

Staff of the Missouri Public Service Commission,
Complainant,
v.
Missouri Pipeline Company, LLC,
Missouri Gas Company, LLC, et.al.
Respondents.

**STAFF RESPONSE TO RESPONDENT'S
MOTION FOR STAY AND REQUEST FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Commission, and responds to Respondent's October 19 Motion for Stay and Suggestions in Support and Respondent's October 22, Request for Expedited Treatment. The Commission should deny Respondent's Request for Stay, and its Request for Expedited Treatment. In support of its position, Staff states:

1. Respondent's Motion for Expedited Treatment should be denied for the following reasons:
2. On October 19, 2007, Respondent filed its Motion to Stay this Commission's October 11 Report and Order. On October 22, 2007, Respondent filed its Motion for Expedited Treatment with an affidavit of David J. Ries. Given the short notice, Staff is unable to fully respond but makes the following comments and objections.

3. The Commission issued its Revised Report and Order on October 11, 2007. Since this was a Revised Order, the content of the Order should have been no surprise to Respondent.

4. When Respondent purchased these pipelines Mr. Ries adopted the present tariff provisions, and was fully aware of the affiliate provisions and the intent and consequences. Ries fought to get those provisions removed and, when he failed, proceeded to violate those provisions. He now asks the Commission to save him from his own misconduct.

5. Through his secret affiliate, Mr. Ries profited by his misconduct and now that he is prevented from discriminating against non-affiliates, he threatens to cut off service to his customers and claims the sky is falling.

6. There are four considerations the Commission must balance when considering whether the extraordinary remedy of a stay should be granted. “[T]he determination of whether a stay . . . must be based on a balancing of four factors. These factors are: (1) the likelihood that the party seeking the stay will prevail on the merits of the appeal; (2) the likelihood that the moving party will be irreparably harmed absent a stay; (3) the prospect that others will be harmed if the court grants the stay; and (4) the public interest in granting the stay. *Ohio ex rel. Celebreeze v. Nuclear Regulatory Commn*, 812 F.2d 288 (6th Cir 1987) *citing* *Cuomo v. United States Nuclear Regulatory Commission*, 772 F.2d 972, 974 (D.C.Cir.1985).

7. The Commission cannot rely on Mr. Ries affidavit. Absolutely no evidence has been provided to support his assertions.

8. “In evaluating the harm which will occur both if the stay is issued and if it is not, we look to three factors: (1) the substantiality of the injury alleged, (2) the likelihood of its occurrence, and (3) the adequacy of the proof provided.” 812 F.2d 288, 290. “[E]conomic loss does not constitute irreparable harm, in and of itself. *Id.* Citing *Wisconsin Gas Co. v. F.E.R.C.*, 758 F.2d 669, 674 (D.C.Cir.1985).

9. “Economic loss is generally recoverable while injunctive relief is available only when legal remedies prove inadequate. See *id.* at 675. In this case, Respondent has an adequate remedy – to file a rate case. This has been an option from the very first, and Respondent’s failure to do so does not now make the granting of a stay justified.”

10. “In addition, the harm alleged must be both certain and great, rather than speculative or theoretical” or in this case theatrical. *Id.* at 290.

11. “In evaluating the harm which will occur both if the stay is issued and if it is not, we look to three factors: (1) the substantiality of the injury alleged, (2) the likelihood of its occurrence, and (3) the adequacy of the proof provided. *Id.* at 290. Ries’ affidavit provides questionable facts at best and does nothing to demonstrate “the certainty or magnitude of the claimed harm.” *Id.* at 290. The “proof provided” is completely inadequate.

12. In addition to the lack of proof, Staff notes that Mr. Ries’ credibility has been questioned recently in this case concerning, among other things, destruction of necessary documents. (i.e. Customer invoices.)

13. Reference to Case No. GM-2001-585 provides an example of Mr. Ries’ lack of trustworthiness. In that case, Mr. Ries committed to this Commission that he

would not seek to become FERC jurisdictional. In the event the Commission would modify the Respondents certificate to allow the Respondents to be affiliated with an interstate pipeline. The Commission granted this modification of the Respondent's certificate based upon Mr. Ries' representations. Mr. Ries recently sought FERC jurisdiction of Respondents contrary to his prior representations to the Commission.

14. Simple review of Respondent's Annual Reports contradicts the Respondent's claim that the new rates will not allow Respondent to pay interest on its senior secured debt and that the new rates will not allow Respondent to pay the minimum principle repayment on its senior secured debt..

15. The Annual Reports filed with this Commission, FERC Form 2-A, show that Respondent's have no senior secured debt. Respondent's claims of an inability to pay principle or interest on its senior secured debt must be questioned. See attached Exhibit A, page 112 FERC FORM NO. 2-A, at lines 16-24. There is no evidence the Respondents have sought Commission approval to secure Respondents' assets as collateral for any debt instrument.

