

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

Symmetry Energy Solutions, LLC,)	
)	
Complainant,)	
)	
v.)	File No. GC-2022-0062
)	
The Empire District Gas Company)	
d/b/a Liberty,)	
)	
Respondent.)	

MOTION FOR SUMMARY DETERMINATION

Pursuant to Missouri Public Service Commission (the “Commission”) Rule 20 CSR 4240-2.117, Respondent The Empire District Gas Company d/b/a Liberty (“Empire”), by and through its undersigned counsel, hereby submits this Motion for Summary Determination and requests that the Commission find that there are no material facts in dispute, that Empire’s Tariff is unambiguous and governs Complainant Symmetry Energy Solutions, LLC’s (“Symmetry”) Operational Flow Order (“OFO”) violations, that Empire is entitled to payment for Symmetry’s OFO violations as calculated in the Tariff, and Symmetry’s Complaint should be dismissed.

I. STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE

Pursuant to Rule 20 CSR 4240-2.117(1)(B), Empire states that there is no genuine issue as to the following facts that are material to this Motion:

1. Empire is a local gas distribution company that operates in Missouri pursuant to its Tariff that is on file with the Missouri Public Service Commission (the “Commission”).¹

¹ Complaint ¶¶ 8, 15.

2. Under the terms of its Tariff, non-residential customers can contract directly with natural gas Marketers or Aggregators to arrange the delivery of natural gas to Empire's city gate.²

3. Empire, pursuant to its transportation service offered under the Tariff, delivers the gas from the city gate to the Customer over its local distribution system.³

4. Symmetry is natural gas Marketer or Aggregator that delivers gas to customers on Empire's distribution system pursuant to the terms of the Tariff and a Marketer/Aggregator Agreement with Empire.⁴

5. Under the terms of the Tariff, Symmetry has the obligation to nominate a quantity of gas at the city gate that matches the quantity of gas delivered to its Customer in order to avoid the creation of Imbalances on Empire's distribution system.⁵

6. The Tariff allows Empire to issue an Operational Flow Order that requires actions to alleviate conditions that, in the sole judgment of Empire, could jeopardize the operational integrity of Empire's system required to maintain system reliability.⁶

7. When an OFO is called, the Customer, Marketer, or Aggregator shall be responsible for complying with the directives set forth in the OFO.⁷

8. If a Customer, Marketer, or Aggregator does not comply with the directives set forth in the OFO, it will be charged OFO penalties pursuant to the Tariff.⁸

² Complaint ¶ 16.

³ Complaint ¶ 16.

⁴ Complaint ¶¶ 10, 21, Exh. B; Tariff, Sheet No. 23.

⁵ Tariff, Sheet No. 26.

⁶ Tariff, Sheet No. 43; Complaint ¶ 17.

⁷ Tariff, Sheet No. 43.

⁸ Tariff, Sheet No. 43.

9. In particular, Customers, Marketers, or Aggregators that take delivery of more natural gas than is being nominated by or for it at the city gate will be charged a penalty of \$25.00 per Mcf, plus the Gas Daily Index price for the applicable Interstate Pipeline for such amounts.⁹

10. Empire called an OFO on February 9, 2021 and February 11, 2021 that lasted until the Gas Day of February 19, 2021 and instructed Symmetry to “Please adjust your nominations to ensure you are NOT SHORT. OFO Penalties will apply to unauthorized deliveries.”¹⁰

11. Symmetry nominated less gas than its Customers used for every day while the OFOs were in effect and thus did not comply with the OFOs’ directives.¹¹

12. Empire calculated Symmetry’s OFO penalty pursuant to the Tariff and billed Symmetry that amount.¹²

13. Under the terms of the Tariff and the Marketer/Aggregator Agreement, upon providing notice, Empire has the right to terminate Symmetry’s participation in its transportation program.¹³

⁹ Tariff, Sheet No. 43.

¹⁰ Complaint, Exh. D; Affidavit of Tatiana Earhart in Support of Motion for Summary Determination, Exh. A (Aff.), at ¶¶ 9, 10, Exh. A-2.

¹¹ Aff. at ¶¶ 11, 12, 19.

¹² Aff. at ¶ 19, Exh. A-7; Tariff, Sheets No. 43-44; Complaint, Exh. B.

¹³ Tariff, Sheet Nos. 31, 44; Complaint, Exh. B ¶¶ 8, 10.

II. CONCLUSION

In light of the foregoing, Empire respectfully requests that the Commission grant its Motion for Summary Determination and dismiss Symmetry's Complaint.

/s/ Elizabeth W. Whittle

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Dated: September 17, 2021

Certificate of Service

I hereby certify that this document was filed in EFIS, with notice sent to all counsel of record, and also sent by email to Staff, OPC, and all other counsel of record.

Dated this 17th day of September 2021.

/s/ Diana Carter

Diana Carter