

Exhibit No.:

Issue(s): Income Tax lead/lad within the CWC/
Income Tax Rate/Tax Gross-Up Calculations/
Propane Inventory Disposition

Witness/Type of Exhibit: Riley/Rebuttal

Sponsoring Party: Public Counsel

Case No.: GR-2025-0107

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

SPIRE MISSOURI, INC.

FILE NO. GR-2025-0107

May 30, 2025

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REBUTTAL TESTIMONY

OF

JOHN S. RILEY

SPIRE MISSOURI, INC.

CASE NO. GR-2025-0107

Q. What is your name and what is your business address?

A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102.

Q. By whom are you employed and in what capacity?

A. I am employed by the Missouri Office of the Public Counsel (“OPC”) as a Utility Regulatory Supervisor.

Q. What is your educational background?

A. I earned a B.S. in Business Administration with a major in Accounting from Missouri State University.

Q. What is your professional work experience?

A. I was employed by the OPC from 1987 to 1990 as a Public Utility Accountant. In this capacity, I participated in rate cases and other regulatory proceedings before the Public Service Commission (“Commission”). From 1994 to 2000 I was employed as an auditor with the Missouri Department of Revenue. I was employed as an Accounting Specialist with the Office of the State Court Administrator until 2013. In 2013, I accepted a position as the Court Administrator for the 19th Judicial Circuit until April 2016 when I joined the OPC as a Public Utility Accountant III. I have also prepared income tax returns, at a local accounting firm, for individuals and small business from 2014 through 2017.

Q. Are you a Certified Public Accountant (“CPA”) licensed in the State of Missouri?

A. Yes. As a CPA, I am required to continue my professional training by attending Missouri State Board of Accountancy qualified educational seminars and classes. The State Board of

Accountancy requires that I spend a minimum of 40 hours a year in training that continues my education in the field of accountancy. I am also a member of the Institute of Internal Auditors (“IIA”) which provides its members with seminars and literature that assist CPAs with their annual educational requirements.

Q. Have you previously filed testimony before the Missouri Public Service Commission?

A. Yes, I have. A listing of my case filings and certification is attached as JSR-R-1.

Q. What is the purpose of your rebuttal testimony?

A. I will be responding to Staff witness Mr. Keith Majors as well as Company witness Mr. Tim Lyons concerning the cash working capital income tax expense lead/lag and the calculation of property tax expense lead due to the collection of tax within the Company ISRS cases. I will also argue that Staff’s calculation of income tax for the test year, and subsequently the entire EMS run, is incorrect. I also will be responding to Mr. Majors contention that Spire is in a Net Operating Loss (“NOL”) situation and how this condition affects the final calculations of “additional current tax required” that is displayed on Schedule 01 Revenue Requirement. I will also have a suggestion on the disposition of the Propane assets and inventory as well as comments concerning the Company’s discrete adjustments.

CASH WORKING CAPITAL (“CWC”)

Q. What adjustments are you proposing to Spire’s CWC calculations?

A. I am making one specific adjustment to the Company’s calculations, and that is to address the income tax expense lag. The income tax expense lag calculations have been misrepresented in every Spire rate case that I have worked on.

Q. Could you please provide a brief explanation of the lead/lag calculations?

A. CWC is the calculation of how much funding a company needs in order to pay its bills. An accepted definition is as follows:

Cash Working Capital (CWC) is a rate base component that represents a measurement of the amount of funds, on average, required for the payment of a utility's day-to-day expenses, as well as an identification of whether a utility's customers or its shareholders are responsible for providing these funds in the aggregate.

In a CWC calculation, both a revenue lag and an expense lead/lag are measured. The "lag" is the amount of time, measured in days, that it takes revenues to come in from the customer or the time it takes for the utility to pay out an expense.

Q. What expense lag is the Company applying to its tax calculations?

A. Spire consistently applies the standard midpoint of the IRS quarterly payment schedule for companies that will owe an income tax balance to the IRS by year-end. That expense lag is 39 days.

Q. What is Staff witness, Mr. Keith Majors, proposed expense lead/lag for income taxes?

A. Mr. Majors recognizes that the Company is not in a positive tax situation has set the calculation at 365 days. This recognizes that Spire collects, yet does not pay out, the income tax expense included in the cost of service.

