

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Investigation into Kansas Gas)
Service Company, a Division of ONE Gas, Inc.)
Regarding the February 2021 Winter Weather Events,) Docket No. 21-KGSG-332-GIG
as Contemplated by Docket No. 21-GIMX-303-MIS)

REPLY TO CONSTELLATION’S RESPONSE
TO MOTION TO COMPEL

Catholic Diocese of Wichita (“Diocese”) files this Reply to Constellation NewEnergy—Gas Division, LLC (“Constellation”) Response to Catholic Diocese Motion to Compel and requests the Corporation Commission of the State of Kansas (“Commission”) issue an order compelling Constellation to respond to the Diocese’s Data Request No. 1, subparts D through G.

1. On August 31, 2021, the Diocese filed its Motion to Compel against Constellation (“Motion to Compel”), in which, the Diocese requested, among other things, Constellation provide properly verified responses in accordance with the March 3, 2021, Order Adopting Staff’s Report and Recommendation to Open Company-Specific Investigations (“Order”).

2. The Diocese had also previously requested Constellation provide properly verified responses, as required by the Order, on two prior occasions in writing and once by telephone, *before* filing its Motion to Compel. *See* (Motion to Compel, ¶ 14-15).

3. On September 3, 2021, Constellation filed its First Amended Responses to Diocese Data Requests No. 1 and No. 2, which are attached as Exhibit A (the “Amended Responses”). The Amended Responses were properly verified in accordance with the Order. Despite the Diocese’s multiple good faith attempts to resolve the issue and more than two months after the Diocese served

its Data Requests, Constellation did not comply with the Order until after the Diocese was forced to file its Motion to Compel.

4. Now that Constellation has verified its Amended Responses, the scope of the Diocese's Motion to Compel is now limited to Request No. 1, subparts D through G. Nevertheless, the Diocese should not have been forced to file a Motion to Compel simply to receive verified responses. Constellation's noncompliance with the discovery procedures outlined in the Order, including failure to timely object to any request, should not be rewarded or ignored. The Diocese is now forced into a position in this reply brief to argue whether the Amended Responses received six days ago are responsive or not, even though the Diocese gave Constellation ample time to supplement or otherwise respond to the Diocese's Data Requests.

5. In the Amended Responses, with respect to Request No. 1, subparts D through G, Constellation stated the following:

Response: This request seeks documents or information that is not in Constellation's possession, custody, or control. Constellation purchased natural gas through Exelon Generation. Constellation is not able to identify what percentage of that natural gas was acquired through the spot market or to provide the other information requested by the Diocese. The requested information is also not a subject of dispute or inquiry in this docket, nor does it have any bearing on any of those issues. . .

Response: All of the requested information is outside the scope of the dispute and inquiries in this docket. Additionally, the cost of natural gas purchased to serve Constellation's Kansas customers in February 2021 does not have any bearing on any of the issues in this proceeding. In addition, as described above, the gas provided to serve Constellation's Kansas customers is supplied by Exelon Generation.

6. Shortly after Constellation submitted its Amended Responses, it also filed its Response to the Motion to Compel on the same day.

7. The argument set forth in Constellation's Response to the Motion to Compel is inconsistent with Constellation's assertions in its Motion to Intervene filed on June 10, 2021.

Specifically, Constellation stated the following in paragraph 6 of its Motion to Intervene (emphasis added):

Beginning in the second week of February, 2021 the costs to serve Kansas customers increased dramatically due to both increases in demand and increases in gas prices. To meet the increased demand, ***Constellation purchased significantly more gas in real time markets during this period than anticipated at prices significantly higher than normal market conditions.***

8. Despite the above assertion, Constellation now claims that the detail relating to its natural gas purchases “does not have any bearing on any of the issues in this proceeding” although this information was apparently relevant for purposes of Constellation’s Motion to Intervene.

9. Constellation’s assertion that the amount of natural gas it purchased and cost it paid for such natural gas has no bearing on any of the issues in this proceeding is equally unpersuasive. There is a direct correlation to the issues being examined in this docket. Much of what is being considered in the docket at this juncture, requires knowledge of the amount of natural gas Constellation purchased to fulfill its obligations to supply natural gas to Kansas Gas Service’s system. Ultimately, any delivery shortfall may generate a penalty that may also be passed on to Constellation and ultimately its customers, such as the Diocese.

10. To allow Constellation to side-step providing this information—even confidentially—is to ignore a critical element in the analysis of exactly why and how prices spiked to the level that they did.

11. The Diocese reiterates the arguments set forth in its Motion to Compel, specifically:

a. Even assuming Constellation has a valid objection, the Order requires all objections to be served in writing within 5 days of the data request or it is waived. At best, Constellation did not provide a written objection until 14 days after the Diocese served its

Data Requests. Therefore, any objection Constellation may have had is waived pursuant to the express terms of the Order.

b. Pursuant to the Order and Commission Staff Report and Recommendation filed on March 1, 2021, this docket is not limited to a dispute regarding the tariff penalties—it is to examine the steps KGS took to limit the financial impact of the Winter Weather Event and consider prospective changes to natural gas regulations or tariffs. Therefore, knowing how much gas Constellation purchased, delivered, paid for, and from whom and in what manner is clearly relevant to this proceeding.

WHEREFORE, the Catholic Diocese of Wichita respectfully requests the Commission enter an order compelling Constellation to respond to the Diocese's Data Request No. 1, subparts D through G, and any other relief the Commission deems just or appropriate.

