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 and Missouri Gas Company, LLC	)	
Respondents.	)	

STAFF RESPONSE AND MOTION TO STRIKE

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and in Response to *Respondent's Motion to Strike* states:

1. Respondents rely on the phrase "Thanks for you(sic) help with this, a very common closing in many e-mails as an indication of misconduct on the part of Staff. The attached affidavit of Carmen Morrissey will address the actual meaning of the e-mails used by Mr. Ries to allege wrong-doing. In her affidavit, Ms. Morrissey explains why the simplest review of the e-mails reveals the allegation to be baseless. (*See* Morrissey Affidavit.)

2. Mr. Reis' allegations in paragraph 7 of Respondents' *Motion to Strike* are also groundless. Respondents claim that the documents provided by Staff in response to Respondent's data requests were not marked "HC." While that part is true, Staff only provided one of the documents Mr. Ries claims that Staff provided. (Ries Rebuttal Attachment AA.)

3. Staff did not provide those documents in response to Respondent's data requests, with the exception of 4101-B, which Staff received from AmerenUE, that was **not** stamped "HC" by Ameren. Staff's copy of the document does not contain the markings contained on

NP

page referred to as 4101B. Staff has thoroughly searched its files and produced many documents in response to Respondent's data requests. Staff does not have the documents shown in Attachemnt AA (Reis Rebuttal) in its files, nor can any Staff member find any record that it ever received these documents from Respondents.

4. Additionally, Staff does not mark documents as "HC" unless the company, whose information it is to protect, has designated the information as "HC." In other words, Staff does not have the responsibility to mark a document provided to Staff as "HC" as Staff is not the party claiming there is any basis to protect the document. The party providing information to the Staff is the entity responsible for marking a document as "HC".

5. In addition to the other false statements in Mr. Ries' testimony, the allegation that Omega was harmed also proves unfounded. The statement that Omega was engaging in efforts in 2002/2003 to develop its "gas marketing business by offering various customers better prices than they had with MPUA" is untrue. (Respondents' *Motion to Strike*, paragraph 8.) As shown by Attachment AA in his Rebuttal testimony, at this time **

**

6. As soon as Staff receives the final transcripts, Staff will supplement this pleading with exact citation to the sections of Mr. Ries' deposition concerning these unfounded allegations.

7. Staff, in an abundance of caution, filed the direct testimony of Robert E. Schallenberg as Highly Confidential as the testimony remains today. Staff has been waiting for

NP

the Companies to inform Staff what material it wishes to treat as Highly Confidential. Staff has received no response from the Companies' on this matter. Staff will be filing a separate motion asking the Companies to order the Companies' to respond to this request by November 8, 2006 or authorizing the Staff to file Mr. Schallenberg's testimony on November 10 as public information.

WHEREFORE, the Staff respectfully asks the Commission to accept Staff's Response in compliance with the Commission's Order Directing filing, deny Respondent's *Motion to Strike*, and permit the Staff to supplement this response with exact quotiations and cites to Mr. Ries deposition when the final transcript is received.

Respectfully submitted,

/s/ Lera Shemwell
Lera L. Shemwell
Deputy General Counsel
Missouri Bar No. 43792
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7431(Telephone)
(573) 751-9285 (Fax)
E-mail: lera.shemwell@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 27th day of October, 2006.

/s/ Lera Shemwell

NP

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,	)	
Respondent.	)	

AFFIDAVIT OF CARMEN MORRISSEY

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

I, Carmen Morrissey, of lawful age, on oath state:

I have reviewed the publicly available information concerning David J. Ries' allegations in the October 12, 2006 *Motion to Strike* that I engaged in activity that "gave the appearance or impropriety." In responding, I cannot review the non-public portions of David Ries' testimony or any other confidential information.

I am fully aware of the ethical and legal restrictions on sharing information that a company has labeled as proprietary and/or highly confidential. I am also aware that material given to the Staff is not generally made public.

I have reviewed Appendix EE attached to Mr. Ries' Rebuttal Testimony, which is public. This material is a series of e-mails under my control that I forwarded to Robert Schallenberg of the Commission Staff. Mr. Schallenberg had requested that I forward all material that I had regarding Missouri Pipeline Company (MPC), Missouri Gas Company (MGC), Kansas Pipeline Company (KPC), David J. Ries, and Dennis Langley.

The series of emails begins with an e-mail from former PSC Commissioner Duncan Kinchloe, concerning an article in the Cuba Free Press stating that the City of Cuba accepted Ries contract offer because, "Ries was approved because of his low transportation costs."

