

**Exhibit No.:**

**Issue(s):** Advance Leak Detection Tracker

**Witness/Type of Exhibit:** Payne/Rebuttal

**Sponsoring Party:** Public Counsel

**Case No.:** GR-2025-0107

## **REBUTTAL TESTIMONY**

**OF**

**MANZELL PAYNE**

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**

**MANZELL M PAYNE**

**SPIRE MISSOURI, INC.**

**CASE NO. GR-2025-0107**

**Q. Please state your name, title, and business address.**

A. My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel (“OPC” or “Public Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

**Q. What are your qualifications and experience?**

A. My educational background includes a Bachelor of Arts degree in Accounting from Westminster College in Fulton, Missouri received in 2020.

Prior to joining the Office of Public Counsel in July 2023, I worked as an analyst and auditor in the banking industry for four and half years. The responsibilities during my time as an analyst included risk analysis, tracking/monitoring expenditures, auditing of business financial statements and business plans. Through my various analysis and auditing work in the banking industry, I had the opportunity to review an individual or company’s creditworthiness.

Since joining the OPC, I have attended the National Association of Regulatory Utility Commissioners (“NARUC”) Rate School and other seminars and trainings relating to utility regulation.

**Q. Have you testified previously before the Missouri Public Service Commission?**

A. Yes, I have previously testified before the Missouri Public Service Commission (“Commission”). Please refer to schedule MMP-R-1 attached hereto for a list of cases in which I have testified.

**Q. What is the purpose of your rebuttal testimony?**

A. The purpose of my rebuttal testimony is to address Spire Missouri’s<sup>1</sup> request for an advanced leak detection tracker. Specifically, I will be responding to the direct testimony of Company Witness, David A. Yonce.

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<sup>1</sup> Heretofore “Company” or “Spire Missouri.”

**ADVANCE LEAK DETECTION TRACKER**

**Q. Can you please generally explain what a “tracker” is for regulatory purposes?**

A. A tracker is a regulatory deferral mechanism of costs. The “tracker” is the recognition of specific ongoing expenses so that this accumulated amount can be included in a future rate case as a reduction or increase in revenue requirement. Recognizing past expenses in a current rate case is generally referred to as retroactive ratemaking, which is usually prohibited in regulatory proceedings.

**Q. What is the advanced leak detection tracker that the Company is requesting?**

A. The advance leak detection tracker is the regulatory deferral mechanism that Spire is requesting for all operation and maintenance costs and the revenue requirement associated with the capital spending incurred to comply with the final Leak Detection and Repair (LDAR) rule that may or may not be implemented by the Federal Government.<sup>2</sup> The costs included in this tracker would be recoverable in Spire Missouri’s next general rate case.

**Q. Has the LDAR rule been finalized at the time of this testimony?**

A. No. The LDAR rule has not been finalized. In response to OPC Data Request No. 1202, the Company stated:

On January 17, 2025, an unofficial version of the LDAR Final Rule was posted on the Pipeline Hazardous Materials Administration website. However, due to the change in Administration on January 20, 2025, this rule was not published in the Federal Register and is currently under review per the new Administration’s discretion.<sup>3</sup>

**Q. Why is the final status of the rule important in evaluating the Company’s request for the advanced leak detection tracker?**

A. A tracking mechanism is intended to address known and measurable expenses associated with regulatory and federal mandate compliance. Without the final rule, it is not possible to determine with certainty what obligations the utility will have, when those obligations will begin, or how much compliance with the final rule will actually cost. As of right now, the rule is in a proposed or draft stage, which makes it subject to further revision, stakeholder inputs, public comments, potential legal challenges, and new administrative scrutiny before any final

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<sup>2</sup> Company Witness, David Yonce Direct Testimony page number 24, Lines 5-8.

<sup>3</sup> Response to OPC Data Request No. 1202. Attached as MMP-R-2.