Q. Do you believe this is the proper disposition of the income tax within the CWC calculations?

A. Yes. As established in the Spire rate case GR-2021-0108,¹ The lag should be a 365-day calculation. Due to the Company's extensive infrastructure replacement program, the

¹ Spire Missouri, CASE NO. GR 2021-0108, Amended R&O pages 27-31.

1 Company has a substantial amount of accelerated depreciation to apply to its tax liability and
2 therefore does not owe any federal or Missouri state income tax on its annual returns. A
3 monthly collection of income tax expense through rates does not get paid out to the taxing
4 authorities so the Commission determined that there is no calculated interim expense lag, so
5 the entire year (365 days) is used to establish a collection, yet nonpayment, of the income tax
6 expense built into rates.

7 **Q. Are you including a financial adjustment to the income tax amount in your testimony?**

8 A. Not at this time. Income tax calculations are dependent on the overall net income established
9 in the rate case so the final income tax expense established near the end of these proceedings
10 will be used to make the CWC calculations. I am also calculating an adjustment to income
11 tax based on the collection of income tax within the ISRS interim rate cases, so I will be
12 making an additional adjustment to the CWC income tax balance. I go into greater detail later
13 in my testimony.

14 **INCOME TAX CALCULATIONS**

15 **Q. Have you discovered any problems in the Staff's calculations of income tax for this rate**
16 **case?**

17 A. I have identified three separate problems with Staff's calculation of income taxes for this rate
18 case. First, Staff has applied a 35% federal tax rate to the overall revenue requirement of both
19 East and West instead of the current 21% federal rate. Second, income tax expense is
20 calculated and collected from the ISRS interim rate cases, yet the accumulation is not being
21 recognized in the current Company rate case. Finally, as Mr. Majors pointed out, the
22 Company is in a Net Operating Position and is not paying taxes to the government so therefore
23 does not need a gross-up calculation to ensure that the Commission's approved net operating
24 income is maintained.

Q. Let's start with the federal tax rate. How did you determine that the rate Staff is using is 35%

A. I went to Staff's East EMS run, account schedule 11, Income Tax Calculations, mid-point column, and divided the Net Federal Income Tax of \$36,143,991 on line 24 with the Federal taxable income \$103,268,544 on line 22. $(36,143,991/103,268,544) = 35\%$

To double check my findings I did the same with the West EMS run. \$17,200,193 in tax divided by \$49,143,408 in taxable income yields a 35% tax rate. I've included updated schedules as JSR-R-02.

Q. How much of a revenue requirement change does the 21% rate produce?

A. For Spire East, gross revenue requirement is reduced from \$137,670,406 to \$120,357,980. Spire West is reduced from \$66,881,241 to \$58,640,892. All totaled, the reduction for both sides of the state is \$25,552,775.

Q. How could this error have happened?

A. The old rate was probably sticky data in the EMS programming. We all know that TCJA changed the tax rate, but that didn't change the basic programming of the EMS. It is just one number, but it flows through the whole system. The new tax rate in this particular program may not have been saved and reverted back to the old rate.

Q. Your second point was that income tax was collected in the ISRS rate cases. Could you provide some background on the ISRS mechanism?

A. ISRS is an acronym for Infrastructure Replacement Surcharge. It is an interim rate case where the Company can petition the Commission for a rate adjustment for the installation of replacement pipe that occurs between general rate cases. Statute 393.1009 provides bullet points of costs and revenues a Company may request.

1 (1) **"Appropriate pretax revenues"**, the revenues necessary to produce net operating
2 income equal to:

3 (a) The gas corporation's weighted cost of capital multiplied by the net original
4 cost of eligible infrastructure system replacements, including recognition of
5 accumulated deferred income taxes and accumulated depreciation associated with
6 eligible infrastructure system replacements which are included in a currently effective
7 ISRS; and

8 (b) Recover state, federal, and local income or excise taxes applicable to such
9 income; and

10 (c) Recover all other ISRS costs;

11 (2) **"Commission"**, the Missouri public service commission;

12 (3) **"Eligible infrastructure system replacements"**, gas utility plant projects that:

13 (a) Do not increase revenues by directly connecting the infrastructure replacement
14 to new customers;

15 (b) Are in service and used and useful;

16 (c) Were not included in the gas corporation's rate base in its most recent general
17 rate case; and

18 (d) Replace or extend the useful life of an existing infrastructure;

19 In short, the amount collected under the ISRS should equal the new rate base, less the old rate
20 base, multiplied by a designated pre-tax rate of return plus depreciation, property taxes and
21 accumulated deferred taxes.

