

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)

MOTION TO COMPEL

Catholic Diocese of Wichita (the “Diocese”) files this Motion to Compel and requests the Corporation Commission of the State of Kansas (“Commission”) issue an order compelling Constellation NewEnergy—Gas Division, LLC (“Constellation”) to respond to the Diocese’s Data Requests No. 1 and 2.

Background

1. In response to the Winter Weather Event of February 2021, on February 15, 2021, the Commission issued an Emergency Order in Docket No. 21-GIMX-303-MIS (“Emergency Order”). The Emergency Order required jurisdictional natural gas and electric utilities to ensure natural gas and electricity service continued to be provided to Kansas customers and to defer costs associated with such efforts into a regulatory asset account.

2. On March 1, 2021, Commission Staff filed its Report and Recommendation in Docket No. 21-GIMX-303-MIS requesting the Commission to open a series of company specific-dockets (“Staff Report”).

3. In the Staff Report, Commission Staff stated the following: “Staff contends that it is necessary to open individual company specific dockets to investigate *at a minimum*, how each jurisdictional electric and natural gas utility was prepared for this cold weather event, how each

responded to the event, and how the event will impact each utility's Kansas customers." (Staff Report, Att. A, p. 5) (emphasis added).

4. The Staff Report also includes a nearly two-page, non-exhaustive, list of topics Staff intended to investigate in each docket, which included: "[w]hat steps did natural gas distribution utilities take to limit or prevent the financial impact of this event to customers?" and "[w]hat lessons were learned that will prepare us for the next extreme weather event?" (Staff Report, Att. A, p. 5-7).

5. On March 3, 2021, the Commission issued its Order Adopting Staff's Report and Recommendation to Open Company-Specific Investigations in Docket No. 21-GIMX-303-MIS (the "Order"), which opened the above-captioned docket. As part of the Order, the Commission also issued a protective order and discovery order applicable to all parties within this docket.

6. The Order states:

If the parties have agreed to electronic service, and a party objects to answering a particular data request, *the party shall object in writing to the party which issued the data request within five days of the data request... Any objections not provided at this time will be considered waived.* (Order, ¶ 30).

7. On June 10, 2021, Constellation filed a motion to intervene in this docket (the "Motion to Intervene"), which the Commission granted on July 1, 2021.

8. Among other things, Constellation's Motion to Intervene stated the following:

As a supplier to customers behind the KGS natural gas utility system, Constellation has an immediate interest in the resolution of the KGS Motion, the allocation of costs related to the Winter Event, as well as any prospective market rule changes that could affect Constellation's customers and the costs to serve those customers. The resolution of the issues raised in this proceeding thus have a direct impact on both Constellation and Constellation's customers. (Motion to Intervene, ¶ 9).

9. Members of the Diocese are customers of Constellation.

10. On July 2, 2021, the Diocese served its data requests on Constellation which were due on July 19, 2021.

11. On July 19, 2021, Constellation counsel called Diocese counsel and requested a one-week extension, which the Diocese granted. Constellation did not object to the data request then, and as the filing of the motion, has not done so.

12. In subparts D through G of the Diocese's Data Request No. 1 (Data Request No. 1 and No. 2 are attached as Exhibit A), the Diocese requested the following information:

D. 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.

E. 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?

F. 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.

G. 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.

13. On July 26, 2021, Constellation served its response to Data Request No. 1 (attached as Exhibit B) to the Diocese. Constellation's answers for subparts D through G were nonresponsive. Specifically, Constellation refused to respond to subparts F and G, stating the following: "The cost of natural gas purchased to serve Constellation's Kansas customers in February of 2021 does not have any bearing on any of the issues in this proceeding."

14. On July 28, 2021, Diocese counsel sent Constellation counsel an email, which is attached as Exhibit C, requesting Constellation respond to the requests. Specifically, Diocese requested that the responses that had been sent be verified and resent in accordance with the discovery procedures under the Order. In addition, Diocese requested complete responses to subparts F and G and explained that Constellation's cost of gas is relevant to compare against Kansas Gas Service Company, a Division of ONE Gas, Inc. ("KGS"), costs of gas in order to assess KGS's actual costs, and this information is also necessary for the Commission mandated review of KGS's prudence and reasonableness. *See* (Order, ¶ 3).

