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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

July 23, 2012
Jefferson City, Missouri

Volume 1

In the Matter of the Empire)
District Electric Company of)
Joplin, Missouri for Authority to)
File Tariffs Increasing Rates)Case No. ER-2012-0345
for Electric Service Provided to)
Customers in the Missouri Service)
Area of the Company)

MICHAEL BUSHMANN, Presiding
REGULATORY LAW JUDGE

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A P P E A R A N C E S

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A P P E A R A N C E S (CONTINUED)

For Missouri Gas Energy via Telephone:

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1 P R O C E E D I N G S

2 JUDGE BUSHMANN: Okay. Let's bring the
3 proceeding to order. We're on the record. Today is July
4 23rd, 2012, at 10:00 a.m.

5 The Commission has set this time for a
6 pre-hearing conference in the case captioned as In the
7 Matter of the Empire District Electric Company of Joplin,
8 Missouri, Tariffs Increasing Rates for Electric Service
9 Provided to Customers in the Missouri Service Area of the
10 Company, File No. ER-2012-0345.

11 My name is Michael Bushmann. I'm the presiding
12 officer who has been assigned to this case. Let's start
13 this morning by taking entries of appearance from Counsel.
14 For the Empire District Electric Company?

15 MR. COOPER: Thank you, your Honor. Dean L.
16 Cooper and Diana C. Carter of the law firm of Brydon,
17 Swarengen & England, PC, appearing on behalf of the
18 Empire District Electric Company. The address has been
19 provided to the court reporter.

20 JUDGE BUSHMANN: Thank you. Commission Staff?

21 MS. KLIETHERMES: Thank you, Judge. Sarah
22 Kliethermes, Jeff Keevil and Steve Dottheim of and for the
23 Staff of the Missouri Public Service Commission.

24 JUDGE BUSHMANN: Thank you. Office of Public
25 Counsel?

1 MR. MILLS: On behalf of the Office of the
2 Public Counsel and the public, my name is Lewis Mills. My
3 address is P.O. Box 2230, Jefferson City, Missouri, 65102.

4 JUDGE BUSHMANN: Thank you, Mr. Mills. Midwest
5 Energy Users Association?

6 MR. CONRAD: On behalf of MEUA, Judge, Stuart W.
7 Conrad, Law Firm of Finnegan, Conrad & Peterson, 3100
8 Broadway, Suite 1209, Kansas City, Missouri, 64111. I
9 have supplied that information to the reporter, also.

10 JUDGE BUSHMANN: Thank you. And for Missouri
11 Department of Natural Resources, Mr. Nied {} has already
12 contacted me and had been excused for this. My
13 understanding is Staff is here to participate in
14 off-the-record conversations. Are there any other
15 attorneys present for Natural Resources? Okay. For
16 Missouri Gas Energy?

17 MR. JACOBS: Todd Jacobs on behalf of Southern
18 Union Company doing business as Missouri Gas Energy. And
19 our address has been provided to the Commission.

20 JUDGE BUSHMANN: And for Midwest Energy
21 Consumers Group?

22 MR. WOODSMALL: Thank you, your Honor. David
23 Woodsmall appearing on behalf of Midwest Energy Consumers
24 Group. I will provide my address to the court reporter.

25 JUDGE BUSHMANN: Thank you. Have I missed

1 anybody

2 JUDGE BUSHMANN: .

3 Well, let's, first of all, discuss intervention
4 since several parties have requested intervention. Is
5 there any objection to intervention on behalf Midwest
6 Energy Users Association, Missouri Department of Natural
7 Resources, Missouri Gas Energy or Missouri Energy
8 Consumers Group?

9 MR. COOPER: Your Honor, on behalf of Empire, we
10 have no objection to the first three parties you named.
11 And we may not have an objection to the fourth, the
12 Consumers Group. But I believe that was just filed, and
13 we'd like the opportunity to take a look at that before we
14 state a position

15 JUDGE BUSHMANN: Yeah. That was filed late this
16 morning.

17 MR. WOODSMALL: And to clarify, your Honor, I
18 just heard from another client this morning, so I will be
19 amending that to add a third client to that pleading. So
20 I appreciate you taking that up.