1 determination is made. The Company has not demonstrated that it is under any current  
2 regulatory obligation to take action or incur specific costs to comply with the rule at this time.  
3 The circumstances are not extraordinary and the projected costs are not expected to be  
4 extensive. Regulatory uncertainty is significant at this stage, as full compliance rules and  
5 details are all subject to change and, until the rule is finalized, any proposed actions taken by  
6 the Company are speculative and voluntary. This uncertainty makes it impossible for the  
7 Commission to determine whether the Company's actions or incurred costs are necessary,  
8 reasonable, or will align with the eventual compliance obligations.

9 The tracker is premature and approval of the tracker, under uncertain conditions, asks  
10 ratepayers to pay for potential hypothetical costs without the protection of a prudence review  
11 or assurance that costs will actually be mandatory. Furthermore, the Company has not  
12 provided any evidence of noncompliance or penalties that would be avoided if immediate  
13 action was not taken. The Company has also not demonstrated that waiting until the final rule  
14 would place the Company under any risk, however, the premature tracker would increase risks  
15 on customers, who would be footing the bill for potential unnecessary costs incurred by the  
16 Company. There are no known and measurable expenses associated with the tracker that is  
17 being proposed because there is no final rule or regulatory compliance mandating the  
18 Company to take on costs at this time.

19 **Q. Has the Company provided final costs for the tracker?**

20 A. No. Company witness, David A. Yonce did not state any actual costs in his direct testimony.  
21 He stated that actual costs would be dependent on the final rule, once it becomes effective.  
22 However, the Company provided estimated costs through a Spire presentation that was  
23 provide in response to OPC Data Request No. 1200.<sup>4</sup>

24 **Q. What is the OPC's typical stance on the use of tracking mechanisms?**

25 A. Typically, the OPC has been opposed to expense trackers as they do not recognize all relevant  
26 factors at the time the utility incurs the expense. Additionally, trackers can cause a Company  
27 to be less concerned with cost controls that are associated with the tracker.

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<sup>4</sup> Response to Data Request 1200. Attached as MMP-R-3 Confidential.

**Q. What standard has the Commission utilized in determining the use of trackers?**

A. The Commission determined in File No. EU-2014-0077 that only extraordinary costs, which are “unusual and infrequent” are appropriately recovered through trackers:

In Missouri, rates are normally established based off of a historic test year. The courts have stated that an AAO allows the deferral of a final decision on current extraordinary costs until a rate case and therefore is not retroactive ratemaking. Consistent with the language in General Instruction No. 7, the Commission has evaluated the transmission costs for which Companies seek an AAO to determine if they are an unusual and infrequent occurrence. The Commission concludes they are not.<sup>5</sup>

**Q. How has deferral accounting typically been handled by the Commission?**

A. The Commission has previously approved deferral accounting, either with an AAO or a tracker for costs that were incurred due to either (1) an Act of God or (2) New Legislation or rules. For example, the Commission has allowed deferral accounting for extreme event such as, Winter Storm Uri and COVID. Additionally, the Commission has allowed for deferral accounting due to new legislation and rules, such as pipeline replacement rules. For these instances, extraordinary costs that were not already included in the Company’s cost of service, were incurred and deemed to be recovered through deferral accounting.

**Q. Is there a reasonable basis for proposing new regulatory tracking mechanism to account for the new LDAR rule as Spire is requesting?**

A. No. The tracking mechanism that the Company is requesting for the advance leak detection rule would relate to costs that would be incurred through the course of regular business operations and can be addressed in a rate case. At the same time, the costs for the advanced leak detection from the LDAR rule can still be incurred by the Company but do not need to be addressed in this case. The Company does not need a tracker.

**Q. Do you believe it is appropriate to authorize a tracking mechanism for costs that are not yet known or incurred?**

A. No. Authorizing the costs for a rule that has not been finalized, or became effective, would shift speculative costs onto ratepayers without any assurance of prudence or necessity for those costs. Spire Missouri’s customers would shoulder the risk of potentially unnecessary spending by the Company that could later be inconsistent with the final rule. If the tracker was

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<sup>5</sup> File No. EU-2014-0077, Report and Order, issued July 30, 2014, page 10.

1 approved, the Company would have less of an incentive to control tracked costs. If every  
2 dollar of tracked costs, for a rule that is not finalized, is eligible for future rate recovery through  
3 the tracking mechanism, the incentive to control costs or pursue newer efficiencies would not  
4 occur.