15. Constellation did not respond to the July 28th email. On August 14, 2021, Diocese counsel sent a follow-up email to Constellation's counsel but did not receive a substantive response from Constellation.

16. On July 30, 2021, KGS filed its Plan to Minimize the Financial Effects of the 2021 Winter Weather Event in this docket. As part of its plan, KGS will assess penalties to the Marketers, including Constellation, for failing to nominate and deliver gas to the KGS system during the OFO period.

17. Any penalty assessed by KGS may ultimately flow through and be charged to the Diocese and other similarly situated customers of Constellation.

18. On August 25, 2021, Diocese counsel and Constellation counsel discussed the Diocese's Data Requests. Although Constellation agreed to provide verified responses (it has not done so to date), Constellation maintained its position that it would not provide responsive answers to Data Request No. 1, subparts D through G.

Arguments and Authority

19. Pursuant to the Order and K.A.R. 82-1-234a(a): “Discovery shall be limited to matters that are clearly relevant to the proceeding involved.”

20. Relevant evidence means evidence having any tendency in reason to prove a material fact. K.S.A. 60-401(b). “The determination of relevancy is a matter of logic and experience, not a matter of law.” *Simon v. Simon*, 260 Kan. 731, 741, 924 P.2d 1255 (1996).

21. The Order requires any objections to be served in writing within five days of the data request, or any and all objections are considered waived. (Order, ¶ 30). Any timely objection to the Diocese’s data requests would have been due July 12, 2021.

22. To date, Constellation has not objected to the data requests. If its July 26, 2021 unsigned and unverified response could be construed as an objection, it was still 14 days late. Any objection Constellation may have is therefore waived, regardless of relevancy, and Constellation should be compelled to respond pursuant to the Order.

23. Moreover, the Diocese have made several attempts, in good faith, to resolve this issue, but Constellation has refused to respond to the Data Request No. 1, subparts D through G, or supply a properly verified response, which has forced the Diocese to file this Motion.

24. In the alternative, even if Constellation did not waive objections, this docket was opened to provide an investigation into the financial impact of the February 2021 Winter Weather Event on KGS, including an investigation into the prudence and reasonableness of its actions, to permit intervenors to participate in, and exchange confidential information related to such impact, to analyze lessons learned, and to determine what prospective rule changes could be made in order to minimize the massive effect a similar event could have on Kansas utilities and ratepayers. *See* (Order, ¶ 3, 6); (Staff Report, Att. A, p. 5-7); (Motion to Intervene, ¶ 9).

25. While the investigation is tailored to KGS, what Constellation paid for its gas, and what other Marketers paid, as compared to what KGS paid for gas, is clearly relevant—it can support or rebut KGS’s prudence and reasonableness during the Winter Weather Event.

26. Further, the Staff Report and Constellation’s Motion to Intervene place Constellation’s actions during the Winter Weather Event at issue in this docket because a full understanding of the costs and logistics of Constellation’s market decisions will help apprise Staff and KGS of how the event impacted each class of Kansas ratepayers and develop prospective rule changes.

27. In other words, a full understanding of the actions taken by all industry actors, including Constellation, will provide a basis to evaluate KGS’s actions and costs during the event in order to assess the actual financial impact, or what ought to have been the actual financial impact, the Winter Weather Event had on KGS and its customers and provide valuable insight and perspective concerning any prospective rule or policy changes.

28. In summary, Constellation has waived all objections by failing to timely object to the request. Even if it did not, the information that is already available in this docket suggests that there is a disconnect between the index, KGS’s tariff, and the actual cost of gas during the Winter Weather Event. Knowing how much gas Constellation purchased, delivered, paid for, and from whom and in what manner will allow the Diocese and the Commission to evaluate and be fully apprised of how costs were, or should be, allocated, and make reasonable recommendations with respect to prospective market rule changes to prevent another scenario where Kansas churches and schools receive gas invoices that are 100 times higher than normal.

WHEREFORE, the Catholic Diocese of Wichita respectfully requests the Commission enter an order compelling Constellation NewEnergy—Gas Division, LLC (“Constellation”) to

respond to the Diocese's Data Request No. 1 and 2 by verifying its responses as required by the Order, and answering in full Request No. 1, subparts D through G.

