

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Susan K. Duffy

In the Matter of the Investigation into Empire)
District Company d/b/a Liberty, Regarding the)
February 2021 Winter Weather Events, as) Docket No. 21-EPDE-330-GIE
Contemplated by Docket No. 21-GIMX-303-)
MIS.)

SUPPLEMENTAL PROTECTIVE AND DISCOVERY ORDER

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On February 14, 2021, Governor Kelly issued a State of Disaster Emergency due to wind chill warnings and stress on utility and natural gas providers, noting that the current sub-zero temperatures were causing increased energy demand and natural gas supply constraints throughout Kansas, and utilities were currently experiencing wholesale natural gas price increase from 10 to 100 times higher than normal (the 2021 Winter Weather Event or Winter Storm Uri). Those costs may eventually flow through to consumers through increases in monthly natural gas and electric bills. Additionally, Kansas utilities are facing potential reliability issues related to the prolonged arctic temperatures.

2. K.S.A. 77-536(a) provides State agencies with the authority to act when there is “an immediate danger to the public health, safety or welfare requiring immediate state agency action.” On February 15, 2021, pursuant to K.S.A. 77-536(a), the Commission issued an Emergency Order directing all jurisdictional natural gas and electric utilities to coordinate efforts and take all reasonably feasible, lawful, and appropriate actions to ensure adequate transportation

of natural gas and electricity to interconnected, non-jurisdictional Kansas utilities.¹ Jurisdictional natural gas and electric utilities were ordered to do everything necessary to ensure natural gas and electricity service continued to be provided to their customers in Kansas.²

3. The Commission's Emergency Order in Docket No. 21-GIMX-303-MIS (21-303 Docket) also authorized every jurisdictional electric and natural gas distribution utility that incurs extraordinary costs associated with ensuring that their customers or the customers of interconnected Kansas utilities that are non-jurisdictional to the Commission continue to receive utility service during this unprecedented cold weather event to defer those costs to a regulatory asset account.³ All deferred costs shall be segregated by detailed cost category and shall contain enough detail for the Commission to perform a subsequent review for prudence and reasonableness.⁴ This deferral is for accounting purposes only.⁵

4. The Commission's Emergency Order also directed each jurisdictional utility to file a compliance report in this Docket detailing the extent of such costs incurred, and present a plan to minimize the financial impacts of this event on ratepayers over a reasonable timeframe, once Winter Storm Uri ends.⁶

5. On March 1, 2021, the Citizens' Utility Ratepayer Board (CURB) filed its Petition to Intervene and Motion for Protective Order and Discovery Order in the 21-303 Docket, explaining the rates charged to and services received by residential and small commercial ratepayers, whose interests CURB represents, may be substantially affected by the Commission's

¹ Emergency Order, Feb. 15, 2021, ¶ 3.

² *Id.*

³ *Id.*, ¶ 4.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*, ¶ 5.

Emergency Order.⁷ CURB also sought a protective and discovery order to handle confidential information.⁸

6. On March 9, 2021, the Commission issued Order Adopting Staff's Report and Recommendation to Open Company-Specific Investigations; Order on Petitions to Intervene of Bluemark Energy, LLC and CURB; Protective and Discovery Order. Subsequently, the Commission learned that the Office of the Kansas Attorney General (AG), among other entities, is also investigating Winter Storm Uri. To assist the AG in performing its duties under K.S.A. 75-702 and K.S.A. 75-708, the Commission is revising its Protective and Discovery Order to allow the AG to review any and all discovery produced in this Docket.

THEREFORE, THE COMMISSION ORDERS:

A. The provisions of the Protective and Discovery Order issued on March 9, 2021, shall govern the treatment and handling of confidential information in this Docket. Staff is directed to share any information and data obtained through discovery with the AG.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 06/10/2021



Lynn M. Retz
Executive Director

BGF

⁷ Petition to Intervene and Motion for Protective Order and Discovery Order, Mar. 1, 2021, ¶ 5.

⁸ *Id.*, ¶ 11.

CERTIFICATE OF SERVICE

21-EPDE-330-GIE

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 06/10/2021.

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CERTIFICATE OF SERVICE

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/S/ DeeAnn Shupe
DeeAnn Shupe
