

Exhibit No.:

Issue: Winter Storm Uri;  
Spire OFO Notice and Communications,  
Clearwater Operations  
Witness: Jenny Thompson  
Type of Exhibit: Direct Testimony  
Sponsoring Party: Clearwater Enterprises, LLC  
Case No.: GC-2021-0353  
Date Testimony Prepared: December 20, 2021

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO.: GC-2021-0353**

**DIRECT TESTIMONY**

**OF**

**JENNIFER THOMPSON**

**ON BEHALF OF**

**CLEARWATER ENTERPRISES, LLC**

**December 20, 2021**

**“\*\* \_\_\_\_\_ \*\*” Designates “Confidential” Information.**

**“\*\*\* \_\_\_\_\_ \*\*\*” Designates “Highly Confidential” Information.**

**Certain schedules attached to this testimony designated “(C)” or “(HC)” also contain Confidential or Highly Confidential information. All such information should be treated confidentially pursuant to 20 CSR 4240-2.135.**

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**DIRECT TESTIMONY**  
**OF**  
**JENNIFER THOMPSON**  
**Case No. GC-2021-0353**

**I. INTRODUCTION**

1 **Q: Please state your name and business address.**

2 A: My legal name is Jennifer Thompson. My business address is 5637 N. Classen Blvd;  
3 Oklahoma City, OK 73118.

4 **Q: On whose behalf are you appearing in this proceeding?**

5 A: This testimony is presented on behalf of Clearwater Enterprises, L.L.C. (“Clearwater”).

6 **Q: By whom and in what capacity are you employed?**

7 A: I am Clearwater’s Chief Operating Officer.

8 **Q: How long have you served in your current role for Clearwater?**

9 A: Since 2018.

10 **Q: Please describe your duties and responsibilities in your current role with Clearwater.**

11 A: I oversee the daily operations of natural gas marketing from wellhead to burnertip. My  
12 responsibilities include reviewing monthly invoices/vouchers versus internal tracking  
13 sheets; coordinating information between the trading, scheduling, contracting, and  
14 accounting groups; and managing the contract administrators, the schedulers who schedule  
15 deliveries of gas to end-users, and the Finance/Credit Manager.

16 **Q: What other roles have you had with Clearwater?**

17 A: I joined Clearwater in December of 2004. From 2004 to 2006, I was the Contract  
18 Administration Manager and I primarily managed the retail contracting for Clearwater.  
19 From 2006 to 2018, I was the Vice President, Contract Administration and Gas Control  
20 and my duties expanded to cover contracting for wholesale and retail and to oversee  
21 employees in the contract and scheduling areas.

22 **Q: What industry experience did you have prior to joining Clearwater in 2004?**

23 A: I started working in the natural gas industry as a Contract Administrator in March of 1997  
24 for Chesapeake Energy Marketing, Inc. I worked for Chesapeake for nearly six years and  
25 when I left, I held the position of Contract Administration Supervisor. From December

1 2002 to December 2004, I was a Senior Contract Coordinator for Enogex, LLC, a natural  
2 gas pipeline company and subsidiary of OGE Energy Corporation.

3 **Q: Please describe your educational background.**

4 A: I received an M.B.A. from the University of Central Oklahoma in May 1998. I received a  
5 Bachelor of Science, Business Education in December of 1996 from University of Central  
6 Oklahoma.

7 **Q: What is the purpose of your testimony?**

8 A: The purpose of my testimony is to discuss Clearwater's operations, Clearwater's  
9 relationship with Spire Missouri, the impact of Winter Storm Uri on Clearwater's  
10 operations, and the general circumstances in relation to Clearwater's Complaint filed in  
11 this docket.  
12

## 13 **II. CLEARWATER ENTERPRISES, LLC**

14 **Q: Please describe Clearwater's business.**

15 A: Clearwater is a natural gas retail, sales, marketing, and investment company which  
16 provides competitively priced gas and advises customers on natural gas markets to enable  
17 them to make educated decisions about purchasing their gas supply. In addition to  
18 providing natural gas sales services to end-users and consumer clients (Retail Services),  
19 Clearwater purchases natural gas in the state of Oklahoma and surrounding states from  
20 numerous producer clients (Producer Services). Clearwater was established in 1999 by our  
21 current president, Tony Say. Mr. Say has extensive experience in the gas marketing  
22 industry. He formed one of the first natural gas marketing companies in the United States  
23 in 1986. Clearwater is a company committed to customer service within all of our business  
24 units. The personnel at Clearwater have a combined natural gas industry experience of  
25 over 100 years.

