

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

Staff of the Missouri Public Service
Commission,

Complainant,

v.

Missouri Pipeline Company, LLC,
Missouri Gas Company, LLC, Omega
Pipeline, LLC, Mogas Energy, LLC,
United Pipeline Systems, Inc., and
Gateway Pipeline Company, LLC

Respondents.

Case No. GC-2006-0378

**STAFF’S MOTION TO HOLD CASE IN ABEYANCE
PENDING RESOLUTION OF CASE NO. GC-2006-0491 or IN THE
ALTERNATIVE DELAY THE DATE FOR FILING DIRECT TESTIMONY AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW Staff of the Public Service Commission, and in support of its Motion to Hold Case in Abeyance Pending Resolution of Case No. GC-2006-0491 states:

1. On March 31, 2006, Staff filed its Complaint in this case alleging, among other things that Respondents engaged in discriminatory affiliate transactions in violation of the Commission’s Affiliate Transactions Rules, and specifically:

Count I, MPC and MGC’s rates are excessive, and therefore not just and reasonable;

Count II, that due to common control and operation of the intrastate pipelines, UPSI, Omega, Gateway, and Mogas are all regulated gas corporations;

Count III, Gateway, Omega, MPC and MGC have violated the Commission’s affiliate transactions rules;

Count IV, Respondents have purported to pledge pipeline assets without the statutorily required authorization from the Commission, and therefore, the purported security interests are void. Sections 386.020(42) and 393.190.

NP

2. After some investigation, Staff filed Case No. GC-2006-0491, which alleges that Respondents violated their tariffs. Specifically Staff stated: ** _____

_____. ** MPC and MGC violated the Commission's affiliate gas marketing transactions rules in that Omega had access to MPC and MGC's operational and accounting information. 4 CSR 240-40-016 (2) (F), (G). Moreover, all these actions by MPC and MGC are in violation of their tariffs and have resulted in overcharges to non-affiliated shippers.

3. In support of its Motion to hold this overearnings case alleging excessive rates in abeyance, Staff's current assessment of the GC-2006-0491 case is, if Respondents charge the rates required by their tariffs to their customers, then these rate levels are not excessive and there will be no need for an overearnings case and Case No. GC-2006-0378 may be dismissed.

4. In fact, when rates are reduced to what Staff believes is the maximum allowed by Respondents' tariffs, Respondents may need to file for a rate increase, something they can do on their own initiative in a general rate case.

5. In further support of its Motion in this case, Staff points to issues of which the Commission is well aware. Namely that Respondents have delayed, failed or refused to provide Staff during its investigation with basic records, documents, and information necessary to develop its case.

6. For example, despite requests for expedited handling, Staff just received the completed transcript for the first of three days of depositions of David Ries, taken on October 17-19. These depositions were originally scheduled for July. Staff needed the deposition of Mr. Ries to evaluate the reasonableness of Staff assertions in Case No. GC-2006-0491. Staff does not expect to receive the completed transcripts for the remaining two days until sometime later this week.

7. Additionally, even when Respondents appeared at scheduled depositions, they failed to produce the documents required by the Commission's subpoenas *duces tecum*, causing further delays.

8. Responding to a spurious attack on highly respected former members of the Staff have taken Staff counsel's time.

9. Respondents have further obstructed Staff's investigation by destroying copies of invoices important to the issues in both current cases before the Commission. Staff intends to file a separate motion regarding this action later this week.

10. It is just such delay tactics by Respondents, which have frustrated Staff's efforts and cost Staff a considerable amount of time, that have resulted in Staff's inability to complete its testimony in this case based upon a test year more current than the 2004 test year used by Staff.

11. Additionally, to date, Staff has devoted substantially all of its resources to pursuing information to support its allegations in case GC-2006-0491, which, if Staff is correct, will result not only in reduction of rates, but also substantial penalties for numerous tariff violations.

12. At this time, the rate relief sought in Case No. GC-2006-0491, by ordering the Companies to cease charging their customers rates in excess of the rate levels required in their tariffs, will result in greater rate relief than the amount of rate relief being sought by Staff in this case.

13. Judicial efficiency also supports Staff's request to hold this case in abeyance in that, if a hearing in the GC-2006-0491 results in the reduction of rates and substantial penalties, there will be no need for the Commission to hold hearings in this case, not to mention the time

and effort that will be required of all parties to proceed with the additional filings required in this case.

14. In summary, in support of its Motion for Expedited treatment Staff states that Staff believes its resources are better spent on Case No. GC-2006-0491 because not only may this case result in substantial penalties, it is likely to result in quicker rate relief to the captive customers of MPC and MGC than would GC-2006-0378. Staff would have filed this earlier but for the press of other business, namely taking depositions and response to the false allegations made by Respondents that Carmen Morrissey engaged in improper release of highly confidential information.

WHEREFORE Staff requests the Commission issue its order holding this case in abeyance by November 1, 2006, pending a resolution of Case No. GC-2006-0491 so that Staff may devote all its resources to pursue a rate reduction and penalties in that case, or in the alternative delay the date for filing direct testimony in this case until after December 10, to permit Staff the time to devote to Case No. GC-2006-0491.

Respectfully submitted,

/s/ Lera L. Shemwell

Lera L. Shemwell
Deputy General Counsel
Missouri Bar No. 43792

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7431 (Telephone)
(573) 751-9285 (Fax)
lera.shemwell@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 30th day of October, 2006.

/s/ Lera L. Shemwell_____