

**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 MOTION TO FILE
SUPPLEMENTAL DIRECT TESTIMONY OF RONALD G. SMITH**

COMES NOW the Missouri Propane Gas Association (MPGA), and files its Motion to File Supplemental Direct Testimony of Ronald G. Smith. In support thereof, MPGA states as follows:

1. On May 13, 2016, MPGA filed its Motion for Partial Summary Disposition. As supporting documentation, Exhibit A to that Motion was the Affidavit and 5 Exhibits of Brian Brooks, which provided details regarding four unvented gas heating products converted by SNGMO:

- a. Fireplace 1: a fireplace manufactured by DESA, model number VGF28PT;
- b. Fireplace 2: a fireplace manufactured by Sure Heat, model number BIVFMV;
- c. Fireplace 3: a fireplace manufactured by SHM International Corp, model number BIVFMV;
- d. Fireplace 4: a fireplace manufactured by DESA, model number VMH26PRB/EFS26PRA.

The Exhibits to the Brooks Affidavit also included the service orders and Owner's Manuals for Fireplaces 1, 2 and 4, and the Rating Plate and Owner's Manual for Fireplace 3.

2. On June 13, 2016, SNGMO filed a Response in Opposition to MPGA's Motion for Partial Summary Disposition. In that Response, SNGMO admitted to converting Fireplaces 1, 2, 3 and 4. In its Response, SNGMO had the opportunity to address, and did in fact address, the Affidavit and Exhibits of Brian Brooks.

3. On November 9, 2016, the Commission issued its Order Denying Motion for Partial Summary Disposition. The Commission found that Summit had converted Fireplaces 1, 2, 3 and 4, stating:

In its Response of Summit Natural Gas of Missouri, Inc. in Opposition to Motion for Partial Summary Determination, Summit acknowledges that it converted four unvented gas-heating products from propane to natural gas, but disagrees with MPGA's framing of the issue... At this time, based solely on the pleadings and the supporting documentation submitted by the parties, the Commission is unable to make a factual determination as to what are the applicable manufacturers' specifications relating to the conversion of appliances. Therefore, the Commission will deny MPGA's Motion for Partial Summary Disposition.

From the Order, it is apparent that for the Commission, the sole remaining issue is "what are the applicable manufacturers' specifications relating to the conversion of appliances."

4. On February 1, 2017, MPGA filed the Direct Testimony of Ronald G. Smith. The primary purpose of Mr. Smith's testimony was to address what the Commission, in its November 9 Order Denying Motion for Partial Summary Disposition, stated was the sole remaining disputed issue in the case: what are the applicable manufacturers' specifications relating to the conversion of appliances.

5. On April 3, 2017, SNGMO filed its Motion for Summary Determination or Dismissal and Memorandum in Support. In its Motion, SNGMO seemed to back away from prior

admissions in the case, alleging that in some instances, Ronald G. Smith's Direct Testimony did not contain evidence of some of the four conversions, implying that the testimony was somehow deficient.

6. MPGA disputes that Ronald G. Smith's Direct Testimony is in any way deficient, given the narrow scope of the one remaining issue in the case. However, for clarity of the record in this case, as well as to support its Response to SNGMO's Motion, MPGA seeks to file the Supplemental Direct Testimony of Ronald G. Smith, which is attached to this motion.

7. 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.

8. Commission Rule 4 CSR 240-2.13(10) provides: "No party shall be permitted to supplement prefiled prepared direct, rebuttal, or surrebuttal testimony unless ordered by the presiding officer or the commission." By this Motion, MPGA requests that the presiding officer or the Commission so order, and believes that there is good cause to do so, for the following reasons:

- 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. 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.
- 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 will have the opportunity to respond to the supplemental testimony in its Reply to MPGA's Response to SNGMO's Motion for Summary Determination or Dismissal.

- 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.
- SNGMO would not be prejudiced by the filing of Supplemental Direct Testimony. 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.

WHEREFORE, MPGA prays that the Commission will accept its Supplemental Direct Testimony of Ronald G. Smith for filing in the case.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties on the official service list this 3rd day of May, 2017.

A handwritten signature in black ink that reads "Terry M. Jarrett". The signature is written in a cursive style with a horizontal line extending from the start of the name.

Terry M. Jarrett