

**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' REPLY TO STAFF'S MOTION FOR RECONSIDERATION

COME NOW Respondents, Missouri Pipeline Company and Missouri Gas Company (hereafter "MPC" and "MGC"), and reply to Staff Motion for Reconsideration (hereafter "Motion"). In support of its reply, Respondents state as follows:

1. On November 14, 2006, Staff filed its Motion for Sanctions for Destruction of Documents.
2. Mr. Dave Lodholz' (B.J.) affidavit was executed on or about December 7, 2006.
3. On December 8, 2006, the Commission issued an Order Denying Respondents' Motion for Continuance, ruling that it would hear evidence on the Motion for Sanctions at the December 13-15, 2006, evidentiary hearing.
4. Staff's Request for Reconsideration has no basis. Staff is attempting to have this Commission dismiss a critical piece of evidence on the basis of clerical oversight. Mr. Lodholz' affidavit conforms with Missouri law despite this oversight. It is

well established that the omission of a notary certification competent, such as a date or seal, does not invalidate the notary's certificate of acknowledgment. *see Baskowitz v. Guthrie*, 73 S.W. 227, 228 (Mo.App. 1903); *see also Cook v. Delucia*, 62 S.W.3d 97 (Mo.App. 2001). As such, Mr. Lodholz' affidavit, Exhibit 311, has been properly authenticated and admitted into evidence in GC-2006-0491.

5. Mr. Lodholz should not be precluded from clarifying his statements through his sworn affidavit. Mr. Lodholz had no way of knowing of Staff's misunderstanding and the need for clarification in his testimony until after Staff filed its Motion for Sanctions. Therefore, Mr. Lodholz could not have made his clarification at the time the errata sheets were circulated. Mr. Lodholz clarified the statements in his deposition as soon as he became aware of Staff's misinterpretation and the purpose for which Staff intended to use such statements. Nothing in law precludes Mr. Lodholz from clarifying the meaning of this sworn statement at this time.

6. Fairness demands that Mr. Lodholz be given the opportunity to clarify his statements through his sworn affidavit. In light of Staff's last minute Motion for Sanctions and the Commission's recent Order to hear evidence at the evidentiary hearing, Respondents request that the Commission use its discretion in recognizing the validity of Mr. Lodholz' affidavit despite its clerical oversight and reaffirm its admittance.

WHEREFORE, Respondents respectfully request that the Commission deny Staff's Motion for Reconsideration.

Respectfully submitted,

LATHROP & GAGE, L.C.

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Attorneys for Respondents

Dated: January 2, 2007

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Respondents' Reply to Staff's Motion for Reconsideration has been transmitted by e-mail or mailed, First Class, postage prepaid, this 2nd day of January, 2007, to:

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

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