21 JUDGE BUSHMANN: Any other objections from any
22 parties? All right. Well, in that case, what I'll do is
23 I will grant intervention for Midwest Energy Users
24 Association, Missouri Department of Natural Resources and
25 Missouri Gas Energy and hold off, then, on ruling for

1 Midwest Energy Consumers Group at this time. And I'll
2 issue a notice later today on that.

3 Let's talk about the interim rate increase.
4 There were some objections filed Friday to Empire's
5 request for an interim rate increase. And the
6 Commissioners at the last agenda meeting indicated their
7 preference that that tariff be suspended and that we
8 proceed toward having a hearing on that particular issue.

9 So I know Empire had requested and through its
10 motion that that tariff be allowed to go into effect by
11 operation of law. But based on what the Commissioners
12 said at the last meeting, I don't think that's going to
13 happen.

14 So I think what would be preferable now at this
15 point, since we have a date coming up for parties to
16 propose a joint procedural schedule, that we kind of wrap
17 in those -- the schedule for the interim rate increase
18 along with the general rate increase.

19 I'm going to be issuing an order later today
20 suspending the tariff. So I think we could kind of kill
21 two birds with one stone that way.

22 On the interim rate increase, what I'd like to
23 see the parties have dates for would be a date for, first,
24 Empire to identify which of its previously filed testimony
25 applies to this issue.

1 And then, also, they could submit any additional
2 testimony on that issue if they desired. Then other
3 parties file their direct testimony. Rebuttal,
4 surrebuttal, a hearing date and then a date for any
5 post-hearing briefs.

6 That's similar to a schedule that was in the
7 most recent case that took up this issue in particular.
8 So I'm envisioning a procedural schedule that would have
9 separate schedules but kind of on parallel tracts, one for
10 the interim.

11 And then as far as the general rate increase,
12 that's due August 2nd, and then you could include the --
13 the general events that would be required for a general
14 rate increase case.

15 Empire's last rate indicates, the procedural
16 schedule is fine. What the parties want to do on that, I
17 don't know. But you can propose something similar. What
18 I would like to see in addition to those events would be
19 whatever the parties agree to as far as a test year and
20 any update periods, any true-up recommendations or
21 requirements, a range of dates and locations for local
22 public hearings and then a date that the company thinks
23 that it can provide and file a proposed customer notice.

24 Does anybody have any questions about what I
25 would envision for the proposed procedural schedule?

1 MS. KLIETHERMES: Yes, Judge. You had earlier,
2 I believe, entered a discovery record that included
3 certain changes in dates for DR responses and things of
4 that nature.

5 JUDGE BUSHMANN: Yes.

6 MS. KLIETHERMES: Would a motion to change those
7 dates to coincide with events such as filing of rebuttal
8 system and surrebuttal testimony be well received, or
9 should it match --

10 JUDGE BUSHMANN: That would be fine. If
11 anything in the discovery order seems to have a problem
12 with what the parties are agreeing to, that would be fine
13 to go ahead and request that. I tried to make it pretty
14 generic. I don't think I put any particular dates except
15 for discovery purposes and then the end of discovery.
16 But --

17 MS. KLIETHERMES: And we would typically try to
18 coincide that end of discovery with some relation to the
19 end of the surrebuttal testimony is why I raised that
20 issue.

21 JUDGE BUSHMANN: That's fine. Do you want to --
22 if we need to adjust the discovery order to match what the
23 parties are coming up with, that's fine with me.

24 MS. KLIETHERMES: Thank you, Judge.

25 JUDGE BUSHMANN: That's fine.

1 MR. CONRAD: Judge, two questions relating to
2 that. One, you're indicating that you wanted us to wrap
3 in the interim process. And my recollection is -- and I'm
4 looking at it here. I didn't see anything in the
5 discovery order that contemplated the interim. So that
6 might need to be addressed.