16. On this sheet from the Annual Report, under the heading LONG TERM DEBT, Respondents reports **zero** (0.00) long term debt.

17. In addition to the errors contained in Mr. Ries affidavit, Respondent bases its claim of irreparable harm on the notion that this is a rate case. This is both misleading and false. This is not a rate case, but a tariff violation case.

18. Contrary to Respondent's argument, the Commission found that Respondent violated the terms of its tariff and the ordered rate change represents a

straightforward and logical application of the terms of Respondent's filed and approved tariffs, which have the force and effect of law.

19. The Commission's conclusion in the October 21 Revised Report and Order that the maximum rates for Missouri Pipeline and Missouri Gas were equal to any discounted rate offered to an affiliate was dictated by the terms of the Missouri Gas and Missouri Pipeline tariffs was not a decision in a rate case. In other words, the **automatic rate adjustment provision**, of the tariff was triggered when Missouri Pipeline or Missouri Gas offered an affiliate a lower rate.

20. Respondent's claims of violation of the filed rate doctrine are a red herring designed to confuse the issue case is whether Respondent has violated its tariff. In its Revised Order the Commission did not make a rate case decision, instead the existing provisions of Respondent's tariff provision were triggered by Mr. Ries own actions in giving himself (affiliate Omega) a discount. The Commission was not required to make any determinations about the justness of the rates because the Commission tariff acted automatically to make that discount the maximum tariff rate.

21. Respondents' motive for seeking a stay of the Commission's Report and Order at this late date is found in the attached Temporary Restraining Order entered in the Phelps County Circuit Court on October 19, 2007. Respondents have failed and refused to comply with both the Commission's August 27, 2007 and October 11, 2007 Report and Order adjusting Respondents rates. Respondents have continued to send unlawful invoices to their customers and are threatening to terminate gas service unless customers pay the unlawful rates. A hearing on the preliminary injunction in Phelps County is set for Monday, October 30, 2007. Exhibit B.

22. The Commission should note that the Respondents have little or no regard for this Commission's continued authority over them. Mr. Ries has told his customers that the Commission's August 28 and October 11 Reports and Orders are not binding upon the Respondents and that the adjusted rates are not effective. The Respondents have also merged their systems without Commission authority and now call themselves MoGas Pipeline LLC. Exhibit C.

23. Respondents' request for relief should be denied. But as an alternative, the Commission should set a hearing date to take evidence on the Motion for Stay and make a determination of the credibility of Mr. Ries' claims in his sworn affidavit.

WHEREFORE Staff requests the Commission deny Respondent's Request for Stay and Request for Expedited Treatment on the basis that Respondent has failed to support its Request with facts necessary for the Commission to determine the basis for Respondent's Request. In the alternative, the Commission could order an on-the-record presentation to fully develop the factual basis, if any, for the claims Mr. Ries makes in his Affidavit.

Respectfully submitted,

/s/ Lera L. Shemwell

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Missouri Bar No. 43792

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Chief Litigation Counsel

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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 on this 23rd day of October 2007.

/s/ Lera L. Shemwell

Lera L. Shemwell

Name of Respondent Missouri Gas Company LLC		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr) / /	Year/Period of Report End of 2006/Q4
Comparative Balance Sheet (Liabilities and Other Credits)					
Line No.	Title of Account (a)	Reference Page Number (b)	Current Year End of Quarter/Year Balance	Prior Year End Balance 12/31 (d)	
1	PROPRIETARY CAPITAL				
2	Common Stock Issued (201)	250-251	0	0	
3	Preferred Stock Issued (204)	250-251	0	0	
4	Capital Stock Subscribed (202, 205)	252	0	0	
5	Stock Liability for Conversion (203, 206)	252	0	0	
6	Premium on Capital Stock (207)	252	0	0	
7	Other Paid-In Capital (208-211)	253	22,221,382	22,221,382	
8	Installments Received on Capital Stock (212)	252	0	0	
9	(Less) Discount on Capital Stock (213)	254	0	0	
10	(Less) Capital Stock Expense (214)	254	0	0	
11	Retained Earnings (215, 215.1, 216)	118-119	7,754,766	5,657,554	
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119	0	0	
13	(Less) Reacquired Capital Stock (217)	250-251	0	0	
14	Accumulated Other Comprehensive Income (219)	117	0	1	
15	TOTAL Proprietary Capital (Total of lines 2 thru 14)		29,976,148	27,878,937	
16	LONG TERM DEBT				
17	Bonds (221)	256-257	0	0	
18	(Less) Reacquired Bonds (222)	256-257	0	0	
19	Advances from Associated Companies (223)	256-257	0	0	
20	Other Long-Term Debt (224)	256-257	0	0	
21	Unamortized Premium on Long-Term Debt (225)	258-259	0	0	
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259	0	0	
23	(Less) Current Portion of Long-Term Debt		0	0	
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)		0	0	
25	OTHER NONCURRENT LIABILITIES				
26	Obligations Under Capital Leases-Noncurrent (227)		0	0	
27	Accumulated Provision for Property Insurance (228.1)		0	0	
28	Accumulated Provision for Injuries and Damages (228.2)		0	0	
29	Accumulated Provision for Pensions and Benefits (228.3)		0	0	
30	Accumulated Miscellaneous Operating Provisions (228.4)		0	0	
31	Accumulated Provision for Rate Refunds (229)		0	0	

