

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 17<sup>th</sup> day of February, 2022.

Symmetry Energy Solutions, LLC,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. GC-2021-0316</u></b>
	)	
Spire Missouri, Inc. d/b/a Spire	)	
	)	
Respondent.	)	

**ORDER GRANTING SYMMETRY’S MOTION TO COMPEL  
PRODUCTION OF RESPONSIVE DOCUMENTS**

Issue Date: February 17, 2022

Effective Date: February 17, 2022

On February 8, 2022, Symmetry Energy Solutions, LLC (Symmetry) filed a motion to compel Spire to respond to certain data requests. Spire responded to Symmetry’s Motion to Compel on February 11, 2022. Symmetry replied to Spire’s response on February 15, 2022.

Symmetry’s complaint is one of three complaints arising from the extreme cold weather event that struck the central United States in February, 2021.<sup>1</sup> That event is sometimes referred to as Winter Storm Uri. As the effects of the storm developed, Spire issued an Operational Flow Order (OFO) on its Spire West operating system. That OFO required shippers of gas through Spire’s system to balance their shipments of gas daily, meaning they had to deliver sufficient supplies of gas into Spire’s system each day to

---

<sup>1</sup> The other complaints are by Constellation NewEnergy – Gas Division, LLC (CNEG) (GC-2021-0315) and Clearwater Enterprises, LLC (GC-2021-0353).

meet the gas demand of their customers on the system. Under normal conditions, such shipments are balanced monthly. During the storm, the market for natural gas supplies became extremely unstable and spot prices for natural gas reached stratospheric heights.

The three complainants, CNEG, Symmetry, and Clearwater, are natural gas marketing companies that during Winter Storm Uri failed to deliver enough gas into Spire's system to fully meet the needs of their customers. Spire billed the gas marketers for natural gas used by the marketers' customers during the storm. The bills included the cost of gas Spire said it procured to replace the gas that was not delivered to the system by the marketers, as well as substantial OFO penalties established under Spire's tariffs for the failure to balance natural gas supplies and deliveries during the OFO. Spire's February 2021 bill to the Complainants was approximately \$35 million to CNEG, \$150 million to Symmetry, and \$7 million to Clearwater.

CNEG, Symmetry, and Clearwater filed separate complaints against Spire, alleging that the OFO issued by Spire in February 2021 did not comply with the requirements of Spire's tariff in that the OFO was put in place without sufficient justification, and kept in place beyond the time Spire knew, or should have known, it was no longer necessary. The complainants further allege that Spire has overstated the cost of obtaining natural gas to make-up for the shortage of gas supplied by the marketers.

The three complaints were filed separately and have not been consolidated. However, they have been consolidated for purposes of a joint hearing, which is currently scheduled to take place on April 18-22, 2022. In addition, counsel for all Complainants have cooperated in their attempts to obtain discovery from Spire.

Discovery at the Commission is governed by Commission Rule 20 CSR 4240-2.090(1), which states that discovery “may be obtained by the same means and under the same conditions as in civil actions in the circuit court.” The applicable Missouri civil procedure rule regarding discovery is Mo. Sup. Ct. Rule 56.01. That rule provides in general that parties may obtain discovery regarding any relevant matter that is not privileged. In deciding whether discovery is to be had, the tribunal is to consider whether the discovery is:

proportional to the needs of the case considering the totality of the circumstances, including but not limited to, the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expenses of the proposed discovery outweighs its likely benefit.

The party seeking discovery has the burden of establishing relevance.<sup>2</sup> That rule also requires that discovery must be limited if the tribunal determines that:

- (A) The discovery sought is cumulative, duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;
- (B) The party seeking discovery as had ample opportunity to obtain the information by discovery in the action; or
- (C) The proposed discovery is outside the scope permitted by this Rule 56.01(b)(1).

The Commission’s rules of procedure provide that discovery before the Commission may be obtained by the same means and under the same conditions as in civil actions in circuit court.<sup>3</sup> In addition, parties may use data requests as a means of

---

<sup>2</sup> Missouri Rules of Civil Procedure 56.01(b)(1).

