

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

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

**[PROPOSED] ORDER GRANTING SYMMETRY ENERGY SOLUTIONS, LLC’S
MOTION TO COMPEL PRODUCTION OF RESPONSIVE DOCUMENTS BY SPIRE
MISSOURI, INC. AND MOTION FOR EXPEDITED TREATMENT**

Symmetry Energy Solutions, Inc.’s (“Symmetry”) motion to compel (“motion”) seeks information and documents from Spire Missouri, Inc. (“Spire”). The information and documents are reasonably calculated to lead to the discovery of admissible evidence and are within Spire’s practical ability to obtain. Therefore, the Commission is granting the motion to compel.

1. Background

In this action, Symmetry has alleged that Spire failed to comply with the requirements of its tariff in assessing Operational Flow Order (“OFO”) penalties resulting from a cold weather event in February 2021. Symmetry challenges “the issuance of the OFO, the notice provided to customers, the duration of the OFO and any penalty calculations arising therefrom.”¹ To help the Commission determine the propriety of the OFO and related penalties, the parties have the right to discovery.²

¹ Complaint and Motion for Expedited Treatment at ¶ 28 (March 26, 2021), Dkt. 1.

² 4 CSR 240-2.090(2).

Discovery before the Commission includes the devices available in circuit court for a civil action, plus data requests.³ A data request is an informal written discovery device by which parties exchange information and documents.⁴ Data requests are enforceable by the same means as civil discovery in circuit court.⁵ Those means include a motion to compel.⁶

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, respectively. Spire served objections to these sets of 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. Spire did not produce all non-privileged documents within its possession, custody or control responsive to the data requests.

THE COMMISSION ORDERS THAT:

1. The motion to compel is granted.
2. By **Wednesday, February 16, 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;

³ 4 CSR 240-2.090(2).

⁴ 4 CSR 240-2.090(2).

⁵ 4 CSR 240-2.090(1).

⁶ Mo. Rule 61.01(g).

- 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 **Thursday, February 17, 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. Spire is cautioned that failure to provide the required response could result in sanctions up to, and including, Spire being denied the right to provide evidence at, or otherwise participate in, the April 18 evidentiary hearing.

BY THE COMMISSION

Morris L. Woodruff
Secretary