Respectfully submitted:

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By: /s/ C. Edward Watson

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VERIFICATION

STATE OF KANSAS

SS

COUNTY OF SEDGWICK

C. Edward Watson, of lawful age, being first duly sworn on oath, states:

That he is an attorney for the Catholic Diocese of Wichita, named in the foregoing Motion to Compel and is duly authorized to make this affidavit; that he has read the foregoing and has reasonable grounds to believe the statements are true and correct.



C. Edward Watson

SUBSCRIBED AND SWORN TO before me this 8 day of September, 2021.



Notary Public

My Appointment Expires: 7-12-2022

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of September, 2021, a true and correct copy of the above and foregoing was sent electronically to the following:

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BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Investigation into Kansas	§	Docket No. 21-KGSG-332-GIG
Gas Service Company, a Division of One Gas	§	
Inc. Regarding the February 2021 Winter	§	
Weather Events	§	

**CONSTELLATION’S FIRST AMENDED REPONSES TO
CATHOLIC DIOCESE OF WICHITA’S DATA REQUESTS**

Constellation NewEnergy—Gas Division, LLC (“Constellation”) serves these *First Amended Responses to Data Requests 1A-2B to Constellation* by the Catholic Diocese of Wichita (“Diocese”). Constellation amends its responses based on additional information and investigation related to the requests.

DR 1A. Does Constellation NewEnergy – Gas Division, LLC engage in natural gas hedging? If so, was the hedging strategy used successful in mitigating the extreme price swings experienced during this event? What gas purchasing practices/strategies were utilized during the winter weather event?

Response: Constellation receives supplies of natural gas through its wholesale supplier Exelon Generation Company, LLC (“Exelon Generation”). Constellation offers customers certain products through which customers can decide the extent to which they want to be supplied at variable market prices.

DR 1B. Did Constellation NewEnergy – Gas Division, LLC utilize gas storage to mitigate the extreme natural gas price increases experienced during the winter weather event? If so, please detail the amount of gas storage utilized during the event.

Response: Constellation receives its natural gas supply for Kansas customers from Exelon Generation and does not hold storage rights.

DR 1C. For stored natural gas referenced in paragraph B above, please provide the cost of gas withdrawn from inventory during the winter weather event and the accounting methodology used for stored gas inventory.

Response: See response to DR 1B above.

DR 1D. From February 9-21, 2021, what percentage of gas supplied to Constellation NewEnergy – Gas Division, LLC’s Kansas customers was purchased on the spot market? Please provide the detail for the gas purchased on the spot market, including volumes purchased, the date of purchase, the supplier, and the price paid per volume.

Response: This request seeks documents or information that is not in Constellation’s possession, custody, or control. Constellation purchased natural gas through Exelon Generation. Constellation is not able to identify what percentage of that natural gas was

acquired through the spot market or to provide the other information requested by the Diocese. The requested information is also not a subject of dispute or inquiry in this docket, nor does it have any bearing on any of those issues.

DR 1E. For the month of February 2021, what percentage of gas supplied to Constellation NewEnergy – Gas Division, LLC’s Kansas customers was purchased on the spot market? For the months of January 2021 and March 2021, what percentage of gas supplied to Constellation NewEnergy – Gas Division, LLC’s Kansas customers was purchased on the spot market?

Response: See response to DR 1D above.

DR 1F. Please detail the total monthly cost for natural gas purchased to serve Constellation NewEnergy – Gas Division, LLC’s Kansas customers in February of 2021, including volumes purchased, the date of purchase, the supplier, and the price paid per volume.

Response: All of the requested information is outside the scope of the dispute and inquiries in this docket. Additionally, the cost of natural gas purchased to serve Constellation’s Kansas customers in February 2021 does not have any bearing on any of the issues in this proceeding. In addition, as described above, the gas provided to serve Constellation’s Kansas customers is supplied by Exelon Generation.

DR 1G. How much did the total cost of gas purchased for Kansas customers in February 2021 compare to total gas purchased in January 2021 and March 2021.

Response: See response to DR 1F above.

DR 2A. Please describe in detail what steps Constellation NewEnergy – Gas Division, LLC took to limit or prevent the financial impact of the winter weather event for its Kansas customers, including detail on the steps taken in response to the following events:

- i. Southern Star Pipeline’s system-wide Operational Flow Order issued on February 9, 2021.
- ii. Kansas Gas Service’s Operational Flow Order issued on February 11, 2021
- iii. Kansas Governor Kelly’s State of Disaster Emergency Declaration issued on February 14, 2021.
- iv. Kansas Gas Service’s Curtailment Order issued on February 15, 2021.

Response: Constellation took a number of steps to limit or prevent the financial impact of the winter weather event for its Kansas customers. In written correspondence, Constellation made customers aware of the potential for extremely high prices and encouraged customers to reduce their consumption. Constellation’s account managers also began reaching out to individual customers to alert them to the issuance of Operational Flow Orders and subsequent events, to the increases in prices, and to try to answer any questions that they might have. Constellation also attempted to secure additional supplies of natural gas through its wholesale supplier Exelon Generation.

DR 2B. Please provide copies of all notices Constellation NewEnergy – Gas Division, LLC issued to its Kansas customers during the month of February 2021 relating to the winter weather event or extreme natural gas prices? If different notices were sent to different customers, please explain why different notices were sent and identify notices Constellation NewEnergy – Gas Division,

LLC issued to the Catholic Diocese entities.

Response: Constellation has previously produced the requested documents and correspondence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 3, 2021, a copy of this document was served on all parties on the attached mailing list in accordance with the applicable service procedures.

/s/ Kerry Morgan
Kerry Morgan