26 **Q: Please describe Clearwater's relationship with Spire.**

27 A: Clearwater has a contractual relationship with Spire. Clearwater entered into an Agent  
28 Aggregation Agreement \*\*\*  
29 \*\*\* See Schedule JT-1. Prior to Winter Storm Uri, Clearwater had a productive and positive  
relationship with Spire without any disputes.

1 **Q: Please explain, generally, the terms of Clearwater’s Agent Aggregation Agreement**  
2 **with Spire.**

3 A: Clearwater serves as an “agent” on behalf of its customers who are also Spire’s customers  
4 for whom Spire transports gas supply. As such customers’ agent, Clearwater acts to fulfill  
5 such customers’ obligations with Spire, but such obligations, including payment  
6 obligations, between Spire and the end-user customers remain in full force and effect  
7 according to both the Agent Aggregation Agreement and Spire’s tariff. \*\*\*

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13 **Q: Which Spire customers does Clearwater serve?**

14 A: Clearwater’s customers include end-users in Spire’s Missouri West service territory. In  
15 February 2021, Clearwater served forty-three locations or end-user customers in the Spire  
16 Missouri West service territory.

17 **Q: What kinds of customers do those include?**

18 A: Clearwater’s customers served by Spire include YMCA facilities, municipal facilities,  
19 restaurants, dry cleaners, hospitals, other medical service providers and research facilities,  
20 a country club, an assisted living facility, a funeral home, small retailers, small  
21 manufacturers, and more.

22 **Q: Please explain the relevance of Clearwater’s aggregation service for customer.**

23 A: Under the Agent Aggregation Agreement, \*\*\*

24

25 \*\*\* All of the joint Clearwater/Spire customers are served via gas delivered from  
26 the Southern Star Central Gas Pipeline (“Southern Star”). Clearwater has aggregated such  
27 customers into \*\*\*

28

29 \*\*\* Each aggregation area is designated by a  
30 delivery point name, which is the one of the customers served in that aggregation area.  
31 Clearwater’s nominations for gas volumes to be delivered to an aggregation area are

1 designated by such delivery point name, but the gas supplied is for all of Clearwater's  
2 customers located in such aggregation area. For example, gas for delivery to the  
3 \*\*\*

6 \*\*\*

7 **Q: Please describe Clearwater's general gas nomination and scheduling processes for its**  
8 **Spire Missouri West end-users.**

9 A: Clearwater does not provide nominations for each Spire customer. Instead, Clearwater  
10 designates nominations for each aggregation area delivery point. Clearwater makes initial  
11 first of month nominations on Southern Star's system for delivery to each Spire aggregation  
12 area delivery point and updates such nominated volumes prior to daily gas flow, in  
13 accordance with the cycles of the daily gas scheduling process. Such gas scheduling  
14 process provides that for each delivery point for each day for each transaction, a pipeline  
15 receives a "nominated" delivery quantity from the supplier and a "nominated" receipt  
16 quantity from the receiving party, which the pipeline uses then to confirm the "scheduled"  
17 quantity. Such process repeats five times each day for each such transaction, during cycles  
18 known as "Timely", "Evening", "ID1", "ID2" and "ID3" before the actual transaction is  
19 completed. If there is a discrepancy between the parties' nominations at any point during  
20 the cycles, then the pipeline reconciles the scheduled quantity to actual quantities available  
21 that the receiving party will accept.

22  
23 Clearwater monitors its customer's actual usage, to the extent possible, with data from  
24 electronic flow meters at each customer's location. Such meters are owned and operated  
25 by Spire. Data from Spire's meters is typically available to Clearwater approximately two  
26 days after gas is actually delivered at such location. Clearwater regularly monitors such  
27 meter data and typically modifies its gas deliveries to the Delivery Point as needed based  
28 on its knowledge of its customer's gas usage from Spire.

29 **Q: How are first of month nominations calculated?**

30 A: \*\*\*

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**III. FEBRUARY 2021**

**Q: How did Clearwater calculate its first of month nominations for February 2021?**

A: Clearwater calculated the first of month aggregate nominations consistent with its typical practice.

**Q: Please describe Clearwater’s expectations for February 2021 weather prior to the first of February 2021.**

A: In January 2021, forecasts anticipated a “normal” February 2021, if even slightly warmer than typical. Data that Clearwater relied upon for first of month nominations for February 2021 did not suggest that there would be a weather event like the one that actually occurred.

**Q: Who at Clearwater was responsible for gas scheduling for Clearwater’s Spire Missouri West customers in February 2021?**

A: Ashley Orewiler, Clearwater’s Senior Gas Scheduler.