22 The ISRS is an example of what is generally referred to as "single-issue ratemaking" because
23 just the ISRS rate base revenues and the associated expenses are added to the cost of service.

24 **Q. Why are you taking issue with the calculated income tax that is included in the ISRS**
25 **case?**

26 A. To be clear, I don't believe income tax should be added in Spire's ISRS cases due to Spire
27 being in a continual net operating loss situation. It will not have to pay taxes on these revenues
28 so the tax calculation should be suspended until the next general rate case. That argument,
29 however, can be taken up in the next ISRS filing. But the error that should be recognized in
30 this case is that income tax has been calculated and is already being collected in the ISRS, but
31 the collection is not being recognized as tax paid by the ratepayer in this general rate case.
32 Ratepayers are paying the expense but Staff does not include the interim case income tax in

1 the general rate case revenue requirement. Staff does not recognize the prepayment of income
2 taxes accumulated from the ISRS cases. Because of this omission, Staff's calculation of
3 income tax due for this case is overstated.

4 **Q. What amount of income tax was included in these five ISRS cases?**

5 A. \$13,011,730.

6 **Q. How did you produce this total?**

7 A. I used Staff's revenue requirement schedule from each ISRS case, which are collected in JSR-
8 R-03. I used Staff's revenue calculations specifically so there is no disagreement on the rate
9 base amount or the pre-tax rate of return (8.25%) that is the foundation of the revenue
10 requirement. Because the 8.25% is a negotiated pre-tax return, I made some generalizations
11 and borrowed Staff's last rate of return calculation (6.9%) from GR-2022-0179² to establish
12 the base return for the untaxed revenue requirement.³ I summarized these in Schedule JSR-
13 R-04.

14 **Q. What is the separated amounts between the tax and the general rate of return?**

15 A. I included separate columns for each on the schedule. The pre-tax rate of return for the five
16 ISRS cases was \$43,430,953 with the Staff 6.9% return providing \$36,324,070 of that. The
17 difference between the two was \$7,106,883 in tax. Staff also calculated additional income
18 tax of \$5,904,847 bringing the total income tax collected to \$13,011,730.

² The Stipulation and Agreement from the Spire GR-2022-0179 case established that 8.25% would be the agreed pre-tax rate of return but there was no language on the breakdown of standard rate of return before applying tax. Page 3 of the Stip

³ Because it is a negotiated rate of return, the underlying base return is a guess so I applied the last known ROR from Staff's case to provide a known rate to the equation.

1 **Q. Staff calculated a negative \$11,464,643 of income tax to adjust the revenue requirement**
2 **for this case⁴. How do you reconcile your positive \$13 million with Staff's negative test**
3 **year amount?**

4 A. Let's look at the origin of Staff's negative amount and my \$13 million.

5 Staff developed the income tax by way of calculating the test year net income (a negative
6 number) and applying the tax rate. This produces a negative tax number. I, on the other hand,
7 pulled designated income tax expense amounts from the ISRS revenue requirement amounts.
8 I point this out because this \$13 million is specifically earmarked for income tax liability and
9 the negative \$11 million increases the amount of tax to include in the overall revenue
10 requirement.⁵ I also want to point out that this \$13 million in income tax is over and above
11 the amount of tax already built into the prior case, GR-2022-0179.