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JOHN D. WIGGINS

* ALSO LICENSED IN ILLINOIS

October 18, 2007

Honorable Sue Brown
Circuit Clerk
Phelps County Courthouse
Rolla, MO 65401

**RE: MUNICIPAL GAS COMMISSION OF MISSOURI and CITY OF CUBA, MISSOURI
v. MISSOURI PIPELINE COMPANY, LLC and MISSOURI GAS COMPANY, LLC
PETITION FOR INJUNCTION
OUR FILE NO. 4457.011.007**

Dear Sue:

Enclosed for filing in the above-referenced matter, please find the following:

1. Original and two (2) copies of Plaintiffs' Petition.
2. Original and two (2) copies of Notice of Hearing (October 19, 2007 at 1:30 p.m.)
3. Motion for Appointment of Special Process Server.
4. Proposed Order Appointing Special Process Server.
5. This writer's check in the amount of \$150.00, representing the requisite filing fee.
6. Filing information sheet.

If you find the Motion and Order acceptable, please execute the same and issue Summons for service on Defendants, Missouri Pipeline Company, LLC, and Missouri Gas Company, LLC. Please return the Summonses to this office for delivery to the special process server.

If you have any questions, please do not hesitate to contact us. Thank you for your cooperation and attention to the above.

Very truly yours,

WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: 

Diana L. Henry, Legal Assistant
DHENRY@TEAMLEX.COM

Enclosures

FILING INFORMATION SHEET

INSTRUCTIONS:

- ✓ Complete this form for all parties known at the time of filing.
- ✓ If additional space is needed, complete additional Filing Information Sheets.

NOTE: SSN is **required** if the party is a person; exception can only be granted if the information is not reasonably available.

Filing Date: October 18, 2007 County: Phelps

Style of Case: Municipal Gas Commission of Missouri & City of Cuba v. Missouri Pipeline Company, LLC, et al
(i.e., In the Estate of; In the Matter of; Petitioner v. Respondent.)

Case Type Code: EC Case Type Description: Injunction
Provide the most appropriate two-letter Case Type code & description.
(Found on the Case Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)

NOTE TO FILING COURT: Filing information sheets are **confidential records**. File in case number sequence and **store separately from the case file, or destroy** upon entry of the information or when no longer needed.

Party Type Code: PLT Party Type Description: Plaintiff
Provide the appropriate Party Type Code and description.
(Found on the Party Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)
Last Name: Municipal Gas Commission of MO First Name: _____
Middle Name: _____ Address: 2407 West Ash
City: Columbia State: MO Zip: 65203
DOB/DOD: _____ SSN/Bar ID: _____
Bar ID required if attorney

Party Type Code: PLT Party Type Description: Plaintiff
Provide the appropriate Party Type Code and description.
(Found on the Party Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)
Last Name: City of Cuba, Missouri First Name: _____
Middle Name: _____ Address: P.O. Box K
City: Cuba State: MO Zip: 65459
DOB/DOD: _____ SSN/Bar ID: _____
Bar ID required if attorney

Party Type Code: DFT Party Type Description: Defendant
Provide the appropriate Party Type Code and description.
(Found on the Party Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)
Last Name: Missouri Pipeline Company, LLC First Name: _____
Middle Name: _____ Address: 110 Algana Court
City: St. Peters State: MO Zip: 63376
DOB/DOD: _____ SSN/Bar ID: _____
Bar ID required if attorney

Submitted by: J. Kent Robinson Bar ID: 30960
required (if attorney)

Phone: 573-341-2266

Party Representing: Plaintiff - City of Cuba, Missouri

2007

FILING INFORMATION SHEET

INSTRUCTIONS:

- ✓ Complete this form for all parties known at the time of filing.
- ✓ If additional space is needed, complete additional Filing Information Sheets.

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Party Type Code: DFT Party Type Description: Defendant
Provide the appropriate Party Type Code and description.
(Found on the Party Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)

Last Name: Missouri Gas Company, LLC First Name: _____

Middle Name: _____ Address: 110 Algana Court

City: _____ St. Peters State: MO Zip: 63376

DOB/DOD: _____ SSN/Bar ID: _____
Bar ID required if attorney

Party Type Code: _____ Party Type Description: _____
Provide the appropriate Party Type Code and description.
(Found on the Party Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)

Last Name: _____ First Name: _____

Middle Name: _____ Address: _____

City: _____ State: _____ Zip: _____

DOB/DOD: _____ SSN/Bar ID: _____
Bar ID required if attorney

Party Type Code: _____ Party Type Description: _____
Provide the appropriate Party Type Code and description.
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Last Name: _____ First Name: _____

Middle Name: _____ Address: _____

City: _____ State: _____ Zip: _____

DOB/DOD: _____ SSN/Bar ID: _____
Bar ID required if attorney

Submitted by: J. Kent Robinson Bar ID: 30960
required (if attorney)

Phone: 573-341-2266

Party Representing: Plaintiff - City of Cuba, Missouri

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

**Municipal Gas Commission of Missouri,
and City of Cuba, Missouri,**

Plaintiffs,

vs.

