

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held by telephone  
and internet audio conference  
on the 13th day of May, 2020.

In the Matter of the Application of Spire )  
Missouri, Inc. d/b/a Spire to Change its ) **File No. GO-2020-0229**  
Infrastructure System Replacement ) Tracking No. YG-2020-0139  
Surcharge in its Spire Missouri East Service )  
Territory )

In the Matter of the Application of Spire )  
Missouri, Inc. d/b/a Spire to Change its ) **File No. GO-2020-0230**  
Infrastructure System Replacement ) Tracking No. YG-2020-0140  
Surcharge in its Spire Missouri West Service )  
Territory )

**ORDER APPROVING STIPULATION AND AGREEMENT**

Issue Date: May 13, 2020

Effective Date: May 23, 2020

On February 3, 2020,<sup>1</sup> Spire Missouri, Inc. (Spire or the Company) filed applications and petitions with the Commission requesting the Commission authorize it to change its infrastructure system replacement surcharge (ISRS) for its Spire Missouri East and West service territories. Spire filed corrected applications and petitions on February 13. On February 18, the Commission issued an Order Directing Notice, Setting Intervention Deadline, Directing Filing and Suspending Tariff Sheets. The order suspended the effective dates of Tariffs YG-2020-0139 (Spire East) and YG-2020-0140 (Spire West) until June 2. On March 31, the Commission issued its Procedural Schedule and set the matter for an evidentiary hearing on April 27 and 28.

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<sup>1</sup> Calendar references will be to 2020 unless otherwise indicated.

On April 16, the Commission's Staff (Staff), the Office of the Public Counsel (OPC) and Spire filed a Unanimous Stipulation and Agreement (Agreement). The Agreement provides for ISRS revenue of \$5,519,188 for Spire East and \$5,599,040 for Spire West. It also provides that OPC's issue concerning cathodically protected pipes will be resolved consistently with the disposition of that issue in cases GO-2019-0356 and GO-2019-0357 now on appeal in the Missouri Court of Appeals, case number WD83475.

On April 17, the Commission issued its Order Suspending Procedural Orders and Cancelling Hearings. On April 21, the Commission ordered Staff to file a verified supplemental report indicating whether the ISRS revenue amounts agreed to by the parties in their agreement reflect an accurate recovery for replaced facilities that were worn out or deteriorated and to state the agreed upon revenue amount attributable to replaced cathodically protected steel facilities. The order also required Spire and OPC to file a response to Staff's supplemental recommendation no later than May 3.

On April 28, the Commission Staff filed a Verified Response to Order Directing Filing and in Support of Unanimous Stipulation and Agreement (Staff Response in Support). Staff stated it considered the revenue requirements agreed to by the signatories to the Agreement to be fair and reasonable and in the public interest, and Staff recommended the Commission approve the Agreement. Staff stated it believed the ISRS revenue requirements agreed to by the parties reflected an accurate recovery for replaced facilities. It stated there was no current method accepted by the parties for identifying the costs associated with the replacement of cathodically protected bare steel pipe facilities. Staff stated:

"For purposes of this filing, Spire informed Staff that it has reviewed its work orders and information management system to formulate an estimate of the amount of

costs in the revenue requirement that may be attributed to bare steel facilities that were later cathodically protected. The Company estimates are \$236,515 for Spire East and \$2,131,756 for Spire West. Based on an initial review of Spire's estimates, Staff considers them to be reasonable. But in the event the Court later issues a decision requiring an adjustment to remove amounts attributable to replacement of cathodically protected bare steel facilities, Staff reserves its right to (1) conduct a more thorough analysis of the process and method used to identify Spire's estimated costs, and (2) if appropriate, recommend an alternative method to determine these costs."

On May 3, Spire filed its Response to Staff in Support of Unanimous Stipulation and Agreement (Spire's Response in Support). Spire stated it agreed with the statements and quantifications set forth in Staff's pleading.