I understand that Mr. Ries is focusing on an October 23, 2002 from Eve Lissik to myself. This e-mail is contained on the last page of Attachment EE. I recall conversations and emails with Ms. Lissik on a variety of topics over the years. I engaged in the same type of conversations and e-mails with Mr. Ries during my career with the Missouri Public Service Commission. At no time did I ever release confidential information to a person who was not permitted to view confidential information.

Mr. Ries has focused on the phase "Thanks for you [sic] help with this" in Ms. Lissik's October 23, 2002 e-mail. Ms. Lissik notes in her e-mail that she had received a voice mail from me and was appreciative of my suggestion as is evidenced by the Subject line: **Subject:** Got your message...Thanks"

At 1:28 PM, I sent an e-mail to Warren Wood, who was Manager of the Commission's Energy Department at that time and my supervisor, explaining the content of my voice mail to Ms. Lissik. This e-mail explains the content of the voice mail I left with Ms. Lissik regarding a possible approach to address the issue she had raised about Mr. Ries' marketing. It is clear from that message that I did not and could not release confidential information to MPUA because I suggested to Ms. Lissik that they get the details from the city.

Ms Lissik in her October 23, 2002 e-mail explains what actions she has taken in conjunction with the suggestion with my voice-mail. Ms. Lissik never asked me to acquire that information for her nor did I ever volunteer or agree to do such a thing.

As part of my duties at the Commission I provided assistance to persons outside the Commission. I never provided anyone assistance in the form of releasing confidential information or supplying protected information to a party other than persons permitted by protective orders to view such information.

During my employment with Commission, I respected all of the Commission's rules concerning the conduct of its Staff including those relate to the treatment of confidential information.

I have attached to this affidavit the last page of Mr. Ries' Attachment EE for ease of reference.

C. Morrissey

Carmen Morrissey

Subscribed and sworn to before me this 26th day of October, 2006.

Rosemary R. Robinson

Notary Public

My commission expires 9-23-2008

ROSEMARY R. ROBINSON
Notary Public - Notary Seal
State of Missouri
County of Callaway
My Commission Exp. 09/23/2008

Schallenberg, Bob

From: Morrissey, Carmen
Sent: Wednesday, November 16, 2005 4:57 PM
To: Schallenberg, Bob
Subject: FW: Further info from Eve

From: Morrissey, Carmen
Sent: Wednesday, October 23, 2002 1:28 PM
To: Wood, Warren
Subject: Further info from Eve

I had left Eve a voicemail explaining you & I would discuss further (& also try to talk w/ FERC staff) early next week.

I offered a suggestion (explaining it was just a personal thought...which since I'm not an attorney ought to be weighted accordingly). That suggestion was to try to negotiate w/ the city re: release from their contract by saying --- that no release would be considered unless the city provides documented details of Ries' deal and allows the Alliance/ONEOK to provide comments on that deal. Hope that was OK.

-----Original Message-----
From: Eve Lissik [mailto:elissik@mpua.org]
Sent: Wednesday, October 23, 2002 1:11 PM
To: cmorrissey@psc.state.mo.us
Subject: Got your message...Thanks.

I spoke with our contact at ONEOK that has our contract to supply St. James. He was in the process of checking with his legal department concerning Gateway contacting cities that are under contract. Before St. James can be released from its contract, our gas commission board members are going to want the details of Gateway's deal with St. James.

Thanks for you help with this.

Eve

Schallenberg, Bob

From: Morrissey, Carmen
Sent: Wednesday, November 16, 2005 4:58 PM
To: Schallenberg, Bob
Subject: FW: MoPSC Marketing Affiliate Transaction Rule

From: Morrissey, Carmen
Sent: Wednesday, October 30, 2002 9:15 AM
To: 'Eve Lissik (E-mail)'
Subject: MoPSC Marketing Affiliate Transaction Rule

http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-40a.pdf
See **4 CSR 240-40.016(2)**

Eve,
I've done some reading & talking w/ Tom Imhoff & Warren Wood. If Ries is threatening to remove the transportation discounts from customers who don't buy gas from Omega, then it looks like he's violating **4 CSR 240-40.016(2).**
I believe we intend to send some data requests to Ries. Someone from here, probably Warren, will likely be calling you to see if MGUA has any further info.

REBUTTAL TESTIMONY
DAVID J. RIES

APPENDIX AA

HAS BEEN DEEMED HIGHLY CONFIDENTIAL IN ITS ENTIRETY