

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

In the Matter of Summit Natural Gas of)	
Missouri, Inc.'s Proposed Conversion)	Case No. GO-2013-0360
Rebate Program)	

**PUBLIC COUNSEL'S REPLY TO
COMPANY'S RESPONSE TO MOTION TO SUSPEND**

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its reply to Summit Natural Gas of Missouri, Inc.'s (SNG) Response to Motion to Suspend Tariff states as follows:

1. In its January 24, 2013 response to OPC's Motion to Suspend, SNG makes assertions that misinterpret the Commission's rules and misstate OPC's Motion to Suspend. OPC provides this response to provide the Commission with a lawful interpretation of its rules and an accurate reading of OPC's initial Motion.

2. SNG's response argues that the Commission's rules do not require a Commission waiver from the promotional practices rules, and the Company relies upon Commission rule 4 CSR 240-3.255. SNG asserts that, "There is no other application or process required, as alleged by OPC." SNG's analysis erroneously skips over the first subsection of Rule 3.255, which states:

(1) Any promotional practices offered by a gas utility must meet the requirements set out in the commission's rules regarding utility promotional practices (4 CSR 240-14).

Adhering to the requirements in Chapter 14 is to adhere to the requirement that specifically *prohibits* SNG's conversion program. 4 CSR 240-14.020(1)(B), (D), (E), and (F). Adhering to the requirements in Chapter 14 also requires SNG to follow 4 CSR 240-

14.010(2) that establishes the procedure a utility must follow to seek a variance from the prohibition against such conversion programs. That procedure is clear: variances can be obtained only for good cause shown by the applicant, and by a written application that is served on all other public utilities in the applicant's service territory. Following SNG's interpretation of the Commission's rules would render Chapter 14 meaningless.

3. SNG inexplicably claims that Rule 3.255 "makes clear that a variance may be obtained through the filing of a tariff sheet." Just how SNG reaches this conclusion is not entirely clear. Nowhere in Rule 3.255 is a request for a variance addressed – the only mention of a variance regarding promotional practices is found exclusively in Chapter 14. And as explained above, Rule 3.255(1) requires adherence to all of Chapter 14, including the requirement that a variance must be applied for and granted before a utility may implement a prohibited promotional practice.

4. SNG's response also mischaracterizes OPC's Motion to Suspend when it asserts, "OPC argues that the program should terminate at this point in time for procedural reasons." This is a mischaracterization because the program terminated on December 31, 2012 pursuant to the terms of SNG's current Tariff Sheet No. 71.¹ Claiming that it is OPC's position that the program "should" terminate wrongly implies that the program is currently authorized by the Commission and in effect.

5. The variance process established by the Commission is simple and does not impose a burden on utilities. SNG's decision to oppose OPC's motion rather than seek the required variance should raise suspicion that SNG lacks confidence in its ability to show good cause for a variance.

¹ It should also be noted that SNG made its tariff filing on December 28, 2012, only three (3) days before the program expired on December 31, 2012.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to SNG's Response to Motion to Suspend Tariff.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 24th day of January 2013:

/s/ Marc Poston