

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

Ozarks Medical Center d/b/a Ozarks Healthcare,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2021-_____
)	
Summit Natural Gas of Missouri, Inc.,)	
)	
Respondent.)	

COMPLAINT

Ozarks Medical Center d/b/a Ozarks Healthcare (“OMC”) files this Complaint against Summit Natural Gas of Missouri, Inc. (“SNGMO”), pursuant to Section 386.390, RSMo, 20 CSR 4240-2.070, 20 CSR 4240-2.080(14). In support of its Complaint, OMC states as follows:

BACKGROUND

1. SNGMO is failing to comply with its tariff and Public Service Commission (“Commission”) Rule by demanding that OMC pay over \$478,000 in unspecified and unsupported charges, and because SNGMO has threatened to suspend OMC’s natural gas service unless OMC pays the demanded amount in full. OMC seeks an order from the Commission prohibiting SNGMO from further attempts to collect this amount.

2. OMC, by representative and through counsel, spoke with SNGMO’s representative before initiating this Complaint. Both parties discussed terms for a payment plan addressing the \$478,882.70 amount, and SNGMO agreed not to suspend OMC’s service during the pendency of those discussions. Those conversations did not absolve the necessity of this filing. SNGMO and OMC were unable to agree on a full resolution of the demanded amount, and SNGMO continues to condition OMC’s continued natural gas service to paying the full demand amount.

PARTIES

3. OMC is the complainant. OMC's address is 1100 Kentucky Avenue West Plains, Missouri, 65775, and SNGMO renders natural gas utility service at that address. OMC is a transportation natural gas customer of SNGMO. OMC primarily uses natural gas for general heating purposes, and for heat to sterilize medical equipment. It is a not-for-profit general service healthcare facility with 114 acute care beds that provides family medicine, intensive care, in-patient operations, specialty clinics, and other medical services. It is the only medical facility in Howell County, Missouri providing in-patient care, and the only such facility for at least one hundred miles. OMC serves the surrounding eight-county area in south-central Missouri and north-central Arkansas.

4. SNGMO is the respondent. SNGMO is a wholly-owned subsidiary of Summit LDC Holdings, LLC, which is a wholly-owned subsidiary of Summit Utilities, Inc. It is a Colorado corporation with its principle office and place of business at 10825 E. Geddes Avenue, Suite 410, Centennial, Colorado 80112. It conducts business as a "gas corporation" and "public utility" as defined under Section 386.020, RSMo.

5. The Staff of the Public Service Commission ("Staff") is a party by Rule 20 CSR 4240-2.010(10). Staff's address is Governor Office Building, P.O. Box 360, 200 Madison Street, Jefferson City, Missouri 65102.

6. Missouri's Office of the Public Counsel ("OPC") is a party by Rule 20 CSR 4240-2.010(10). OPC's address is Governor Office Building, P.O. Box 2230, 200 Madison Street, Suite 650, Jefferson City, Missouri 65102.

JURISDICTION

7. SNGMO is a “gas corporation” and “public utility” as defined by Section 386.020, RSMo, and is therefore subject to the Commission’s jurisdiction and powers under Chapters 386 and 393, RSMo, as to any dispute regarding the provision of natural gas service under a Commission-approved tariff. Mo. Rev. Stat. § 386.250.

8. Pursuant to Sections 386.250(1) and 393.140(1), (4), (8), RSMo, this Commission is charged with supervising and regulating the provision of natural gas by Missouri’s public utilities.

FACTS COMMON TO ALL COUNTS

A. Winter Storm Uri

9. From February 8 to 18, 2021, Winter Storm Uri engulfed the central-continental United States from Texas to the Dakotas.

10. According to the National Weather Service Forecast Office that covers OMC’s territory, Springfield, Missouri experienced prolonged temperatures from -15 to 19 degrees Fahrenheit. Local snow depth on February 17, 2021 was seven inches.

11. The Southwest Power Pool (“SPP”) network serving Missouri entered Energy Emergency Alert (“EEA”) status 2 and 3 during this period. This was first time SPP had ever entered EEA 2 or 3 status.

12. The extreme cold precipitated heightened system demand for natural gas utility services. Natural gas hub prices at the interstate pipeline level increased due to rising demand and dwindling availability. Local distribution companies serving Missouri experienced natural gas price increases from seventeen to 247-fold over first-of-the-month prices during the Winter Storm Uri period. *Staff Report, In the Matter of the Cause of the February 2021 Cold Weather Event and*

Its Impact on Summit Natural Gas of Missouri, at 62, GO-2021-0367 (Apr. 30, 2021). Staff has described this price escalation as “without precedent for interstate pipelines serving Missouri.” *Id.*

13. In response to these price impacts and other effects of Winter Storm Uri, the Commission ordered its Regulatory Analysis and Customer Experience departments to investigate the natural gas utilities’ preparation and response to the cold weather event. *Order Directing Staff to Investigation and Submit Report*, AO-2021-0264 (Feb. 24, 2021).

