

Exhibit No:
Issue: **Accounting for the TCJA**
Witness: **Amanda Tolbert**
Sponsoring party: **Summit Natural Gas of Missouri**
Type of Exhibit: **Rebuttal Testimony**
Case No: **GR-2018-0230**
Date Testimony Prepared: **March 29, 2019**

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

**IN THE MATTER OF THE PROPRIETY)
OF THE RATE SCHEDULES FOR NATURAL) File No. GR-2018-0230
GAS SERVICE OF SUMMIT NATURAL)
GAS OF MISSOURI, INC.)**

**REBUTTAL TESTIMONY OF
AMANDA TOLBERT
CONTROLLER**

March 29, 2019

**SUBMITTED ON BEHALF OF
SUMMIT NATURAL GAS OF MISSOURI, INC.**

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. Amanda Tolbert, and my business address is 115 N. 12th Street, Fort Smith,
4 Arkansas.

5 **Q. ON WHOSE BEHALF IS YOUR TESTIMONY PRESENTED?**

6 A. I am testifying on behalf of Summit Natural Gas of Missouri, Inc. (“SNGMO” or the
7 “Company”).

8 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

9 A. I am the Controller for Summit Utilities, Inc. (“Summit”), the parent of SNGMO. I
10 am responsible for the accounting function of Summit and its subsidiaries, and for
11 ensuring that they comply with generally accepted accounting principles and
12 regulatory requirements.

13 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND RELEVANT
14 BUSINESS EXPERIENCE.**

15 A. For the 12 years preceding my role as Summit’s Controller, I worked in various
16 accounting roles at Arkansas Oklahoma Gas Corporation, and four years in public
17 accounting. I am a Certified Public Accountant and graduated from the University
18 of Central Arkansas with a Bachelor of Business Administration degree in
19 Accounting.

20 **Q. HAVE YOU FILED TESTIMONY BEFORE THIS OR ANY OTHER
21 REGULATORY COMMISSION?**

22 A. This is my first testimony before the Missouri Public Service Commission
23 (“Commission”). I recently filed testimony before the Colorado Public Utilities

1 Commission regarding a general rate case, and the Maine Public Utilities
2 Commission regarding the Tax Cuts and Jobs Act of 2017 (“TCJA”).

3 **II. PURPOSE OF TESTIMONY**

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

5 A. The purpose of my testimony is to respond to the direct testimonies of Amanda C.
6 McMellen of the Commission Staff (“Staff”) and John S. Riley of the Office of the
7 Public Counsel (“OPC”).

8 **III. LIST OF EXHIBITS SPONSORED IN TESTIMONY**

9 **Q. ARE YOU SPONSORING ANY EXHIBITS AS A PART OF YOUR TESTIMONY?**

10 A. Yes:

11 Schedule AT-1, Confidential, Revenue Deficiency Study

12 Schedule AT-2, ARAM

13 Schedule AT-3, Confidential, Net Regulatory Liability

14 **IV. RESPONSE TO STAFF’S TESTIMONY**

15 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF STAFF WITNESS AMANDA
16 C. MCMELLEN?**

17 A. Yes.

18 **Q. DO YOU AGREE WITH MS. MCMELLEN’S PROPOSED TREATMENT OF
19 EXCESS PROTECTED AND UNPROTECTED ACCUMULATED DEFERRED
20 INCOME TAX (“ADIT”)?**

1 A. Yes. As set forth in the ARAM schedule attached to Schedule AT-2, SNGMO
2 proposes to amortize its unprotected ADIT at the same annual level as its
3 protected ADIT. For example, in 2020, the ARAM schedule shows the annual
4 amortization of protected ADIT is \$123,595. Accordingly, for the same year, the
5 Company proposes to amortize the same amount of unprotected ADIT (\$123,595),
6 with the net effect being revenue neutral.

7 SNGMO proposes to begin amortizing protected and unprotected ADIT on January
8 1, 2019 and include the amortization catch-up for 2018 of \$221,689. Thus, the total
9 2019 amortization would be \$347,042 of protected and unprotected ADIT.

10 The total unprotected ADIT is a \$4,450,378 asset, while the total protected ADIT
11 is a \$9,482,259 liability. The Company is proposing to amortize protected and
12 unprotected ADIT on a revenue-neutral basis each year until its next general rate
13 case.

