

**BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE BILLING )  
PRACTICES OF SUMMIT UTILITIES )  
ARKANSAS, INC. )**

**DOCKET NO. 23-015-U**

**SUPPLEMENTAL DIRECT TESTIMONY OF  
CHARLES J. HARDER**

**ON BEHALF OF**

**THE OFFICE OF ARKANSAS  
ATTORNEY GENERAL TIM GRIFFIN**

June 15, 2023

**DOCKET NO. 23-015-U**

**SUPPLEMENTAL DIRECT TESTIMONY OF CHARLES J. HARDER**

**I. Introduction**

**Q. Please state your name and business address.**

A. Charles J. Harder. My business address is 323 Center Street, Suite 200, Little Rock, Arkansas 72201.

**Q. Are you the same Charles J. Harder who filed direct testimony in this proceeding on March 31, 2023?**

A. Yes, I am.

**Q. Are you still filing testimony on behalf of the Office of Attorney General Tim Griffin (“AG”)?**

A. Yes. However, in accordance with Commission Order Nos. 2, 7 and 8, this testimony is also offered jointly on behalf of Arkansas Gas Consumers, Inc. (AGC) and Robert Weyrens and Beau Roberson (Petitioners or Weyrens, et al.).<sup>1</sup>

**Q. What is the purpose of your supplemental direct testimony?**

A. I am providing testimony responsive to Order No. 9 which seeks the following information:

“In order to aid in the resolution of the alleged billing errors in this Docket, the Parties are directed to include in their testimony specific details on how many customers’ bills were in error, what those errors were (such as meter reading, failure to acknowledge payments, estimated billing errors, etc.), how many customers’ bills have been corrected as of the date of filing the testimony, and how many customers’ bills are still in error and not corrected by Summit. Also, the Parties are

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<sup>1</sup> In Order No. 2, “the Commission grant[ed] the interventions of Petitioners Weyrens et al. and AGC so long as they participate jointly as one Party with the ratepayer class represented by the AG.”

directed to identify which statutes or APSC Commission orders or rules were violated by the identified errors. Finally, the Parties are directed to suggest appropriate remedies, if any, other than correction of the billing errors by Summit.”

## **II. Billing Errors**

**Q. Please briefly describe the billing errors identified in your Direct Testimony.**

A. As indicated in my Direct Testimony, the AG identified three distinct errors in Summit’s billing process: a data processing issue that caused thousands of bills to be based on estimated usage instead of actual usage; the failure to acknowledge hundreds of customer payments made during the transfer of billing from CERC to Summit; and issuing February’s bills before the extended due date of January’s bills and failing to acknowledge the timely payment made by hundreds of customers.

**Q. Are these the only billing errors that have occurred since January 10, 2022 – the date that Summit acquired CERC’s Arkansas LDC operations?**

A. No. Summit has identified eight (8) other billing issues that were discovered and resolved during the period from October 28, 2022, through February 23, 2023.<sup>2</sup> The Company has not reported any billing issues since February 23, 2023. To my knowledge, the Attorney General has not received any complaints about these billing issues.

### **The Data Processing Issue (Estimated Billing Error)**

**Q. Please summarize the estimated billing error.**

A. From January 18-25, 2023, Summit erroneously issued estimated bills to 128,292 Arkansas residential and small commercial customers for the meter reading period of January 17-24, 2023. During that same time period, Summit properly issued 55 estimated bills and 513 bills based on actual usage.<sup>3</sup>

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<sup>2</sup> See Exhibit CJH-12 (SUA Response to AG Request No. 1-17).

<sup>3</sup> See Exhibit CJH-13 (SUA Responses to AG Request Nos. 1-1 and 1-2).

1   **Q.     What caused the billing error?**

2   A.     On January 17, 2023, Summit updated the portion of its billing system that estimates usage  
3           before the system checks for actual meter readings. A flaw in the update caused the billing  
4           system to use estimated readings for 128,292 customers, even though actual readings were  
5           available for those customers.<sup>4</sup> On January 26, 2023, Summit Information Technology  
6           (“IT”) personnel became aware of the data processing issue and fixed it.<sup>5</sup>

7   **Q.     What percentage of residential and small commercial bills were issued in error for**  
8           **this time period?**

9   A.     99.6% of the 128,860 bills issued from January 18-25, 2023, were incorrect.

10   **Q.     Have the estimated billing errors been corrected?**

11   A.     The vast majority have been. From January 30 through February 1, 2023, Summit issued  
12           corrected bills based on actual usage to 128,095 customers.<sup>6</sup> As previously indicated,  
13           128,292 customers received erroneously issued estimated bills. Summit has not indicated  
14           what occurred with regard to the other 197 affected customers.

15   **Q.     Under what circumstances does Summit have to rely upon estimated usage where**  
16           **actual meter readings are not available?**

17   A.     The Company has identified three instances where it must rely upon estimated usage:  
18           instances where the meter is inaccessible or impractical for reading; instances of equipment  
19           failure; or tampering.<sup>7</sup> Widespread reliance on estimated usage can occur when weather,  
20           such as ice storms, tornado or flood, makes it unsafe for drivers to collect meter readings.