Respectfully submitted:

FOULSTON SIEFKIN, LLP

By: /s/ C. Edward Watson

C. Edward Watson (#23386)

Jeremy L. Graber (#24064)

Jacob G. Holly (#28437)

FOULSTON SIEFKIN LLP

1551 N. Waterfront Pkwy, Ste. 100

Wichita KS 67206

Ph. 316-291-9589

cewatson@foulston.com

jgraber@foulston.com

jholly@foulston.com

*Attorneys for The Catholic Diocese of Wichita,
Kansas*

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 31st day of August, 2021.



Notary Public

My Appointment Expires: 07-12-2022

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of August, 2021, a true and correct copy of the above and foregoing was sent electronically to the following:

ALEX GOLDBERG, Attorney at Law
909 BANNOCK STREET
SUITE 1524
DENVER, CO 80204
alexantongoldberg@gmail.com

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
jflaherty@andersonbyrd.com

SHELLY M. BASS, SENIOR ATTORNEY
ATMOS ENERGY CORPORATION
5430 LBJ FREEWAY
1800 THREE LINCOLN CENTRE
DALLAS TX 75240
shelly.bass@atmosenergy.com

KEVIN C. FRANK, SENIOR ATTORNEY
ATMOS ENERGY CORPORATION
5430 LBJ FREEWAY
1800 THREE LINCOLN CENTRE
DALLAS TX 75240
kevin.frank@atmosenergy.com

JEFF AUSTIN
AUSTIN LAW P.A.
7111 W. 151st St.
Suite 315
Overland Park, KS 66223
jeff@austinlawpa.com

JULIE AGRO
BLUEMARK ENERGY
4200 East Skelly Drive
Suite 300
Tulsa, OK 74135
jagro@bluemarkenergy.com

MIKE WESTBROCK
BLUEMARK ENERGY
4200 East Skelly Drive
Suite 300
Tulsa, OK 74135
westbrock@bluemarkenergy.com

LARRY WEBER
BONAVIA PROPERTIES, LLC
Garvey Center
250 W. Douglas, Suite 100
Wichita, KS 67202
larry@garveycenter.com

C. EDWARD PETERSON
C. EDWARD PETERSON, ATTORNEY AT LAW
5522 ABERDEEN
FAIRWAY KS 66205
ed.peterson2010@gmail.com

BRYAN R. COULTER
CATHOLIC DIOCESE OF WICHITA
424 N. BROADWAY
WICHITA KS 67202
bryan.coulter@CatholicDioceseOfWichita.org

JOSEPH R. ASTRAB, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
j.astrab@curb.kansas.gov

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
D.NICKEL@CURB.KANSAS.GOV

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
s.rabb@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
d.smith@curb.kansas.gov

JOSHUA HARDEN
COLLINS & JONES, P.C.
1010 W. FOXWOOD DRIVE
RAYMORE MO 64083
jharden@collinsjones.com

KERRY MORGAN
COLLINS & JONES, P.C.
1010 W. FOXWOOD DRIVE
RAYMORE MO 64083
kmorgan@collinsjones.com

DARCY FABRIZIUS
CONSTELLATION NEWENERGY-GAS DIVISION, LLC
1001 LOUISIANA STREET, SUITE 2300
HOUSTON TX 77002
darcy.fabrizius@constellation.com

LYNDA FOHN
CONSTELLATION NEWENERGY-GAS DIVISION, LLC
1001 LOUISIANA STREET, SUITE 2300
HOUSTON TX 77002
lynda.fohn@constellation.com

MONTGOMERY ESCUE, CONSULTANT
FREEDOM PIPELINE, LLC
PO BOX 622377
OVIEDO FL 33762
montgomery@escue.com

KIRK HEGER
FREEDOM PIPELINE, LLC
1901 UNIVERSITY DRIVE
LAWRENCE KS 66044
kirkheger@gmail.com

AMY L. BAIRD
JACKSON WALKER L.L.P.
1401 MCKINNEY ST, SUITE 1900
HOUSTON TX 77010
abaird@jw.com

JESSE LOTAY
JACKSON WALKER L.L.P.
1401 MCKINNEY ST, SUITE 1900
HOUSTON TX 77010
jlotay@jw.com

MELANIE S. JACK, Assistant Attorney General
KANSAS ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION
120 SW 10TH AVE., 2ND FLR.
TOPEKA KS 66612
Melanie.Jack@ag.ks.gov