**Q: Please describe how Clearwater typically obtains gas supply for Clearwater’s Spire Missouri West customers.**

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8 **Q: What are Clearwater's sources of supply for gas it is contracted to deliver to Spire**  
9 **end-users?**

10 A: Clearwater purchases its gas supply from other marketers.

11 **Q: What were Clearwater's expected sources of supply for Clearwater's Spire Missouri**  
12 **West customers in February 2021 as of the first of that month?**

13 A: \*\*\*

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17 **Q: Who at Clearwater was responsible for procurement for Clearwater's Spire Missouri**  
18 **West customers in February 2021?**

19 A: Todd Thompson, Clearwater's Vice President of Natural Gas Trading.

20 **Q: Who at Clearwater was responsible for communicating with Clearwater's Spire**  
21 **Missouri West customers in February 2021?**

22 A: Laurie Walker, Clearwater's Gas Sales Manager.

23 **Q: How do you have knowledge of the nomination, scheduling, and procurement of gas**  
24 **for and communications with Clearwater's Spire Missouri West customers in**  
25 **February 2021?**

26 A: Ashley Orewiler (Clearwater's Senior Gas Scheduler) reports to me. She coordinates the  
27 information that she receives from Laurie Walker (Clearwater's Customer Marketing  
28 Manager) and the historical data that she calculates and reports to Todd Thompson  
29 (Clearwater's Vice President of Natural Gas Trading). I was actively engaged with Ashley,  
30 Laurie, and Todd prior to the month of February starting to review volumes that were being  
31 calculated for the first of the month nomination. During the winter event, I was actively



1 engaged daily with our team with regard to the nomination, scheduling, and procurement  
2 of gas for and kept notified of any communications with Spire and Clearwater's Spire  
3 Missouri West customers in February 2021, as well as with regard to communications with  
4 other utilities, other customers, pipelines, and suppliers.

5 **Q: Are you familiar with what has been named Winter Storm Uri?**

6 A: Yes. I am familiar with the February 2021 cold weather event that has been called Winter  
7 Storm Uri.

8 **Q: Please describe how you and Clearwater gained knowledge of Winter Storm Uri.**

9 A: Although in January 2021 we expected a typical February, Clearwater recognized the  
10 changing weather forecast in early February. Clearwater analyzed weather forecasts  
11 beginning to predict extremely cold temperatures and significant and widespread snow and  
12 ice to arrive beginning at the end of the week of February 7, 2021. Ultimately, such storm  
13 did hit a region reaching across much of the south-central United States with record-  
14 shattering cold, snow, and ice.

15 **Q: When and how did Clearwater respond to forecasts of the storm?**

16 A: \*\*\*

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26 **Q: During February 2021, were you able to secure contracts for incremental gas supply?**

27 A: \*\*\*

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**Q: Did such suppliers commit for firm deliveries of such incremental gas?**

A: \*\*\*

\*\*\* Gas was freezing in the field and we were already seeing cuts at that point.

**Q: Was Clearwater able to execute contracts for the purchase of the volume of gas that Clearwater expected its customers to use during Winter Storm Uri? Why or why not?**

A: That is a complicated question. Due to the cold temperatures, many of Clearwater’s customers were consuming more gas than normal, greater than their first of month daily average. However, Clearwater had limited knowledge about what volume of gas its customers were actually using real-time during Winter Storm Uri. Clearwater’s knowledge was hampered by the ordinary two-day lag in the delivery of information from Spire’s meters. Our Gas Sales Manager, Laurie Walker, received some inquiries from customers asking about curtailments on February 16, 2021 and Clearwater was unsure to what extent our customers had been communicating directly by Spire and asked to curtail. We knew at least one customer was talking directly with Spire, but we did not know the outcome of those conversations. It was not until this docket, through the discovery process, that we learned no customers were curtailed. Additionally, three of Spire’s meters, those serving Clearwater’s customers \*\*\* and two locations for the restaurant \*\*\*  
\*\*\*, were not reporting any data.

**Q: How did you know how much gas to supply Spire for your customers?**

A: Clearwater used best efforts to estimate needed volumes from the information available to us.

**Q: Were you able to execute contracts with suppliers to source all the volume of gas you estimated to be necessary supply your customers on the Spire Missouri West system?**

1 A: Ultimately, no. \*\*\*

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5 **Q: Why was supply so limited and why were upstream suppliers not willing to provide**  
6 **firm commitments?**

7 A: Winter Storm Uri impaired natural gas production, gathering and processing, reducing  
8 supply across the entire region. For example, the U.S. Energy Information Administration  
9 has reported that “[i]n the wake of record-low temperatures affecting most of the country,  
10 dry natural gas production in the United States fell by 21.0 million cubic feet per day  
11 (Bcf/d), declining from 90.7 Bcf/d on February 8 to about 69.7 Bcf/d on February 17,  
12 according to data from IHS Markit.”<sup>1</sup> I know that states in the region issued states of  
13 emergency and that the federal government also declared its own states of emergency  
14 throughout the region. Sellers were uncertain that their contracted gas would actually  
15 deliver from upstream sources, so some sellers were willing only to promise interruptible  
16 commitments. Others who promised to deliver supply failed to do so, claiming Force  
17 Majeure.