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<sup>4</sup> See Exhibit CJH-14 (SUA Response to AG Request No. 1-3).

<sup>5</sup> See Exhibit CJH-15 (SUA Response to AG Request No. 1-7).

<sup>6</sup> See Exhibit CJH-16 (SUA Responses to AG Request Nos. 1-8, 1-9 and 1-10).

<sup>7</sup> See Exhibit CJH-17 (SUA Response to AG Request No. 1-22).

1 **Q. Has the Company updated its internal controls or training as a result of the data**  
2 **processing issue?**

3 A. Yes. In response to AG Request No. 1-4, Summit indicated the following:

4 “When the Data Processing issue was discovered, two new checks were  
5 implemented: The first one was the addition of the number of estimated bills to the  
6 Control Total Report produced by the print vendor. If the number of estimated bills  
7 exceeds the predetermined allotment for a cycle, an investigation is initiated to  
8 determine the reason. The second check occurs during the billing process to ensure  
9 the billing period is between 25 and 35 days. APSC rule 5.03.A(2). In support of  
10 this rule, if the bill is over 35 days, it is flagged for an analyst to review, and an  
11 adjustment is made so the customer receives a bill within the 25–35-day period.

12 “Lastly, we have also retrained our team that reviews the bill images. On the bill  
13 we have always displayed ‘Estimate’, ‘Normal’, or ‘Final’, in support of APSC rule  
14 5.01.J which states; ‘If a utility estimates usage, this fact shall be clearly shown on  
15 the bill.’ The analysts now ensure the proper read type is displayed. If an error is  
16 found, the bill is pulled from mailing and a correction is applied and the account is  
17 rebilled giving the customer a revised due date to reflect the new mail date. Mailing  
18 addresses are also spot checked to catch printing errors.”<sup>8</sup>

19 **Q. With respect to the estimated billing error, has Summit violated Rule 5.08 of the**  
20 **General Service Rules?**

21 A. No. However, the fact that a public utility’s billing system could issue hundreds of  
22 thousands of bills based on estimated usage for up to two months and still fall within Rule  
23 5.08 exposes a significant problem with the General Service Rules.

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<sup>8</sup> See Exhibit CJH-18, (SUA Response to AG Request No. 1-4).

1 **Q. Should there be consequences for billing errors of this magnitude?**

2 A. Yes. The Commission can order prospective changes to address the data processing issue,  
3 although the Company appears to have considered additional internal controls and training  
4 to prevent recurrence of the billing errors. The Commission could also consider customer  
5 service problems in setting the rate of return for the Company in its next general rate case.<sup>9</sup>

6 **Q. What prospective changes does the AG recommend?**

7 A. The Company plans to provide “up to” twelve-month delayed payment agreements to its  
8 customers who cannot make a single payment to pay their bill and avoid disconnection.<sup>10</sup>  
9 Low income and fixed income customers may struggle to pay their bills for current usage  
10 on top of the monthly payment of the past due amount. The AG recommends that, for  
11 customers who would qualify for financial assistance under Ark. Code Ann. § 23-2-  
12 304(a)(11), the repayment period be set at a period of up to thirty-six (36) months.

13 **Estimated Usage Methodology**

14 **Q. Has the Company described how it estimates usage?**

15 A. Yes. The Company follows the methodology set forth in Rule 5.08 of the General Service  
16 Rules.<sup>11</sup>

17 **Q. Are there flaws in this methodology?**

18 A. Yes. Rule 5.08 requires that the utility “shall use the customer’s consumption for the same  
19 time period at that location the year before.” The widespread issuance of estimated bills  
20 exposed situations where the prior year usage was significantly higher than current year  
21 usage, particularly in situations where structures were occupied in January 2022 but not

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<sup>9</sup> APSC Docket No. 04-121-U, Doc. No. 286, Sept. 19, 2005, Order No. 16, pp. 94-104.

<sup>10</sup> Doc. No. 62, May 26, 2023, SUA’s Motion for Clarification of Order No. 6 and Request for Waiver of General Service Rule 2.03.B, p. 6.

<sup>11</sup> See Exhibit CJH-19 (SUA Response to AG Request No. 1-5).

1 occupied in January 2023. Rule 5.08 does not consider changes in customer usage patterns  
2 that could address this flaw.