KIMBERLY DAVENPORT MEGRAIL, Assistant Attorney General
KANSAS ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION
120 SW 10TH AVE., 2ND FLR.
TOPEKA KS 66612
Kim.Davenport@ag.ks.gov

DEREK SCHMIDT, Kansas Attorney General
KANSAS ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION
120 SW 10TH AVE., 4TH FLR.
TOPEKA KS 66612
Derek.Schmidt@ag.ks.gov

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
c.masenthin@kcc.ks.gov

TERRI PEMBERTON, CHIEF LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
t.pemberton@KCC.KS.GOV

JANET BUCHANAN, DIRECTOR- REGULATORY AFFAIRS
KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.
7421 W 129TH ST
OVERLAND PARK, KS 66213-2713
janet.buchanan@onegas.com

GLENDA CAFER, ATTORNEY
MORRIS LAING EVANS BROCK & KENNEDY
800 SW JACKSON, SUITE 1310
TOPEKA KS 66612
gcafer@morrislaing.com

KYLER C. WINEINGER, ATTORNEY
MORRIS LAING EVANS BROCK & KENNEDY
800 SW JACKSON, SUITE 1310
TOPEKA KS 66612
kwineinger@morrislaing.com

FRANK A. CARO, ATTORNEY
POL SINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY MO 64112
fcaro@polsinelli.com

ANDREW O. SCHULTE, ATTORNEY
POL SINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY MO 64112
aschulte@polsinelli.com

RICHARD A. HOWELL, ATTORNEY AT LAW
1401 MCKINNEY STREET, SUITE 1900
HOUSTON TX 77010
Rahowell@jw.com

RICHARD L. HANSON
16171 ROAD I
LIBERAL KS 67901
rlhanson@wbsnet.org

LEE M. SMITHYMAN, ATTORNEY
SMITHYMAN & ZAKOURA, CHTD.
7400 W 110TH ST, SUITE 750
OVERLAND PARK KS 66210-2362
lee@smizak-law.com

CONNOR A. THOMPSON
SMITHYMAN & ZAKOURA, CHTD.
7400 W 110TH ST STE 750
OVERLAND PARK KS 66210-2362
connor@smizak-law.com

JAMES P. ZAKOURA, ATTORNEY
SMITHYMAN & ZAKOURA, CHTD.
7400 W 110TH ST, SUITE 750
OVERLAND PARK KS 66210-2362
jim@smizak-law.com

KELLY A. DALY
SNELL & WILMER, LLP
ONE ARIZONA CENTER
PHOENIX AZ 85004
kdaly@swlaw.com

STACY WILLIAMS, General Counsel
SYMMETRY ENERGY, LLC
1111 LOUISIANA ST.
HOUSTON TX 77002
Stacy.williams@symmetry.com

JASON TRENARY
TEMPLELIVE WICHITA LLC
5104 S. PINNACLE HILLS PKWY, SUITE 1B
ROGERS AR 72758
jtrenary@beatycap.com

TIMOTHY E. MCKEE, ATTORNEY
TRIPLETT WOOLF & GARRETSON, LLC
2959 N. ROCK RD SUITE 300
WICHITA KS 67226
TEMCKEE@TWGFIRM.COM

DON KRATTENMAKER, Vice President
WOODRIVER ENERGY, LLC
633 17th St., Ste. 1410
Denver, CO 80202
don.krattenmaker@woodriverenergy.com

CHARLENE BALLARO WRIGHT
WRIGHT LAW FIRM
717 TEXAS STREET
SUITE 1200
HOUSTON TX 77002
cwright@wrightfirm.law

BRIAN G. FEDOTIN, GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA KS 66604
b.fedotin@kcc.ks.gov

Respectfully submitted:

FOULSTON SIEFKIN, LLP

By: /s/ C. Edward Watson
C. Edward Watson (#23386)
Jeremy L. Graber (#24064)
Jacob G. Holly (#28437)
FOULSTON SIEFKIN LLP
1551 N. Waterfront Pkwy, Ste. 100
Wichita KS 67206
Ph. 316-291-9589
cewatson@foulston.com
jgraber@foulston.com
jholly@foulston.com

*Attorneys for The Catholic Diocese of Wichita,
Kansas*

Before the Kansas Corporation Commission
Information Request

Request No: **1**

Company Name	Constellation NewEnergy--Gas Division, LLC	The Catholic Diocese of Wichita
Docket Number	21-KGSG-332-GIG	
Request Date	July 2, 2021	
Date Information Needed	July 19, 2021	

Please Provide the Following:

- A. 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?
- B. 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.
- C. 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.
- D. 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.
- E. 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?
- F. 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.
- G. 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.

