

Exhibit No.:

Issue(s): Advance Leak Detection Tracker

Witness/Type of Exhibit: Payne/Surrebuttal

Sponsoring Party: Public Counsel

Case No.: GR-2025-0107

SURREBUTTAL TESTIMONY

OF

MANZELL PAYNE

Submitted on Behalf of the Office of the Public Counsel

SPIRE MISSOURI, INC.

FILE NO. GR-2025-0107

June 30, 2025

SURREBUTTAL 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. Are you the same Manzell Payne who filed rebuttal testimony for the OPC in this case?

A. Yes.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my surrebuttal testimony is to respond to Staff Witness, Keith Majors’ rebuttal testimony on Spire Missouri, Inc.’s¹ request for an advanced leak detection tracker.

ADVANCE LEAK DETECTION TRACKER

Q. For context, please explain your position on the proposed advanced leak detection tracker Spire Missouri has sought to include in this rate case.

A. As stated in my rebuttal testimony, I recommend the Commission not approve Spire Missouri’s advanced leak detection tracker because the Leak Detection and Repair (LDAR) rule has not been finalized. Spire Missouri is attempting to isolate and track costs on the assumption of a final LDAR rule. Additionally, the Company does not have actual cost estimates that would be included in their tracker, because the final LDAR rule has not been 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 regarding their recovery. Ratepayers should not shoulder any misaligned costs or unnecessary spending that could be inconsistent with the final LDAR rule, simply because the Commission approved the advanced leak detection tracker before the LDAR rule became final.

¹ Heretofore “Company” or “Spire Missouri.”

Q. What was Staff's position on the Advance Leak Detection Tracker?

A. Staff Witness, Keith Majors, stated that Spire Missouri's request for the advance leak detection tracker in this case is justified in relation to prior examples of authorized trackers. However, he did identify some caveats to the request should the Commission authorize the tracker. He stated the following:

In part, yes. As this is a new regulation, there is little to no historical experience. On the contrary, these are likely not material costs. Should the Commission authorize a tracker for these expenses, it should be limited to the time period between the conclusion of this rate case and the next general rate case, and limited to non-labor expenses.²

Q. Did Staff provide circumstances where it might consider the use of a tracker justified?

A. Yes. Staff Witness, Keith Majors has provided examples of times that Staff might consider the use of a tracker justified. Those instances are:

(1) when the applicable costs demonstrate significant fluctuation and up-and-down volatility over time, and for which accurate estimation is difficult; (2) when there are new costs for which there is little or no historical experience, and for which accurate estimation is accordingly difficult; and (3) when there are costs imposed upon utilities by newly promulgated legislation or new federal or state requirements. In addition, the costs should be material in nature.³

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

A. As I stated in my rebuttal testimony, 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.⁴

² Staff Witness, Keith Majors, Rebuttal Testimony. Page 12. Lines 1-4.

³ Staff Witness, Keith Majors, Rebuttal Testimony. Page 12. Lines 1-4

⁴ Response to OPC Data Request No. 1202. See rebuttal attachment MMP-R-2.

1 **Q. Are any of the circumstances that Mr. Majors states Staff would use a tracker for**
2 **present in this case?**

3 A. Not exactly. First, the Company has not provided any applicable costs that demonstrate
4 significant fluctuation or up-and-down volatility over time that would cause accurate
5 estimations to be difficult. Rather, at this time the Company has not provided actual costs
6 because they are waiting for the LDAR rule to be finalized. The Company has provided
7 estimated costs through a Spire presentation that was provide in response to OPC Data
8 Request No. 1200.⁵ But, again, these are only estimated costs as it is not clear what the rule
9 will actually cover.

10 Second, Mr. Majors is correct in stating that there is little to no historical experience with the
11 proposed rule, but, again, there is still not a final rule. Since the federal administration changed
12 on January 20, 2025, the rule is currently under review and at the discretion of the new
13 administration. Thus, it is unclear when or if the LDAR rule will be finalized and what
14 changes to the proposed LDAR rule will be made. Additionally, the absence of historical
15 experience is not unique for utilities because new regulations begin without a record of costs,
16 and yet that does not mean it should be used as a basis to approve the tracker. So, I disagree
17 with Mr. Majors' position that the tracker should be approved due to the lack of historical
18 costs.

19 Third, the rule has not been published in the Federal Register, meaning that there are not costs
20 currently being imposed on Spire Missouri by newly promulgated legislation or new federal
21 or state requirements.

22 Lastly, Mr. Majors states that costs are "likely not material" which undermines the rationale
23 for a tracker. Trackers are typically justified when costs are volatile, unpredictable, material,
24 and too significant or extraordinary to be reasonably absorbed between rate cases. If Mr.
25 Majors has stated that these costs are minor, then there is no regulatory or economic
26 justification for the tracker.