18

19 Additionally, all of the gas we deliver to Spire’s Missouri West system is transported to  
20 Spire from one pipeline, Southern Star. As even Spire has acknowledged, “[w]hen you’re  
21 captive, you’re limited to where you can buy gas.” See AO-20210264, *In re: The Cause*  
22 *of the February 2021 Cold Weather Event. Etc.*, Transcript of Proceedings of March 23,  
23 2021 Workshop (“Transcript”), attached hereto as Schedule JT-2,11:11-12. Gas supply to  
24 Southern Star was limited, and therefore gas supply to Spire’s Missouri West system was  
25 limited. Spire has acknowledged that it “felt one point on Southern Star was illiquid”,  
26 explaining that such illiquidity supports in part Spire’s complaint to S&P Global Platts (the  
27 market reporting agency) challenging the propriety of using an illiquid market to establish  
28 the gas index price. Transcript, 24:14-16.

29 **Q: Did the fact that the storm occurred over a holiday weekend have any effect?**

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<sup>1</sup> See [https://www.eia.gov/naturalgas/weekly/archivenew\\_ngwu/2021/02\\_18/](https://www.eia.gov/naturalgas/weekly/archivenew_ngwu/2021/02_18/).

1 A: Yes. Gas traded the morning of day 12 for days 13 through 16. While Clearwater's trader  
2 and scheduler were actively monitoring conditions through the holiday weekend, the  
3 availability to try to secure incremental gas after gas traded on day 12 for days 13 through  
4 16 was difficult.

5 **Q: What did you do to attempt to locate sources of supply during Winter Storm Uri?**

6 A: \*\*\*

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10 **Q: Did you identify any available gas but decline to purchase it due to cost?**

11 A: No, Clearwater contracted to purchase any available gas we could locate.

12 **Q: Could you have done anything differently to obtain gas supply?**

13 A: No, Clearwater actively and repeatedly communicated with other market participants and  
14 sought supply from all parties with whom it had base contracts. Clearwater executed  
15 confirmations to purchase any gas it could locate available for purchase. Clearwater could  
16 not locate any additional gas for purchase.

17 **Q: Why could Spire purchase incremental gas, but Clearwater could not?**

18 A: With limited supply into Spire's Missouri West system, Clearwater was competing with  
19 all others attempting to source gas for the Spire Missouri West system, including Spire  
20 itself. Clearwater anticipates that it is possible that Spire, as a utility, may have had rights  
21 of first call to incremental gas that Clearwater did not have. In addition, Spire could and  
22 did source gas from affiliated entities, such as Spire East. Further, Spire did not source all  
23 of the gas it used during the storm from incremental purchases. Instead, Spire withdrew  
24 large volumes of gas from its storage.

25 **Q: Spire has suggested that you failed to hold the necessary transportation rights and  
26 that the absence of transportation limited your access to supply. How do you  
27 respond?**

28 A: \*\*\*

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**Q: Did Clearwater receive all the gas you contracted to purchase from your suppliers during February 2021? Explain.**

A: No. \*\*\*

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**Q: Did Clearwater receive Force Majeure notices from supply sources during Winter Storm Uri?**

A: Yes.

**Q: From whom did Clearwater receive such notices?**

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**Q Did Spire have knowledge of the volumes to be delivered by Clearwater?**

**A:** Yes, it should have. In accordance with the nomination reporting deadlines, Clearwater nominated all volumes it had contracted for delivery from suppliers; although some contracted sources of supply failed due to Force Majeure after nomination reporting deadlines. Regardless of such nominations, Spire permitted end-users to consume unlimited volumes, even in excess of Clearwater’s nominated volumes, only urging voluntary conservation.

**IV. COMMUNICATIONS REGARDING SPIRE’S OFO**

**Q: What communications did Clearwater receive from Spire regarding the OFO?**

**A:** On February 10, 2021, Clearwater’s Ashley Orewiler received an email from Spire’s Theresa Payne regarding Spire’s implementation of a standard OFO and referenced tariff charges associated with noncompliance. The OFO was communicated to go into effect on February 12, 2021. See Schedule JT-3. On February 19, 2021, Clearwater’s Ashley Orewiler received an email from Spire’s Theresa Payne regarding Spire’s termination of the OFO effective at 9:00 am on February 20, 2021. See Schedule JT-4.

