

Exhibit No.:
Issue(s): *Affiliated Transactions*
Witness: *Jamie S. Myers*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *GO-2012-0322*
Date Testimony Prepared: *August 5, 2019*

MISSOURI PUBLIC SERVICE COMMISSION
COMMISSION STAFF DIVISION

REBUTTAL TESTIMONY

OF

JAMIE S. MYERS

SUMMIT NATURAL GAS OF MISSOURI, INC.

CASE NO. GO-2012-0322

Jefferson City, Missouri
August 2019

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1 Q. What is the purpose of your rebuttal testimony?

2 A. The purpose of my testimony is to describe Staff's involvement in this
3 Cost Allocation Manual ("CAM") proceeding and provide an overview of Staff's position on
4 the Direct Testimony and CAM document submitted by Summit Natural Gas of Missouri, Inc.
5 ("SNGMO") witness Steven E. Birchfield. Staff witness Amanda C. McMellen also provides
6 rebuttal testimony responding to Mr. Birchfield's direct.

7 **STAFF'S PARTICIPATION**

8 Q. Please describe the history of this case.

9 A. On March 28, 2012, SNGMO filed an Application containing a CAM document
10 and request for Commission approval. SNGMO's request cited language from the Commission's
11 affiliate transactions rule that regulated gas corporations shall use a "Commission-approved
12 CAM" for transactions involving the purchase of goods or services from an affiliated entity, and
13 a provision from a unanimous stipulation and agreement in a prior merger case, as reasons for
14 the CAM filing.¹

15 No intervention requests were filed, and on May 21, 2012, SNGMO, Staff, and
16 Office of the Public Counsel ("OPC") (collectively the "Parties") filed a joint request asking the
17 Commission to allow the Parties to continue discussions and accept the filing of monthly status
18 reports until such time as SNGMO files a CAM that was acceptable to all Parties.² The
19 Commission granted the joint request and the Parties continued discussions and filed a series of
20 status reports spanning from June 29, 2012, until May 31, 2016. On May 31, 2016, Staff filed a
21 Status Report that contained a request for the Parties to be relieved of filing monthly status

¹ See *Application*, Case No. GO-2012-0322, EFIS Item No. 1, Submitted March 28, 2012.

² See *Joint Request Regarding Continuing Discussions*, Case No. GO-2012-0322, Submitted May 21, 2012.

1 reports until August 31, 2016, as Staff intended to move the proceeding forward more
2 expeditiously by submitting additional data requests and scheduling additional meetings.³ The
3 Commission granted the Parties' request, and during the three month period Staff submitted data
4 requests to SNGMO, the Parties convened for a conference call, and Staff submitted follow-up
5 data requests to SNGMO; however the Parties were unable to reach a resolution and commenced
6 filing monthly status reports again on August 31, 2016.

7 In its September 28, 2018, status report Staff included a request that the
8 Commission temporarily relieve Staff of filing monthly status reports. Discussions among the
9 Parties had been productive, and although the Parties had not been able to prioritize the SNGMO
10 CAM over other cases with imminent deadlines, it appeared reasonable to Staff that a resolution,
11 or an agreement on a procedural schedule to resolve outstanding issues, could be reached by the
12 end of December 2018. Again, the Commission granted Staff's request, and although the
13 Parties met, neither a resolution, nor a procedural schedule was agreed upon. Meetings
14 among the Parties continued, and Staff filed an additional status report in 2019, before
15 SNGMO and Staff filed a Motion for the Adoption of a Procedural Schedule on May 28, 2019,
16 which was subsequently modified by the Parties on May 31, 2019. The Commission granted
17 the Parties' request, which led to SNGMO filing a CAM and supportive Direct Testimony
18 on June 28, 2019.

19 Q. Please explain Staff's participation in this case.

20 A. Staff has submitted several rounds of data requests and follow-up data requests to
21 SNGMO. Staff also attended and participated in all meetings and discussions among the Parties.

