

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

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

**RESPONDENTS' RESPONSE TO STAFF'S
PROPOSED PROCEDURAL SCHEDULE**

COME NOW Respondents, and for their response to Staff's *Proposed Procedural Schedule*, state as follows:

1. Respondents filed a *Motion to Reconsider or in the Alternative Establish a Procedural Schedule* on August 14, 2006 (hereafter "Motion to Reconsider").

2. Staff filed its "compromise" *Proposed Procedural Schedule* in response to Respondents' Motion to Reconsider on August 22, 2006.

3. It is becoming increasingly difficult to monitor and operate the pipelines prudently while meeting deadlines in the already compressed procedural schedule. Respondents are in the middle of three material construction projects involving the relocation of a meter station and a portion of its pipeline around a levee. Respondents are also adding a meter station and a delivery point. It is crucial to finish these projects this fall before Respondents' winter service starts. The pipelines have only ten persons working, (including its President ,Dave Ries) some of whom are office staff. While conducting this work and normal pipeline maintenance Dave Ries, the pipeline's top executive officer responsible for the operation of the pipeline, as well as Dave Wallen, the pipeline's field supervisor, must collectively respond to over 54

document requests and testify in depositions noticed only four (4) days before the scheduled date. Conducting the safe operation of the pipeline while responding timely to all discovery requests and depositions will be challenging if this matter is expedited as requested by Staff. However, consolidating this matter into Case No. GC 2006-0378 will help ensure the continued prudent, safe operation of the pipelines.

4. Staff's response and proposed procedural schedule continue to ignore due process concerns raised by Respondents. Even in light of Staff's proposed five (5) day response time to "non-objectionable" data requests, Respondents will not have sufficient time to conduct fair discovery. In other words, Respondents will not be able to adequately review Staff's direct testimony, serve data requests, take depositions, and develop Respondents' testimony all within the thirty (30) days allotted in Staff's proposed procedural schedule. It is a clear denial of due process to give Respondents only thirty (30) days to accomplish what Staff has had at least six (6) months to accomplish since the filing of Case No. GC-2006-0378.

5. Because the issues raised by Staff involve Respondents' relationships and agreements with third-parties, Respondents' discovery will of necessity be directed to some of those third parties. Staff fails to take into account the significance of the fact that some of those entities are not parties to this proceeding. It is extremely doubtful that the Commission's procedural rules could be imposed upon and enforced against non-parties, much less imposing an obligation to answer discovery in less than twenty (20) days. These discovery issues will further constrict the already inadequate time for Respondents to prepare their rebuttal testimony.

6. Staff fails to acknowledge Respondents' point that there is no benefit to customers, Staff, or the Commission to keep this matter separate from Case No. GC-2006-0378. If the Commission should find any amounts charged were over or under what is required by Respondents' tariff, the "filed-rate doctrine" would require that the overcharged or undercharged

amounts be quantified and returned to customers or collected by Respondents. This circumstance eliminates any need to hear this matter on an expedited schedule. Respondents urge this Commission to consolidate this matter with Case No. GC-2006-0378.

7. There is no benefit to consumers, parties to this proceeding, or the Commission in keeping this matter separate and hearing it on an expedited schedule. Likewise, hearing this matter on the established procedural schedule in Case No. GC-2006-0378 will not cause detriment to consumers, parties to this proceeding, or to the Commission. Any convenience Staff may experience in proceeding with this complaint before the already established schedule in Case No. GC-2006-0378 is far outweighed by the prejudice Respondents will incur from its denial of due process and its potential impairment to operate to pipelines effectively. Expediting this matter will result in denying Respondents' due process, creating the potential for reversible error. To allow for a fair proceeding, this matter should be consolidated or proceed according to Respondents' proposed procedural schedule.

WHEREFORE, Respondents respectfully request that the Commission reconsider its Order and consolidate Case Nos. GC-2006-0378 and GC-2006-0491 or, in the alternative, adopt Respondents' proposed procedural schedule in this matter.

Respectfully submitted,

LATHROP & GAGE, L.C.

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Dated: August 28, 2006

Attorneys for Respondents

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Respondents' Response to Staff's Proposed Procedural Schedule, has been transmitted by e-mail or mailed, First Class, postage prepaid, this 28th day of August, 2006, to:

*** Case No.** GC-2006-0491

<u>Name of Company Name of Party</u>	<u>Email Phone Fax</u>	<u>Street Address</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
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<u>Name of Company Name of Party</u>	<u>Email Phone Fax</u>	<u>Street Address</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
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Muni Gas Commission Conrad Stuart	stucon@fcplaw 816-753-1122 816-756-0373	3100 Broadway Suite 1209		Kansas City	MO	64111
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/s/ Paul S. DeFord
Attorney