14 **Q. WHAT DOES STAFF PROPOSE IN REGARD TO SNGMO'S CURRENT**
15 **RATES?**

16 A. Staff proposes that the Commission authorize an Accounting Authority Order
17 ("AAO") that requires SNGMO to quantify, track and defer as a regulatory liability
18 all amounts associated with the reduced level of federal corporate income tax
19 expense pertaining to its Missouri natural gas rates from January 1, 2018, forward
20 to the effective date of rates in SNGMO's next general rate proceeding. Staff also
21 proposes that SNGMO's excess ADIT should be flowed back to customers in rates
22 over a time frame compliant with the TCJA.

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Q. DO YOU AGREE THE TCJA IS AN EXTRAORDINARY ITEM UNDER PART 201 OF TITLE 18 OF THE UNITED STATES CODE OF FEDERAL REGULATIONS (THE FEDERAL ENERGY REGULATORY COMMISSION UNIFORM SYSTEM OF ACCOUNTS)?

A. No. This is consistent with the Commission’s findings in prior orders that a change in tax expense is not extraordinary within the meaning of the applicable system of accounts. As noted in SNGMO’s May 17, 2018 Pre-Argument Brief in this case, the Commission concluded in 2015 that property tax payments are “normal, ordinary and recurring operation costs” which are not “extraordinary” within the meaning of General Instruction No. 7 under the system of accounts the Commission has specified for use by electric utilities operating in Missouri. More recently, in 2017, the Commission denied a water utility’s petition for an AAO to address an increase in property taxes on the grounds that “[t]here is nothing unusual or extraordinary about paying property taxes to warrant an AAO.” The Commission rejected the notion that a change in the calculation of a tax or a change in the tax rate can be considered an extraordinary event or transaction of the company for which a deferral order is available. The Commission concluded that the “event” or “transaction” within the meaning of both the FERC and NARUC Uniform System of Accounts is the payment of the tax by the utility which is a routine and normal cost of doing business. Annual income taxes, like property taxes, are a normal and routine business expense for utilities such as SNGMO. Consequently, changes in income tax rates are not unusual or infrequent

1 occurrences. Ms. McMellen provides no principled grounds for the Commission to
2 depart from its previous conclusions.

3 **Q. HAS THE COMPANY ANALYZED ITS EARNINGS IN LIGHT OF THE CHANGE**
4 **IN FEDERAL CORPORATE INCOME TAX RATE FROM 35% to 21%?**

5 A. Yes. SNGMO conducted a high-level cost of service analysis incorporating 2017
6 financial information using a 21% federal corporate income tax rate, which is
7 attached as Schedule AT-1, Confidential. This analysis shows that, with the 21%
8 federal corporate income tax rate, SNGMO is still underearning by approximately
9 \$16.9 million per year.

10 **Q. DO YOU AGREE WITH STAFF'S VIEW THAT A REDUCED FEDERAL INCOME**
11 **TAX RATE IS MATERIAL TO SNGMO'S NATURAL GAS OPERATIONS NET**
12 **INCOME?**

13 A. No. Ms. McMellen assumes SNGMO is earning at its full cost of service, but
14 (unfortunately) it is not. Ms. McMellen states that SNGMO's 2017 Net Income
15 Before Taxes was **, but for 2017 SNGMO actually had a pro forma
16 Net Income Before Taxes of **. For 2017, we estimate the Company
17 would have needed more than ** of additional revenue – a more
18 than ** increase, to earn its full cost of service. Deferring revenue would
19 further exacerbate the Company's underearning and limit the Company's ability to
20 refinance existing debt at favorable rates.

21 **Q. WHAT WERE SNGMO'S EARNINGS IN 2017?**

1 A. In 2017, SNGMO had a net loss of ** **.

2 **Q. WHAT WERE SNGMO'S EARNINGS IN 2018?**

3 A. In 2018, SNGMO had a net income of ** **.

4 **Q. DO YOU BELIEVE AN AAO IS APPROPRIATE TO ADDRESS THE TCJA?**

5 A. No. An AAO that requires recognition of a regulatory liability results in reduced
6 revenue in the period for the Company. As such, it impacts earnings like an actual
7 rate reduction, and therefore reduces EBITDA and net income. The impact of
8 lower earnings could limit the Company's ability to obtain financing at attractive
9 rates.

10 **IV. RESPONSE TO OPC'S TESTIMONY**

11 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF OPC WITNESS JOHN S.**
12 **RILEY?**

13 A. Yes.

14 **Q. WHAT DID MR. RILEY RECOMMEND IN HIS TESTIMONY?**

15 A. Mr. Riley recommended that SNGMO:

16 1. reduce its rates going forward;

17 2. create a regulatory liability to account for the excess earnings incurred from
18 January 1, 2018 to the date the Commission orders SNGMO's new rates to
19 become effective;

1 3. create a regulatory liability account to amortize the protected portion of the
2 excess ADIT; and

3 4. create another regulatory liability account to amortize the unprotected portion of
4 the excess ADIT.

