

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

In the Matter of the Application of Laclede Gas	)	
Company to Change its Infrastructure System	)	<b>File No. GO-2016-0332</b>
Replacement Surcharge in its Missouri Gas	)	Tariff No. YG-2017-0148
Energy Service Territory	)	

In the Matter of the Application of Laclede Gas	)	
Company to Change its Infrastructure System	)	<b>File No. GO-2016-0333</b>
Replacement Surcharge in its Laclede Gas	)	Tariff No. YG-2017-0147
Service Territory	)	

In the Matter of the Application of Laclede Gas	)	
Company to Change its Infrastructure System	)	<b>File No. GO-2017-0201</b>
Replacement Surcharge in its Missouri Gas	)	Tariff No. YG-2017-0157
Energy Service Territory	)	

In the Matter of the Application of Laclede Gas	)	
Company to Change its Infrastructure System	)	<b>File No. GO-2017-0202</b>
Replacement Surcharge in its Laclede Gas	)	Tariff No. YG-2017-0156
Service Territory.	)	

**PUBLIC COUNSEL’S RECOMMENDATION**

**COMES NOW** the Office of the Public Counsel (“Public Counsel”), by and through Counsel, for its *Recommendation* regarding the remand of Case Numbers GO-2016-0332 and GO-2016-0333 setting the surcharge rate of the Infrastructure System Replacement Surcharge (“ISRS”) and states:

1. On September 30, 2016, Laclede Gas Company and Missouri Gas Energy (aka “Spire”) filed petitions to recover costs associated with the replacement of neighborhood systems through ISRS surcharges.<sup>1</sup> Included in those ISRS surcharge recovery requests were costs resulting from a 2011 policy where Laclede replaced entire neighborhood mains/service lines rather than replacing only impaired gas mains and service lines. *PSC v. Office of Public Counsel*

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<sup>1</sup> Case No’s GO-2016-0332 and GO-2016-0333.

(*In re Laclede Gas Co.*), 2017 Mo. App. Lexis 1183, 2(Mo. App. W.D. 2017). The Commission ordered that tat “the cost of replacing it [the entire neighborhood systems as opposed to lines that are compromised] can be recovered.” *Id.* at 3. The Western District found that “this effort to assign ISRS eligibility to plastic pipes that are not worn out or deteriorated by evaluating an entire neighborhood system as a singular unit finds no support in the plain language of section 393.1009(5)(a).” *Id.* at 7. The Western District reversed the Commission’s Report and Order and was remanded for further proceedings consistent with this opinion. *Id.* at 10. After the Supreme Court denied transfer, that remand became final on March 7, 2018. Consistent with the remand, this Commission has asked the parties to file recommendations in GO-2016-0332 & 0333 on how to proceed.<sup>2</sup>

2. The Western District left no open question as to whether Laclede was permitted to recover for the entire neighborhood system replacements under ISRS. The surcharge was inconsistent with the plain language of section 393.1009, RSMo. With that issue settled, the only remaining issue for this Commission to determine is the proper remedy for the unlawful surcharges imposed upon Laclede’s ratepayers. That remedy is laid out in section 393.1015.8, RSMo:

“In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously included in an ISRS,

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<sup>2</sup> Though the Commission has not sought a recommendation for GO-2017-0201 or 0202, the Order Approving Unanimous Stipulation and Agreement in that case states that “the parties have unanimously agreed to recommend that the Commission approve the ISRS changes pending the outcome of the [Western District] appeal and to apply a final court rule, as needed, to the current case.” Therefore, OPC’s recommendation to the Commission contemplates resolution of the outstanding issues related to the plastic portion of the main and service lines which were approved for ISRS in GO-2017-0201 and GO-2017-0202.

the gas corporation shall offset its ISRS in the future as necessary to recognize and account for any such overcollections.”

Subsection 8 applies here, as both of the elements are met:

- “Commission disallows...recovery of costs associated with eligible infrastructure system replacements previously included in an ISRS”: The Western District’s remand was for “further proceedings consistent with this opinion.” Therefore, this Commission must “disallow” the ISRS surcharge that it previously approved.
- “During a subsequent general rate proceeding”: In GR-2017-0215 & 0216, the current general rate proceeding, the tariffs do not go into effect until April 19, 2018. Additionally, on March 29, 2018, this Commission ordered Staff to file a recommendation on April 2, 2018, demonstrating that the case is still ongoing as of the date of this filing.

3. Thus, the appropriate remedy is to “offset its ISRS in the future as necessary to recognize and account for any such overcollections.” *Id.* Thus, the appropriate remedy moving forward is to, in the tariff(s) for the current rate case, apply the overcollection to that rate base to offset the overcollections from the ISRS cases.

4. John Robinette calculated the overcollected ISRS surcharges based upon depreciation. Please see Robinette’s affidavit and calculations, attached as Exhibit 1. As Robinette explains in his affidavit, the costs are already available in the records of the above captioned cases. Therefore, no separate proceeding is needed to develop the facts. OPC hereby requests this Commission to apply the \$4,905,862.58, plus the return on investment, toward rate base in the current rate case in accordance with Robinette’s calculations.

**Wherefore** Public Counsel requests that the Commission comply with the requirements of § 393.1015.8 and determine that, pursuant to the decision of the Missouri Western District Court of Appeals, Spire unlawfully overcollected ISRS revenues in an amount of \$4,905,862.58, plus the return on investment, and that overcollection be applied against the rate base in GR-2017-0215 & 0216.

Respectfully submitted,

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**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 30th day of March, 2017.

/s/ Curtis Schube