

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

The Staff of the Missouri Public)	
Service Commission,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2006-0491
)	
Missouri Pipeline Company, LLC; and)	
Missouri Gas Company, LLC,)	
)	
Respondents.)	

**RESPONSE OF THE MUNICIPAL GAS COMMISSION OF MISSOURI
TO RESPONDENT’S MOTION TO DELAY FILING OF
REBUTTAL TESTIMONY**

COMES NOW the Municipal Gas Commission of Missouri (“MGCM”), pursuant to the Commission’s September 26, 2006 Order Establishing Time In Which To Respond To Motion To Delay Filing Rebuttal Testimony, and respectfully states as follows:

1. On September 25, 2006, Missouri Pipeline Company (“MPC”) and Missouri Gas Company (“MGC”) (collectively referred to herein as the “pipelines”) filed their Motion To Delay Filing Rebuttal Testimony and Motion For Expedited Treatment (“Motion”). In its Motion, the pipelines claim a need to postpone filing of rebuttal testimony from October 6, 2006 until November 7, 2006. In support of its Motion, the pipelines claim problems with receiving responses to discovery directed to the Staff, medical emergencies for one employee and ongoing construction and maintenance projects.
2. Without questioning the veracity of any of the rationale provided by the pipelines, the Commission should not address this Motion while operating in a vacuum.

It is important that the Commission have a full understanding of all of the events that have occurred leading up to the pending Motion. Only by taking all such events into consideration may the Commission view this Motion in the proper context and make a fully informed decision.

3. Since initially appearing on a Commission agenda on November 3, 2005, the issue of the reasonableness of the rates and practices of MGC and MPC has been the subject of a Staff investigation. Virtually immediately upon commencing its investigation, Staff was confronted with excuses and delays in its attempt to investigate these pipelines. These delays have taken the form of unanswered data requests as well as refusal to respond to Commissioner-issued subpoenas.¹

Such delays should not have been totally unexpected. On March 30, 2006, Dennis Langley, a principal owner of the pipelines met with the Commission in its regularly scheduled agenda session. During his presentation, Mr. Langley clearly attempted to introduce a procedure by which the pipelines could avoid the Staff's investigation and instead engage the Commission in "informal negotiations" designed to resolve Staff's allegations. Clearly, the real purpose underlying this alternative procedure was to delay Staff's investigation and the Commission consideration of any complaint. Ultimately while the Commission rejected Mr. Langley's attempt to undermine Staff's investigation, the pipelines have nonetheless successfully delayed this investigation for approximately 6 months.

4. In addition to the procedural delays undertaken in these cases, the pipelines have attempted to undermine the Staff's investigation and the Commission's

¹ See, Staff Complaint, Case No. GC-2006-0378 at page 2 ("During the course of Staff's investigation, Respondents have delayed, failed or refused to provide Staff with basic records, documents, and information needed and requested by Staff.").

regulation by filing an application with the Federal Energy Regulatory Commission to merge with Missouri Interstate Gas and thus be subject to federal regulation. If granted, the pipelines readily acknowledge that it would operate under current rates for some period of time. It is particularly interesting, given its current claims of limited resources, that the pipelines were able to find the time, capital and resources to engage in this attempt to undermine Missouri state regulation.

5. When considering the request for procedural delay the Commission should also be cognizant of the nature of the issues to be addressed by Respondent's in its rebuttal testimony. This is not a rate proceeding! There are no complicated issues involving expert testimony on the appropriate cost of capital. There are no difficult decisions as to the forward-looking cost of gas. There are no complex matters involving the establishment of appropriate depreciation rates or the level of regulatory amortizations to be included in rates. This case revolves primarily, if not entirely, around a simple factual determination of whether the pipelines have followed the rules and regulations contained in its tariffs. Given the simplicity of such questions and the fact that knowledge of such tariff compliance or violation is readily available to the Respondents, it should not be difficult for Respondents to respond to Staff's testimony by the scheduled rebuttal date.

6. MGCM and its underlying municipalities (St. James, St. Roberts, Waynesville and Richland) have an utmost interest in seeing this case decided in a timely fashion. Although not as complicated as a rate proceeding, Staff's investigation has already lasted 11 months – the maximum statutory period for the Commission to decide even the most complicated rate cases. Moreover, given the current procedural schedule,

the Commission will not hear this matter until the middle of December. MGCM and its municipalities speak on behalf of real people; real people that had hoped that this matter could be decided prior to the upcoming winter heating season. This matter has dragged on long enough. The Commission should not countenance further delays and should reject Respondent's request to delay filing its rebuttal testimony.

WHEREFORE, MGCM respectfully requests that the Commission deny Respondent's Motion To Delay Filing Rebuttal Testimony.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Woodsmall", is positioned above a horizontal line.

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**Attorneys for the Municipal Gas
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the forgoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "David L. Woodsmall", is written over a horizontal line. A vertical red line is positioned to the right of the signature.

David L. Woodsmall

Dated: September 27, 2006