

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

MISSOURI PROPANE GAS ASSOCIATION,)	
)	
Complainant,)	
)	
vs.)	File No. GC-2016-0083
)	
SUMMIT NATURAL GAS OF MISSOURI, INC.,)	
)	
Respondent.)	

MOTION FOR PARTIAL SUMMARY DISPOSITION

Complainant, the Missouri Propane Gas Association (MPGA), by and through undersigned counsel, pursuant to 4 CSR 240-2.117, submits this Motion for Partial Summary Disposition (Motion) to address a threshold question: Whether Summit Natural Gas of Missouri, Inc. (SNGMO) violated this Commission’s September 3, 2014, Order approving the Partial Stipulation and Agreement as to Duel Fuel and Conversion of Appliances issued in File No. 2014-0086, by failing to follow the manufacturer’s specifications in converting four unvented heating products from propane to natural gas.

Material Facts As To Which There Is No Genuine Dispute

Pursuant to 4 CSR 240.2.117(1)(B), MPGA states that there is no genuine issue as to the following facts that are material to this Motion:

1. On October 2, 2015, MPGA filed a Complaint¹ with the Commission pursuant to Sections 396.390, 386,400 RSMo 2000,² and 4 CSR 240-2.070. On October 30, 2015, MPGA

¹ Electronic Filing Information System (EFIS) No. 1, File No. GC-2016-0083..

filed a Motion for Leave to File a First Amended Complaint,³ which the Commission approved by Order on November 17, 2016.⁴ SNGMO filed its Answer to the Complaint on May 13, 2016.⁵

2. Count II of the First Amended Complaint alleges that SNGMO violated the Commission's September 3, 2014, Order approving the Partial Stipulation and Agreement as to Duel Fuel and Conversion of Appliances issued in File No. GR-2014-0086,⁶ in that after the Commission approved that Agreement, SNGMO converted unvented gas heating products from propane to natural gas in violation of manufacturer's specifications.⁷

3. Based on SNGMO's responses to MPGA's discovery requests, after the Commission's September 3, 2015 Order was in effect, SNGMO converted four unvented gas heating products from propane to natural gas.⁸ In every one of those four instances, the specifications in the manufacturers' owners' manuals specifically and clearly state that said units shall not be converted from one fuel to another.⁹ In one of those instances, SNGMO also provided a photograph of the rating plate attached to the product by the manufacturer stating that the unit shall not be converted from one fuel to another.¹⁰ The four instances are detailed below.

4. On September 29, 2014, SNGMO converted an unvented heating product from propane to natural gas that was manufactured by DESA, model no. VMH26PRB/EF26PRA.¹¹

A copy of SNGMO's General Service Order and DESA's Owner's Manual pertaining to this

² Unless otherwise specified, all statutory references are to the Revised Statutes of Missouri, revision of 2000, as subsequently amended.

³ EFIS No. 4, File No. GC-2016-0083

⁴ EFIS No. 9, File No. GC-2016-0083.

⁵ EFIS No. 21, File No. GC-2016-0083.

⁶ EFIS No. 248, File No. GR-2014-0086.

⁷ EFIS No. 4, File No. GC-2016-0083.

⁸ Affidavit of Brian T. Brooks (Affidavit), paragraphs 3-7, attached to this Motion as **Exhibit A** and incorporated herein by reference.

⁹ Affidavit at paragraphs 4-7.

¹⁰ Affidavit at paragraph 6.a., i-iv, and Exhibit 4, page 1.

¹¹ Affidavit at paragraph 4, and Exhibit 1, page 1.

product is attached as **Exhibit 1** to the Affidavit of Brian T. Brooks (Affidavit), **Exhibit A**, hereto. Page 1 of the Owner’s Manual indicates that it is for model nos. VMH26PRB and EFS26PRA.¹²

- a. On page 2 of the Owner’s Manual, it states: “This appliance is only for use with the type of gas on the rating plate. This appliance is not convertible for use with other gases.”¹³
- b. On page 4 of the Owner’s Manual, it states: “1. This appliance is only for use with the type of gas on the rating plate. This appliance is not convertible for use with other gases.”¹⁴
- c. On page 32 of the Owner’s Manual, under the “Specifications” section for model no. VMH26PRB/EFS26PRB it states:

“Type of Gas Propane /LP gas only.”¹⁵

5. On January 23, 2015, SNGMO converted an unvented heating product from propane to natural gas that was manufactured by DESA, model no. VGF28PT.¹⁶ A copy SNGMO’s General Service Order and DESA’s Owner’s Manual pertaining to this product is attached as **Exhibit 2** to the Affidavit. The correct owner’s manual for this product can be found on the internet at <http://desatech.com> under the heading on the right side of the page, “Manuals With Parts List” and Subheading “”Indoor Heating” by clicking on “Fireplace” and when the

¹² Affidavit at paragraph 4 and Exhibit 1, page 2 (page 1 of the manual).

¹³ Affidavit at paragraph 4.a. and Exhibit 1, page 3 (page 2 of the manual).

¹⁴ Affidavit at paragraph 4.b. and Exhibit 1, page 5 (page 4 of the manual).

¹⁵ Affidavit at paragraph 4.c. and Exhibit 1, page 33 (page 32 of the manual).

¹⁶ Affidavit at paragraph 5 and Exhibit 2, page 1.

dropbox appeared, clicking on model no. VGF28PT, and the manual automatically downloads.¹⁷

A copy of the above-described steps is attached as **Exhibit 3** to the Affidavit.

