

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

In the Matter of Summit Natural Gas of)	
Missouri, Inc.'s Proposed Conversion)	<u>Case No. GO-2013-0360</u>
Rebate Program)	Tariff No. JG-2013-0300

STAFF RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") through the undersigned counsel, and respectfully submits its Response to the *Order Directing Filing* issued herein by the Missouri Public Service Commission ("Commission") on January 22, 2013.

Background

1. On December 28, 2012, Summit Natural Gas of Missouri, Inc. ("Summit") filed a tariff to "extend"¹ its conversion policy promotional practice. On December 31, 2012, Summit filed a "substitute" tariff to replace the tariff filed on December 28, which would also "extend" its conversion policy promotional practice. The tariff bears an effective date of January 29, 2013.

2. On January 18, 2013, the Office of the Public Counsel ("OPC") filed a Motion to Suspend Tariff and Request for Evidentiary Hearing ("Motion") regarding the tariff filed by Summit. On January 22, 2013, the Commission issued its *Order Directing Filing* herein, in which the Commission ordered Summit and Staff to respond to OPC's Motion no later than January 24, 2013.

¹ Although Summit refers in its cover letter to "extending" the program, the prior program expired on December 31, 2012.

Response

3. Although the description of the tariff contained in OPC's Motion appears to somewhat confuse Summit's original filing (which addressed two promotional practices tariffs for that portion of Summit's current system which was formerly the Southern Missouri Natural Gas system²) with Summit's filing which is currently pending before the Commission (which addresses only the conversion policy promotional practice tariff), Staff generally agrees with OPC's Motion. Specifically, Staff agrees with OPC: that Summit should have filed an Application for a variance from the Commission's promotional practices rules (see 4 CSR 240, Chapter 14) in order to re-establish or extend the subject program (the tariff sheet itself, on its face, recognizes that it involves a promotional practice); that Summit has neither requested nor established good cause for granting a variance at the present time³; that a request for variance from the Commission's promotional practices rule requires service of the application for variance on competing utilities in the service area of the filing utility; and that, although Summit (or its predecessor) received similar variances in the past in prior cases, such prior variances do not apply to this new request, as such prior variances do not apply beyond the program expiration dates contained in the prior tariffs which were filed with a specific limited program duration.

² This confusion is understandable, given that Summit initially actually made three tariff filings – JG-2013-0300, 0301 and 0302. The 0302 filing was for that portion of Summit's system which was formerly the Missouri Gas Utility ("MGU") system, and has been withdrawn. The 0300 and 0301 filings were both for the former Southern Missouri Natural Gas ("SMNG") system and were filed under the same cover letter; the 0301 filing was for an energy efficiency promotional practice and has also been withdrawn, leaving only the 0300 filing regarding the conversion policy promotional practice, which is the subject of this case, pending.

³ Staff is not prepared at this time to offer a recommendation as to whether a variance should be granted or whether the conversion policy promotional practice tariff should ultimately be approved, but merely observes that, to date, Summit has not established good cause for the variance; nor has Summit even requested a variance.

4. The Commission should also be aware that when Summit (then known as Southern Missouri Gas Company, L.P. (“SMGC”)) apparently last received a promotional practices variance for its conversion program, in Case No. GE-2006-0189, there were no other Commission-regulated energy utility companies in SMGC’s/Summit’s certificated area. This is no longer true, as Summit and The Empire District Electric Company are both certificated for at least a portion of the same territory. In Case No. GE-2006-0189, in the Commission’s *Order Granting Variance and Approving Tariff Sheets*, one of the reasons the Commission found that SMGC had shown good cause for the requested variance was that SMGC could “compete more effectively against *unregulated* electric cooperatives and propane dealers with the conversion program.” (Emphasis added) Summit should now be required to establish how good cause exists to allow a promotional practice within the service territory of another *regulated* utility. Also, as noted by OPC, requiring Summit to seek a variance will at least put Empire on notice that its interests may be affected.

5. The Commission should also be aware that in Case No. GE-2006-0189, SMGC originally sought to make the conversion program permanent; Staff objected to making the program permanent, and SMGC agreed that the program should be limited to a period of 48 months.

6. The actions of SMGC – Summit’s predecessor – in affirmatively seeking a variance from multiple provisions of the Commission’s promotional practices rule in order to “extend” its conversion program stand as further support for the proposition that Summit should have filed an Application for a variance in the present case.

7. For all of the above reasons, Staff agrees with OPC that the tariff should be suspended and an evidentiary hearing set after the parties have met to discuss setting a procedural schedule.

WHEREFORE, Staff requests the Commission accept this Response to Order Directing Filing and that the Commission issue an order (1) suspending the tariff at issue; (2) ordering Summit to file an Application for variance and serve it according to the Commission's rules; (3) scheduling a scheduling conference for the parties to meet and discuss a procedural schedule for the case; (4) and setting a date for the parties to file a proposed procedural schedule. In the alternative, if Summit does not want to file an Application for variance and serve it according to the Commission's rules, the tariff should be rejected.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 24th day of January 2013.

/s/ Jeffrey A. Keevil