

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

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

**SPIRE MISSOURI’S REPLY
CONCERNING PROCEDURAL SCHEDULE**

COMES NOW Spire Missouri Inc. (“Spire Missouri” or “Company”), and, as its *Reply Concerning Procedural Schedule*, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

SUMMARY

On June 10, 2021, Spire Missouri filed a proposed procedural schedule in response to the Commission’s *Order Directing the Parties to File a Proposed Procedural Schedule*. The Staff of the Commission filed a document stating its support for Spire Missouri’s proposed schedule on the same date.

On June 14, 2021, Symmetry Energy Solutions, LLC (“Symmetry” or “Complainant”) filed its *Objection and Response in Opposition to Spire’s Proposed Procedural Schedule* (“Symmetry Response”). Therein, Symmetry argues that: 1) Spire Missouri’s November PGA/ACA is not significant as to timing; 2) Spire Missouri has not revealed the “actual cost of purchased gas;” 3) The Commission has jurisdiction over this Complaint; and, 4) Symmetry has due process rights.

Herein, Spire Missouri will explain: 1) why Symmetry’s interpretation of the PGA/ACA tariff is erroneous, in that while Spire Missouri can make more than one PGA filing in a year, the

Actual Cost Adjustment (“ACA”) is set in November of each year and does not change until the next ACA filing (a year later); 2) that Spire Missouri has revealed the “actual cost of purchased gas” associated with Symmetry’s actions (\$60,550,875); 3) that Spire Missouri agrees that the Commission has jurisdiction to determine whether Spire Missouri has acted within its tariff provisions, but this has nothing to do with the appropriate procedural schedule; and, 4) that, similarly, while the Complainant may have certain due process rights, those rights will not be violated by moving forward with this case under the seven month schedule proposed by Spire Missouri.

I. ACA Is Filed Once a Year in November

Symmetry argues that the November time period carries no significance as to the procedural schedule because Spire is allowed “to make at least four PGA filings in each calendar year, and any adjustment issued raised by a decision in this case can be addressed in a future filing. . . .” (Symmetry Response, p. 1). What Symmetry fails to address is the impact this will have on the Actual Cost Adjustment (“ACA”), which is only set once a year.

The Court of Appeals many years ago described the difference between the Purchased Gas Adjustment (“PGA”) and the ACA as follows:

While the technicalities of Missouri's PGA clause have varied over the years, the clause's basic function has remained the same: a PGA clause allows a local distribution company to automatically adjust the rates it charges its customers in proportion to the change in the rate the local distribution company is charged by its wholesale suppliers. At the end of every twelve-month period, the local distribution company then makes an actual cost adjustment ("ACA") filing with the PSC so that the PSC can determine whether the estimated amount previously charged customers accurately reflects the actual cost to the utility of the gas supplied.

State ex rel. Midwest Gas Users' Ass'n v. PSC, 976 S.W.2d 470, 474 (Mo. Ct. App. 1998).

The twelve month ACA is described in the tariff as follows:

For each twelve month billing period ended September 30, the differences of the cost

of gas and the cost recovery comparisons as described herein, including any balance for the previous year shall be accumulated to produce a cumulative balance of over-recovered or under-recovered costs. An "Actual Cost Adjustment" (ACA) shall be computed by dividing the cumulative balance of under-recoveries or over-recoveries by the annual sales volumes set out in Section VIII of this Schedule.

(Spire West Tariff Sheet No. 11.3) (emphasis added).

The ACA is only filed in November of each year:

Actual Cost Adjustment (ACA) - A per Ccf factor to reflect the annual reconciliation of actual purchased gas and pipeline service costs with the actual recovery of such costs through the application of this Purchased Gas Adjustment Clause. Revised ACA factors shall be filed with the PGA Filing to be effective in November of each year.

(Spire West Tariff Sheet No. 11). Thus, once the ACA for the period October 1, 2020 – September 30, 2021, is set in November of this year, the amount to be recovered will not change.

As stated previously, the penalties at issue in this case have a direct impact on Spire Missouri's ACA - "All revenues received from unauthorized use charges will be considered as gas cost recovery and will be used in the development of the gas cost recovery amount during the ACA audit as set forth in the Purchased Gas Adjustment schedule (PGA)" (Sheet No. 16.13) (emphasis added). Without Complainants' payment of the penalties assessed (or, at a minimum, reimbursement of the gas costs Spire Missouri incurred to replace the gas Complainant failed to deliver), Spire Missouri's ACA will reflect rates that require its firm customers to instead pay greater amounts. This situation will not be remedied by the four potential PGA filings cited by Symmetry.

II. Actual Cost of Purchased Gas Has Been Provided

Symmetry alleges that "Spire has refused to provide Symmetry with . . . what it actually spent to procure natural gas during the Operational Flow Order ("OFO") period." (Symmetry Response, p. 2). First, it is unclear what this issue has to do with the procedural schedule in this case, given that this is Symmetry's Complaint. Presumably, it had the information it needed to file

the Complaint, and to pursue the Complaint. However, more significantly, there is no mystery as to the Symmetry portion of what Spire Missouri spent to procure natural gas during the OFO period. That amount is \$60,550,875.

III. Commission Has Jurisdiction Over Tariff Violations

Symmetry further alleges that “[i]n overruling Spire’s Motion to Dismiss, the Commission has already (rightly) recognized its jurisdiction to decide whether Spire’s OFO complied with its Tariff, and if the Commission decides it did not, then Symmetry owes no penalties to Spire under the Agreement.” (Symmetry Response, p. 4). Similar to the above, it is unclear what this statement of Commission jurisdiction has to do with the procedural schedule to be set in this matter. Spire Missouri agrees that the Commission has jurisdiction over allegations of tariff violation.

However, Symmetry’s assumption that a finding of a tariff violation will necessarily mean that “Symmetry owes no penalties to Spire under the Agreement,” greatly overstates the content of the order issued by this Commission. In the *Order Denying Motion to Dismiss*, issued May 26, 2021, among other things, the Commission found Spire Missouri’s argument concerning possible remedies to be “not relevant to the question of whether Symmetry’s complaint states a cause of action against Spire.” Symmetry’s assumption as to what remedy the Commission may impose *if* it finds that Spire has violated its tariff is very much premature and irrelevant to the procedural schedule to be established in this case.

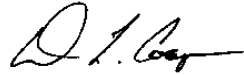
IV. No Due Process Rights Are Violated by the Proposed Schedule

Lastly, Symmetry argues that it has due process rights to a “reasonable procedural schedule.” (Symmetry Response, p. 5). Without addressing what type of schedule may truly be a “due process right,” the procedural schedule proposed by Spire Missouri is a “reasonable procedural schedule.” It provides Symmetry with a period of approximately 100 days between the filing of its Complaint and

the due date of its direct testimony, while also calling for a Commission decision approximately seven months after filing.

WHEREFORE, Spire Missouri respectfully requests that the Commission issue its order setting the procedural schedule proposed by Spire Missouri.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 22nd day of June, 2021, to:

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