12 **Q. Can an argument be made that the \$13 million is merely extra revenues provided to the**
13 **Company and that its income tax designation is cosmetic?**

14 Herein lies the rub. Do you recognize \$13 million in prepaid taxes and apply it to this rate
15 case, or do you discard the idea of designated money in rates for income tax expense and
16 therefore have to realize that ratepayers are overcharged in the ISRS cases for income tax
17 expense that has no bearing on income tax collections? The ISRS statute lays out specific
18 costs to include in the interim rate case revenue requirement.⁶ If the designated income tax
19 costs collected in the ISRS tariffs are not, in fact, true costs, then income tax should not be
20 collected. But tax is being collected so its time the \$13 million be recognized as payments for
21 future taxes just as property taxes are collected for the payment of future property taxes on
22 this ISRS replacement pipe.

⁴ Staff accounting schedules 1, 9, 11

⁵ Revenue requirement, Staff accounting schedule 01

⁶ Please see my 393.1009 quotation earlier in my testimony. Deferred tax, depreciation, property tax, income tax.

1 **Q. Do you have an adjustment to the property tax balance and calculations within the ISRS**
2 **calculations?**

3 A. It is my understanding that Staff recognizes and adjusts the property tax tracker account for
4 property taxes paid in advance through the ISRS rate proceedings. If this is not the case, then
5 I expect to make an adjustment to the tracker balance for these prepaid taxes.

6 **Q. What do you propose to the Commission regarding the \$13 million collected in the ISRS**
7 **rate case filed since the GR-2022-0179?**

8 A. The \$13,011,730 should be an offset to the calculated income tax that will be included in the
9 revenue requirement. Using the format in the Accounting Schedule 01 - Revenue
10 Requirement. The balance on the line “Additional Current Tax Required” would be reduced
11 by the \$13,001,730.

12 **Q. Your third income tax adjustment is predicated on Mr. Majors contending that Spire is**
13 **in an operating loss situation and you maintain that the calculation of income taxes for**
14 **this case should not include a tax gross-up. Could you explain what the term “gross-up”**
15 **means?**

16 A. A tax gross-up is an additional revenue calculation to ensure that the net operating income set
17 by the Commission is not reduced by additional taxes required by the Internal Revenue
18 Service (“IRS”). I’ll use some simple scenario to illustrate how these additional taxes come
19 into play.

20 Scenario: Commission determines that XYZ utility is allowed \$100,000 in net income. Of
21 course, tax needs to be included to satisfy the Internal Revenue Code.⁷ 23.84%, the current
22 composite tax rate, will be assessed. Now XYZ will be allowed to collect \$123,840 in rates
23 to ensure that the \$100,000 the Commission set as income will be available. But wait, there’s

⁷ IRS normalization rules preventing the flow through of tax deductions is the primary reason for the original tax but it’s not important to discuss this mandate in this testimony.

1 more. The IRS looks upon the additional tax calculation of \$23,840 as additional income.
2 Tax is now required on the amount previously included to pay for taxes. That involves an
3 additional \$5,683.46 in tax collections ($\$23,840 \times 23.84\%$). We could make this calculation
4 several more times or we can perform a shortcut and use the calculated tax gross-up formula
5 and multiply the original tax amount by 1.313 to arrive at \$31,302 in tax on the original
6 \$100,000 of net income. The original \$23,840 of tax is grossed-up (tax on tax) to \$31,302.
7 XYZ gets its opportunity to earn \$100,000 and the IRS gets \$31,302.

8 **Q If additional tax is considered by the IRS as taxable income, then why do you contend**
9 **that the gross-up should not be performed in this case?**

10 A. With Spire being in a net operating loss scenario, it does not owe the IRS any tax. The original
11 tax of \$23,840 is only collected to satisfy the IRS normalization rules.⁸ The tax on tax is not
12 predicated on accelerated depreciation or any other IRS requirement other than the fact that
13 tax collections are considered taxable income. The facts are simple. If Spire will not owe
14 taxes to the IRS, then calculating additional tax that the IRS does not mandate is unnecessary.

15 **Q. If additional tax is included in rates, but is not paid out to anyone, what does that money**
16 **represent?**

17 A. The tax on tax is then additional net income that the Commission did not specifically designate
18 for the Company. In a sense, the Company is allowed to over-earn.

