

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

In the Matter of)	
Summit Natural Gas of Missouri Inc.'s)	File No. GR-2014-0086
Filing of Revised Tariffs to Increase Its)	Tracking No. YG-2014-0285
Annual Revenues for Natural Gas Service)	

ORDER EXTENDING TIME FOR COMPLIANCE TO JULY 2, 2014

Issue Date: June 25, 2014

Effective Date: June 25, 2014

The Commission issued an order¹ that granted Staff's motion to compel² and required Summit Natural Gas of Missouri Inc. ("Summit") to deliver information requested in Staff's discovery ("order"). In response to the order, Summit filed a motion³ for more time to deliver that information ("motion"). Staff filed a response to the motion ("response").⁴ This ruling grants the extension of time in part and denies it in part.

In support of the motion, Summit argues that delivering the information may take until July 15, 2014, for several reasons. First, Summit argues that the information is outside's Summit's control, in that it is in the hands of Summit's 100 percent owner, or that owner's 100 percent owner. Second, Summit argues that the order sets a standard new to the Commission, in that the order unexpectedly departs from the earlier

¹ Electronic Filing and Information System ("EFIS") No. 57, *Order Granting Motion to Compel*, issued on June 19, 2014. All EFIS references relate to this File No. GR-2014-0086 except as otherwise stated.

² Included in the *Staff Statement Describing Discovery Concern and Motion for Reconsideration*, EFIS No. 49, filed on June 10, 2014, page 7 last sentence to page 8, "Staff also respectfully requests that the Commission issue an order compelling SNG to provide full and complete responses to Staff's data requests attached hereto as Appendix A."

³ EFIS No. 59, *Motion for Extension of Time to Respond to Data Requests and Motion for Expedited Treatment* filed on June 19, 2014.

⁴ EFIS No. 63, *Staff Response to SNGMO's Motion for Extension of Time to Respond to Data Requests*, filed on June 24, 2014.

interpretations of the law governing discovery,⁵ under which Staff must serve the owners with the same discovery to obtain the same information sought from Summit.⁶

Those reasons are refuted in Staff's response. The response cites an earlier Commission ruling, also in a gas company's general rate action:⁷

[A] Missouri Supreme Court opinion describ[es] control over documents in practical, rather than formalistic, terms:

The rule is not limited to documents only in the possession of a party. . . . " 'Control' does not require that the party have legal ownership or actual physical possession of the documents at issue; rather, documents are considered to be under a party's control when that party has the right, authority, or practical ability, to obtain the documents from a non-party to the action." A court may require a party to produce documents held by a non-party if the party has the **"practical ability to obtain the documents ... irrespective of his legal entitlement to the documents."**; ("The word 'control' is to be broadly construed....").

That language describes the scope of [discovery], which applies before the Commission. Moreover, the same documents are subject to [discovery] served on [the related corporation]. Therefore, the Commission will overrule [the gas company]'s objection . . . and grant the motion to compel [. ⁸]

That ruling addresses the same argument, with the same result, under the same case law, as the order. The order's reading of the law is not new to the Commission.

⁵ 4 CSR 240-2.090.

⁶ As provided at Sections 386.460, and 393.140(9) and (10), RSMo 2000; and Section 386.420.2, RSMo Supp. 2014.

⁷ In the Matter of Laclede Gas Company's Tariff to Increase Its Annual Revenues for Natural Gas Service, File No. GR-2010-0171.

⁸ File No. GR-2010-0171, EFIS No. 133, *Order Granting Motion to Compel and Denying Motion to Quash*, issued on July 19, 2010 (emphasis added), (footnotes omitted), citing Hancock v. Shook, 100 S.W.3d 786, 796 -797 (Mo. banc 2003) (citations omitted).

Given that reading, Staff argues that Summit should have already delivered the information, because Staff served the discovery requests as long ago as January 29, 2014. Staff argues that July 1, 2014, will be more than time enough to deliver the information. The Commission's experience with wholly-owned subsidiaries and parent entities supports that argument. Also, insofar as the information is discoverable from both the Summit and the owners, serving separate discovery on the owners adds nothing but more delay. Further, that delay reaches past the dates scheduled for filing a preliminary issues list and rebuttal testimony,⁹ diminishing the value of the information significantly.

Summit also argues that more time to comply with the order is necessary for Summit to file a meaningful motion for reconsideration of the order, which is due on June 30, 2014.¹⁰ The filing of a motion for reconsideration will not stay the order.¹¹ But if Summit timely files a motion for reconsideration of the order, which includes a request for a stay of the order, the Commission will have time to consider any response filed on July 1, 2014, and make its ruling before the end of the day on July 2, 2014.

Therefore, the Commission will extend the time to comply with the order until July 2, 2014.

THE COMMISSION ORDERS THAT:

1. The *Motion for Extension of Time to Respond to Data Requests and Motion for Expedited Treatment* is granted in part and denied in part.

⁹ EFIS No. 27, *Order Setting Procedural Schedule and Terms of Discovery*, issued on February 26, 2014, page 2.

¹⁰ 4 CSR 240-2.160(2).

¹¹ 4 CSR 240-2.160(3).

2. The date for compliance with the *Order Granting Motion to Compel* is extended to July 2, 2014.

3. This order is effective immediately on issuance.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 25th day of June, 2014.