

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

Constellation NewEnergy - Gas Division, LLC,)	
)	
Complainant,)	
)	
v.)	<u>File No. GC-2021-0315</u>
)	
Spire Missouri, Inc. d/b/a Spire)	
)	
Respondent.)	
Symmetry Energy Solutions, LLC,)	
)	
Complainant,)	
)	
v.)	<u>File No. GC-2021-0316</u>
)	
Spire Missouri, Inc. d/b/a Spire)	
)	
Respondent.)	
Clearwater Enterprises, L.L.C.,)	
)	
Complainant,)	
)	
v.)	<u>File No. GC-2021-0353</u>
)	
Spire Missouri, Inc. d/b/a Spire and its Operating Unit Spire Missouri West)	
)	
Respondent.)	

**ORDER GRANTING JOINT MOTIONS TO COORDINATE
DISCOVERY AND FOR PROTECTIVE ORDER**

Issue Date: November 29, 2021

Effective Date: November 29, 2021

Constellation NewEnergy Gas Division, LLC; Symmetry Energy Solutions, LLC; and Clearwater Enterprises, LLC, have filed separate complaints against Spire Missouri, Inc. d/b/a Spire. A joint procedural schedule has been established for the three complaint

cases, with direct testimony to be filed by each complainant no later than December 3, 2021. The complaints have not been consolidated, but a joint hearing is scheduled to begin on March 7, 2022. Each of the complainants, joined by Spire Missouri, filed joint motions on November 24, 2021, asking the Commission to coordinate discovery and to issue a protective order to establish procedures for controlling the flow of highly confidential information among the parties. The joint motions ask the Commission to act on the motions by November 29, 2021, so scheduled depositions can proceed on November 30, 2021.

The joint motion to coordinate discovery asks that documents disclosed or written discovery (including deposition transcripts) provided in any one complaint be disclosed or provided in all three cases, without further request from the parties, subject to the protective order that is requested in the joint motion for protective order. The Commission will grant both motions.

THE COMMISSION ORDERS THAT:

1. The joint motion to coordinate discovery filed on November 24, 2021, is granted. Documents disclosed and written discovery (including deposition transcripts) provided in one case shall be disclosed or provided in all three complaint cases (GC-2021-0315, GC-2021-0316, and GC-2021-0353) without further request from the parties, subject to the Protective Order established by this order.
2. The following Protective Order is established:
 - a. The regulations set forth in 20 CSR 4240-2.135 regarding Confidential Information are incorporated by reference herein in their entirety.

- b. Materials and information regarding any Complainant's gas supply planning and gas procurement strategies shall be considered to be "Highly Confidential" if so designated at the time of disclosure.
- c. Respondent shall not share any "Confidential" or "Highly Confidential" information from this case with Spire Marketing personnel.
- d. With regard to entities and individuals other than the Staff of the Commission and the Office of the Public Counsel:
 - i. Disclosure of materials or information designated by any party as "Confidential" shall be made only in accordance with 20 CSR 4240-2.135.
 - ii. Disclosure of materials or information designated by any Party as "Highly Confidential" may be made only to the other parties' (a) outside retained attorneys of record; (b) outside consultants who have executed a Commission-approved Nondisclosure Agreement; (c) up to, but no more than, 4 of a party's in-house attorneys, and paralegal, clerical and secretarial staff employed by such in-house counsel, who have executed a Commission-approved Nondisclosure Agreement; and (d) up to, but no more than, 6 of a party's employees who are acting as witnesses or subject-matter experts for such attorneys, who have executed a Commission-approved Nondisclosure Agreement.
 - iii. In all cases in which a person is required to execute a Commission-approved Nondisclosure Agreement before receiving

“Confidential” or “Highly Confidential” information, the party intending to disclose such information to such person must provide to the other parties a copy of the Commission-approved Nondisclosure Agreement executed by the person to whom disclosure is being made before disclosing the information to that person.

iv. Persons afforded access to materials or information designated “Confidential” or “Highly Confidential” shall neither use nor disclose such materials or information for purposes of business or competition or any other purpose other than in regard to the cases referenced above, and shall keep the materials and information secure and confidential and in accordance with the purposes and intent of the protective order.

v. Consistent with 20 CSR 4240-2.135(13), this provision (d) shall not prevent the Commission’s Staff or the Office of the Public Counsel from using “Confidential” or “Highly Confidential” information obtained in this case as the basis for additional investigations or complaints against any public utility.

e. All material and information any other party has designated “Confidential” or “Highly Confidential”, as well as any notes pertaining to such information, must be returned to the party that produced it or destroyed upon the conclusion of the referenced case. Consistent with 20 CSR 4240-2.135(16), this provision (e) shall not apply to officers or employees of the Commission or the Public Counsel or employees of the Office of the

Public Counsel, who are subject to the nondisclosure provisions of Section 386.480, RSMo.

f. In addition to the obligations set forth in 20 CSR 4240-2.135(15) and Paragraph 10(e) herein, each party entitled to access “Confidential” or “Highly Confidential” information shall certify in writing that they have complied with 20 CSR 4240-2.135(15) and Paragraph 10(e) herein. Consistent with 20 CSR 4240-2.135(16), this provision (f) shall not apply to officers or employees of the Commission or the Public Counsel or employees of the Office of the Public Counsel, who are subject to the nondisclosure provisions of Section 386.480, RSMo.

