

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

MISSOURI PROPANE GAS ASSOCIATION,	)	
	)	
Complainant,	)	
	)	
vs.	)	File No. GC-2016-0083
	)	
SUMMIT NATURAL GAS OF MISSOURI, INC.,	)	
	)	
Respondent.	)	

**SUGGESTIONS IN SUPPORT OF  
PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Missouri Propane Gas Association (MPGA), and for its Suggestions in Support of Proposed Procedural Schedule, respectfully states as follows:

1. On February 9, 2017, MPGA and Summit Natural Gas of Missouri, Inc. (Summit) filed separate proposed procedural schedules, as the parties could not agree on a joint procedural schedule.

2. The disagreement stems from Summit’s insistence that it be allowed to file a motion for summary determination before it has to file rebuttal testimony, and not allow MPGA to file a dispositive motion, claiming that since MPGA previously filed a motion for partial summary determination, it cannot file any additional dispositive motions.

3. The purpose of summary judgment is to promptly and expeditiously dispose of a case without a trial. This allows the parties and the court to avoid the unnecessary expense, burden and delay of a trial, if a proper showing is made that that there is no genuine issue as to any material fact, and that the moving party is entitled to

judgment as a matter of law. *Martin v. Washington*, 848 S.W.2d 487, 491 (Mo. banc 1993).

5. Nothing in the Commission's rules prohibit a party from filing a motion for summary determination, or places a limit on how many such motions a party may file. Commission Rule 4 CSR 240-240-2.117(1)(A) provides:

Except in a case seeking a rate increase or which is subject to an operation of law date, any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than sixty (60) days prior to the hearing except by leave of the commission.

6. By trying to limit MPGA from filing a dispositive motion, it is depriving the Commission of an opportunity to potentially avoid an unnecessary evidentiary hearing. Limiting MPGA from the opportunity to file a dispositive motion does not promote judicial economy.

7. Furthermore, as an issue of fairness, having the parties file both direct and rebuttal testimony fills out the record in the case for all parties, not just MPGA, to determine whether the record supports the filing of dispositive motions that could lead to the resolution of the case without an evidentiary hearing. Since Summit's proposed procedural schedule requires dispositive motions to be filed before it files rebuttal testimony, it precludes MPGA, Staff, and OPC of reviewing such rebuttal testimony to determine if there are grounds for a motion for summary determination or partial summary determination.

3. MPGA's proposed procedural schedule that provides for dispositive motions after rebuttal testimony is supported by prior complaint cases at this

Commission. See, *Earth Island Institute d/b/a Renew Missouri, et al. v. The Empire District Electric Company*, Case No. EC-2013-0378; *Earth Island Institute d/b/a Renew Missouri, et al. v. KCP&L Greater Missouri Operations Company*, Case No. EC-2013-0380.

WHEREFORE, MPGA respectfully asks the Commission to adopt the Proposed Procedural Schedule filed by MPGA.

Respectfully submitted,

HEALY LAW OFFICES, LLC



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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 9<sup>th</sup> day of February, 2017.



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Terry M. Jarrett