19 **Q. Could Staff or the Company argue that this gross-up is allowed by the Commission and**
20 **would not be “overearning?”**

21 A. That would be a valid argument if the company in question was in a positive net income tax
22 situation. Companies that have taxable income need to have a gross-up to ensure that the net

⁸ The IRS requires certain calculations of tax to be included in the revenue requirement to prevent the immediate flow through of tax breaks to the ratepayer. However, the gross-up is not a normalization requirement.

1 income allowed by the Commission is maintained. Disallowing a gross-up is only valid in
2 rate cases where the utility is in a net operating loss and pays no income tax.

3 Let's revisit XYZ utility. Without getting into the weeds about normalization, let's just
4 recognize that the \$23,840 in tax has to be included in rates even though XYZ has a net
5 operation loss situation. But does the Commission have to include a gross-up calculation to
6 ensure that XYZ has the opportunity to collect its \$100,000? No. XYZ won't owe the IRS
7 the original \$23,840 so why argue that additional taxes are needed? The IRS doesn't mandate
8 the gross-up. The gross-up is added to maintain the \$100,000 but since XYZ doesn't owe any
9 tax in the first place, then a gross-up is unjustified.

10 **PROPANE RELATED PLANT AND FUEL INVENTORY**

11 **Q. Mr. Keith Majors testifies that Staff believes that "the propane cavern and related**
12 **equipment have the potential to provide revenue opportunities to the benefit of Spire**
13 **East ratepayers."⁹ Do you agree with position.**

14 A. No, I do not. Company witnesses have stated that natural gas inventory stored on the STL
15 pipeline is sufficient to handle any peak consumption needs of its customers. There are
16 propane revenue opportunities that should be recognized however, the plant, inventory and
17 O&M expenses related to the propane should be eliminated from the revenue requirement.

18 **Q. What is your reasoning for the removal of plant and equipment from rate base as well**
19 **as all expenses related to the propane cavern?**

20 A. The Company has replaced the need to inventory propane by way of storage on the STL
21 pipeline. The propane would appear to be less efficient and redundant to the natural gas
22 storage.

⁹ Kieth Majors direct testimony page 19, lines 13-15

1 **Q. What do you propose as to the actual propane inventory?**

2 A. That inventory has been in rate base for years providing a rate of return for the Company. It
3 sounds generous that the Company has offered to absorb any possible loss that may occur in
4 the disposition of the inventory, however, the sale of this propane or the actual inventory cost
5 itself, should offset a reserve account or create a regulatory liability to compensate the
6 ratepayer for carrying this stagnant asset in rates.

7 **Q. What is the inventory adjustment proposed by the Company?**

8 A. Currently, the Company has made an adjustment of \$8,585,350 to eliminate the inventory
9 from rate base. As I pointed out, this is \$8.5 million that Spire collects a rate of return plus
10 tax that never goes to the taxing authority. This inventory balance needs to offset rate base so
11 the ratepayer can be reimbursed for financing useless assets.

12 **Q. Staff believes that there are revenue opportunities for the ratepayer. If that were true,**
13 **would you be agreeable to maintaining the propane related rate base and expenses?**

14 A. If it was a benefit to ratepayers then I'm all for the inclusion. I'm skeptical that it would save
15 the ratepayer money though. I'm open to suggestions but it seems to me that the ratepayer
16 would benefit more from amortizing the balance against rate base.

17 **Q. Does this conclude your rebuttal testimony?**

18 A. Yes.

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

In the Matter of Spire Missouri Inc. d/b/a Spire's)
Request for Authority to Implement a General) Case No. GR-2025-0107
Rate Increase for Natural Gas Service Provided in)
the Company's Missouri Service Areas)

AFFIDAVIT OF JOHN S. RILEY

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

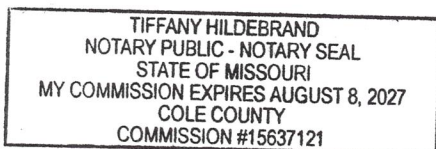
John S. Riley, of lawful age and being first duly sworn, deposes and states:

1. My name is John S. Riley. I am a Utility Regulatory Supervisor for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.




John S. Riley
Utility Regulatory Supervisor

Subscribed and sworn to me this 28th day of May 2025.



My Commission expires August 8, 2027.



Tiffany Hildebrand
Notary Public