Submitted By: C. Edward Watson

Submitted To: Kerry Morgan

If for some reason, the above information cannot be provided by the date requested, please provide a written explanation of those reasons.

Verification of Response

I have read the foregoing Information Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the the requesting party any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: _____

Date: _____

EXHIBIT A

Before the Kansas Corporation Commission
Information Request

Request No: **2**

Company Name	Constellation NewEnergy--Gas Division, LLC	The Catholic Diocese of Wichita
Docket Number	21-KGSG-332-GIG	
Request Date	July 2, 2021	
Date Information Needed	July 19, 2021	

Please Provide the Following:

- A. 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.
- B. 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.

Submitted By: C. Edward Watson

Submitted To: Kerry Morgan

If for some reason, the above information cannot be provided by the date requested, please provide a written explanation of those reasons.

Verification of Response

I have read the foregoing Information Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the requesting party any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: _____

Date: _____

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	§	Docket No. 21-KGSG-332-GIG
Inc. Regarding the February 2021 Winter	§	
Weather Events	§	

**CONSTELLATION’S RESPONSES TO THE CATHOLIC DIOCESE OF WICHITA’S
DATA REQUESTS**

Constellation NewEnergy—Gas Division, LLC (“Constellation”) serves these *Responses* to the *Data Requests 1A—2B to Constellation* requested by The Catholic Diocese of Wichita.

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: See response to DR 1B above.

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 1B 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: The cost of natural gas purchased to serve Constellation’s Kansas customers in February of 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: Please refer to the attached correspondence.

Respectfully submitted,

Kerry Morgan (KS #27077)
kmorgan@collinsjones.com
Joshua Harden (admitted Pro Hac Vice)
jharden@collinsjones.com
COLLINS & JONES, P.C.
1010 W. Foxwood Dr.
Raymore, Missouri 64083
Tel. (806) 318-9966

Amy L. Baird (admitted Pro Hac Vice)
abaird@jw.com
Jesse Lotay (KS #23011)
jlotay@jw.com
Jackson Walker L.L.P.
1401 McKinney St. Suite 1900
Houston, Texas 77010
Tel. (713) 752.4525

*Attorneys for Intervenor
Constellation NewEnergy—Gas Division, LLC*

CERTIFICATE OF SERVICE

I certify that on July 26, 2021 a copy of this document was served on all parties on the attached mailing list in accordance with the applicable service procedures.

Kerry Morgan

29602743

From: Josh Harden <jharden@collinsjones.com>
Sent: Monday, August 16, 2021 2:38 PM
To: Graber, Jeremy <JGraber@foulston.com>
Subject: RE: Docket No. 21-KGSG-322-GIG, Constellation's Response to Wichita Diocese's Data Requests

Jeremy,

I'm not ignoring you – trying to get verification from client. Sorry for delay.

Josh

From: Graber, Jeremy <JGraber@foulston.com>
Sent: Saturday, August 14, 2021 4:43 PM
To: Josh Harden <jharden@collinsjones.com>; Watson, C. Edward <cewatson@foulston.com>; Holly, Jake <JHolly@foulston.com>
Cc: Baird, Amy <abaird@jw.com>; Gilman, Luke <lgilman@jw.com>; Kerry R. Morgan <kmorgan@collinsjones.com>; Amanda Comer <acomer@collinsjones.com>; Ana Jackson <ajackson@collinsjones.com>
Subject: RE: Docket No. 21-KGSG-322-GIG, Constellation's Response to Wichita Diocese's Data Requests

Josh,
What's the status on this? It's been over two weeks. Thanks,

Jeremy L. Graber
Partner | FOULSTON SIEFKIN LLP
822 S. Kansas Avenue, Suite 200 | Topeka, Kansas 66612
D: 785.354.9412 | **M:** 785.438.9900
jgraber@foulston.com | Bio | vCard | www.foulston.com | LinkedIn

IMPORTANT: This communication contains information from the law firm of Foulston Siefkin LLP which may be confidential and privileged. If it appears that this communication was addressed or sent to you in error, you may not use or copy this communication or any information contained therein, and you may not disclose this communication or the information contained therein to anyone else. In such circumstances, please notify me immediately by reply email or by telephone. Thank you.

