

**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.)	

**MPGA’S REPLY TO SNGMO’S RESPONSE IN OPPOSITION
TO MPGA’S MOTION TO FILE SUPPEMENTAL TESTIMONY**

COMES NOW the Missouri Propane Gas Association (MPGA), and for its reply to Summit Natural Gas of Missouri, Inc.’s (SNGMO) Response in Opposition to MPGA’s Motion to File Supplemental Testimony, states as follows:

Reply

MPGA’s reply will be brief. SNGMO’s response contains so many mischaracterizations it would be impossible to address them all. Instead, MPGA will focus on what the supplemental testimony is, and why there is good cause for the Commission to allow it.

To begin, the supplemental testimony of MPGA Ronald G. Smith simply adopts the affidavit and exhibits of Brian Brooks, previously filed in this case. The affidavit and exhibits contain the following:

- SNGMO’s service orders for three of the four fireplace conversions at issue in this case. SNGMO provided these service orders to MGPA in response to a data request in this case.

- A photograph of the rating plate of one of the fireplaces converted by SNGMO. SNGMO provided this photograph to MPGA in response to a data request in this case.
- The owner's manuals for each of the four fireplaces at issue in this case. The affidavit of Brian Brooks details how he tracked down the correct owner's manual for each fireplace and verified that each owner's manual he found was the correct owner's manual for each unit.

That is it, nothing more. Nothing in the Brooks Affidavit is opinion or conjecture, just factual documents and information concerning the four fireplaces. All of this was previously filed in the case, much of it was provided by SNGMO, and SNGMO previously admitted, or did not dispute, that this factual information is true and accurate information.

As explained in MPGA's Motion for leave to file the supplemental testimony, SNGMO has already admitted converting the four fireplaces at issue, and the Commission has already acknowledged that fact. The issue of whether SNGMO converted the four unvented heating products has been a settled issue in the case. The only issue left to decide is whether SNGMO violated the manufacturers' specifications by converting the unvented heating products, thus violating the Agreement from the 2014 rate case. However, SNGMO backtracked in its Motion for Summary Determination, alleging that MPGA had not provided enough "proof" on some of the units that SNGMO had previously admitted converting. If SNGMO is going to backtrack some of its previous admissions, then that is more than sufficient cause to allow MPGA to provide supplemental testimony.

Furthermore, as MPGA noted in its Motion for leave to file the supplemental testimony:

- The Supplemental Direct Testimony offered in this case is simply MPGA witness Ronald G. Smith's adoption of the Affidavit and Exhibits of Brian Brooks which have been

previously filed as a part of MPGA's Motion for Partial Summary Disposition. Mr. Smith reviewed the affidavit and exhibits and independently verified that everything is true and accurate. There is no new substantive testimony offered in the Supplemental Direct Testimony to which SNGMO has not already seen and had an opportunity to respond.

- Commission Rule 4 CSR 240-2.13(10) allows a party to file supplemental testimony upon order by the Presiding Officer or the Commission, which can be granted upon good cause shown.
- Commission Rule 4 CSR 240-2.117(1)(C) provides that attached to a response to a motion for summary determination "shall be any testimony, discovery or affidavits not previously filed that are relied on in the response." MPGA is relying on the Supplemental Direct Testimony in its Response to SNGMO's Motion for Summary Determination or Dismissal.
- SNGMO will have additional opportunities to respond to the Supplemental Direct Testimony. SNGMO has not yet filed rebuttal testimony in this case, and will have ample opportunity to address the supplemental testimony in its rebuttal testimony. Furthermore, SNGMO had every opportunity to substantively respond to the supplemental testimony in its Reply to MPGA's Response to SNGMO's Motion for Summary Determination or Dismissal, but it did not do so.
- Importantly, there has been no procedural schedule set in this case to date, so there is no procedural schedule that would be negatively impacted by the filing of this Supplemental Direct Testimony. And because it is not new information, this supplemental testimony will not delay or impede the case in any way.

- SNGMO would not be prejudiced by the filing of Supplemental Direct Testimony because it is not new information and SNGMO will have ample opportunity to address it. MPGA has no objection to providing adequate time in a procedural schedule for SNGMO to file rebuttal testimony in response to the Direct and Supplemental Direct Testimony.
- SNGMO will have the opportunity to cross-examine Mr. Smith regarding the Supplemental Direct Testimony.
- Permitting the filing of the Supplemental Direct Testimony allows the Commission a more complete record on which to base its decision, which is in the public interest.

Conclusion

SNGMO's over-the-top and unduly harsh rhetoric notwithstanding, the supplemental testimony is not new or controversial, and is necessary because of SNGMO's backtracking on its prior admissions. No procedural schedule has been set, and SNGMO has not yet filed rebuttal testimony, so it will have ample opportunity to address the supplemental testimony. Good cause exists for the Presiding Officer or the Commission to grant leave to file the supplemental testimony as permitted by Commission Rule 4 CSR 240-2.13(10).

Respectfully submitted,



Terry M. Jarrett MO Bar 45663
Healy Law Offices, LLC
514 E. High St., Suite 22
Jefferson City, MO 65101
Telephone: (573) 415-8379
Facsimile: (573) 415-8379
Email: terry@healylawoffices.com

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties on the official service list this 5th day of June, 2017.



Terry M. Jarrett