³ See *Staff's May, 2016 Status Report and Request that the Parties Be Relieved of Filing Monthly Status Reports. Until Staff Commences Filing Monthly Status Reports on August 31, 2016*, Case No. GO-2012-0322, EFIS Item No. 62, Submitted May 31, 2016.

1 Staff has sent questions, feedback or suggestions to SNGMO respecting its CAM proposals, and
2 as SNGMO witness Birchfield notes, SNGMO has incorporated many of Staff's edits and
3 suggestions in the CAM document included in his direct filing.⁴

4 Q. Please explain your involvement in this case.

5 A. I started attending technical conferences in April 2018 and was involved in every
6 round of comments and revisions thereafter. While all of the technical conferences up to that
7 point, and beyond, are treated as confidential settlement discussions, by the time I became
8 involved, discussions among the parties seemed to be progressing towards a resolution of the
9 case. Prior to April 2018, a technical Staff person and at least one attorney from the Staff
10 Counsel's Office attended every conference. Although I had not been attending technical
11 conferences in-person prior to April 2018, Natelle Dietrich ("Staff Director") and I received
12 progress updates from attending Staff. Such a process is typical of many cases where
13 Staff management may not be involved in all early technical conferences, but either Ms. Dietrich
14 or I attend when discussions move toward internal vetting of Staff's position(s) or
15 settlement discussion.

16 **STAFF'S RECOMMENDATION**

17 Q. What is Staff's recommendation?

18 A. Staff has reviewed Mr. Birchfield's direct testimony and the corresponding
19 SNGMO CAM and recommends the Commission approve SNGMO's proposed CAM with two
20 modifications. The first recommended modification is on page 24, Schedule SEB-1

⁴ Direct Testimony of Steven E. Birchfield, page 8, lines 2-3.

1 (“the CAM”), TAB H, under the heading **MARKETING AFFILIATE TRANSACTIONS 4**

2 **CSR 240-40.016**, Staff recommends SNGMO include the following language:

3 If SNGMO decides to utilize a natural gas marketing, pipeline,
4 or storage affiliate, SNGMO agrees to implement Commission
5 approved Gas Supply and Transportation Standards of Conduct
6 (“SOC”) prior to conducting affiliate transactions which impact
7 SNGMO’s PGA/ACA costs.

8 Staff’s language suggestion is similar to language Staff and Ameren Missouri agreed to in the
9 Stipulation and Agreement filed in Ameren Missouri’s CAM case.⁵ Like SNGMO, Ameren
10 Missouri does not currently utilize a natural gas marketing affiliate to sell gas to the local
11 distribution company, but the agreed upon language in Ameren Missouri’s CAM would require
12 Ameren Missouri, and in this situation, SNGMO, to implement a Commission approved Gas
13 SOC before it could conduct affiliate transactions which would impact Ameren Missouri’s
14 PGA/ACA cost, and in this situation SNGMO’s PGA/ACA cost. Spire Missouri currently has
15 an active natural gas marketing affiliate that it transacts with and also a Commission
16 approved SOC.⁶

17 Staff counsel communicated this suggestion to SNGMO’s counsel who stated that
18 SNGMO is agreeable to including this Staff language suggestion.

19 Staff’s second recommended modification is on the bottom of page 3 of the CAM,
20 TAB A. The very last sentence of that page contains the following: “SNGMO will be seeking
21 a variance based on good cause to continue this practice”. The practice being referred to is that of

⁵ See *Stipulation and Agreement*, File No. EO-2017-0176, EFIS Item No. 34, Filed November 30, 2018, VI. Gas Operations., Paragraph 14, page 8.

⁶ *Order Approving Stipulation and Agreement*, File No. GC-2011-0098, EFIS Item No. 108, Issued August 14, 2013., Effective August 24, 2013, Gas Supply and Standards of Conduct, Appendix 2. and *Order Approving Unanimous Stipulation and Agreement*, File No. GM-2013-0254, Issued July 17, 2013. Effective July 31, 2013, II. Conditions, 14. Gas Supply and Hedging Plans, Paragraph “g.”, pages 25 of 43.

