

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 9th
day of November, 2016.

Missouri Propane Gas Association,)
)
 Complainant,)
)
 v.)
)
 Summit Natural Gas of Missouri, Inc.,)
)
 Respondent.)

File No. GC-2016-0083

ORDER DENYING MOTION FOR PARTIAL SUMMARY DISPOSITION

Issue Date: November 9 2016

Effective Date: November 9, 2016

The Missouri Propane Gas Association (“MPGA”) filed a complaint against Summit Natural Gas of Missouri, Inc. (“Summit”) alleging Summit violated the Commission’s September 3, 2014 *Order Approving the Partial Stipulation and Agreement as to Dual Fuel Conversion of Appliances* (“Agreement”) in File No. GR-2014-0086. MPGA is a non-profit trade association representing members who sell propane or propane appliances and equipment in Missouri. Summit is a “gas corporation” and “public utility” pursuant to Section 386.020, RSMo (Cum.Supp. 2013). MPGA alleges Summit violated the terms of the Agreement by converting unvented gas-heating products from propane to natural gas in violation of the manufacturer’s specifications. The unvented gas-heating products at issue include gas fireplaces and room heaters.

MPGA filed a *Motion for Partial Summary Disposition* asserting that there is no genuine issue as to any material fact.¹ In its legal memorandum supporting its motion, MPGA states the only question before the Commission involves the interpretation of the language in paragraph 1 of the Agreement, which states as follows:

“For converting appliances from propane to natural gas, SNGMO² agrees to follow all applicable national and local codes and **manufacturers’ specifications relating to the conversion of appliances.**” (Emphasis added).

In its *Response of Summit Natural Gas of Missouri, Inc. in Opposition to Motion for Partial Summary Determination*, Summit acknowledges that it converted four unvented gas-heating products from propane to natural gas, but disagrees with MPGA’s framing of the issue. MPGA argues that each of the owner’s manuals for the products converted by Summit state that the products shall not be converted from one fuel to another. MPGA’s position is that the manufacturers’ specifications, as found in the owner’s manual and product rating plates, clearly prohibit conversion to different gas types. Summit challenges this interpretation and asserts that conversions were contemplated in the Agreement and the question presented is whether Summit followed all applicable manufactures’ specifications relating to the conversion of appliances. Summit disagrees with MPGA’s claim that the owner’s manuals are the manufactures’ specifications contemplated in the Agreement.

Pursuant to Commission Rule 4 CSR 240-2.117(1)(E), the Commission may grant a motion for summary determination if:

¹ EFIS Item No. 26. MPGA filed a *Notice of Voluntary Partial Dismissal and Request for Stay* abandoning with prejudice all other claims and issues of its *First Amended Complaint* except for those addressed in its *Motion for Partial Summary Disposition*.

² Summit Natural Gas of Missouri, Inc.

the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines it is in the public interest.

A motion for summary determination is only proper where the moving party establishes that there is no genuine issue as to any material fact. Summit's response to MPGA's motion demonstrates the existence of a genuine issue as to material facts. Summit argues that MPGA's motion raises at least six questions of material fact, including whether the statements in the owner's manuals constitute "manufacturers' specifications relating to the conversion of appliances" when applied to natural gas suppliers. Summit also challenges whether the affidavit of Mr. Brian Brooks³ that was attached in support of MPGA's motion demonstrates a requisite level of expertise to support MPGA's claims.

At this time, based solely on the pleadings and the supporting documentation submitted by the parties, the Commission is unable to make a factual determination as to what are the applicable manufacturers' specifications relating to the conversion of appliances. Therefore, the Commission will deny MPGA's *Motion for Partial Summary Disposition*.

THE COMMISSION ORDERS THAT:

1. Missouri Propane Gas Association's *Motion for Partial Summary Disposition* is denied.

³ EFIS Item No.22. Exhibit A to *Motion for Partial Summary Disposition*.

2. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman, CC concur.

Burton, Senior Regulatory Law Judge.

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 9th day of November 2016.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 9, 2016

File/Case No. GC-2016-0083

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.