The Commission may resolve any part of this proceeding on the basis of a stipulation and agreement.<sup>2</sup> After reviewing the Agreement, Staff's Response in Support, and Spire's Response in Support the Commission finds and concludes that the Agreement is a reasonable resolution of the issues. The Commission will approve the Agreement.

To effectuate the terms of the Agreement, the Commission will reject the tariff sheets YG-2020-0139 and YG-2020-0140 filed on February 13 and will direct Spire to file new tariff sheets that comply with the terms of the Agreement. Because the parties have agreed the new ISRS rates should become effective no sooner than May 25 and no later than June 2, the Commission finds this order should be effective in less than thirty days.

**THE COMMISSION ORDERS THAT:**

1. The Unanimous Stipulation and Agreement filed on April 16, 2020, is approved, and the signatories are ordered to comply with its terms. A copy of the Unanimous Stipulation and Agreement is attached to this order and incorporated herein as if fully set forth.

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<sup>2</sup> Commission Rule 20 CSR 4240-2.115(1)(B).

2. The tariff sheets filed on February 13, 2020, by Spire Missouri, Inc., Tariff Tracking Numbers YG-2020-0139 and YG-2020-0140, are rejected.

3. Spire Missouri, Inc., shall file compliance tariff sheets conforming with the Unanimous Stipulation and Agreement approved and adopted by this order no later than May 23, 2020.

4. This order shall be effective on May 23, 2020.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff  
Secretary

Silvey, Chm., Rupp, Coleman, and  
Holsman CC., concur.  
Kenney, C., absent.

Graham, Regulatory Law Judge

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

In the Matter of the Application of )  
Spire Missouri, Inc. d/b/a Spire to )  
Change its Infrastructure System )                   Case No. GO-2020-0229  
Replacement Surcharge in its Spire )  
Missouri East Service Territory )

In the Matter of the Application of )  
Spire Missouri, Inc. d/b/a Spire to )  
Change its Infrastructure System )                   Case No. GO-2020-0230  
Replacement Surcharge in its Spire )  
Missouri West Service Territory )

**UNANIMOUS STIPULATION AND AGREEMENT**

**COMES NOW** the Missouri Office of the Public Counsel (“the OPC”); Spire Missouri Inc. (“the Company” or “Spire”), on behalf of itself and its two operating units, Spire East and Spire West; and the Staff of the Missouri Public Service Commission (“Staff”) (collectively “the signatories”) and, pursuant to Commission Rule 20 CSR 4240-2.115, presents this *Unanimous Stipulation and Agreement* for approval by the Missouri Public Service Commission (“the Commission”) as a resolution of the issues of the ISRS revenue requirement to be approved by the Commission in these cases. In support of this *Unanimous Stipulation and Agreement*, the signatories state as follows:

1.     **Issues Settled:** The signatories agree and intend this *Unanimous Stipulation and Agreement* to settle only the issues of the ISRS revenue requirement to be approved by the Commission in the above captioned cases. This settlement is

the product of extensive negotiations aimed at an amicable resolution of the present cases and none of the signatories to this *Unanimous Stipulation and Agreement* concede any issue of law or fact not expressly stated herein. In the event that the Commission orders additional evidence submitted in support of this stipulation, the signatories agree that Staff may submit into evidence a report demonstrating the calculation of the revenue requirements found herein but that no party to this stipulation shall be determined to have conceded the ISRS eligibility or lack thereof of any costs included or not included in that report or to be otherwise bound to the findings of that report.

2. **ISRS Revenue Requirement:** The signatories agree that, subject to the provision of paragraphs 3, 4, and 5 of this agreement, an ISRS revenue requirement of \$5,519,188 be approved for Spire East and an ISRS revenue requirement of \$5,599,040 be approved for Spire West.

3. **Rate Design and Effective Date of Rates:** The revenue requirement shall be allocated to the rate classes pursuant to the rate design described in Staff's Memorandum filed on April 3, 2020. In no event shall the rates implemented from this stipulation and agreement be made effective sooner than May 25, 2020 and no later than June 2, 2020.