14. SNGMO reported to the Commission that its natural gas costs for February 2021 amounted to over \$34.3 million. *Transcript of Proceedings - Workshop*, at 54, AO-2021-0264 (Mar. 23, 2021). In comparison, SNGMO claims to have had \$6.9 million in gas costs for all of 2020. *Id.*

15. As Winter Storm Uri raged, OMC continued to use natural gas service. OMC curtailed natural gas usage at SNGMO’s request, but OMC’s backup propane supplies failed to work in the extreme cold.

16. Without its propane reserves, OMC was wholly reliant on SNGMO’s service, and resumed natural gas usage during Winter Storm Uri for critical services. OMC nonetheless continued to curtail natural gas use for non-critical services.

B. SNGMO’s Tariff

17. SNGMO’s current tariff was issued on November 14, 2014, and became effective December 14, 2014.

18. Tariff Sheets 25 through 49 govern SNGMO’s transportation service.

19. Tariff Sheet 32 provides that transportation customer bills may include “billings from third party Shippers [customers] delivering gas to [SNGMO] on the Shipper’s behalf.” (YG-2015-0207, Sheet No. 32). Bills are then due fifteen days after receiving the monthly invoice. *Id.*

Should the customer “fail to pay part or all of the amount of any such billing”, SNGMO may suspend a customer’s service fifteen days thereafter. *Id.*

20. Tariff Sheet 34 provides that customers will make every effort to comport their gas use so that there is no imbalance between delivered gas and expected use. (Sheet 34).

21. Any imbalance at the end of the month is addressed through the tariff’s “cashout” provisions. *Id.* If a customer uses more gas than nominated, then the cashout provision determines an amount to be added to a monthly bill based on the amount of imbalanced volume of natural gas and cashout price determinant.

22. SNGMO’s tariff authorizes it to enter into imbalance payment agreements to address cashout requirements that “take into consideration special circumstances.” (Sheet 37).

C. OMC’s Continued Payment and Dispute of Charges

23. OMC’s stated monthly gas bill for April 2021, following Winter Storm Uri was \$463,366.84.

24. With the inclusion of late payment charges, SNGMO is now demanding \$478,882.70 from OMC as of September 1, 2021. **Exhibit A.**

25. OMC’s monthly gas bill is normally close to the range of \$15,000 to \$20,000 each month.

26. OMC understands that the unusually large natural gas bill following Winter Storm Uri is largely the result of the cashout provision in SNGMO’s tariff.

27. OMC disputes that this charge accurately represents SNGMO’s cost to serve OMC during Winter Storm Uri.

28. OMC has communicated its dispute of this charge, but has nonetheless paid a portion or all of its billed amounts from May through November, 2021.

29. OMC, through representative and counsel, met with SNGMO on September 13, 2021, and November 1, 2021, with electronic mail and phone correspondence after those dates, to discuss a potential payment plan to resolve the disputed amount.

30. SNGMO and OMC's positions on the length of any payment plan proved irreconcilable, necessitating this Complaint.

31. SNGMO was provided a copy of this Complaint on December 9, 2021, before filing.

D. Threatened Disconnection

32. On September 1, 2021, SNGMO sent a notice to OMC explaining that SNGMO would disconnect OMC's gas service unless it paid \$478,822.70 by September 15, 2021. **Exhibit A.**

33. This was SNGMO's first communication to OMC regarding any potential disconnection as a result of the March billing or partial payments thereafter.

34. SNGMO forestalled disconnecting OMC while discussing payment plan options, and has agreed to continue forestalling disconnection during the pendency of this case.

35. OMC has no other available natural gas provider that can meet OMC's needs should SNGMO disconnect OMC's natural gas service.

36. If SNGMO disconnects OMC's natural gas service, it will be unable to continue sterilizing medical equipment, and will have to stop providing necessary medical care for its patients.

COUNT I: REQUEST FOR AN ACCOUNTING AUTHORITY ORDER TO TRACK AND DEFER THE DEMANDED AMOUNT

37. OMC alleges and incorporates herein all preceding paragraphs.

38. OMC requests that the Commission order SNGMO to defer the demanded amount to a regulatory asset as an accounting authority order (“AAO”).

39. The Commission is empowered to “prescribe by order the accounts in which particular outlays and receipts shall be entered, charged, or credited.” Mo. Rev. Stat. § 393.140(8).

40. The Commission may, accordingly, create regulatory deferrals to account for extraordinary costs and events. *E.g.*, *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm’n*, 210 S.W.3d 330, 335-36 (Mo. App. W.D. 2006). The Commission may institute AAO deferrals at the request of a utility or other party. *Off. of the Pub. Counsel v. Evergy Missouri West, Inc.*, 609 S.W.3d 857, 867-70 (Mo. App. W.D. 2020).