From: Graber, Jeremy <JGraber@foulston.com>
Sent: Wednesday, July 28, 2021 12:54 PM
To: Josh Harden <jharden@collinsjones.com>; Watson, C. Edward <cewatson@foulston.com>; Holly, Jake <JHolly@foulston.com>
Cc: Baird, Amy <abaird@jw.com>; Gilman, Luke <lgilman@jw.com>; Kerry R. Morgan <kmorgan@collinsjones.com>; Amanda Comer <acomer@collinsjones.com>; Ana Jackson <ajackson@collinsjones.com>
Subject: RE: Docket No. 21-KGSG-322-GIG, Constellation's Response to Wichita Diocese's Data Requests

Josh,

EXHIBIT C

These data requests are not verified and do not identify who actually prepared the response and can answer additional questions relating to the response as set forth in paragraph 29 of the discovery order. Please correct this and resend the responses.

Second, we have questions and issues regarding your responses to DR 1D, E, F, and G. For D and E, they are requesting percentages and prices paid. The responses refer to 1B, which merely asks about storage rights. That Constellation has no storage rights has no relevance to its gas purchases on the spot market, etc. as referenced in request 1D and 1E.

With regard to 1F and 1G (and all the requests generally), we disagree that it has no bearing on any issue in this case. As we discussed on the phone, KGS is obligated under its tariff to push through costs for under-deliveries of gas during the OFO at spot prices plus the multiplier. Under most or all of our Diocese clients' contracts with Constellation, that penalty is pushed on through to our clients. Even without the multiplier, KGS has calculated the penalty to be approximately \$, with Constellation's share being \$ (this is in KGS's response to CURB's DR 3). We do not believe that amount accurately reflects the economic realities of this situation and is just a further financial hit to our clients. We need this information to combat KGS's attempts to push through those amounts to Constellation and indirectly our clients.

In addition, what Constellation paid for gas, as compared to what KGS paid for gas, may also be relevant as to whether KGS ought to be entitled to recover for some or all of its costs (i.e., not borne by either sales or transportation customers). And the AG has intervened to enforce the KFCA and KCPA, including profiteering from a disaster. What Constellation paid may be relevant to that determination as well and will help rebut attempts by KGS to push unlawful costs through to our clients.

In short, we believe there is a stark disconnect between the index, the tariff, and the actual cost of gas during the OFO period. And we need the data to support this and defend our clients' rights. If you would like to discuss this further, let's set up a time to visit.

Jeremy L. Graber

Partner | FOULSTON SIEFKIN LLP

822 S. Kansas Avenue, Suite 200 | Topeka, Kansas 66612

D: 785.354.9412 | **M:** 785.438.9900

jgraber@foulston.com | Bio | vCard | www.foulston.com | LinkedIn

IMPORTANT: This communication contains information from the law firm of Foulston Siefkin LLP which may be confidential and privileged. If it appears that this communication was addressed or sent to you in error, you may not use or copy this communication or any information contained therein, and you may not disclose this communication or the information contained therein to anyone else. In such circumstances, please notify me immediately by reply email or by telephone. Thank you.

From: Josh Harden <jharden@collinsjones.com>

Sent: Monday, July 26, 2021 4:32 PM

To: Graber, Jeremy <JGraber@foulston.com>; Watson, C. Edward <cewatson@foulston.com>; Holly, Jake <JHolly@foulston.com>

Cc: Baird, Amy <abaird@jw.com>; Gilman, Luke <lgilman@jw.com>; Kerry R. Morgan <kmorgan@collinsjones.com>; Amanda Comer <acomer@collinsjones.com>; Ana Jackson <ajackson@collinsjones.com>

Subject: Docket No. 21-KGSG-322-GIG, Constellation's Response to Wichita Diocese's Data Requests

Please find attached Constellation New-Energy Gas Division, LLC's response to the Catholic Diocese of Wichita's data requests.

Joshua Harden
Partner
Collins & Jones, P.C.
1010 W. Foxwood Dr.
Raymore, Missouri 64083
816-318-9966