3 **Q. Do other utilities consider changes in customer usage patterns in estimating bills?**

4 A. Yes. Arkansas Oklahoma Gas Corporation (“AOG”), Entergy Arkansas and Oklahoma Gas  
5 and Electric have exemptions from Rule 5.08 to employ more sophisticated methods for  
6 estimating customer bills. AOG, for example, uses “the most recently-available, prior-  
7 billing-period data in the estimation of customer bills” and “the averaging of Small  
8 Business consumption over two (2) billing periods (the prior billing period and the prior  
9 year billing period, when available.” AOG Tariff Sheet 1 (Exemptions).<sup>12</sup>

10 **Data Transfer Issue**

11 **Q. Please explain the transfer of data from CERC to Summit.**

12 A. As I indicated in my direct testimony, Summit had many issues in the transfer of data from  
13 CERC. The AG determined that there were numerous instances in which payments that  
14 consumers made to CERC were not credited to Summit customer bills upon the transfer of  
15 those customer accounts from CERC to Summit. After being alerted to the AG’s findings,  
16 Summit subsequently determined that the CERC payment processing system was holding  
17 payments made by 510 Summit customers in Arkansas, totaling approximately  
18 \$39,356.70.<sup>13</sup> System-wide, the number of customers affected was 598, and the total  
19 amount was \$47,098.08.

20 **Q. Have payments been credited to customer accounts?**

21 A. For the most part. On February 15, 2023, Summit applied \$44,201.65 of the missing  
22 payments to 572 customer accounts. The remaining 26 payments totaling \$2,896.43 could  
23 not be traced to an existing customer account.<sup>14</sup>

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<sup>12</sup> See Direct Testimony of Michael C. Carter, Docket No. 03-180-U (Oct 20, 2003).

<sup>13</sup> Exhibit CJH-20 (SUA Response to AG Request No. 1-13).

<sup>14</sup> Exhibit CJH-21 (SUA Responses to AG Request Nos. 1-16).

**The “Failure to Credit Payment” Issue**

**Q. Please describe the third billing issue.**

A. In February, the AG discovered yet another billing issue impacting Summit customers. As previously indicated, the 167,000 Summit customers in Arkansas and Oklahoma who were affected by the January estimated bill issue received a corrected January bill along with additional time to pay the bill.<sup>15</sup> This additional time to pay caused an additional issue for many of these customers when they received their February bill.

Customers on autopay, which processes on the bill’s due date, as well as non-autopay customers who paid their January bill during the extended period provided for payment, received a February bill with a total amount due reflecting the sum of the January bill and the new charges for February. For many Arkansans already struggling to pay high gas bills this winter, this added insult to injury when they saw the large number at the bottom of their February bill. Exhibit CJH-11 is an example of such a bill.<sup>16</sup> Despite the customer’s only owing \$438.84 for current charges, the bill shows a total amount due of \$867.14.

According to the Company, this affected approximately 52,000 customers.<sup>17</sup>

The Company maintains that there was no failure to credit payment issue.<sup>18</sup> However, despite this denial the Company affirms the accuracy of the AG’s findings.

In response to discovery, the Company stated: “The company rebilled the customers affected by the data processing issue and extended their due date to maintain the required 22-day due date. When the February bills were issued some of the January bills would not have reached their due date. If the customer had not paid their January bill at the time the

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<sup>15</sup> See Doc. No. 07, Mar. 31, 2023, Direct Exhibits of Charles J. Harder on Behalf of The Office of Arkansas Attorney General Tim Griffin, Exhibit CJH-6, pp. 20-22.

<sup>16</sup> Doc. No. 07, Mar. 31, 2023, Direct Exhibits of Charles J. Harder on Behalf of The Office of Arkansas Attorney General Tim Griffin, Exhibit CJH-11, pp. 37-38.

<sup>17</sup> M. Glisovic, *Summit’s CEO apologizes for auto-draft issue, says March bills should be accurate*, KATV 7 On Your Side (Mar. 1, 2023), <https://katv.com/community/7-on-your-side/summits-ceo-apologizes-for-auto-draft-issue-says-march-bills-should-be-accurate>.

<sup>18</sup> See Exhibit CJH-22 (SUA Response to AG Request Nos. 2-2 through 2-5).

1 February bill was issued the January balance would have shown as a previous balance and  
2 included in the total amount due. As soon as the company received the customer's payment  
3 it was credited to their account.”

4 “If the customer is on Auto-Pay the due date would have been extended. The customer's  
5 Auto-Pay accounts are drafted on the due date for their current charges only. The February  
6 bill was issued reflecting both the current and previous month's charges, and the previous  
7 month's charges were drafted on their extended due date.”<sup>19</sup>

8 This perfectly describes the problem and confusion many customers reported to the AG.<sup>20</sup>

9 **Q. Does this conclude your supplemental direct testimony?**

10 **A.** Yes. Thank you.

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<sup>19</sup> See Exhibit CJH-23 (SUA Response to AG Request No. 2-2).

<sup>20</sup> See e.g. Doc. No. 07, Mar. 31, 2023, Direct Exhibits of Charles J. Harder on Behalf of The Office of Arkansas Attorney General Tim Griffin, Exhibit 11, pp. 37-38.

**CERTIFICATE OF SERVICE**

I, Clay Layson, certify that on this 15th day of June, 2023, I filed a copy of the foregoing utilizing the Commission's Electronic Filing System, which caused a copy to be served upon all parties of record via electronic mail.

/s/ Clay Layson  
Clay Layson