

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

Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	Case No. GC-2006-0378
)	
Missouri Pipeline Company, LLC and Missouri Gas Company, LLC, et al.)	
)	
)	
Respondents.)	

MOTION FOR SUSPENSION OF PROCEDURAL SCHEDULE

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and respectfully requests the Commission suspend the procedural schedule adopted in this case on June 27, 2006, due to the failure of a material witness to answer questions at deposition.

Staff direct testimony in this case is to be filed on October 17, 2006. Staff is unable to comply with the established deadline due to the failure and refusal of a material witness, the President of the respondent companies, David J. Ries, to answer questions at his deposition and his failure to reschedule his deposition in a timely manner.

By separate motion, the Staff is seeking an order from the Commission compelling David Ries to answer deposition questions. Upon Mr. Ries' further failure to be examined, Staff will seek authority to proceed to circuit court for enforcement and sanctions, and potentially criminal prosecution as authorized by Section 386.460. The events leading the Staff to seek a suspension of the procedural schedule follow:

1. On July 17 and 18, 2006, counsel for the the Staff of the Commission

undertook a deposition of David J. Ries, President of MPC and MGC. Mr. Ries was also the past President of Omega Pipeline Company, an affiliate of MPC and MGC, during the period of time under investigation by the Staff.

2. Due to Mr. Ries' position with Omega, MPC and MGC, he holds significant and exclusive knowledge of their business activities that is relevant and admissible in this complaint proceeding.

3. At the aforementioned deposition, Mr. Ries refused, without just cause, to answer questions about Omega's business activities as they relate to MGC and MPC. This event in and of itself is a violation of Rule 61.01(g) of the Supreme Court rules and sanctions should follow. As well, it is a misdemeanor under Section 386.460. The Staff sought the simpler course - an order compelling Mr. Ries to answer deposition questions. But the Commission declined to enter such an order because the Staff had not complied with Commission rule 2.090(8).

4. Instead, the Commission scheduled a discovery conference and ordered counsel for Mr. Ries to appear on August 11, 2006, at 2:00 p.m. Although Mr. Ries is the President of MGC and MPC, parties to this case, he failed and refused to appear in person or by attorney. Assuming Commission rule 2.090(8) requires a telephone conference with the presiding officer to compel a witness to respond to a subpoena and to answer questions under oath at a deposition, the Staff has complied with that rule by participating in the discovery conference.

5. On August 21, 2006, counsel scheduled a second deposition of Mr. Ries for August 28, 2006. Mr. Ries appeared in person but failed to provide the requested documents or deposition testimony due to an alleged sudden illness in the family.

6. Thereafter, counsel has attempted to reschedule the deposition of Mr. Ries on September 9 and September 11, without cooperation or success. Counsel continues its efforts to schedule Mr. Ries for deposition.

7. Without the material testimony of Mr. Ries, the Staff will be unable to prepare its direct testimony in this case. This may explain Mr. Ries' reluctance to be deposed, but the respondents in this case should not be allowed to capitalize on Mr. Ries' lack of cooperation.

8. The Staff requests that the Commission suspend the procedural schedule in this case for 30 days, until October 31, 2006, and that a prehearing conference be set near that time to re-establish a procedural schedule. Once a deposition of Mr. Ries is completed, assuming Mr. Ries answers the questions propounded to him, the Staff believes it can file its direct case within 14 days after receipt of the transcript.

WHEREFORE, the Staff of the Commission respectfully requests that the Commission suspend the current procedural schedule as set forth above.

Respectfully submitted,

/s/ Steven C. Reed

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed first-class postage prepaid, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 20th day of September 2006.

/s/ Steven C. Reed _____
Steven C. Reed