1 SNGMO and its *regulated* natural gas utility affiliates providing support services to one another.
2 On that same page SNGMO describes some of the support services that are “shared” among
3 SNGMO and regulated affiliates and states this practice was adopted, in part, to leverage
4 expertise and enhance operations. There is no mention of a variance in Mr. Birchfield’s 12 pages
5 of direct testimony. The sole reference is on the bottom of page 3 of the CAM, TAB A.

6 While the plain language of the Affiliate Transaction Rules (“ATRs”) applies
7 asymmetrical pricing requirements to *all* affiliate transactions, as noted in Staff witness
8 McMellen’s rebuttal testimony, and the purpose section of the rule itself,⁷ the intent of the ATRs
9 is to prevent regulated utilities from subsidizing their *non-regulated* operations.⁸ SNGMO’s use
10 of shared support services is among its regulated affiliates, and thus, are not the types of
11 transactions intended to be covered by the ATRs. Therefore, Staff does not believe a variance
12 would be required, especially since the rule allows for utilities, when determining fair market
13 price, to demonstrate why competitive bids are either unnecessary or inappropriate.

14 Staff counsel reached out to counsel for SNGMO and inquired if SNGMO
15 was still intending to seek a variance, or if the sentence referring to a variance was mistakenly
16 included. Counsel for SNGMO informed Staff counsel that the language referencing a variance
17 was mistakenly included and SNGMO is not requesting a variance. Staff agrees that SNGMO
18 does not need a variance for the particular services mentioned in the CAM that are shared

⁷ Commission Rule 4 CSR 240-40.015.

⁸See also *State ex rel Atmos Energy Corp. v. PSC*, 103 S.W.3d 753, 763-64 (Mo. 2003). The Court noted:

In its brief, the PSC explained that the rules are a reaction to the emergence of a profit-producing scheme among public utilities termed “cross-subsidization,” in which utilities abandon their traditional monopoly structure and expand into non-regulated areas. This expansion gives utilities the opportunity and incentive to shift their non-regulated costs to their regulated operations with the effect of unnecessarily increasing the rates charged to customers.

1 among SNGMO and regulated affiliates and recommends that the sentence be removed
2 from SNGMO's CAM.

3 With the additional language inclusion and removal of the seeking a variance
4 language, Staff would recommend the Commission approve SNGMO's CAM as filed by
5 witness Birchfield.

6 Q. Does this conclude your rebuttal testimony?

7 A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Summit)
Natural Gas of Missouri, Inc. for Approval) Case No. GO-2012-0322
of its Cost Allocation Manual)

AFFIDAVIT OF JAMIE S. MYERS

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

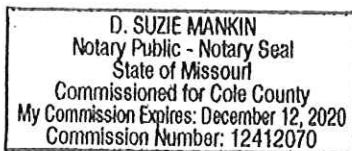
COMES NOW JAMIE S. MYERS and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Rebuttal Testimony*; and that the same is true and correct according to her best knowledge and belief.


Further the Affiant sayeth not.


JAMIE S. MYERS

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 2nd day of August 2019.




Notary Public

CREDENTIALS AND CASE PARTICIPATION

JAMIE S. MYERS

POSITION:

Commission Staff Deputy Director

EDUCATION:

B.A. Environmental Studies, University of Missouri

J.D. University of Missouri

EXPERIENCE:

I began employment at the Commission in May 2014 in the Staff Counsel Department. I transitioned to my current position as Commission Staff Deputy Director in April 2017. Prior to my employment at the Commission, I spent four years working in education and research.

My job duties include assisting the Commission Staff Director in overseeing all aspects of the Commission Staff. Previously, I was the designated lead on the general review of the Commission's rules, pursuant to Executive Order 17-03. In my prior position at the Commission, I was the assigned attorney on several rate cases, complaints, and various applications.

TESTIMONY:

GR-2017-0215

GR-2017-0216

GR-2018-0013

EA-2018-0202

EA-2019-0010

EO-2017-0176

EA-2019-0181