24 adjourn for the day and return at 8:30 in the morning.
25 Let's go ahead and go off the record.

1 (Exhibits 1, 2, 3 and 4 were marked for
2 identification.)

3 (WHEREUPON, the hearing was adjourned
4 until April 4, 2019 at 8:30 a.m.)

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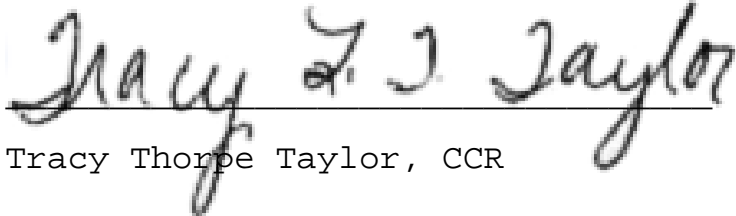
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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.


Tracy Thorpe Taylor, CCR

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