**Q: Spire has indicated it began having concerns about the available supply and its system on or around February 8, 2021. Did you hear anything from Spire about any concerns between February 1, 2021 and when you received the OFO Notice email on February 10, 2021?**

**A:** No.

**Q: Did Clearwater notify its customers of the Spire OFO?**

**A:** Yes.

**Q: What communications did Clearwater have with its customers related to the OFO and gas volume curtailment?**

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27 **Q: Did Clearwater follow up with Spire in connection with such customer**  
28 **communications?**

29 A: \*\*\*

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**Q: What information did Clearwater have about whether Spire issued curtailment notices?**

A: As noted above, Clearwater had limited knowledge about Spire’s curtailment activity during the storm, except to the extent Clearwater customers relayed information to Clearwater and then Clearwater initiated follow on communications with Spire.

**Q: Do you know whether Spire actually curtailed customers?**

A: After the fact, Clearwater has learned that Spire did not physically curtail or limit deliveries of gas to any of Clearwater’s customers. It appears from Spire’s communications to end-users on its system, produced in response to Clearwater’s discovery requests in this matter, that Spire only urged voluntary curtailment but without any specificity about appropriate usage or any required physical limitation of delivered volumes.

**Q: Do you have any other observations about how Spire communicated about gas available for customer usage during Winter Storm Uri?**

A: Spire’s communications lack specificity about what volumes were available to customers, particularly lacking clear communication about required curtailment that more sophisticated commercial customers could have put into action. Spire’s communications also contained mixed messages, such as “rest assured we continue providing natural gas service with no interruption due to the weather.” See Fellon Direct, ARF-9. Spire failed to communicate with Clearwater about end-user curtailments, except as initiated by Clearwater.

**Q: Are you aware of Clearwater’s communications with other utilities about service to end-users on other systems?**

A: Yes.

**Q: How did Spire’s communications with Clearwater during Winter Storm Uri compare with the communications Clearwater had with other utilities about service to end-users on other systems?**



1 A: Our schedulers had more communication from other utilities about the events around the  
2 winter storm. Atmos, KGS and ONG issued curtailments and they copied us on the emails  
3 that were sent to end-users. Ashley Orewiler, Laurie Walker, or I (sometimes all three)  
4 were frequently communicating with representatives from Atmos, KGS and ONG to learn  
5 more about the requirements around the curtailments and the expectations for our  
6 customers. We also had communications directly with Oneok Gas Transmission (“OGT”)  
7 relating to an industrial customer that was required to keep its production off-line until  
8 OGT approved for them to turn production back on. The communications with other  
9 utilities were more numerous and more detailed than the communication with Spire. With  
10 the exception of responding to questions that Laurie asked of Spire, Clearwater did not hear  
11 from Spire during the winter storm except for the OFO Notice emails. *See* JT-3, JT-4.

12 **Q: When did gas supply become available again in the marketplace?**

13 A: Supply did not become available to Clearwater until the weather conditions started to  
14 improve. The daily average temperatures started increasing on February 17, 2021, and that  
15 correlated to conditions in the field improving. On the afternoon of Wednesday, February  
16 17, 2021, Southern Star sent out notice that their system wide OFO would be lifted for  
17 February 19, 2021. That action indicated that they were expecting conditions to improve  
18 as well. \*\*\*

19 \*\*\*

20 **Q: For what period was Spire’s OFO in effect?**

21 A: Spire’s OFO was in effect for the period of February 12-19, 2021.

22

## V. CLEARWATER RESPONSE TO SPIRE’S OFO

23 **Q: How did Clearwater attempt to comply with Spire’s OFO?**

24 A: Clearwater attempted to source incremental supply when it recognized that its customer  
25 consumption was increasing above the first of month nomination values. Clearwater  
26 attempted to source incremental supply, but the contracted supply failed to deliver.  
27 Clearwater communicated to Spire its knowledge of its expected deliveries in accordance  
28 with the nomination protocols. Clearwater communicated with its customers that an OFO  
29 had been issued by Spire and requested that customers communicate any operational  
30 changes to Clearwater.

