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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Application of Questar Gas Company to Make Tariff Modifications to Charge Transportation Customers for use of Supplier-Non-Gas Services</p>	<p>Docket No. 14-057-31</p> <p>RESPONSE BY SUMMIT ENERGY, LLC IN OPPOSITION OF THE MOTION BY THE OFFICE OF CONSUMER SERVICE TO STRIKE PORTIONS OF THE PREFILED SURREBUTTAL TESTIMONY OF MICHAEL R. McGARVEY ALONG WITH THE RESPONSE IN SUPPORT BY THE DIVISION OF PUBLIC UTILITIES</p>
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Summit Energy, LLC hereby responses to the Motion submitted by the Office of Consumer Service (OCS) and states the following:

1. On Friday, August 21, 2015 the Office of Consumer Services (“OSC”) made a motion to strike certain portions of the Surrebuttal Testimony of Michael R. McGarvey (“Motion”) stating that it was the position of the OSC that the testimony was inconsistent with Commission practice and unfairly disadvantaged the OSC.

2. On Monday, August 24, 2015 the Division of Public Utilities (“DPU”) filed a Response to the Motion supporting the position of the OSC and also motioning to strike additional parts of the Testimony of Michael R. McGarvey.
3. On Monday, August 24, 2015 the Petitioner, Questar Gas Corporation, also filed a Response to the Motion supporting the position of the OSC.
4. The Public Service Commission of Utah (“Commission”) issued a Scheduling Order on January 7, 2015 (“Scheduling Order”) in this docket.
5. Pursuant to the Scheduling Order the following schedule was established for prefiled testimony: May 5, 2015 - Direct Testimony of all parties other than Questar Gas Company, DPU and OCS; July 2, 2015 – Direct Testimony of DPU and OCS; July 31, 2015 – Rebuttal Testimony of all parties; and August 14, 2015 – Surrebuttal Testimony of all parties.
6. Michael McGarvey filed Direct Testimony on May 5, 2015 on behalf of Summit Energy, LLC.
7. Jerome D. Mierzwa filed Direct Testimony on July 2, 2015 on behalf of the OCS.
8. The Direct Testimony of Mr. Mierzwa responded to the Direct Testimony of Michael McGarvey previously submitted, along with other intervening parties in the Docket, (Direct Testimony of Jerome D. Mierzwa, lines 41- 49) in addition to presenting the results of Mr. Mierzwa’s review of the issues in this Docket, thereby being both direct testimony and rebuttal testimony under the

Scheduling Order. The Surrebuttal Testimony by Mr. McGarvey was therefore an appropriate and proper method of responding to the Direct Testimony of Mr. Mierzwa under the Scheduling Order.

9. The allegation by OCS, as supported by the DPU and the Petitioner, that the Surrebuttal Testimony of Mr. McGarvey relating to the testimony of Mr. Mierzwa unfairly disadvantaged other parties ignores the plain language of the Scheduling Order and the direct language of the testimony of Mr. Mierzwa.
10. OCS and other parties have had adequate opportunity to respond to the testimony of Mr. McGarvey, and OCS did fully respond to the testimony of Mr. McGarvey through the testimony of Mr. Mierzwa.
11. The OCS has attempted to take unfair advantage of the Scheduling Order by combining its rebuttal of Mr. McGarvey's Direct Testimony with the Direct Testimony of Mr. Mierzwa and then expecting to get an extra opportunity to reply to the surrebuttal of the rebuttal of Mr. McGarvey's Direct Testimony. The OCS, DPU and Petitioner now attempt to preclude the testimony of Mr. McGarvey which was properly submitted simply because it addresses the inconsistencies and errors contained in Mr. Mierzwa's proffered response to Mr. McGarvey's Direct Testimony. The Scheduling Order does not allow the multiple response opportunities that the OCS asserts it has been unfairly denied.

12. The response of the DPU to the Motion also requests the Commission to strike testimony contained in the Surrebuttal Testimony of Mr. McGarvey which refers to the direct testimony of Douglas Wheelwright.
13. The reference to Mr. Wheelwright's testimony contained in the Surrebuttal Testimony of Mr. McGarvey was not a rebuttal or response to his testimony, but simply an acknowledgement and reiteration that Mr. Wheelwright's testimony stated that adequate tools are already in place under the current tariff structure to improve the nomination process without additional charges. Mr. McGarvey agrees with Mr. Wheelwright on this point. No response or rebuttal is needed to a reference of this kind, since Mr. McGarvey was agreeing with the proposition stated by Mr. Wheelwright in his testimony.
14. The DPU was not prejudiced by a simple supporting reference to testimony of Mr. Wheelwright on the issue addressed in the Surrebuttal Testimony of Mr. McGarvey.
15. No party was prejudiced by the method that Summit Energy, LLC elected to use provide its testimony in compliance with the Scheduling Order.
16. Striking the contested testimony would unfairly limit the ability of Summit Energy, LLC to provide testimony consistent with the Scheduling Order and would leave the Commission with an incomplete record.

WHEREFORE, Summit Energy, LLC hereby respectfully requests that the

motions of both the OCS and the DPU be denied and that the Surrebuttal Testimony of Mr. McGarvey be accepted in full.

DATED this 26th day of August, 2015.

/s/

Larry R. Williams
Counsel for Summit Energy, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 26th day of August, 2015, on the following:

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