

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

Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	Case No. GC-2006-0378
)	
Missouri Pipeline Company, LLC;)	
Missouri Gas Company, LLC; Omega)	
Pipeline Company, LLC; Mogas Energy,)	
LLC; United Pipeline Systems, Inc; and)	
Gateway Pipeline Company, LLC,)	
)	
Respondents.)	

**RESPONDENTS' RESPONSE TO STAFF'S MOTION
TO SUSPEND PROCEDURAL SCHEDULE**

COME NOW Respondents in the above-captioned matter and respond to *Staff's Motion for Suspension of Procedural Schedule* (hereafter "Staff's Motion"). Staff mischaracterizes certain events and withholds other important information that would help this Commission understand the status of this proceeding and aid in its decision-making. Respondents have used reasonable and diligent efforts to respond to all of Staff's requests. Respondents' actions are in no way sanctionable under the Missouri Supreme Court Rules or otherwise.

Respondents further point out that discovery and timing issues could be simplified by combining GC-2006-0378 and GC-2006-0491 and proceeding on the newly modified procedural schedule in GC-2006-0378. At a minimum, if the Commission delays Staff's deadline for filing its direct testimony to October 30, 2006, then, for reasons stated herein, Respondents' rebuttal testimony in GC-2006-0378 should be delayed until January 15, 2007. In support of this response, Respondents state as follows:

1. Staff deposed Mr. Dave Ries, President of Missouri Pipeline Company (hereafter "MPC") and Missouri Gas Company (hereafter "MGC") on July 17 and 18, 2006.

2. Mr. Ries was subpoenaed and attended the depositions as a representative of MPC and MGC.

3. Omega was and is represented by separate counsel and, at that time of his deposition in July, Mr. Ries was not authorized to testify on behalf of Omega. As reflected in the transcript, Mr. Ries informed Staff of this fact. Mr. Ries' response to Staff's questioning regarding Omega was made in good faith and in no way constitutes a sanctionable offense under Missouri Supreme Court Rule 61.01(g) or § 386.460, RSMo.

4. Respondents have diligently tried to provide Staff with the information it seeks regarding Omega. Subsequent to Mr. Ries' July 17 and 18 deposition, Mr. Ries sought and was given authorization to testify as to Omega's business activities for the period prior to June 2006. Accordingly, Mr. Ries voluntarily appeared for a deposition to answer questions related to Omega on August 28-29, 2006. Two other pipeline employees, Patty Hawkins and Dave Wallen, also appeared for depositions at that time.

5. Staff's Motion leaves out facts critical to helping the Commission understand the status of these proceedings. During the second round of depositions, the parties mutually agreed that Ms. Hawkins and Mr. Wallen would be deposed before Mr. Ries. Mr. Ries was present the entire time during their depositions while waiting to be deposed. It was during this time that Mr. Ries received information from his family that his father-in-law was critically ill and that Mr. Ries' presence in Iowa was essential to help arrange for care for him. Due to the emergency situation, Mr. Ries departed to care for his father-in-law in Iowa.

6. Staff states that Mr. Ries failed to provide the requested documents at the second deposition. *See* Staff Motion, page 2, paragraph 5. Staff's statement lacks candor. Most of the documents Staff requested had already been provided during the course of informal or formal discovery. Staff further fails to acknowledge that many of the records it requested do not exist. Staff was informed of this fact during the depositions.

7. Respondents have complied with the Commission's procedural rules throughout this proceeding. In its Motion, Staff states that Mr. Ries failed or refused to appear at the August 11, 2006, discovery conference. *See* Staff Motion, page 2, paragraph 5. Nothing in the Commission's procedural rules or orders herein required Mr. Ries to personally appear at a discovery conference. Likewise, the Commission's rules do not compel Mr. Ries to personally retain counsel for a discovery conference. The companies (including Omega) attended and were represented at the August 11, 2006, discovery conference and, therefore, have complied with all procedural requirements.

8. Despite Respondents' best efforts in responding to Staff's inquiries since January 2006, Staff now insinuates that Mr. Ries has been untruthful about his familial circumstance. This suggestion is insulting and mocks the seriousness of the situation Mr. Ries and his family are facing. Mr. Ries is willing to participate in a conference call with the regulatory law judge and counsel to explain the circumstances he faces. Respondents will continue to work with Staff in responding to future requests and rescheduling Mr. Ries' deposition as expeditiously as possible.

9. On the condition that their rebuttal testimony filing date is delayed until January 15, 2007, Respondents do not object to the relief requested in Staff's Motion. The reason for requesting a delay until January 15, 2007, is so that Respondents will have adequate time to complete their rebuttal testimony. Because of the holidays in November and the necessity to

prepare for and attend the evidentiary hearing in GC-2006-0491 on December 13-15, 2006, Respondents will need at least until January 15, 2007 to complete their rebuttal testimony. Respondents need this time because it would be impossible for Mr. Ries and the companies' representatives to prepare for and participate in the GC-2006-0491 hearing while simultaneously preparing testimony in the GC-2006-0378 case by mid-December. Case GC-2006-0378 amounts to a full rate case requiring testimony on all aspects of Respondents' costs and revenues. Respondents' rebuttal testimony could not possibly be expected to be completed in 30 days even absent the burden of participation in a hearing in another major regulatory proceeding (GC-2006-0491).

10. Respondents point out that Staff's request further complicates the already constricted schedules cases GC-2006-0378 and GC-2006-0491. Because Staff's direct testimony filing submittal date in GC-2006-0278 is quickly approaching, Mr. Ries' deposition can be taken on all remaining issues anytime, within reason, after Respondents' rebuttal testimony is filed in GC-2006-0491. In light of events out of the parties control and the passage of time, recombining the complaints would simplify matters for this Commission and all parties involved. Respondents continue to believe that consolidating both pending complaints and allowing them to proceed on the procedural schedule as modified by Staff's and Respondents' proposal for GC-2006-0378, is in the best interest of all parties.

WHEREFORE, on the condition that Respondents do not object to Staff's Motion to Suspend the procedural schedule in this matter if Respondents' rebuttal testimony filing date is

extended until January 15, 2007, they do not object to Staff's Motion to Suspend Procedural Schedule. Further, Respondents respectfully request that Case No. GC-2006-0491 and Case No. GC-2006-0378 be consolidated and proceed on the schedule as modified by this Commission in Case No. GC-2006-0378.

Respectfully submitted,

LATHROP & GAGE, L.C.

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Dated: September 27, 2006

Attorneys for Respondents

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Respondents' Motion to Establish a Procedural Schedule, transmitted by e-mail or mailed, First Class, postage prepaid, this 27th day of September, 2006, to:

*** Case No.** GC-2006-0378

<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>
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