1 **Q: Were there gas days during the OFO period for which Clearwater delivered in excess**  
2 **of first of month nominations?**

3 A Yes. \*\*\*

4  
5 \*\*\*

6 **Q: Was Clearwater able to cover Spire end-user consumption by the end of February**  
7 **2021?**

8 A: Yes. \*\*\*

9 \*\*\*

10 **Q: When did Spire notify Clearwater of Clearwater’s alleged delivery failures and**  
11 **associated penalties?**

12 A: On February 24, 2021, Spire emailed Clearwater’s Ashley Orewiler a letter signed by  
13 Spire’s General Counsel Matt Aplington, communicating that “Spire is required to assess  
14 OFO penalties in these situations” and that “Spire is assessing an OFO penalty to you in  
15 the amount of \$7,329,801.39”, demanding payment immediately. The letter concluded, “If  
16 we are unable to reach payment terms by Friday, February 26, Spire will need to bill these  
17 OFO penalties directly to your transportation customers, who retain ultimate financial  
18 responsibility for these amounts under the tariff.” See JT-5, Demand Letter. Spire reported  
19 under-deliveries during the OFO for Clearwater customers of \*\* \*\*, On  
20 April 7, 2021, Theresa Payne emailed a revised OFO Penalty invoice in the amount of  
21 \*\* \_\_\_\_\_ \*\*. The revised calculation reported under-deliveries during the OFO  
22 for Clearwater customers of \*\* \*\*. See JT-6, Invoice.

23 **Q: How did Clearwater respond to Spire’s demand(s) for OFO penalties?**

24 A: Clearwater and Spire representatives had a phone call on Thursday, February 25, 2021.  
25 • Clearwater questioned the requirement that Spire assess OFO penalties, mindful  
26 that Spire’s tariff requires that “[a]ny OFO, along with associated conditions and  
27 penalties, shall be limited, as practicable to address only the problem(s) giving rise  
28 to the need for the OFO”, and the fact that Spire’s “actions with respect to its OFO  
29 shall be reasonable, objective, non-discriminatory and consistent with the General  
30 Terms and Conditions for Gas Service, R-16 Priority of Service and R-17”.

- 1 • Clearwater communicated that the penalty formula at 2.5 times the extraordinary  
2 Gas Daily prices, when prices were so outrageous, was unreasonable and that any  
3 under deliveries resulted from circumstances of Force Majeure and the fact that  
4 Spire did not curtail any end-user receipts.
- 5 • Because Southern Star was already communicating about its plan to seek a waiver  
6 from the Federal Energy Regulatory Commission of any Southern Star obligation  
7 to impose OFO penalties, Clearwater also questioned Spire communication that it  
8 had to invoice its agents for its transportation customers OFO penalty amounts to  
9 facilitate Spire meeting its obligation to pay Southern Star OFO penalties.
- 10 • Clearwater expressed surprise at Spire’s invoicing of such a large amount, out of  
11 cycle with other monthly invoices, with a demand for payment within less than  
12 forty-eight hours.
- 13 • Clearwater disputed Spire’s unsubstantiated assumption that Clearwater made a  
14 profit by under delivering volumes to meet its customers’ usage.
- 15 • Clearwater took note of and then relied on Spire acknowledgement that end-users  
16 have ultimate financial responsibility for penalties amounts and Spire’s statement  
17 that it would invoice end-users directly for the OFO penalties.

18 On March 26, 2021, Clearwater also sent a formal dispute letter to Spire challenging  
19 Spire’s demand for OFO penalties. *See* JT-7, Letter Disputing Invoice.

## 20 VI. SPIRE’S COVER COSTS

21 **Q: How do you believe the OFO penalty assessed by Spire against Clearwater compares**  
22 **to the cost of gas incurred by Spire on behalf of Clearwater customers during the**  
23 **OFO period?**

24 A: Spire has admitted that its cost incurred were far below the value of the final OFO penalty  
25 amount of \*\* \_\_\_\_\_ \*\* Specifically, Spire has reported to Clearwater that its total  
26 cover cost was \*\* \_\_\_\_\_ \*\* which equates to \*\* \_\_\_\_\_ \*\*/MMBtu, a value Spire  
27 has reported to be the cost of the highest priced incremental gas purchases made by Spire  
28 during the OFO period (*see* JT-10, Godat Depo, 313:2-5), plus certain transportation  
29 charges. *See* JT-8, Spire’s Cover Costs Calculations. Clearwater disputes that allocating

1 such highest priced gas to Clearwater represents a fair allocation of Spire’s actual cover  
2 cost for gas sourced by Spire for Clearwater’s customers.