4. **Tax Treatment:** The treatment of income tax included in the approved revenue requirements will reflect the treatment of income taxes agreed to in the stipulation and agreement on this issue approved in Case Nos. GO-2019-0356 and GO-2019-0357. For purposes of these cases, prior to grossing up the return on rate

base, the return will be reduced to reflect a tax deduction related to interest expense. The interest expense deduction will be calculated by multiplying the approved ISRS rate base by the Company's cost of debt from its last general rate proceedings (1.89%). After accounting for the interest deduction, the revenue requirement will be multiplied by the marginal income tax rate. At that point, the tax gross up will be split 52%/48% with 52% of the tax gross up included in the Company's total ISRS revenue requirement. Should the return on rate base change as a result of an agreed revision or Commission order, income taxes will be adjusted accordingly.

**5. Effect of Decision in Appeal of Prior ISRS Cases:** During the pendency of the prior ISRS proceedings GO-2019-0356 and GO-2019-0357, the OPC raised an issue challenging the existence of a state or federal mandate requiring the replacement of bare steel pipes to which cathodic protection was later applied and argued that, in the absence of such a mandate, Spire should not be permitted to recover the cost of replacing such pipes through its ISRS. The Commission found that there was a state or federal mandate requiring Spire to replace such pipes. The OPC has since brought an appeal of this decision, which has been consolidated in what is currently Western District Appellate Court docket number WD83475. In the present cases, the OPC has again raised an issue challenging the existence of a state or federal mandate requiring the replacement of bare steel pipes to which cathodic protection was later applied and argues that, in the absence of such a mandate, Spire should not be permitted to recover the cost of replacing such pipes through its ISRS. The Signatories agree that, in the interest of preserving judicial resources, the

resolution of the OPC's present issue shall be made consistent with the resolution of the same issue as appealed in cases GO-2019-0356 and GO-2019-0357. Should an appellate court issue a final and unappealable decision in the GO-2019-0356 and GO-2019-0357 cases that upholds the Commission's finding that there is a state or federal mandate requiring the replacement of bare steel pipes to which cathodic protection was later applied, then no further action shall be necessary. Should an appellate court issue a final and unappealable decision that remands the GO-2019-0356 and GO-2019-0357 cases because the appellate court determined the Commission erred in finding that there is a state or federal mandate requiring the replacement of bare steel pipes to which cathodic protection was later applied, then Spire agrees to refund all monies that it has collected through its ISRS for the replacement of bare steel pipes to which cathodic protection was later applied for which it seeks recovery in the present cases (GO-2020-0229 and GO-2020-0230), in a manner consistent with the appellate court's decision, and to further cease the collection of any such monies on a prospective basis through the ISRS charges approved herein. In the event that the appellate court issues an order remanding the GO-2019-0356 and GO-2019-0357 cases but does not prescribe specific instructions regarding how any such refund should be made, then the refund of costs related to the replacement of bare steel pipes to which cathodic protection was later applied that Spire seeks recovery for in the present cases shall be made in the same manner as if they were temporary rate adjustments ordered by the Commission as prescribed in Mo. Rev. Stat. § 386.520.2(2). The refund of any monies as set forth in this paragraph shall be made



regardless of the occurrence of any rate case at any point in time between the Commission issuing an order approving this *Unanimous Stipulation and Agreement* and the final issuance of any such appellate decision; provided, however, that the signatories each individually retain the right to request the Commission issue an order and/or hold an evidentiary hearing to determine the proper amount of any such refund that may be issued by operation of this paragraph. The signatories further each individually retain the right to raise before the Commission the effect of any change in applicable laws, rules or regulations on any refund, or request the approval by the Commission of any lawful cost deferral or recovery mechanisms outside of ISRS related to such refunds.