g. In addition to obligations set forth in 20 CSR 4240-2.135(13), each person entitled to have access to “Confidential” or “Highly Confidential” information under this rule shall take appropriate measures to safeguard the confidentiality of the “Confidential” or “Highly Confidential” information to prevent the willful or inadvertent disclosure thereof and to assure that the provisions of the protective order are accomplished. Any and all “Confidential” or “Highly Confidential” information shall be kept so that they are not amenable to being read or seen by anyone other than persons who have permission to view or obtain such documents and materials.

h. The burden of establishing that a document (or portion thereof) or prefiled testimony (or portion thereof) contains “Confidential” or “Highly Confidential” information that is entitled to the protection of this protective order shall remain on the designating party.

i. If a party disagrees with the "Confidential" or "Highly Confidential" designation of any information, the party shall follow the informal discovery dispute resolution procedures set forth in Commission Rule 20 CSR 4240-2.090(8). If the party exhausts these dispute resolution procedures, the party may file a motion challenging the designation. Further, a party is not obliged to challenge the propriety of a "Confidential" or "Highly Confidential" designation at the time made, and failure to do so shall not preclude a subsequent challenge thereto. If a party determines in good faith that information which was not previously designated as "Confidential" or "Highly Confidential" should have been so designated as "Confidential" or "Highly Confidential", that party may make such designation at that time. A designation under this paragraph shall take effect at the time it is made.

j. Each individual who receives any "Confidential" or "Highly Confidential" information agrees to subject himself, herself, or itself to the jurisdiction of this Commission for the purpose of any proceedings relating to the performance under, compliance with, or violation of this protective order.

k. In the event that any party is dismissed as a party to this action, it shall continue to be bound by and have rights under this protective order, and a party that is in possession of "Confidential" or "Highly Confidential" information at the time it is dismissed from this action shall comply with Paragraph 10(e) promptly after the dismissal becomes final (i.e., when all appeals have concluded or when the time to appeal has expired without a

notice of appeal being filed).

I. Except as specifically provided herein, the terms, conditions, and limitations of this protective order shall survive the termination of this action.

3. The Complainants are defendants in cases pending in the Western District of Missouri brought by Respondent Spire, Case Numbers 21-cv-00180, 21-cv-00181, and 21-cv-00182 (the “Federal Cases”). Notwithstanding any other provisions of this order, the persons afforded access to materials of information designated “Confidential” pursuant to Commission Rule 20 CSR 4240-2.135(2)(A), or “Highly Confidential” pursuant to this protective order, shall be entitled to use the disclosed information and materials in the Federal Cases only after protective orders are entered in each case that are in accordance with the purpose and intent of this protective order, and then pursuant to such protective orders. The materials and information shall retain the confidentiality designations provided herein.

4. Nondisclosure forms for use in accessing confidential information in these cases are attached to this order as Exhibit A (for access to “Confidential” information) and Exhibit B (for access to “Highly Confidential” information).

5. This order shall be effective when issued.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

Morris L. Woodruff, Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 29th day of November, 2021.

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

NONDISCLOSURE AGREEMENT

For Case No.: _____
(To Access Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135
on the _____ day of _____, 20_____.

I have requested review of the confidential information produced in Case No. _____
on behalf of _____.

I hereby certify that:

- (a) Only employees of a party that are acting as an expert for that party or that have been retained for this case as an outside expert for that party may receive confidential information;
- (b) An employee is a person in the service of his or her employer whose services are controllable by the employer;
- (c) I am an employee of _____ [state name of intervenor] acting as its expert and/or its employee who intends to file testimony in this docket, or I am an outside expert for _____ [state name of intervenor] retained to provide expert consultation or testimony in this docket;
and
- (d) I have read and agree to abide by the Commission's Rule at 20 CSR 4240-2.135.

Dated on this _____ day of _____, 20_____.

Signature & Title

NONDISCLOSURE AGREEMENT

(To Access Confidential Information)

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Employer

Party

Address

Telephone

E-Mail Address

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

NONDISCLOSURE AGREEMENT

For Case No.: _____
(To Access Highly Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135
on the _____ day of _____, 20_____.

I have requested review of the highly confidential information produced in Case No.
_____ on behalf of _____.

I hereby certify that:

- (a) Only an outside expert retained by a party in this case may receive highly confidential information;
- (b) I am an employee of _____ acting as an outside expert for _____ [state name of intervenor] retained to provide expert consultation or testimony in this docket;
and
- (c) I have read and agree to abide by the Commission's Rule at 20 CSR 4240-2.135 and all terms of the Protective Order issued by the Commission in this docket.

Dated on this _____ day of _____, 20_____.

Signature & Title

NONDISCLOSURE AGREEMENT

(To Access Highly Confidential Information)

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Employer

Party

Address

Telephone

E-Mail Address

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 29th day of November, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 29, 2021

File/Case No. GC-2021-0315, GC-2021-0316 and GC-2021-0353

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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

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