<sup>3</sup> Commission Rule 20 CSR 4240-2.090(1).

discovery.<sup>4</sup> Data requests are enforceable by means of a motion to compel pursuant to Missouri Rules of Civil Procedure Section 61.01(g).

Symmetry seeks a broad order from the Commission directing Spire to produce all documents responsive to Symmetry's various data requests, going back to the first data request served on March 26, 2021. Symmetry contends Spire made implausibly small and facially incomplete document productions in response to Symmetry's data request and then made several statements that it had produced all responsive documents. Subsequently, Spire has produced additional documents during the course of ongoing depositions.

Symmetry explains that during a December 2021 deposition of Spire's corporate representative George Godat, Mr. Godat testified to the existence of many categories of documents that are clearly responsive to Symmetry's data requests, but which Spire has not disclosed, including internal email and chat communications, correspondence with upstream pipelines, gas demand forecasts, base contracts and transactional confirmations, and daily summaries of Spire's gas supply portfolio. Symmetry asks the Commission to order Spire to cooperate in discovery, provide the documents and information requested by Symmetry, and – to the extent that responsive documents are not being produced because they have been destroyed – identify such materials.

Symmetry served Spire with its first set of data requests on March 26, 2021. Spire served objections on April 5, 2021; served responses on April 28 and September 9, 2021; and produced 45 documents prior to and on September 9, 2021. Symmetry served Spire with its second and third sets of data requests on January 7, 2022 and January 11, 2022,

---

<sup>4</sup> Commission Rule 20 CSR 4240-2.090(2).

respectively. Spire served objections to these data requests on January 14, 2022 and January 19, 2022; served written responses on January 21, 2022 and January 24, 2022; and produced six documents on January 24, 2022, and 308 documents on February 2, 2022. The Commission finds that Spire did not produce all non-privileged documents within its possession, custody, or control responsive to the data requests, and will grant the motion to compel.

**THE COMMISSION ORDERS THAT:**

1. Symmetry's Motion to Compel Production of Responsive Documents by Spire Missouri, Inc. is granted.

2. **By Thursday, February 17, 2022, at 5:00 PM, Central time**, Spire shall produce the following categories of documents in response to Symmetry's Data Requests Nos. 3, 7, 31, 33, 47, 58, 73 and 74:

a. Documentation regarding Spire's available gas supply for each day in February 2021, including baseload gas, callable gas, storage gas, and spot purchases;

b. Trade confirmations and invoices for all of Spire's gas purchases and sales in February 2021;

c. A daily record of all sources of supply to the Spire Missouri West system in February 2021, including:

i. whether the gas was baseload, callable, storage, or spot purchases;

ii. the price basis for the gas (whether FOM, GDD, or otherwise);

iii. the actual price Spire paid for the gas;

iv. the volume of gas, both as contracted and as actually delivered;

v. the date the gas was contracted to be purchased;

vi. the date, or date range, for delivery;

vii. whether the supply was firm or interruptible—and if interruptible, any exceptions to that; and

viii. any applicable reservation or demand charges assessed to Spire's sales customers for the use of certain volumes of gas including, but not limited to, callable options and storage.

d. All forecasts regarding supply, customer demand, storage, and weather in February 2021 (including any regression analyses referred to by Mr. Godat in his deposition);

e. Daily supply cuts faced by Spire (regardless of whether notice was verbal or written) during February 2021 and all force majeure notices provided to Spire by its suppliers during February 2021; and

f. Daily throughput on the Missouri West system, broken down between sales customers and transportation customers.

3. By **Friday, February 18, 2022, at 5:00 PM, Central time**, Spire shall:

a. Produce the following categories of documents in response to Symmetry's Data Requests Nos. 3, 7, 31, 33, 47, 58, 64, 73 and 74:

i. Email and chat communications, from February 2021 through the present, relating to the following:

1. The need for, issuance, duration and termination of the

OFO, including discussions of supply and demand, correspondence with upstream pipelines and suppliers, and correspondence regarding system integrity.

2. Spire's gas transactions in February 2021, including Spire's decisions to (or to not) purchase gas, utilize storage inventory, and sell gas and capacity.

