

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its Office in Jefferson City, Missouri on the 23rd day of June, 2021.

Constellation NewEnergy - Gas Division, LLC,)	
)	
Complainant,)	
)	
v.)	<u>File No. GC-2021-0315</u>
)	
Spire Missouri, Inc. d/b/a Spire)	
)	
Respondent.)	

ORDER SETTING PROCEDURAL SCHEDULE

Issue Date: June 23, 2021

Effective Date: June 23, 2021

On March 26, 2021,¹ Constellation NewEnergy - Gas Division, LLC (“CNEG”) filed a complaint against Spire Missouri, Inc. d/b/a Spire, alleging that Spire failed to comply with the requirements of its tariff in assessing Operational Flow Order penalties resulting from a cold weather event in February 2021. Spire filed its answer to that complaint on April 28, along with a motion to dismiss, which the Commission denied on May 26. Subsequently, the Commission directed the parties to file a proposed procedural schedule by June 10. Spire and CNEG were unable to agree upon a procedural schedule and on June 10 separately filed proposed procedural schedules.

Spire’s proposed schedule calls for an expedited procedural schedule that would require CNEG to file its direct testimony on July 7, leading to an evidentiary hearing on August 30 and 31. Spire asks the Commission to rule on the complaint by October 27, so

¹ All dates are in 2021, unless otherwise indicated.

that Spire can include CNEG's payments in the calculation of its PGA filing that must be made by November. The procedural schedule proposed by CNEG would allow more time for discovery, making CNEG's direct testimony due on September 15, with an evidentiary hearing set for January 11-14, 2022. The Commission's Staff filed a pleading indicating it supports the procedural schedule proposed by Spire.

After reviewing the proposed procedural schedules, the Commission concludes that the schedule proposed by CNEG is more reasonable. This complaint concerns a \$35 million Operational Flow Order penalty that Spire has imposed against CNEG. Spire has not demonstrated a need to rush the complaint to resolution at the expense of CNEG's ability to conduct discovery. The Commission will adopt the procedural schedule proposed by CNEG with some minor modifications.²

THE COMMISSION ORDERS THAT:

1. The following procedural schedule is established:

Response time to data requests is 10 calendar days and 5 business Days to object or notify of the need For additional time to respond	-	June 23, 2021
Direct Testimony by CNEG	-	September 15, 2021
Rebuttal Testimony by Spire (Response time to data requests changes to 5 calendar days and 2 business days to object or notify of the need for additional time to respond)	-	October 15, 2021
Cross-Rebuttal Testimony by Staff and Intervenors	-	November 1, 2021

² The modifications are: the date for filing rebuttal was moved to October 15; the date for filing a list of issues was moved to December 30; the date for filing statements of position was moved to January 4, 2022; the date for filing initial briefs was moved to February 7, 2022; and the date for filing reply briefs was moved to February 22, 2022.

Surrebuttal Testimony by CNEG	-	November 15, 2021
Last Day to Answer Discovery	-	December 15, 2021
List of Issues, Order of Witnesses, Order of Cross Examination & Order of Openings	-	December 30, 2021
Statements of Position	-	January 4, 2022
Evidentiary Hearing	-	January 11-14, 2022, beginning each day at 8:30 a.m.
Initial Post-Hearing Briefs	-	February 7, 2022
Reply Briefs	-	February 22, 2022

2. The parties shall comply with the following procedures:
 - (a) All parties must comply with the requirements of Commission Rule 20 CSR 4240-2.130 for prepared testimony, including the requirement that testimony be filed on line-numbered pages.
 - (b) Although not all parties may agree upon how each issue should be described or on whether a listed issue is in fact a proper issue in this case, the parties shall agree upon and file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved. The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.

- (c) Each party shall file a simple and concise statement summarizing its position on each disputed issue, including citations to pre-filed testimony supporting its position.
- (d) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 20 CSR 4240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.
- (e) If testimony or documents are prefiled and served upon the parties before a hearing, a party need only provide a copy of the testimony or document to the court reporter for marking as an exhibit. If not prefiled and served upon the parties, then a party who has a document marked for use at the hearing shall have sufficient copies of the document to provide a copy not only to the court reporter, but also to each of the Commissioners, the presiding officer, and counsel for each other party.
- (f) All parties shall provide copies of testimony (including schedules), exhibits, and pleadings to other counsel by electronic means and in electronic form, essentially concurrently with the filing of such testimony, exhibits, or pleadings where the information is available in electronic format (.PDF, .DOC, .WPD, .XLS, etc.). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging.

(g) The parties shall make an effort to not include confidential information in data requests. If confidential information must be included in a data request, the confidential information shall be appropriately designated as such pursuant to Commission Rule 20 CSR 4240-2.135.

3. The hearing shall be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

4. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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

Woodruff, Chief Regulatory Law Judge