**Missouri Pipeline Company, LLC,
and Missouri Gas Company, LLC,**

Defendants.

Case No. _____

**PETITION FOR INJUNCTION WITH MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

The undersigned Plaintiffs, **Municipal Gas Commission of Missouri** (hereafter "MGCM"), by its attorneys, **Finnegan, Conrad & Peterson, L.C.**, and the **City of Cuba, Missouri**, by its attorneys, **Williams, Robinson, Rigler & Buschjost, P.C.** (hereafter "the City of Cuba"), state as follows for their Petition for Injunction against **Missouri Pipeline Company, LLC**, and **Missouri Gas Company, LLC**, (respectively hereafter "MPC", "MGC" and collectively "the Companies"):

1. The City of Cuba is a Missouri municipal corporation of the fourth class with the power to sue and be sued pursuant to Section 79.010, RSMo.
2. MGCM is a joint municipal utility commission formed under Section 393.700, *et seq.*, RSMo., with the power to sue and be sued pursuant to Section 393.715, RSMo.
3. MGCM has as member municipalities the Missouri cities of St. James, St. Robert, Richland and Waynesville which are Missouri municipal corporations of the third and fourth class (collectively with the City of Cuba "the Municipalities").
4. The City of St. James is located in Phelps County, Missouri.
5. The Companies are Delaware limited liability companies in good standing registered in Missouri as foreign companies authorized to conduct business in this State.

6. The Companies own and operate interconnected, intrastate natural gas transmission pipelines in east central Missouri.
7. A branch of pipeline owned and operated by MPC extends southwesterly from St. Charles County, Missouri, through Franklin County, Missouri to a southern terminus at Sullivan, Missouri.
8. At Sullivan, Missouri, the aforesaid MPC pipeline connects with the pipeline owned and operated by MGC.
9. The MGC pipeline then extends another 66 miles, terminating at the United States Army facility at Fort Leonard Wood, Missouri.
10. MGC's aforesaid pipeline is used to transport natural gas to the Municipalities.
11. The Companies are transporters only and not sellers of natural gas.
12. For the reasons stated below, the Companies are subject to the regulatory authority and tariffs of the Missouri Public Service Commission (hereafter "MPSC") and are obliged to abide by existing State tariffs.
13. MGC has been granted a certificate of public convenience and necessity under the Natural Gas Act of 1938, US Code, Title 15, Chapter 15B, (hereafter "NGA") to reorganize and acquire the assets of MPC pursuant to an order issued April 20, 2007, by the Federal Energy Regulatory Commission (hereafter "FERC") in Docket Nos. CP06-407-000, CP06-408-000, CP406-409-000 and PR06-274-000 (hereafter "FERC Order").
14. Pursuant to the FERC Order, MGC must file revised tariffs with FERC not less than 60 or more than 90 days following commencement of interstate service.
15. Reorganization of MGC pursuant to the FERC Order is not complete, MGC has not commenced interstate service and no federal tariffs for MGC under the NGA have been adopted or approved by FERC.

16. Sections 393.130 and 393.140(11), RSMo, provide authority for MPSC to prescribe the rates of gas corporations.
17. Section 393.130, RSMo, provides that "all charges made or demanded by any such gas corporation . . . shall be just and reasonable and not more than allowed by law or by order or decision of the commission" and that "every unjust or unreasonable charge made or demanded for gas . . . in excess of that allowed by law or by order or decision of the commission is prohibited."
18. The tariffs now in force and effect with respect to the activities of the Companies are those established under the regulatory authority of MPSC.
19. The natural gas transported on the pipelines of the Companies is purchased by or on behalf of the Municipalities from various natural gas suppliers.
20. On August 28, 2007, MPSC issued its Report and Order confirming the allowable transportation rates to be charged by the Companies for natural gas deliveries to the Municipalities (hereafter "MPSC Order").
21. The MPSC Order became effective September 7, 2007.
22. Request of the Companies for rehearing before MPSC pursuant to Section 386.500, RSMo, was denied on October 4, 2007.
23. The MPSC Order is final and conclusive, subject only pending clarification by MPSC as to issues unrelated to rates and to circuit court review under Section 386.510, RSMo.
24. Section 386.270, RSMo, provides that "All rates, tolls, charges, schedules and joint rates fixed by the commission shall be in force and shall be prima facie lawful, and all regulations, practices and services prescribed by the commission shall be in force and shall be prima facie lawful and reasonable until found otherwise in a suit brought for that purpose pursuant to the provisions of this chapter."

