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1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS

7 Prehearing Conference
8 June 6, 2006
9 Jefferson City, Missouri
Volume 1

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11
12 The Staff of the Missouri Public)
Service Commission,)
13)
Complainant,)
14)
v.) Case No. GC-2006-0378
15)
Missouri Pipeline Company, LLC;)
16 Missouri Gas Company, LLC; Mogas)
Energy, LLC; United Pipeline)
17 Systems, Inc.; and Gateway)
Pipeline Company, LLC,)
18)
Respondents.)

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20 MORRIS L. WOODRUFF, Presiding,
21 SENIOR REGULATORY LAW JUDGE.

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23 FOR: Staff of the Missouri Public
24 Service Commission.

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Welcome everyone to this
3 prehearing conference in GC-2006-0378. This is the case
4 of Staff of the Missouri Public Service Commission vs.
5 Missouri Pipeline Company, Missouri Gas Company, Mogas
6 Energy, United Pipeline Systems and Gateway Pipeline
7 Company.

8 We'll begin today by taking entries of
9 appearance, beginning with Staff.

10 MR. SCHWARZ: Tim Schwarz, Lera Shemwell
11 and Shelly Syler, P.O. Box 360, Jefferson City, Missouri
12 65102, appearing for the Staff.

13 JUDGE WOODRUFF: Thank you. And I'll call
14 you the pipeline companies.

15 MR. DeFORD: Paul DeFord and Amy Davenport,
16 2345 Grand Boulevard, the law firm of Lathrop & Gage,
17 appearing on behalf of the Respondents.

18 JUDGE WOODRUFF: And for Public Counsel?

19 MR. POSTON: Marc Poston appearing for the
20 Office of the Public Counsel, P.O. Box 2230, Jefferson
21 City, Missouri 65102.

22 JUDGE WOODRUFF: For the Municipal Gas
23 Commission?

24 MR. WOODSMALL: David Woodsmall and Stu
25 Conrad appearing for the Municipal Gas Commission of

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1 Missouri, 428 East Capitol, Suite 300, Jefferson City,
2 Missouri 65101.

3 JUDGE WOODRUFF: Southern Missouri Gas?

4 MR. FISCHER: James M. Fischer, Fischer &
5 Dority, P.C., 101 Madison Street, Suite 400, Jefferson
6 City, Missouri 65101, appearing for Southern Missouri Gas
7 Company, LP, doing business as Southern Missouri Natural
8 Gas.

9 JUDGE WOODRUFF: For Laclede?

10 MR. PENDERGAST: For Laclede Gas,
11 Michael C. Pendergast. My business address is 720 Olive
12 Street, St. Louis, Missouri 63101.

13 JUDGE WOODRUFF: For the Department of
14 Defense?

15 MR. McCORMICK: Your Honor, my name is
16 David McCormick. I'm with US Army Legal Services Agency,
17 901 North Stuart Street, Arlington, Virginia.

18 JUDGE WOODRUFF: Thank you, Mr. McCormick.
19 Can you hear everyone okay?

20 MR. McCORMICK: Yes, sir.

21 JUDGE WOODRUFF: Very good. AmerenUE?

22 MR. KURTZ: For AmerenUE, David Kurtz,
23 Smith Lewis, LLP, 111 South Ninth Street, Suite 200,
24 Columbia, Missouri 65205.

25 JUDGE WOODRUFF: Okay. And I believe that

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1 is all the parties. Is there anyone I missed?

2 (No response.)

3 JUDGE WOODRUFF: All right. Not hearing
4 anyone, I'll assume that's the case. I had a phone
5 conversation with Dan Young, who represents Omega
6 Pipeline. He indicated he would not be here today since
7 they've been dismissed as a party, but he indicated that
8 if there are questions about discovery that you want to
9 address to him, he is available by telephone. The number
10 was (816)531-0033.

11 And if you do need to reach him through
12 this -- through this conference room, there is another
13 telephone in the ante chamber back here. If you want to
14 bring it out here and plug it in, you can call him on
15 that.

16 MR. SCHWARZ: Could you give me the number
17 again?

18 JUDGE WOODRUFF: Sure. It's (816)531-0033.
19 All right. Well, there's two purposes for this prehearing
20 conference today. One is to prepare a discovery schedule,
21 and the other is to prepare a proposed procedural schedule
22 leading to a hearing.

23 Basically, I'm just going to leave that to
24 your own discussions after we get off the record, unless
25 there's something that you want to bring up that you think

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1 I can be helpful, helpful on from the Bench. Anything
2 anyone wants to bring up while we're on the record?

3 MR. SCHWARZ: Yes.

4 JUDGE WOODRUFF: Yes, Mr. Schwarz?

5 MR. SCHWARZ: I'd like to take this
6 opportunity to discuss preliminarily with you the
7 pipelines' responses to Staff's Data Requests 1 and 2.
8 They are not responsive. We have so notified Mr. DeFord
9 on the 19th of May. I followed it up with a telephone
10 call on the 30th of May. I've heard no response. And I
11 will give you a copy of the Staff's Data Requests and my
12 e-mail to Mr. DeFord.