5 **Q. DO YOU AGREE WITH MR. RILEY'S FIRST RECOMMENDATION ABOVE?**

6 A. No. A rate adjustment is not appropriate in the context of this case because it is
7 not a general rate proceeding. SNGMO has not filed proposed revised tariff sheets
8 or rate schedules, nor has any party filed a complaint alleging SNGMO is earning
9 in excess of its revenue requirement as determined in its last rate case.

10 **Q. IS SNGMO BILLING FOR AND COLLECTING REVENUE PURSUANT TO**
11 **TARIFFS AND RATE SCHEDULES APPROVED BY THE COMMISSION?**

12 A. Yes. SNGMO is operating in compliance with tariff sheets approved by the
13 Commission as determined at the conclusion of Case No. GR-2014-0086. From
14 and after the time those tariffs went into effect, the Company has billed its
15 customers in accordance with those rate schedules, collected payments from its
16 customers and applied the collections to pay its expenses in providing safe and
17 reliable service to its customers.

18 **Q. IS THERE ANY BASIS FOR CONCLUDING SNGMO IS EARNING IN EXCESS**
19 **OF ITS COMMISSION-DETERMINED REVENUE REQUIREMENT?**

20 A. No. To the contrary, SNGMO is substantially underearning, and any rate reduction
21 would only exacerbate an already difficult situation.

1 **Q. DO YOU AGREE WITH MR. RILEY'S SECOND RECOMMENDATION ABOVE?**

2 A. No. As described above, a regulatory liability would have the effect of reducing
3 revenue and earnings and unreasonably burden the Company.

4 **Q. DO YOU AGREE WITH MR. RILEY'S THIRD AND FOURTH**
5 **RECOMMENDATIONS ABOVE?**

6 A. No. Separately amortizing protected and unprotected ADIT would be
7 administratively burdensome and cause unnecessary rate instability that could
8 confuse customers. A revenue neutral approach for addressing protected and
9 unprotected excess ADIT using a net regulatory liability would provide greater rate
10 stability and allow the Commission to resolve amortization of any remaining
11 unprotected ADIT in SNGMO's next rate case.

12 **Q. IS SNGMO PROPOSING TO AMORTIZE A REGULATORY ASSET FOR A**
13 **PERIOD BETWEEN 21 AND 25 YEARS?**

14 A. No. SNGMO is proposing to amortize the regulatory asset utilizing the
15 methodology described until such time as it completes its next general rate case,
16 at which time an amortization schedule can be determined within the context of
17 rate adjustments.

18 **Q. WHAT MAKES UP THE UNPROTECTED ADIT?**

19 A. Unprotected ADIT is primarily made up of the Company's net operating losses
20 ("NOLs") from previous years. Schedule AT-3, Confidential lists other factors taken
21 into consideration, however, 98% of the unprotected ADIT is from NOLs.

1 **Q. WHY DID THE COMPANY INCLUDE ITS NOL IN UNPROTECTED ADIT?**

2 A. In a series of private letter rulings, the Internal Revenue Service (“IRS”) has stated
3 that reducing rate base by the amount of the ADIT without considering the NOL
4 ADIT would violate the normalization rules. Violation of the IRS normalization rules
5 could lead to the Company’s inability to continue to claim accelerated depreciation
6 for income tax purposes. The IRS rulings refer to the issue of “unrealized” ADIT
7 when an NOL ADIT exists and in one ruling concludes:

8 “...the reduction of Taxpayer’s rate base by the full amount of its ADIT account
9 balances offset by a portion of its NOLC-related account balance that is less than
10 the amount attributable to accelerated depreciation computed on a ‘with or without’
11 basis would be inconsistent with the requirements of § 168(i)(9) and § 1.167(l)-1
12 of the Income Tax regulations.”¹

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes.

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¹ PLR 201436037, page 7

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF MISSOURI

IN THE MATTER OF THE PROPRIETY OF THE)
RATE SCHEDULES FOR NATURAL GAS SERVICE) File No. GR-2018-0230
OF SUMMIT NATURAL GAS OF MISSOURI, INC.)

AFFIDAVIT OF AMANDA TOLBERT

STATE OF ARKANSAS)
) ss
COUNTY OF SEBASTIAN)

Amanda Tolbert, of lawful age and being first duly sworn, deposes and states:

1. My name is Amanda Tolbert. I am the Controller of Summit Utilities, Inc.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Amanda Tolbert
Controller

Subscribed and sworn before me to this 28th day of March, 2019.


Notary Public

My Commission expires: April 23, 2023