25. The MPSC Order has not been stayed, judicially determined unreasonable or otherwise modified or abated (except as to pending matters unrelated to rates).

26. Pursuant to the MPSC Order, the following rates are the maximum tariff rates which the Companies may charge for deliveries of natural gas to the Municipalities:

Transporter	Firm Reservation per MDQ	Firm Commodity per DT	Interruptible Commodity per DT
MPC	\$0.0000	\$0.1699	\$0.1699
MGC	\$0.0000	\$0.2000	\$0.2000
Aggregate	\$0.0000	\$0.3699	\$0.3699

27. The Companies have submitted and continue to submit invoices to MGCM and the City of Cuba reflecting charges for delivery of natural gas to the Municipalities substantially in excess of the tariff rates determined and established as aforesaid by the MPSC Order.

28. The rates charged and being charged by the Companies for delivery of natural gas to the Municipalities are illegal in that they exceed the lawful rates approved and allowed by MPSC pursuant to previously adopted tariffs and orders currently in force and effect.

29. The Companies have threatened and continue to threaten MGCM and the City of Cuba with disruption of natural gas deliveries to the Municipalities if the excessive and illegal invoices of the Companies are not paid in full as demanded.

30. MGCM, its aforesaid members, and the City of Cuba will suffer irreparable injury, loss and damage if the Companies are not enjoined from disrupting deliveries of natural gas to the Municipalities, in that innumerable businesses, homes, families, entities and individuals will be deprived of natural gas service for home and business heating, manufacturing, and other activities dependent upon natural gas as a utility or commodity.

31. MGCM and the City of Cuba have no adequate remedy at law if the Companies are not enjoined from disrupting delivery of natural gas to the Municipalities in that there is no

way of reasonably calculating damages resulting therefrom, or redressing the wrongs resulting from such disruption of deliveries other than through the exercise of the equitable powers of this Court in enjoining the Companies from such illegal activities.

32. In further support hereof, and pursuant to Rule 92.02(a)(2), MGCM and the City of Cuba attach to and make a part of this Petition as Exhibits "A" and "B" their affidavits setting forth facts supporting their motion for a temporary restraining order and preliminary injunction.


For the foregoing reasons, MGCM and the City of Cuba request that the Court:

- A. Issue a temporary restraining order prohibiting the Companies, their agents and employees, from charging rates for delivery of natural gas to the Municipalities in excess of the lawful rates established by State tariff as reflected in the aforesaid MPSC Order and from disrupting delivery of natural gas to the Municipalities except upon failure to pay invoices reflecting such lawful rates.
- B. Fix a hearing date not later than fifteen days from issuance of this Court's temporary restraining order as the time and place for hearing evidence on the motion of MGCM and the City of Cuba for a preliminary injunction.
- C. After hearing, issue a preliminary injunction prohibiting the Companies, their agents and employees, from charging rates for delivery of natural gas to the Municipalities in excess of the lawful rates established by State tariff as reflected in the aforesaid MPSC Order and from disrupting delivery of natural gas to the Municipalities except upon failure to pay invoices reflecting such lawful rates.
- D. After full evidentiary hearing on the merits, issue a permanent injunction prohibiting the Companies, their agents and employees, from charging rates for delivery of natural gas to the Municipalities in excess of the lawful rates established by State tariff as reflected in

the aforesaid MPSC Order and from disrupting delivery of natural gas to the Municipalities except upon failure to pay invoices reflecting such lawful rates.


E. Order the Companies to pay all costs of suit and allow MGCM and the City of Cuba such additional and further relief deemed necessary or appropriate to any of the meaning and effect to the foregoing requests.

FINNEGAN, CONRAD & PETERSON, L.C.

By:  By: J. Kent Robinson
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By: 
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ATTORNEYS FOR THE CITY OF CUBA



IN THE COUNTY OF PHELPS

STATE OF MISSOURI

AFFIDAVIT OF EVE A. LISSIK

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

Eve A. Lissik, being first duly sworn in her oath, states:

1. My name is Eve A. Lissik. I work in the City of Columbia, Missouri and I am employed by the Missouri Joint Municipal Electric Utility Commission as the Director of Energy Services and Assistant to the General Manager. In this position, I provide consulting services on an as needed basis to the Municipal Gas Commission of Missouri ("MGCM").