13 Staff's Data Requests asked for the daily
14 volumes delivered at the interstate pipeline take points
15 of Missouri Pipeline Company. The responses that they
16 sent Staff are monthly summaries of deliveries to what we
17 believe are some but not all of the entities taking gas
18 off of Missouri Pipe and Missouri Gas, and they're simply
19 not responsive to the information that the Staff needs.

20 The Staff needs the information to tie the
21 receipts of the pipelines with the delivery of the
22 pipelines and for use in receiving billing determinant,
23 calculating billing determinants for the setting of rates.
24 So the rules -- Commission's rules require that we bring
25 this matter to your attention before Staff files a motion

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1 to compel, and that's the purpose that I'm bringing it to
2 your attention now.

3 JUDGE WOODRUFF: I understand that.

4 Appreciate it. Mr. DeFord, do you have any response?

5 MR. DeFORD: Yes, your Honor. We believe
6 we've actually already provided the information, maybe on
7 even more than one occasion, but we're pleased to talk
8 with Staff today and pull together the information if it's
9 available and if it is, in fact, kept in the normal course
10 of business.

11 JUDGE WOODRUFF: Are you saying that they
12 might not know the daily balances or --

13 MR. DeFORD: I have to defer that to the
14 client. I certainly don't know the answer to that.

15 JUDGE WOODRUFF: Obviously I don't know
16 either. That is certainly something I would hope that you
17 would discuss with Staff to try and resolve that.

18 MR. SCHWARZ: It would seem remarkable that
19 they don't know how much gas they take at the intake
20 points of their systems. They have operating balancing
21 agreements with both Panhandle -- well, I don't know that
22 they do with MIG, but certainly MIG does with MRT. This
23 information is information without which they cannot
24 operate their systems.

25 MR. DeFORD: I think I have the appropriate

1 people here today that can address that.

2 JUDGE WOODRUFF: All right. Well, anything
3 else that you want to bring up while we're on the record?

4 MR. SCHWARZ: Well, I think your presence
5 here might be helpful. I mean, we've been dancing around
6 on this subject for five months now, at least, and have
7 made very little progress. As I indicated, I sent an
8 e-mail to Mr. DeFord on the 19th of May, a follow-up phone
9 call on the 30th of May, and --

10 MR. DeFORD: Your Honor, counsel is fully
11 aware, I've been in trial. I don't have time to play
12 these discovery games. That's what we're here today to
13 discuss.

14 MR. SCHWARZ: It's not -- discovery is not
15 a game. Discovery is part of the case. If Mr. DeFord --
16 he's got Ms. Davenport with him today. Lathrop & Gage in
17 its website says it has over 300 lawyers. If Lathrop &
18 Gage is going to represent clients before this Commission,
19 this Commission is entitled to have timely representation.

20 I'm sure that Mr. DeFord's schedule is as
21 busy as those of Staff attorneys. Nevertheless, this is a
22 serious matter. It is a discovery -- this kind of
23 discovery, these are routine documents. They are not
24 extraordinary. This is not privileged. There's no --
25 this is send us copies of contracts, send us copies of the

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1 messages you have from Panhandle Eastern Pipeline Company
2 telling you how much gas you took off of the Curryville
3 take point on particular dates. It's copies of bills that
4 you've sent to customers. It's routine stuff. It's stuff
5 that Staff has never had discovery disputes with with
6 Ameren, Laclede, Southern Missouri Gas, MGE, Atmos,
7 Empire. This is -- this is not. And furthermore, you
8 know, a telephone call?

9 JUDGE WOODRUFF: I certainly understand
10 your concerns, and I want to encourage you to discuss it
11 amicably today, and I'm sure you will. This probably
12 doesn't need to be on the record for this proceeding, and
13 we'll discuss that further. Plus, I believe this is
14 probably a dispute between Staff and the pipeline
15 companies and doesn't necessarily involve all the other
16 attorneys that are in the room here today.

17 MR. WOODSMALL: Well, your Honor, speaking
18 on behalf of the Municipal Gas Commission of Missouri,
19 while we haven't taken any substantive position on the
20 issues laid out in the complaint, we are eager to see this
21 moved expeditiously. And in order to do that, Staff is
22 going to need discovery.

23 This should proceed like any other case
24 with regular discovery under the Commission procedural
25 rules, and we would support Staff to the extent that

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1 they're not receiving discovery so that we can get this
2 done expeditiously and maybe decided before the winter
3 heating season.

4 MR. KURTZ: Ameren would concur with that,
5 your Honor.

6 JUDGE WOODRUFF: All right. Well,
7 certainly there's need for further discussion here, and
8 I'm going to allow you to deal with that discussion. If
9 at the end of the day you can't resolve your concerns, go
10 ahead and file a motion to compel and the Commission will
11 deal with it just as quickly as possible. I can't -- I
12 don't have the authority to rule from the Bench today on a
13 discovery dispute anyway. It's something I would have to
14 take to the Commissioners at agenda.

15 So anything else anyone wants to bring up
16 while we're on the record?

17 (No response.)

18 JUDGE WOODRUFF: All right. With that,
19 then, the on-the-record portion of this proceeding is
20 adjourned, and I'll leave you to your discussions.

21 WHEREUPON, the recorded portion of the
22 prehearing conference was concluded.

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