

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

Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
v.)	Case Nos. GC-2006-0378 and
)	GC-2006-0491
Missouri Pipeline Company, LLC,)	
Missouri Gas Company, LLC, et.al.)	
)	
Respondents.)	

**STAFF’S RESPONSE TO MISSOURI PIPELINE COMPANY’S
RESPONSE TO AMENDED MOTION TO DECLASSIFY**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Response to Missouri Pipeline Co.’s Response to Amended Motion to Declassify, states as follows:

1. Staff is withdrawing its request to declassify information pertaining to the recreated invoices of AmerenUE and Laclede Gas Company. The Commission’s discovery rules permit a customer access to their specific information. 4 CSR 240-2.135 (4)(F). Staff has realized there is no restriction that this rule applies only to residential customers. Chapter 3, at 4 CSR 240-40-3.010 (7) defines customer: Customer means any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for services provided by one (1) or more public utilities. AmerenUE and Laclede were and are customers of MPC and MGC so under the Commission’s rules they have full access to their own specific information.

2. Staff also is not acting on behalf of AmerenUE or Laclede Gas Company, who, in protecting the interests of AmerenUE and Laclede Gas Company, have interests different than the interests of this Commission. The Commission protects the interests of Missouri consumers, while AmerenUE and Laclede Gas Company protect the interests of the company.

3. Staff did not assert it was engaged in a joint investigation with the FERC. The Commission is not engaged in a “joint investigation.” Instead, as it has in hundreds of FERC cases, the Commission intervened in FERC Case No. CP07-450, and is, in fact, “merely an intervenor.” (Response at page 3.) Over the past twenty years, this Commission has intervened in hundreds of FERC cases to protect the interests of Missouri consumers. It is never presumptuous for the Commission to act in the public interest. (Response at page 8.)

4. Staff was surprised by the assertion the Commission lacks statutory authority to intervene in FERC cases. (Response at page 6.) The Commission acts under the police powers of the state. Chapters 386 and 393, the Commission’s enabling statutes are remedial in nature and are to be liberally interpreted. “[t]he Public Service Commission Law of our own state has been uniformly held and recognized by this court to be a remedial statute, which is bottomed on, and is referable to, the police power of the state, and under well-settled legal principles, as well as by reason of the precise language of the Public Service Commission Act itself, is to be ‘liberally construed with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities.’” State ex rel. Laundry, Inc. v. Public Service Comm’n, 34 S.W.2d 37 (Mo.1931) “[Where] the statute is remedial ... it should be construed so as ‘to meet the

cases which are clearly within the spirit or reason of the law, or within the evil which it was designed to remedy, provided such interpretation is not inconsistent with the language used ... resolving all reasonable doubts in favor of applicability of the statute to the particular case.’ ” State ex rel. LeFevre v. Stubbs, 642 S.W.2d 103 (Mo. 1982) *citing* State ex rel. Brown v. Board of Education of City of St. Louis, 242 S.W. 85, 87 (Mo. banc 1922).

5. The Commission’s enabling statute gives the Commission powers “necessary or proper to enable it to carry out fully and effectually all the purposes of this chapter.” § 386.040.

6. The General Counsel of the Commission has the duty “to represent and appear for the commission in all actions and proceedings involving any question under this or any other law” . . . and “to intervene, if possible in any action or proceeding in which any such question is involved . . . in regard to all matters in connection with the powers and duties of the commission . . . and to perform all duties and services as attorney and counsel to the commission which the commission may reasonably require of him.” §386.071 RSMo (2000).

7. This pleading ignores the broad language of the general counsel statute, which grants the general counsel authority to intervene in any action or proceeding involving questions concerning the Commission’s duty to protect the citizens of Missouri.

8. In addition to the broad powers granted the general counsel, this Commission is a “state commission” within the meaning of § 1.101(k) of the FERC’s general regulations. Neither AmerenUE nor Laclede is charged with the responsibility of

protecting the interests of Missouri's consumers. This Commission has a direct and unique interest, different from AmerenUE's or Laclede Gas Company's interest in FERC proceedings and is entitled to party status upon filing of a Notice of Intervention pursuant to Federal Rule. 18 CFR §385.214(a)(2). Once the Commission has intervened at the FERC it has the same discovery rights as any other party, except perhaps the FERC Staff. The discovery process is the "investigation" in which Staff is engaged in this case.

9. While Staff agrees FERC staff is capable of conducting an investigation, FERC staff is not specifically interested in protecting the interests of Missouri consumers. This is undoubtedly one of the reasons FERC permits state commissions to intervene. § 1.101(k).

10. Counsel's pleading that the recreated invoices were not recreated but were "reprinted" is contrary to the Commission's Order in GC-2006-0491. Based on testimony in the GC-2006-0491 (*see ex. Tr. p. 55, ls. 18-20; p. 57, ls. 12-17; p. 58, ls 2 and 15-18; p. 90, ls 7-18; p. 121, ls 17-25; p. 135, ls 10-11; p. 359-361.*) the Commission determined the invoices were recreated. "Subsequently in June 2006, Staff obtained what it described as recreated invoices for 2004 and 2005 from MPC and MGC. Staff has never obtained 2003 invoices from MPC and MGC (footnote omitted) Ries testified in his deposition that the companies did not provide the 2003 invoices to Staff because '[w]e don't have paper copies of them and it would require an extreme amount of effort and diligence to go back and recreate them.'" (Revised Order at page 8).

11. Further the Commission was "troubled by MPC and MGC's failure to provide Staff even recreated invoices for 2003." The Commission indicated MPC and MGE are required by rule to maintain their vital records and make those records available

to the Commission for review. The Commission found it unbelievable ‘that MPC and MGC would produce invoices, mail those invoices to customers, then fail to retain either a paper or electronic copy of such invoices in a readily accessible form.’” (Revised Order at page 10). Clearly the Commission did not believe that the invoices were reprints of originals.

WHEREFORE, the Staff respectfully requests that the Commission permit Staff to withdraw its request.

Respectfully submitted,

/s/ Lera L. Shemwell

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 14th day of August 2008.

/s/ Lera L. Shemwell