2. MGCM is a statewide municipal joint action agency specifically authorized by Missouri law (Section 393.700 et. seq., RSMo) to operate as a gas utility for the benefit of the combined requirements of its members. The MGCM currently has 14 Missouri municipal natural gas systems as members ranging from approximately 200 to over 74,000 meters. These municipal natural gas systems serve over 82,000 retail customers in the state. The Cities of Richland, St. James, St. Roberts and Waynesville, Missouri, entities participating in and supplied natural gas by MGCM, all own and operate municipal gas systems that are captive customers of Missouri Gas Company ("MGC") and Missouri Pipeline Company ("MPC") (collectively referred to as the "Pipelines"). MGCM is a governmental entity that acts as an agent on behalf of its member entities to purchase natural gas and arrange for its transportation to the member entities. As part of these responsibilities and as it applies to this particular case, MGCM has arranged for the transportation of natural gas over the Pipelines for the municipalities of Richland, St. James, St. Roberts and Waynesville.

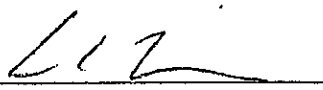
3. Acting as agent for these cities, MGCM participated in a recent Missouri Public Service Commission proceeding alleging certain tariff violations committed by MGC and MPC. On August 28, 2007, the Commission issues its Report and Order in Case No. GC-

2006-0491.¹ In that Order, the Commission found that the Pipelines had violated their tariffs by charging non-affiliate shippers a higher rate than they had charged to their affiliate entity. As a result, and pursuant to the terms of the Pipelines' tariffs, the Commission found that the Pipelines should, on a going forward basis, charge non-affiliate shippers the same rate as had been charged to the affiliate entity. Specifically, the Commission found that MPC should charge a \$0.1699 commodity rate with no reservation charge and that MGC should charge a \$0.20 commodity rate with no reservation charge.

4. On September 4, 2007, MGCM received a natural gas transportation bill associated with the Pipelines' transportation of gas to St. James, St. Robert, Waynesville and Richland. Contrary to the Commission's Order, that invoice was based upon the Pipelines' rates prior to the affiliate discount ordered by the Commission. On September 13, 2007, MGCM sent a letter to the Pipelines notifying them that they were disputing the invoice. In order to correct for the Commission's approved rates, MGCM recalculated the invoice. While paying the new undisputed amount, MGCM notified the Pipelines that it was disputing any amount over and above the rates contained in the Commission's Order.

5. On September 17, 2007, the Pipelines informed MGCM that, effective October 14, 2007, they "will suspend deliveries of gas until such payment has been received in full." Later, in order to accommodate discussions between the parties, the Pipelines moved the scheduled disconnect date to October 22, 2007. Therefore, absent some judicial action, MGCM and its member municipalities face the immediate prospect of the disconnection of natural gas service.

6. The threatened suspension of gas transportation service would have an immediate irreparable effect on the Cities of St. James, St. Robert, Waynesville and Richland. With the impending colder weather, these cities are increasingly reliant on natural gas service for heating. Moreover, these cities have significant commercial and industrial operations that rely on natural gas service to remain in business. The suspension of natural gas service, without any other method for obtaining natural gas service, would impose an immediate hardship on these businesses.


Eve A. Lissik

¹ The Commission reissued its Report and Order on October 11, 2007. That Order provides clarification in response to Applications for Rehearing filed by AmerenUE and MGCM. That Order only affects the possibility of pursuing refunds for past overcharges and does not modify the findings of fact / conclusions of law relative to the going-forward rates to be charged.

Subscribed and sworn to before me this 18 day of October, 2007.

Catherine Gebert
Notary Public

My Commission expires:



CATHERINE GEBERT
Boone County
My Commission Expires
January 29, 2008

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

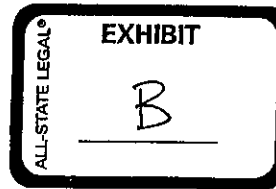
Municipal Gas Commission of Missouri,
and City of Cuba, Missouri,

Plaintiffs,

vs.

Missouri Pipeline Company, LLC,
and Missouri Gas Company, LLC,

Defendants.



AFFIDAVIT OF CHRISTINE NASH

STATE OF MISSOURI)

COUNTY OF CRAWFORD)

SS

Christine Nash, being first duly sworn in her oath, states:

1. My name is Christine Nash. I am the Municipal Clerk for the City of Cuba, Missouri, a Missouri municipal corporation of the fourth class (hereafter "the City").
2. The City is a captive customer of Missouri Gas Company and Missouri Pipeline Company (collectively hereafter "the Pipelines").
3. The Pipelines are regulated by the Missouri Public Service Commission (hereafter "the Commission"). On August 28, 2007, the Commission issued its Order in Case No. GC-2006-0491. In that Order, the Commission found the Pipelines violated their tariffs by charging non-affiliate shippers higher rates than charged to an affiliate entity. As a result, and pursuant to the terms of the tariffs, the Commission ordered that the Pipelines, on a going forward basis, to charge non-affiliate shippers the same rate as had been charged to the affiliate entity. Specifically, the Commission found that MPC should charge a \$0.1699 commodity rate with no reservation charge and that MGC should charge a \$0.20 commodity rate with no reservation charge.
4. On or after October 1, 2007, the City received a natural gas transportation bill associated with the Pipelines' transportation of natural gas to it. Contrary to the Commission's Order, that invoice was based upon the Pipelines' rates prior to the discount ordered by the Commission.
5. Through their president and agent, David Ries, the Pipelines have on a prior occasion threatened to disrupt delivery of natural gas to the City if the excessive and illegal invoices were not paid as demanded.
6. With the impending colder weather, these end users are increasingly reliant on natural gas service for heating. Moreover, some end users have significant commercial and industrial operations that rely on natural gas to remain in business. The suspension of natural gas service to the City, without any other means for obtaining service, will cause immediate and irreparable harm to the residents and businesses of the City.