41. The Uniform System of Accounts’ General Instructions prescribes deferral accounting for unusual and infrequent events. 18 C.F.R. Part 201. The General Instructions frame extraordinariness as “abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future.” *Id.* The General Instructions offer five percent of a utility’s income as a presumptive threshold to determine “significance.” *Id.* The Commission has incorporated the Uniform System of Accounts into its regulation of gas utilities at 20 CSR 4240-40.040.

42. Deferral through an AAO is not considered retroactive ratemaking, and thus can be performed outside of a general rate case. *Mo. Gas Energy*, 210 S.W.at 335-36.

43. Winter Storm Uri, and its cascading customer impacts, is an extraordinary event of an unusual and infrequent nature.

44. The changes in natural gas prices during Winter Storm Uri were unprecedented in Missouri, and for SNGMO in particular. SNGMO experienced gas costs in February 2021 over four times SNGMO’s total gas costs for all of 2020.

45. This cost increase, and its cascading impact to OMC, can be considered abnormal or significant without considering SNGMO's income. *Report and Order – In re Applic. of Evergy Mo. Metro and Evergy Mo. West for an AAO Related to COVID-19 Expenses*, at 21-22, EU-2020-0350 (Jan. 13, 2021).

46. Furthermore, a demanded amount that threatens the financial stability of the only full-service hospital servicing eight counties is clearly extraordinary to those populations. Missouri continues to experience the public health impacts of COVID-19. OMC's services are more vital and necessary than ever to sustaining the region. Anything that threatens the health of a subpopulation of this state could increase health costs to the rest of the state, and is, therefore, a significant threat to the whole.

47. Because the demanded charge is a qualified extraordinary expense, OMC requests that the Commission order SNGMO to treat it as deferred expense in an AAO.

**COUNT II: UNAUTHORIZED DEMAND FOR CASHOUT IMBALANCE AND
REJECTION OF OFFERED PAYMENT PLAN**

48. OMC alleges and incorporates herein all preceding paragraphs.

49. SNGMO's tariff provides leniency for paying cashout imbalances in "special circumstances." (Sheet 37).

50. Although OMC disputes the approximately \$478,000 cashout debt, it has offered to pay the full amount using a payment plan that OMC's revenue streams can sustain.

51. SNGMO has been receptive to a payment plan, but has been unwilling to grant OMC a payment timeframe that OMC can sustain.

52. OMC's cashout imbalance obligations should be reevaluated in light of special circumstances, and the Commission should approve a payment plan as prayed for below.

53. Unlike other transportation gas customers, OMC is a not-for-profit medical provider, and has relatively less income compared to other transportation gas customers.

54. Paying the full disputed charge in the timeframe demanded by SNGMO would impair OMC's financial solvency and threaten its ability to continue to provide adequate medical care. OMC's continued ability to provide medical care for residents of eight counties, especially as the COVID-19 pandemic persists, is a special circumstance justifying a Commission-ordered payment arrangement.

55. OMC also has a more limited ability to curtail usage compared to other transportation gas customers.

56. The approximately \$478,000 in dispute is far greater than any past cashout debt OMC has been assessed, and largely the result of Winter Storm Uri's impact on local gas prices.

57. The impact of Winter Storm Uri is clearly a special circumstance. The storm was unprecedented in scale and magnitude, stretching across the entire continental United States, and increased natural gas prices to previously-unseen levels. Looking at SNGMO in particular, the February 2021 gas costs were four times its total gas costs for all of 2020.

58. The factors discussed in all preceding paragraphs, and particularly in paragraphs 53 through 57, demonstrate the "special circumstances" surrounding SNGMO's assessment of approximately \$478,000 against OMC.

PRAYER

WHEREFORE, OMC submits its Complaint and respectfully requests the Commission to:

- a. Issue an AAO to track and defer the entire demanded amount for future rate consideration in SNGMO's next general rate proceeding;

- b. Alternative to the relief requested in paragraph a, issue an order compelling SNGMO to address OMC's imbalance through a separate payment agreement as provided in SNGMO's tariff, whereby OMC will pay 10% of the demanded charge within thirty days following a Commission order, and pay the remainder in equal monthly installments over a ten-year period;
- c. Require SNGMO to file a full, itemized Answer;
- d. Order an appropriate intervention period;
- e. Order SNGMO to preserve all evidence of its actual costs and expenses incurred, and nomination, scheduling, and balancing activities regarding gas purchases, storage, sales, and transportation services in Missouri during the month of February 2021; and
- f. Order such other relief that the Commission deems just and proper.

Respectively submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically on this 10th day of December, 2021, with notice of the same being sent to the following counsel of record:

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