27 **Q. Do you agree with Staff's position?**

28 A. No. As I stated above, the circumstances for which Staff might consider the use of a tracker
29 are not met with regard to the advance leak detection tracker. Additionally, per Mr. Majors

⁵ Response to Data Request 1200. See rebuttal attachment MMP-R-3 Confidential.

1 the costs are not material. For these reasons, I do not agree with Staff's position. The
2 Commission should not approve the advanced leak detection tracker, with or without Mr.
3 Majors' caveats.

4 Importantly, not approving the tracker does not mean the Company cannot recover its cost for
5 the LDAR rule if it becomes final. Rather, the Company can recover its costs through the
6 traditional ratemaking process in the next rate case, when these costs can be reviewed.
7 Through the manner of traditional ratemaking, the Company has the incentive to control its
8 costs and customers are not burdened with the potential unnecessary costs of a rule that is not
9 final.

10 **Q. Do you have further concerns related to Mr. Majors' rebuttal testimony on the advance**
11 **leak detection tracker?**

12 A. Yes. Mr. Majors' position to allow the Company to have the advance leak detection tracker
13 completely ignores his answer to the questions in his rebuttal testimony, namely: "Why would
14 the widespread use of trackers tend to skew the ratemaking results for a utility?"

15 Mr. Majors' answer to this question was:

16 With certain exceptions, the historical practice in Missouri has been to set a
17 utility's rates based upon measurement of "all relevant factors," taking into
18 account levels of revenues, expenses, rate base, and rate of return that are
19 calculated at or approximately at the same point in time. Use of an "all relevant
20 factors" approach is necessary to ensure that a utility's rate levels are based
21 upon an accurate measurement of its cost of service at a particular point in
22 time.

23 When using trackers as part of setting rates, certain cost factors inevitably
24 receive different and inconsistent treatment compared to other cost factors.
25 For example, if a utility tracks expenses that tend to increase over time, but
26 does not track factors that may reduce its cost of service (such as revenue
27 growth, or increases in rate base offsets for accumulated depreciation or
28 deferred taxes), the utility may receive retroactive dollar-for-dollar recovery
29 of certain cost increases in its customer rates through trackers, at the same time
30 that it retains beneficial changes in other cost of service components that occur
31 over the same period. In this manner, inappropriate use of trackers can lead to
32 skewed and unfair ratemaking results.⁶

⁶ Staff Witness, Keith Majors, Rebuttal Testimony. Pages 10 and 11. Lines 22-23 and 1-12, respectfully.

1 Similarly, another question asks: “How do trackers affect a utility’s incentive to operate
2 efficiently?”

3 Mr. Majors’ answer to this question was:

4 An inevitable byproduct of the Missouri ratemaking approach is “regulatory
5 lag.” “Regulatory lag” is simply the passage of time between when a utility
6 experiences a change in its cost of service, and the reflection of that change
7 in its rate levels. While regulatory lag is often portrayed by utilities as a
8 phenomenon that is entirely negative or harmful, the existence of regulatory
9 lag provides utilities with incentive to be as efficient and cost-effective over
10 time as they can. Excessive use of trackers can eliminate or weaken these
11 beneficial incentives.⁷

12 Mr. Majors provides good reasons for why the Commission should not approve Spire
13 Missouri’s request for an advanced leak detection tracker. Those reasons include “skewed and
14 unfair ratemaking results” and “regulatory lag”. Regulatory lag provides an incentive to
15 utilities to control costs. Creating a tracker for costs that are not material and are not currently
16 enforced because the rule that is not yet finalized, eliminates the Company’s incentive to be
17 efficient and cost-effective over time.

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

19 A. I recommend that the Commission not approve Spire Missouri’s advance leak detection
20 tracker. Mr. Major’s testimony is flawed in that he provides many reasons for why the
21 Company should not be allowed the advance leak detection tracker, but ultimately he
22 recommends the Commission approve it. Allowing a tracker at this time, even one that is
23 limited to a time period or non-labor expenses, creates a precedent for speculative recovery
24 mechanisms in the future and weakens the traditional regulatory ratemaking process.
25 Ratepayers should not shoulder any misaligned costs or unnecessary spending that could be
26 inconsistent with the final LDAR rule.

27 **Q. Does this conclude your surrebuttal testimony?**

28 A. Yes, it does.

⁷ Staff Witness, Keith Majors, Rebuttal Testimony. Page 11. Lines 14-20.

**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)

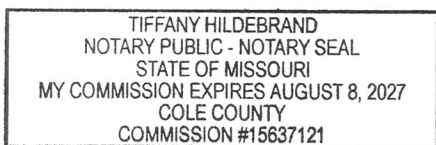
Manzell Payne, of lawful age and being first duly sworn, deposes and states:

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 surrebuttal 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 24th day of June 2025.



My Commission expires August 8, 2027.



Tiffany Hildebrand
Notary Public