

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day of
August, 2013.

In the Matter of the Application of Summit Natural)
Gas of Missouri, Inc., for a Waiver of Certain)
Hedging Requirements)

File No. GE-2013-0536

ORDER GRANTING APPLICATION FOR WAIVER

Issue Date: August 21, 2013

Effective Date: September 20, 2013

On June 20, 2013, Summit Natural Gas of Missouri, Inc. ("SNG") filed an application requesting that the Missouri Public Service Commission ("Commission") grant it a waiver of certain gas purchasing and hedging practice requirements contained in a Unanimous Stipulation and Agreement approved by the Commission in File No. GC-2006-0180. SNG provides natural gas service in a number of Missouri counties and is subject to the jurisdiction of the Commission as provided by law.¹

On October 21, 2005, the Office of the Public Counsel filed a complaint with the Commission in File No. GC-2006-0180 against Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas ("SMNG"), which at that time was a separate entity from SNG. As a result of that complaint, the parties entered into a Unanimous Stipulation and Agreement ("Agreement"). On April 11, 2006, the Commission issued an order approving the Agreement and directing the parties to comply with its terms. On September 28, 2011, the Commission approved another stipulation and agreement permitting SMNG to merge

¹ Section 386.020(18) and (43), RSMo Supp. 2012.

with SNG, which was known at that time as Missouri Gas Utility, Inc. Under the terms of the merger agreement, SNG was required to comply with all Commission orders that imposed any requirement or condition upon SMNG, such as the terms of the Agreement.

SNG now requests that the Commission relieve it of the obligation of complying with two provisions of the Agreement in subparagraphs 3.d. and 3.h. concerning gas purchasing and hedging practice requirements, as follows:

d. The Signatory Parties agree that SMNG's initial gas supply purchasing and hedging strategies plan to be filed on April 1, 2006, for the 06-07 winter heating season shall adhere to the following requirements: (1) SMNG will secure a minimum of 20% of normal winter heating-season gas supply at fixed prices or otherwise hedged against market exposure, no later than April 30, 2006, unless good cause is shown for deviating from this benchmark; (2) SMNG will secure a minimum of 40% normal winter heating-season gas supply at fixed prices or otherwise hedged against market exposure, no later than July 15 of 2006, unless good cause is shown for deviating from this benchmark; (3) SMNG will secure a minimum of 55% of normal winter heating-season gas supply at fixed prices or otherwise hedged against market exposure, no later than October 1, 2006, unless good cause is shown for deviating from this benchmark. Notwithstanding these minimum hedging percentage requirements, the Company shall still be responsible for making prudent decisions concerning but not limited to: the timing of any hedges, the quantity hedged, and the type of hedging instrument used and the terms of the hedging instrument. . . .

h. The Signatory Parties agree that SMNG's gas supply purchasing and hedging strategies plans filed April 1, of each year subsequent to April 1, shall adhere to the guidelines set forth in 3 d (1) – (3) unless good cause is shown for deviating from these benchmarks.

In support of its request, SNG states that as a result of the merger the management, ownership and corporate structure of the former SMNG have completely changed. SNG asserts that it now utilizes experienced internal gas purchasing personnel that work with external consultants to develop and execute a gas hedging strategy. SNG uses a variety of hedging practices, which have been reviewed by Commission Staff in other proceedings. SNG argues that the factors that caused the imposition of the hedging requirements in the

Agreement no longer exist, and it has since made prudent purchasing and hedging decisions demonstrating that it is a competent purchaser of natural gas.

On July 31, 2013, the Commission's Staff filed a *Staff Recommendation*, which states that Staff does not oppose the waiver request and recommends that the Commission approve the application. Staff bases its recommendation on the following factors:

- SNG has obtained experience in hedging the volatility of gas prices in its other service territory without these mandatory hedging requirements.
- SNG has a new storage contract that offers an additional hedging tool.
- SNG and its predecessor have had additional experience in operating under the hedge rule and the GC-2006-0180 hedge requirements.

No party objected to Staff's recommendation or requested a hearing.

The Commission has the legal authority to modify or vacate its orders², such as the order requiring parties to comply with the Agreement. No party has requested an evidentiary hearing, and no law requires one.³ Therefore, this action is not a contested case⁴ and the Commission need not separately state its findings of fact. Because this is a non-contested case, the Commission acts on evidence that is not formally adduced and preserved.⁵ There is no evidentiary record.⁶ Consequently, the Commission bases its decision on the parties' filings.

² Section 386.490.2, RSMo Supp. 2012, "Every order or decision of the commission shall of its own force take effect and become operative thirty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission, unless such order be unauthorized by this law or any other law or be in violation of a provision of the constitution of the state or of the United States." (emphasis added)

³ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

⁴ Section 536.010(4), RSMo Supp. 2012.

⁵ *State ex rel. Public Counsel v. Public Service Comm'n*, 210 S.W.3d 344, 353-355 (Mo. App. 2006).

⁶ *Id.* The competent and substantial evidence standard of Article V, Section 18, does not apply to administrative cases in which a hearing is not required by law." *Id.*

Based on the Commission's independent and impartial review of the verified filings, the Commission concludes that SNG's application for a waiver is reasonable and will grant the request.

THE COMMISSION ORDERS THAT:

1. Summit Natural Gas of Missouri, Inc.'s *Application for Waiver* is granted. Summit Natural Gas of Missouri, Inc. is granted a waiver from subparagraphs 3.d. and 3.h. in the Unanimous Stipulation and Agreement approved by the Commission in File No. GC-2006-0180.
2. This order shall become effective on September 20, 2013.
3. This file shall be closed on September 21, 2013.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

R. Kenney, Chm., Jarrett, Stoll,
and W. Kenney, CC., concur.

Bushmann, Regulatory Law Judge