3  
4 First, Spire’s allocation of certain higher priced gas purchases to Clearwater’s customers  
5 is unreasonable for many reasons, including because Spire always intended to be in the  
6 spot market sourcing its own supply. Specifically, during the Commission’s Cold Weather  
7 Event Workshop, Spire explained, “there’s always a certain portfolio mix that’s going to be  
8 at the daily market. That’s the prudent thing to do. And so we’re always going to float a  
9 little bit with the daily market. 20 to 27 percent of that floated with the daily market. That’s  
10 really when we get into price impacts, that’s that piece that was the most impactful when  
11 we’re seeing 200, 300, \$600 price of gas.” Transcript, 13:21 -14:3. Further, some of Spire’s  
12 own first-of-month purchases failed due to Winter Storm Uri. And lastly, Spire’s supply  
13 customers, like the transportation customers it shares with Clearwater, used more than  
14 expected quantities of gas due to the cold of Winter Storm Uri. Therefore, incremental  
15 purchases by Spire covered its own supply customers’ usage in addition to usage by  
16 Clearwater end-users. Thus, it seems more appropriate that the cost of incremental supply  
17 be determined from a weighted average cost of such purchases not by allocating only  
18 higher prices to Clearwater customers.

19  
20 Invoices produced by Spire regarding its February gas purchases reflect that Spire made  
21 incremental purchases of approximately \*\* \_\_\_\_\_ \*\* MMBtu during the OFO period, at  
22 what seems to be a weighted average cost of approximately \*\* \*\*/MMBtu.

23  
24 Second, Clearwater disputes Spire’s calculation of its cover costs because \*\*

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If Spire were to recover a windfall over its cover cost of under-delivered gas, transportation customers, who are ultimately responsible for the OFO penalty, will be subsidizing the cost of gas for Spire’s supply customers, which is not permitted by Spire’s tariff which requires any OFO to be managed so as to be non-discriminatory.

**VII. THE END-USERS**

**Q: Who will ultimately bear the penalties if they are not waived?**

A: Pursuant to Spire’s tariff, Clearwater’s Agent Aggregation Agreement with Spire, and Clearwater’s contracts with the end-users, Spire’s transportation customers have ultimate financial responsibility for penalties amounts. Any deficiencies caused by the customers’ failure to pay should be borne by Spire.

**Q: Please explain how the end-users are responsible for the OFO penalty?**

A: Clearwater’s role is as a limited agent. \*\*\*

\*\*\*

**Q: Has Spire acknowledged that its end-users have responsibility for the OFO penalty?**

A: Yes. *See* JT-5 (“If we are unable to reach payment terms...Spire will need to bill these OFO penalties directly to each of your transportation customers, who retain ultimate financial responsibility for these amounts under the tariff.”).

**Q: Has Clearwater billed its customers for February 2021 gas?**

1 A: Yes.

2 **Q: Explain how Clearwater invoiced its Spire end-user customers for February 2021 gas**  
3 **deliveries.**

4 A: \*\*\*

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16 **Q: Have Clearwater's customers paid such invoices:**

17 A: Yes.

18 **Q: Did the amount Clearwater invoiced to its customers make it whole for costs incurred**  
19 **to date by Clearwater for gas supplied to end-users in February 2021?**

20 A: \*\*\*

21

22 \*\*\*

23 **Q: Why did Clearwater not invoice all of its costs of gas to its Spire customers?**

24 A: \*

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1 **Q: Are you concerned about losing end-users as a result of the current dispute with**  
2 **Spire?**

3 A: Yes. These end-users are important to Clearwater’s business. We have concerns that as  
4 a result of us challenging Spire’s actions in relation to Winter Storm Uri, Spire will take  
5 retaliatory measures against Clearwater, or worse, against the end-users themselves. To  
6 the extent Spire treats Clearwater or its end-users differently than other marketers or  
7 customers its actions are discriminatory and would be violative of its tariff and against  
8 public policy.  
9  
10

**VIII. CONCLUSION**

11 **Q: Do you believe Spire complied with its tariff in response to conditions caused by**  
12 **Winter Storm Uri?**

13 A: No, for the following reasons:

- 14 • Spire’s tariff requires that “[a]ny OFO, along with associated conditions and  
15 penalties, shall be limited, as practicable to address only the problem(s) giving rise  
16 to the need for the OFO”, and the fact that Spire’s “actions with respect to its OFO  
17 shall be reasonable, objective, non-discriminatory and consistent with the General  
18 Terms and Conditions for Gas Service, R-16 Priority of Service and R-17”.
- 19 • Winter Storm Uri was an extraordinary event, unlike anything any member of  
20 Clearwater’s seasoned team of gas marketing professionals with decades of  
21 experience has ever seen. Gas supply was constrained by events of Force Majeure.  
22 Despite all actions by Clearwater, it could not obtain more gas supply than it  
23 delivered to Spire, regardless of cost.
- 24 • Other utilities and pipelines managed the circumstances of Winter Storm Uri quite  
25 differently than Spire, and no other entity is imposing 2.5 times Gas Daily OFO  
26 penalties.
- 27 • Other utilities communicated and collaborated with Clearwater and their end-users  
28 better than Spire, providing greater detail that facilitated such parties working  
29 together to manage available supply.