6. **Limitation of Scope:** This *Unanimous Stipulation and Agreement* is being entered into for the purpose of disposing of the issues specifically addressed herein. In presenting this *Unanimous Stipulation and Agreement*, none of the signatories shall be deemed to have approved, accepted, agreed, consented or acquiesced to any procedural principle, and none of the signatories shall be prejudiced or bound in any manner by the terms of this *Unanimous Stipulation and Agreement*, whether approved or not, in this or any other proceeding, other than a proceeding limited to the enforcement of the terms of this *Unanimous Stipulation and Agreement*, except as otherwise expressly specified herein. The signatories further understand and agree that the provisions of this *Unanimous Stipulation and Agreement* relate only to the specific matters referred to in this *Unanimous Stipulation and Agreement*, and no signatory waives any claim or right which it

otherwise may have with respect to any matter not expressly provided for in this *Unanimous Stipulation and Agreement*. The signatories further understand and agree that no party to this *Unanimous Stipulation and Agreement* shall assert the terms of this Stipulation as a precedent in any future proceeding.

7. **Interdependence and Non-Severability:** This *Unanimous Stipulation and Agreement* has resulted from negotiations and the terms hereof are interdependent. If the Commission does not approve this *Unanimous Stipulation and Agreement* in total, or approves it with modifications or conditions to which a signatory objects, then this *Unanimous Stipulation and Agreement* shall be void and no signatory shall be bound by any of its provisions. The agreements herein are specific to this proceeding and are made without prejudice to the rights of the signatories to take other positions in other proceedings except as otherwise noted herein. If the Commission does not unconditionally approve this *Unanimous Stipulation and Agreement* without modification, and notwithstanding its provision that it shall become void, neither this *Unanimous Stipulation and Agreement*, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any signatory has for a decision in accordance with RSMo. section 536.080 or Article V, Section 18, of the Missouri Constitution, and the signatories shall retain all procedural and due process rights as fully as though this *Unanimous Stipulation and Agreement* had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this *Unanimous Stipulation and Agreement*

shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

8. **Waiver of Procedural Rights:** If the Commission unconditionally accepts the specific terms of this *Unanimous Stipulation and Agreement* without modification, the signatories waive, with respect to the issues resolved herein, their respective rights: (1) to call, examine and cross-examine witnesses pursuant to RSMo. section 536.070(2); (2) to present oral argument and/or written briefs pursuant to RSMo. section 536.080.1; (3) to the reading of the transcript by the Commission pursuant to section RSMo. 536.800.2; (4) to seek rehearing pursuant to RSMo. section 386.500; and (5) to judicial review pursuant to RSMo. section 386.510, provided however that the Verified Applications and Updates submitted by Spire Missouri on behalf of Spire East and Spire West shall be received into evidence for the sole purpose of providing an evidentiary foundation for this Unanimous Stipulation and Agreement. These waivers apply only to a Commission order respecting this *Unanimous Stipulation and Agreement* issued in this above-captioned cases and do not apply to any issues or matters raised in any prior or subsequent Commission order, or any issue or other matters not explicitly addressed by this *Unanimous Stipulation and Agreement*.

9. **Merger and Integration:** This *Unanimous Stipulation and Agreement* contains the entire agreement of the signatories concerning the issues addressed

herein. The intent of the signatories to this *Unanimous Stipulation and Agreement* has been fully and exclusively expressed in this document and the attachments appended hereto.

10. **Exclusion of Certain Assets:** In Case No. GM-2020-0292, Spire recently filed an application to transfer distribution system assets to Saint Louis University. If the application is approved by the Commission, and to the extent the assets are included in Spire East's current ISRS rates, Spire agrees to quantify and remove the amounts in its next Spire East ISRS filing.

WHEREFORE, the signatories respectfully request the Commission issue an order approving this *Unanimous Stipulation and Agreement* as a resolution of the issues of the ISRS revenue requirement to be approved by the Commission in the above captioned cases.

/s/ Matt Aplington

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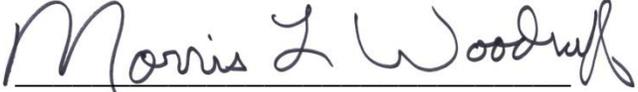
**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 13<sup>th</sup> day of May 2020.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**May 13, 2020**

**File/Case No. GO-2020-0229 and GO-2020-0230**

**Missouri Public Service  
Commission**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

*Sincerely,*



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.