

**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 MOTION TO COMPEL

Respondents, Missouri Pipeline Company (hereafter "MPC") and Missouri Gas Company (hereafter "MGC"), submit this response to Staff's Motion to Compel Response to Discovery Request (hereafter "Staff's Motion"). In support of this response, Respondents state as follows:

1. On June 21, 2006, Staff filed its initial Complaint in this matter, alleging, among other things, violations of Respondents' tariffs. See Staff Complaint Concerning Tariff Violations and Motion for Expedited Treatment, Case No. GC-2006-0491.

2. On August 10, 2006, Staff sent Data Request Number 5 (hereafter DR # 5) to Respondents requesting ** _____
_____.

** See DR #5.

3. On August 21, 2006, Respondents timely objected to DR #5 on the basis that Staff is seeking information which is not relevant to any issue in this matter and that

the Staff's inquiry seeks information from entities not parties to this proceeding. *See* Letter from Paul DeFord to Lera Shemwell, August 21, 2006.

4. On August 28, 2006, Staff filed its Motion to Compel Response to Discovery Request.

5. Respondents maintain their objection to DR #5 on the grounds that Staff is asking for information which is not relevant to this matter from entities not a party to this proceeding. In its Motion, Staff argues that DR #5 is relevant based only on unsupported allegations of ** _____ ** which, even if taken as true, would have no relevance to this proceeding. Staff's recital of baseless allegations, without any factual basis, does not make the information requested in DR # 5 relevant to this proceeding.

6. Staff is attempting to impose the Commission's procedural rules, which are not applicable to non-parties, on ** _____ **, both non-parties to this case. The documents requested in DR #5 are business records held by ** _____ ** and are not in the custody or control of Respondents. Staff's allegations that ** _____ ** possesses the documents responsive to DR #5 have no merit or factual basis. The fact that ** _____ ** is an officer of one entity, it should not be inferred that he is in control of the business records or acting on behalf the other. Courts generally presume that directors holding positions with a parent and its subsidiary can and do change roles to represent each entity separately. *United States v. Best Foods*, 118 S.Ct. 1876, 1888 (U.S. 1998). The Court further recognizes that "It is entirely appropriate for directors of a parent corporation to serve as directors of its subsidiary..."

Id. Staff has provided nothing but bald allegations to rebut this presumption. Since no factual basis exists, it is presumed that Respondents and their officers conduct business and possess records related to the operations of MPC and MGC, not on behalf of their parent corporations. Accordingly, it is inappropriate for Staff to use the Commission's procedural rules to attempt to obtain records from non-parties to this matter.

7. Staff is attempting to circumvent the appropriate discovery procedure to obtain information from ** _____. ** ** ____ ** is currently involved in two proceedings, including one involving a rate review filing and the other a certificate application, before the Federal Energy Regulatory Commission (hereafter "FERC"). The Commission has intervened in both cases. The Commission's rules are not the appropriate discovery mechanism to obtain information regarding ** _____ **. If Staff desires to obtain any information from ** ____ ** for either of the FERC proceedings, the appropriate mechanism is through FERC under its procedural rules of discovery. Staff should not be allowed to use a state administrative proceeding to obtain information that may appropriately be sought through FERC discovery rules.

WHEREFORE, Respondents' objection to DR #5 should stand, and the Commission should deny Staff's Motion to Compel.

Respectfully submitted,

LATHROP & GAGE, L.C.

/s/ Paul S. DeFord

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Attorneys for Respondents

Dated: September 1, 2006

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 1st day of September, 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>
Missouri Public Service Commission General Counsel	GenCounsel@psc.mo.gov 573-751-2481 573-751-9285	200 Madison Street, Suite 800	P.O. Box 360	Jefferson City	MO	65102
Office Of The Public Counsel Mills R Lewis	opcservice@ded.mo.gov 573-751-1130 573-751-1556	200 Madison Street, Suite 650	P.O. Box 2230	Jefferson City	MO	65102
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Federal Executives Agencies McCormick	David.McCormick@US.Army.Mil 703-696-1646 703-696-2960	901 N. Stuart St., Room 713	JALS- RL 4147	Arlington	VA	22203- 1837

<u>Name of Company</u> <u>Name of Party</u>	<u>Email</u> <u>Phone</u> <u>Fax</u>	<u>Street Address</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
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Union Electric Co Byrne Thomas M	TByrne@Ameren.com 314-554-2514 314-554-4014	1901 Chouteau Avenue	P.O. Box 66149 (MC 1310)	St. Louis	MO	63166- 6149

/s/ Paul S. DeFord
Attorney