3. The decision not to curtail any customers during February 2021.

ii. Agreements and correspondence during or relating to February 2021 with Southern Star.

iii. A complete set of all gas supply/demand and weather forecasts and projections for the days February 5-22, 2021 and any correspondence relating thereto.

iv. Documentation, including trade confirmations and invoices, for any gas purchases, sales, or other transactions in February 2021 not covered by the categories listed above, including Spire's daily portfolio summary or position report.

b. Identify by category and, if known, by document, any responsive documents or categories of documents that have been destroyed or not preserved, including without limitation ICE chats, Microsoft Teams chats and emails, and the reasons for any such destruction or non-preservation.

4. By **Thursday, March 3, 2022**, Spire shall complete the production of any and all other documents responsive to Symmetry's data requests.

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

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

Woodruff, Chief Regulatory Law Judge




**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 17<sup>th</sup> day of February, 2022.**



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

# **MISSOURI PUBLIC SERVICE COMMISSION**

**February 17, 2022**

**File/Case No. GC-2021-0316**

**Missouri Public Service  
Commission**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

**Office of the Public Counsel**

Marc Poston  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@opc.mo.gov

**Midwest Energy Consumers Group**

David Woodsmall  
308 E. High Street, Suite 204  
Jefferson City, MO 65101  
david.woodsmall@woodsmalllaw.com

**Missouri Public Service  
Commission**

Jamie Myers  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
jamie.myers@psc.mo.gov

**Missouri School Boards'  
Association**

Richard S Brownlee III  
121 Madison  
Jefferson City, MO 65101  
rbrownlee@rsblobby.com

**Spire**

Matthew Aplington  
700 Market Street  
Saint Louis, MO 63101  
matt.aplington@spireenergy.com

**Spire**

Goldie Bockstruck  
700 Market Street  
St. Louis, MO 63101  
goldie.bockstruck@spireenergy.com

**Spire**

Dean L Cooper  
312 East Capitol  
P.O. Box 456  
Jefferson City, MO 65102  
dcooper@brydonlaw.com

**Spire**

Gabriel Gore  
7733 Forsyth Blvd. Suite 1900  
St. Louis County, MO 63105  
ggore@dowdbennett.com

**Spire**

Rebecca R McLaughlin  
7733 Forsyth Blvd. Suite 1900  
St. Louis County, MO 63105  
rmclaughlin@dowdbennett.com

**Spire**

Rachel Niemeier  
700 Market Street  
St. Louis, MO 63101  
rachel.niemeier@spireenergy.com

**Symmetry Energy Solutions, LLC**

Steven M Bauer  
505 Montgomery St., Suite 2000  
San Francisco, CA 94111-6538  
steven.bauer@lw.com

**Symmetry Energy Solutions, LLC**

Nicholas J Boyle  
555 Eleventh Street, NW, Suite 1000  
Washington, DC 20004-1304  
nicholas.boyle@lw.com

**Symmetry Energy Solutions, LLC**

Douglas Healy  
3010 E. Battlefield, Suite A  
Springfield, MO 65804  
doug@healylawoffices.com

**Symmetry Energy Solutions, LLC**

Terry M Jarrett  
3010 East Battlefield, Suite A  
Springfield, MO 65804  
terry@healylawoffices.com

**Symmetry Energy Solutions, LLC**

Nathan M Saper  
355 South Grand Avenue, Suite 100  
Los Angeles, CA 90071  
nathan.saper@lw.com

**Symmetry Energy Solutions, LLC**

Katherine A Sawyer  
355 South Grand Ave., Suite 100  
Los Angeles, CA 90071  
katherine.sawyer@lw.com

**Symmetry Energy Solutions, LLC**

Grant E Strother  
505 Montgomery Street, Ste. 2000  
San Francisco, CA 94111-6538  
grant.strother@lw.com

**Symmetry Energy Solutions, LLC**  
Margaret A Tough  
505 Montgomery St., Suite 2000  
San Francisco, CA 94111-6538  
margaret.tough@lw.com

**Symmetry Energy Solutions, LLC**  
Peggy A Whipple  
3010 East Battlefield, Suite A,  
Springfield, MO 65804  
Springfield, MO 65804  
peggy@healylawoffices.com

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

***Sincerely,***

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large, prominent "M" and "W".

**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.