- a. On page 3 of the Owner's Manual, it states: "1. Use only propane gas. Do not convert fireplace to use different fuel type."¹⁸
- b. On page 32 of the Owner's Manual, under the "Specifications" section, it states: "Type of Gas Propane Gas Only."¹⁹

6. On March 19, 2015, at a meeting in SNGMO's office in Sunrise Beach, MO, SNGMO converted an unvented heating product from propane to natural gas that was manufactured by SHM International Corp.²⁰ The rating plate applies to multiple models: (S, B) VFMV (21,24,27,30) LP.²¹ A copy of the rating plate attached to the product that was supplied by SNGMO in response to a MPGA data request and a copy of the SHM Owner's Manual pertaining to the product is attached as **Exhibit 4** to the Affidavit. Page 1 of the manual indicates that it is for model no. (S, B) VFMV 24 LP.²²

- a. The rating plate attached by the manufacturer to the product says the following:
 - i. "Gas Type Propane/LP"²³
 - ii. "This appliance is only for use with propane gas. This appliance shall not be field converted."²⁴
 - iii. "This appliance is only for use with the type of gas indicated on the rating plate."²⁵

¹⁷ Affidavit at paragraph 5.

¹⁸ Affidavit at paragraph 5.a. and Exhibit 2, page 4 (page 3 of the manual).

¹⁹ Affidavit at paragraph 5.b. and Exhibit 2, page 33 (page 32 of the manual).

²⁰ Affidavit at paragraph 6.

²¹ Affidavit at paragraph 6 and Exhibit 4, page 1.

²² Affidavit and Exhibit 4, page 1.

²³ Affidavit at paragraph 6.a.i. and Exhibit 4, page 1.

²⁴ Affidavit at paragraph 6.a.ii. and Exhibit 4, page 1

iv. “This appliance is not convertible for use with other gases.”²⁶

b. The Owner’s Manual is consistent with the language in on the rating plate and contains the following language:

i. Page 1: “This appliance is only for use with the type of gas on the rating plate. This appliance is not convertible for use with other gases.”²⁷

ii. Page 3: “1. This appliance is only for use with the type of gas on the rating plate. This appliance is not convertible for use with other gases.”²⁸

iii. Page 25: Under the “Specifications” section for model VFM 21,24 LP and VFM 27,30 LP, it states: “Gas Type Propane/LP”²⁹

7. On September 4, 2015, SNGMO converted an unvented gas heating product from propane to natural gas that was manufactured by Sure Heat, model no. BIVFMV.³⁰ A copy of SNGMO’s General Service Order and Sure Heat’s Owner’s Manual is attached as **Exhibit 5** to the Affidavit. The correct manual was located on the internet at <http://sureheat.com/manuals/heaters/bivfmv.pdf>.³¹

a. On page 1 of the Owner’s manual, it states: “NOTE: THIS UNIT CANNOT BE CONVERTED TO DIFFERENT GAS TYPE.”³²

²⁵ Affidavit at paragraph 6.a.iii. and Exhibit 4, page 1.

²⁶ Affidavit at paragraph 6.a.iv, page 1.

²⁷ Affidavit at paragraph 6.b.i. and Exhibit 4, page 2 (page 1 of the manual).

²⁸ Affidavit at paragraph 6.b.ii. and Exhibit 4, page 4 (page 3 of the manual).

²⁹ Affidavit at paragraph 6.b.iii. and Exhibit 4, page 26 (page 25 of the manual).

³⁰ Affidavit at paragraph 7 and Exhibit 5, page 1.

³¹ Affidavit at paragraph 7.

³² Affidavit at paragraph 7.a. and Exhibit 5, page 2 (page 1 of the manual).

- b. On page 1 of the Owner's Manual, it states: "THIS APPLIANCE IS ONLY FOR USE WITH THE TYPE OF GAS INDICATED ON THE RATING PLATE. THIS APPLIANCE IS NOT CONVERTIBLE FOR USE WITH OTHER GASES."³³

In support of its Motion, MPGA submits an accompanying Memorandum in Support.

WHEREFORE, MPGA respectfully requests that the Commission grant the Motion and determine that SNGMO has violated this Commission's September 3, 2014 Order; order SNGMO to comply with the Commission's September 3, 2014 Order; order SNGMO to cease and desist from any further conversions on unvented propane gas heating products that are not allowed by the manufacturers of those products; and, grant any other relief that the Commission deems appropriate under the circumstances.

Respectfully submitted,



Terry M. Jarrett MO Bar 45663
Husch Blackwell LLP
235 East High Street, P.O. Box 1251
Jefferson City, MO 65102-1251
Telephone: (573) 761-1116
Facsimile: (573) 634-7854
Email: terry.jarrett@huschblackwell.com

³³ Affidavit at paragraph 7.b. and Exhibit 5, page 2 (page 1 of the manual).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed this 13th day of May, 2016 to:

Jeff Keevil
Jamie Myers
Staff Counsel
Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Marc Poston
Office of the Public Counsel
P.O. Box 2330
Jefferson City, MO 65102
opc@ded.mo.gov

Dean Cooper
Brydon, Swearingen & England P.C.
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Lewis Mills
Bryan Cave LLP
221 Bolivar Street, Suite 101
Jefferson City, MO 65101
lewis.mills@bryancave.com



Terry M. Jarrett