Christine Nash

Subscribed and sworn to before me this 18th day of October, 2007.

My Commission expires: 10/22/07


Notary Public



MARCIA WILSON
Crawford County
My Commission Expires
October 22, 2007

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

Municipal Gas Commission of Missouri,
and City of Cuba, Missouri.

Plaintiffs,

vs.

Missouri Pipeline Company, LLC,
Missouri Gas Company, LLC,
Defendants.

Case No. _____

NOTICE OF HEARING

COMES NOW, the Municipal Gas Commission of Missouri ("MGCM") and the City of Cuba, by and through its undersigned counsel, and gives notice that it will call up for hearing and disposition, in Phelps County Circuit Court, on the 19th day of October, 2007, at 1:30 p.m., or as soon thereafter as counsel may be heard, MGCM and Cuba's Petition for Injunction with Motion for Temporary Restraining Order and Preliminary Injunction filed on October 18, 2007.

FINNEGAN, CONRAD & PETERSON, L.C.

By 

David L. Woodsmall, #40747
1209 Penntower Office Center, 3100 Broadway
Kansas City, Missouri 64111
(573) 635-2700

ATTORNEYS FOR MGCM

WILLIAMS, ROBINSON, RIGLER &
BUSCHJOST, P.C.

By: J. Kent Robinson
J. Kent Robinson, #30960
901 N. Pine Street, 4th Floor
P.O. Box 47
Rolla, MO 65402
(537) 341-2266

ATTORNEYS FOR THE CITY OF CUBA

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been hand-delivered, sent U.S. mail, postage prepaid, or sent by electronic transmission on this 18th day of October, 2007 to:

Michael Mertz – Registered Agent
Missouri Gas Company / Missouri Pipeline Company
110 Algana Court
St. Peters, Missouri 63376
(Fax: 636-926-0387)

And

Paul J. Deford
Lathrop & Gage
2345 Grand Blvd, Suite 2300
Kansas City, Missouri 64108
(hand-delivery)

David L. Woodsmall
David L. Woodsmall

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

Municipal Gas Commission of Missouri,
and City of Cuba, Missouri,

Plaintiffs,

vs.

Missouri Pipeline Company, LLC,
and Missouri Gas Company, LLC,

Defendants.

Case No. _____

MOTION FOR ORDER APPOINTING SPECIAL PROCESS SERVER

NOW COMES Petitioners, **Municipal Gas Commission of Missouri and City of Cuba, Missouri**, pursuant to Supreme Court Rule 54.13(a), and respectfully moves for this Court's order appointing a special process server for the purpose of serving a copy of the Petition for Injunction with Motion for Temporary Restraining Order and Preliminary Injunction, on the named Respondents. In support of said Motion, Petitioners state as follows:

1. On October 18, 2007, this proceeding was instituted by the filing of a Petition for Injunction with Motion for Temporary Restraining Order and Preliminary Injunction.
2. Service of Summons in the normal course cannot be accomplished by the Sheriff in that service must be obtained immediately due to the nature of the pending action.
3. Petitioners request that the Court appoint James Henry, whose address is Rolla, Missouri, 65401, as special process server for the purpose of obtaining personal service on the named Respondents.

WHEREFORE, Petitioners pray the Court appoint the above-named individual to serve as special process server for the purpose of effectuating service of Petitioners'

Petition for Injunction with Motion for Temporary Restraining Order and Preliminary Injunction and related documents as aforesaid, upon Respondents.

**MUNICIPAL GAS COMMISSION OF MISSOURI and
CITY OF CUBA, MISSOURI**

FINNEGAN, CONRAD & PETERSON, L.C.

By: 

David L. Woodsmall, #40747
1209 Penntower Office Center, 3100 Broadway
Kansas City, Missouri 64111
(573) 635-2700

ATTORNEYS FOR THE COMMISSION

WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: 

J. Kent Robinson, #30960
901 N. Pine Street, 4th Floor
P.O. Box 47
Rolla, MO 65402
(573) 341-2266

ATTORNEYS FOR THE CITY OF CUBA

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

Municipal Gas Commission of Missouri,
and City of Cuba, Missouri,

Plaintiffs,

vs.

Missouri Pipeline Company, LLC,
and Missouri Gas Company, LLC,

Defendants.