- 1 • Other utilities required targeted physical curtailments, including shutting valves to  
2 assure supply to meet prioritized end-users. Spire did not require curtailment from  
3 any end-users, but instead sent mixed messages about Spire’s ability to meet all  
4 customers’ usage requirements.
- 5 • An OFO was not actually necessary to protect the integrity of Spire’s Missouri West  
6 system. Spire was able to manage the integrity of its system with available gas  
7 supply, storage gas, and market purchases. It did not lose the pressure necessary to  
8 operate and it did not impose any involuntary curtailment of deliveries. At a  
9 minimum, Spire started the OFO earlier than circumstances warranted, imposed it  
10 more broadly than appropriate across its entire system beyond where low-pressure  
11 concerns existed, and failed to identify and engage directly with parties causing  
12 problems with targeted solutions.
- 13 • Spire always anticipated purchasing gas to satisfy system needs. It reported to the  
14 Commission during its Cold Weather Event Workshop that its gas supply portfolio  
15 “is going to float a little bit with the daily market - 20 to 27 percent of that floated  
16 with the daily market.” The fact that Spire incurred spot prices during February  
17 2021 was not unexpected.
- 18 • Gas Daily prices as high as \$622.785/MMBtu could not have been reasonably  
19 anticipated by the Commission when it authorized an OFO penalty calculated at 2.5  
20 times Gas Daily. A penalty of \$1,556.963/MMBtu for under delivered volumes is  
21 not only unreasonable, but outrageous. Further, Gas Daily prices were apparently  
22 established by S&P Global Platts (the market reporting agency) from such a small  
23 number of transactions that even Spire has questioned whether such index prices  
24 could reflect appropriate market values. Spire has acknowledged that it “felt one  
25 point on Southern Star was illiquid”, explaining that such illiquidity supports in part  
26 Spire’s complaint to S&P Global Platts challenging the propriety of using an illiquid  
27 market to establish the gas index price. Transcript, 24:14-16.
- 28 • The proposed OFO penalty value far exceeds Spire’s calculation of its alleged cost  
29 of cover gas, and even more extraordinarily exceeds what Clearwater believes to  
30 be Spire’s actual cost to cover under-delivered quantities, particularly mindful that



1 Spire used storage volumes to facilitate unlimited deliveries to end-users, and sold  
2 gas to third parties for less than gas daily during the OFO period.

3 • The OFO penalties, because so far in excess of Spire’s cost for under deliveries,  
4 will cause transportation customers to subsidize Spire’s supply customers.

5 • Clearwater’s under deliveries resulted from circumstances of Force Majeure and  
6 the fact that Spire did not curtail any end-user receipts or require end-users to switch  
7 to alternate fuel.

8 • Southern Star successfully sought a waiver from the Federal Energy Regulatory  
9 Commission of any Southern Star obligation to impose OFO penalties, with FERC  
10 acknowledging the historic nature of the Cold Weather Event. *See* JT-9, Southern  
11 Star’s FERC Order Granting Waiver Request, Issued April 9, 2021, Docket RP:21-  
12 618-000. Spire’s actions don’t seem reasonable in light of such opposing  
13 conclusions by FERC, Southern Star and other similarly situated utilities.

14 **Q: Does this conclude your testimony?**

15 A: Yes.

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

Symmetry Energy Solutions, LLC, )  
Constellation NewEnergy-Gas Division, )  
LLC, and Clearwater Enterprises, L.L.C. )  
)  
Complainants, )  
)  
v. )  
)  
Spire Missouri, Inc. and its operating unit )  
Spire Missouri West, )  
)  
)  
Respondents. )

Case Nos. GC-2021-0316, GC-2021-0315,  
and GC-2021-0353

**AFFIDAVIT OF JENNIFER L. THOMPSON**

STATE OF OKLAHOMA )  
) ss  
CITY OF OKLAHOMA CITY )

Jennifer Thompson, being first duly sworn on her oath, states:

1. My name Jennifer Thompson. I am the Chief Operating Officer of Clearwater Enterprises, L.L.C., having its principal place of business at 5637 N Classen Blvd., Oklahoma City, Oklahoma 73118.

2. Attached to this affidavit and made a part hereof for all purposes is my Direct Testimony (testimony) on behalf of Clearwater Enterprises, LLC. The testimony is 25 pages and has been prepared in the appropriate format to be introduced into evidence in the case above.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

  
Jennifer Thompson

Sworn to and subscribed before me this 20th day of December, 2021.

  
Notary Public

My commission expires: 04/01/2022

