

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

Missouri Propane Gas Association,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2016-0083
)	
Summit Natural Gas of Missouri, Inc.,)	
)	
Respondent.)	

**MOTION OF SUMMIT NATURAL GAS OF MISSOURI TO CLARIFY
ITS PROPOSED PROCEDURAL SCHEDULE AND RESPONSE TO MISSOURI
PROPANE GAS ASSOCIATION'S SUGGESTIONS IN SUPPORT**

COMES NOW Summit Natural Gas of Missouri, Inc. ("Summit"), and for its Motion to Clarify its Procedural Schedule states as follows:

1. In the proposed procedural schedule that Summit filed on February 9, Summit did not intend to foreclose MPGA's ability to try again to seek summary disposition of this matter. Summit agrees with MPGA's description of the efficiency advantages of summary disposition in Paragraph 5 of MPGA's Suggestions. Indeed, Summit made no objection to MPGA's filing of such a motion at the outset of the case before MPGA had even filed testimony. Now, Summit believes MPGA's testimony fails to support its case and respectfully wishes to file its own summary determination motion.

2. MPGA has the burden to present and prove its entire case-in-chief in direct testimony.¹ Since Summit believes MPGA has not done so, Summit is entitled to challenge MPGA's case-in-chief at this stage and to efficiently dispose of this case. As a reminder,

¹ 4 CSR 240-2.130(7)(A) states: "Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief..."

MPGA dismissed with prejudice the bulk of the claims in its original petition. Now only one discrete claim remains and Summit believes that MPGA has failed to support it. Summit has no obligation to provide testimony if MPGA's direct testimony fails to prove its case-in-chief; to the contrary, MPGA's case must stand on its own.

3. MPGA apparently wishes to prevent Summit from obtaining a ruling on a summary determination motion, even though MPGA was afforded such an opportunity without objection at the very outset of the case. MPGA's claim that Summit should have to wait to file such a motion until after depositions are taken and defended, and rebuttal testimony is filed, lacks any legal support and is inefficient. MPGA's position is inequitable and unsupported and its schedule should be rejected.

4. Summit's schedule for the remainder of the case begins with the Commission addressing a summary determination motion that will be filed by Summit by March 1. Thereafter, if the Commission does not grant Summit's motion for summary determination, Summit agrees with MPGA that none of the parties should be precluded from filing summary determination motions after all testimony is submitted. Should any party wish to so file, Summit would gladly amend its proposed schedule to afford specific time periods for those motions.

5. At this juncture, however, the case may well be disposed of through Summit's motion, thus saving all of the parties and the Commission valuable time and resources. Summit has the right to present a motion for Commission determination, just as MPGA was afforded such a right. Summit is entitled to demonstrate, by way of summary disposition, that MPGA has failed to carry its burden in the submission of its case-in-chief, and to obtain a

Commission ruling on a summary disposition motion, before more resources are devoted to this matter.

WHEREFORE, Summit respectfully submits this response and clarification and requests that the Commission adopt its proposed procedural schedule with the clarification that it does not preclude parties from filing dispositive motions after March 1.

Respectfully Submitted,

By: /s/ Lewis Mills

Lewis Mills MO Bar No. 35275
BRYAN CAVE LLP
221 Bolivar Street, Suite 101
Jefferson City, Missouri 65101
573-556-6627 - Telephone
573-556-7447 - Facsimile
lewis.mills@bryancave.com

**ATTORNEY FOR SUMMIT NATURAL
GAS OF MISSOURI, INC.**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed to all parties of record this 10th day of February, 2017.

/s/ Lewis Mills

Lewis Mills