5 Additionally, the Company has not developed a formal cost-benefit analysis for the advance  
6 leak detection system. In response to OPC Data Request No. 1206, the Company stated the  
7 following:

8 The implementation of the advanced leak detection system is in response to  
9 pending federal requirements. The Company has not developed a formal cost-  
10 benefit analysis for the advanced leak detection system. The Company is  
11 currently conducting a three-year program of emission quantification surveys  
12 with a third-party vendor to determine appropriate parameters to better define  
13 costs and benefits for using advanced leak detection for compliance leak  
14 surveys in the future.<sup>6</sup>

15 **Q. Are you suggesting that the Company not prepare and take steps towards compliance**  
16 **with the LDAR final rule?**

17 A. No. The Company has taken steps in preparations for the final rule, as is their right to do so.  
18 The Company can recover their costs through the traditional ratemaking procedure of auditing  
19 all test year costs and revenues in a stable manner to determine a reasonable overall revenue  
20 requirement. Through the manner of traditional ratemaking, the Company has the incentive  
21 to control their costs and customers are not burden with the potential unnecessary costs of a  
22 rule that is not final. Once the rule is final and the Company has incurred prudently planned  
23 costs in response, it can seek recovery in a future rate case of those expenses incurred.

24 **Q. What is your recommendation to the Commission?**

25 A. I recommend that the Commission not approve Spire Missouri's Advance Leak Detection  
26 tracker. Spire Missouri is attempting to isolate and track costs on the assumption of a final  
27 LDAR rule. Additionally, the Company does not have actual costs estimates that would be  
28 included in their tracker that would fall under the final rule, since the final rule has not been

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<sup>6</sup> Response to Data Request 1206. Attached as MMP-R-2.

published in the Federal Register. Granting the tracker now would set a precedent for speculative recovery mechanisms for any pending regulation. This could open the door for preemptive cost recovery for many items before there is actual regulatory clarity. Ratepayers should not shoulder any misaligned costs or unnecessary spending that could be inconsistent with the final LDAR rule.

**Q. Do you have any further comments on the cost recovery of the Advance Leak Detection?**

A. Yes. In review of the Company's response to OPC Data Request No. 1200, the presentation provided on slide 6 titled "Recommended approach to Advance Leak Detection Program," the Company is intending to "include expenses in the true-up period through May 2025" for Missouri.<sup>7</sup> However, Mr. Yonce's direct testimony does not mention any costs to be recovered in this rate case through the true-up period. In light of this, I will be reviewing their true-up workpapers to determine any disallowances due to the advance leak detection.

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

A. Yes it does.

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<sup>7</sup> Presentation provided in Response to Data Request 1200. Attached as MMP-R-3 Confidential.



**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	)	<u>Case No. GR-2025-0107</u>
Rate Increase for Natural Gas Service Provided in	)	
the Company's Missouri Service Areas	)	

**AFFIDAVIT OF MANZELL PAYNE**

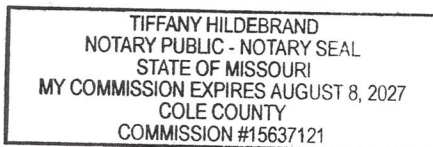
**STATE OF MISSOURI**   )  
  )   ss  
**COUNTY OF COLE**       )

Manzell Payne, of lawful age and being first duly sworn, deposes and states:

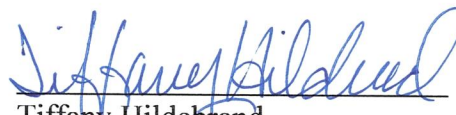
1.     My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel.
2.     Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3.     I hereby swear and affirm that my statements contained in the attached testimony are true and correct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

  
\_\_\_\_\_  
Manzell Payne  
Utility Regulatory Auditor

Subscribed and sworn to me this 28<sup>th</sup> day of May 2025.



My Commission expires August 8, 2027.

  
\_\_\_\_\_  
Tiffany Hildebrand  
Notary Public