7 The second point that was not addressed here and
8 I guess my question relates to that and some other things
9 that we have characteristically included in a procedural
10 schedule order that are not here.

11 One particular one that is of concern, I didn't
12 think it was unclear before, but it seems to have become
13 unclear, when a party has responded, let's say,
14 hypothetically, I sent out a data request that's in the 20
15 or 50 or whatever time frame you're in per your order.

16 And toward the end of that or after that period
17 interim -- and a response has been provided. Somebody
18 else sends a data request to the company or to Staff or
19 whomever that has -- is requesting that, Please send me a
20 copy of your response to Data Request X, Y Z.

21 What I have run into is I have run into a
22 particular utility, which shall remain nameless, which you
23 can probably add two and two and get four, that said, Oh,
24 that's a new request, so we get to start the 20-day clock
25 over all over again.

1 That's not how these have been perceived. If
2 the response is available, it's made what I would call
3 seasonably or timely, but we apparently need to be more
4 explicit about that, that it's made concurrently with --
5 I'm not going to worry about words with the Commission,
6 but that seems to have become an issue out of the list of
7 all the things.

8 And that, to me, should not start another 20
9 days because the reason for the 20, the 10, the 15 or the
10 5, wherever you are is for the Respondent to prepare a
11 response. If that response has already been prepared,
12 then it should be submitted promptly.

13 JUDGE BUSHMANN: Okay. Well, thank you,
14 Mr. Conrad. I'll take a look that and see if maybe I need
15 to amend something on that, the discovery order. Anybody
16 else have anything they want to bring up?

17 MR. MILLS: Judge, just with respect to the
18 procedural schedule for the interim rate increst -- rate
19 increase request, a number of us have actually suggested
20 the Commission should simply reject those tariffs.

21 It did not make more sense to wait for rulings
22 on those motions before we set out an entire schedule with
23 three additional rounds of testimony, and I believe you
24 had mentioned briefing.

25 JUDGE BUSHMANN: Well, that option was in front

1 of the Commissioners last week. And the --

2 MR. MILLS: But -- I'm sorry. Go ahead.

3 JUDGE BUSHMANN: I know that you filed a Motion
4 to Reject.

5 MR. MILLS: After the Commissioners discussed
6 the schedule.

7 JUDGE BUSHMANN: Right. I think just from a --
8 because we're under the gun as far as time, it might be
9 wise to go ahead and discuss these issues and have dates
10 that -- if we don't need them later, then we can take care
11 of that and -- but rather than get back together and try
12 and come up with another schedule, everybody's here. It
13 might be wise to work out the dates as far as we can
14 today. If we don't need it later, just get rid of them.

15 MR. CONRAD: To that -- to that point, Judge,
16 just simply so the Bench is aware and it's of record since
17 the reporter is taking it down, if we turn this case into,
18 in fact, two cases, it makes some difference for budget.

19 It makes some difference to my clients at least
20 insofar as what they're -- what they're confronted with.
21 So in that sense, it might be helpful -- Mr. Mills makes a
22 good point.

23 If the tariff is to be rejected or not, then it
24 would -- it {tshtion} would be helpful to have that
25 decision out of the way. I understand your -- your

1 position. You've kind of got to do the will of the
2 Commission. And you're perceiving it as it is now if
3 those motions had not been present at that time.

4 So maybe there is a basis for that. Maybe
5 there's not. The company hasn't responded to that. But
6 it does make a financial difference.

7 JUDGE BUSHMANN: And I understand. The
8 Commissioners need to look at that motion and consider it.
9 They -- they're not going to meet again until August 1st,
10 which is only just a few days from the tariff effective
11 date. So I think it's wise to go ahead and proceed down
12 that route now just under the assumption that that could
13 occur. And if we don't need to use those dates later,
14 then we haven't been out too much.