Case No. _____

ORDER APPOINTING SPECIAL PROCESS SERVER

Under Supreme Court Rule 54.13(a), Petitioners request that James Henry, whose address is Rolla, Missouri 65401, be appointed to serve process in the above-styled and numbered cause. This appointment does not confer any power or authority as a peace or law enforcement officer and firearms may not be carried by James Henry.

After due consideration thereof, the Court finds that James Henry is qualified to serve process as allowed by Supreme Court Rule 54.13(a) of the Missouri Rules of Civil Procedure; and **HEREBY ORDERS AND AUTHORIZES James Henry** to serve citation, summons and/or notice upon **MISSOURI PIPELINE COMPANY, LLC. And MISSOURI GAS COMPANY, LLC.**, and make due return thereof.

SIGNED this _____ day of _____, 2007.

SUE BROWN
CIRCUIT CLERK

By: _____, DC

RECEIVED SEP 19 2007

MISSOURI PIPELINE COMPANY, LLC

September 17, 2007

Michael Loethen
Municipal Gas Commission of Missouri
2407 W. Ash
Columbia, MO 65203-0045

Dear Mr. Loethen;

I am in receipt of your letter of September 13, 2007 where in you acknowledged receipt of invoices on behalf of the Cities of St. James, St. Robert and Waynesville. These invoices were for transportation services provided to these cities for the month of August and totaled almost \$58,000. You further acknowledge that you are disputing those bills as a result of the MPSC order in case GC-2006-0491. Per your calculations you have remitted \$2,473.15 as your determination of full payment for the above invoices.

A request for rehearing of the above order has been filed and as such, this order is not yet effective. Further you will note in our request for rehearing we believe this order is illegal and the Missouri Public Service Commission may have violated the law.

I have reviewed the invoices you reference and have found no billing errors. Per the terms of the tariff all invoices are due 10 days after being sent. In this instance, the bill was due September 14, 2007. Payments after this date accrue interest at the rate of prime plus 2% and for this invoice will amount to 10.25% per annum. If payment is not made within 30 days after the due date, we will suspend further deliveries of gas until such payment has been received in full.

I appreciate your attention to this matter.

Sincerely;



David J. Ries
President

CC: Cities of
St. James
St. Robert
Waynesville



State of Missouri
Robin Carnahan, Secretary of State

Corporations Division
P.O. Box 778 / 600 W. Main Street, Rm 322
Jefferson City, MO 65102

File Number:

FL0075816

Date Filed: 05/04/2007

Robin Carnahan
Secretary of State

**Amendment of a
Foreign Limited Liability Company**
(Submit with filing fee of \$25.00)

1. The name of the foreign limited liability company is Missouri Gas Company, LLC
2. The foreign limited liability company was formed under the laws of Delaware on the date of December 27, 1994
(month/day/year) (State of jurisdiction)
3. The foreign limited liability company's certificate of registration is hereby amended as follows:
Change the name from Missouri Gas Company, LLC to MoGas Pipeline LLC
4. The effective date of this document is the date it is filed by the Secretary of State of Missouri, unless a future date is indicated as follows: _____
(month/day/year)
5. The amendment shall include a certificate of existence or document of similar import duly authenticated by the secretary of state or other official having custody of the records in the state or country under whose laws it is registered. Such document should be dated within sixty calendar days from the filing for acceptance.

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

David J. Ries

President

4/24/07

Authorized Signature

Printed Name

Title

Date

Name and address to return filed document:

Name: _____

Address: _____

City, State, and Zip Code: _____

State of Missouri
Amend/Restate - LLC/LP/LLP/LLLP 2 Page(s)



T0712457428

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "MISSOURI GAS COMPANY, LLC", FILED A CERTIFICATE OF AMENDMENT, CHANGING ITS NAME TO "MOGAS PIPELINE LLC", THE SECOND DAY OF MAY, A.D. 2007, AT 2:52 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID LIMITED LIABILITY COMPANY IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE NOT HAVING BEEN CANCELLED OR DISSOLVED SO FAR AS THE RECORDS OF THIS OFFICE SHOW AND IS DULY AUTHORIZED TO TRANSACT BUSINESS.

2459014 8320

070512955



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5644819

DATE: 05-03-07

State of Missouri



Robin Carnahan
Secretary of State

CERTIFICATE OF AMENDMENT

I, Robin Carnahan, Secretary of State of the State of Missouri, do hereby certify that

MOGAS PIPELINE LLC
FL0075816

Formerly

MISSOURI GAS COMPANY, LLC

an entity organized under the laws of the State of Delaware, has delivered to me and that I have filed its Certificate of Amendment of its Articles of Organization; that said entity has in all respects complied with the requirements of law governing the Amendment of Articles of Organization and the said Articles are amended in accordance therewith.

IN TESTIMONY WHEREOF, I hereunto
set my hand and cause to be affixed the
GREAT SEAL of the State of Missouri.
Done at the City of Jefferson, this
4th day of May, 2007.

Robin Carnahan

Secretary of State