15 MR. COOPER: Dean judge, you indicated that
16 there will be a suspension order issued later today for
17 purposes of --

18 JUDGE BUSHMANN: That was my plan. But --

19 MR. COOPER: Maybe, maybe not at this point?

20 JUDGE BUSHMANN: Yeah. I mean, it's -- it's
21 kind of fluid at this point. So with the -- with the
22 motion to have the rejection of the tariff, it may be a
23 little later than today. But we'll have to see. It's --
24 I've got until the -- the 5th. I know everybody would
25 like to get some clarity on this as soon as possible. And

1 I would, too, so -- was there anything else, Mr. Cooper?

2 MR. COOPER: No. I guess where my question was
3 headed was a period of time that it might be suspended for
4 if that order was going to come out just because that
5 would be helpful for --

6 JUDGE BUSHMANN: Okay. If it is submitted, it's
7 going to be 120 days till December 3rd. That gives plenty
8 of time for the parties now. The Chairman at the meeting
9 last week indicated he wanted to have that hearing held as
10 soon as possible.

11 So I would encourage everyone to try and make
12 that happen, get your dates worked out to get it as quick
13 as we can. I know that, unfortunately, there's another
14 rate case.

15 The one I'm thinking -- the Ameren case seems to
16 hit right about the same time as a potential hearing when
17 this issue would hit, which is a problem. But I don't
18 know what to do about that at this point. So it kind of
19 depends on how the parties would want to juggle their --
20 their calendars to try and fit in a hearing.

21 MR. MILLS: And, Judge, I think when you -- when
22 you mentioned filings, you mentioned the -- the UE rate
23 case, ER-2010-0036, as a possible schedule order. Were
24 you wedded to that schedule, or is that just an example
25 of --

1 JUDGE BUSHMANN: No. This is just an example of
2 one that worked in the past.

3 MR. MILLS: So, for example, if some of the
4 parties were to -- or some of the parties were to propose,
5 you know, because Empire has already filed direct
6 testimony in support of the interim increase that simply
7 one round of rebuttal testimony and then go directly to
8 hearing. Would that be amenable to the Commission?

9 JUDGE BUSHMANN: I'm not -- I'm not set on any
10 particular schedule. The parties can choose to recommend
11 an abbreviated schedule. That would be fine with me.

12 Anybody else have anything they want to address?
13 Okay. Before -- before we go off the record, Ms.
14 Kliethermes, there was a couple of things I wanted to give
15 you if you wouldn't mind coming up. Thank you. This is
16 just the adjudication calendar. You might already have a
17 copy.

18 MS. KLIETHERMES: Thank you.

19 JUDGE BUSHMANN: And, also, this is a copy of
20 the preferred format for reconciliation --

21 MS. KLIETHERMES: Okay.

22 JUDGE BUSHMANN: -- that the Commission has been
23 using lately. I wanted to make sure you had to provide to
24 the parties. It was one of the water cases.

25 MS. KLIETHERMES: Yes. I suppose I should get

1 back to a microphone. Thank you for these, Judge. We've
2 had some issues with trying to use this format for
3 reconciliation in the larger electric cases in that this
4 was a -- there were better defined issues -- or I
5 shouldn't say better defined. There were more discreet
6 issues in this water case than there typically are in the
7 larger rate cases.

8 We will do our best to meet this, but it's
9 doubtful we'll be able to have the one-for-one type
10 reconciliation such as this.

11 JUDGE BUSHMANN: Well, I guess my point would be
12 to try and follow that format to the extent that you can.

13 MS. KLIETHERMES: Certainly. Thank you, Judge.

14 JUDGE BUSHMANN: Anything else before we go off
15 the record? All right. We're off the record. You have
16 the phone bridge in the until noon. And if you need
17 anything, please let's me know. Thanks.

18 MS. CARTER: Thanks, Judge.

19 MS. KLIETHERMES: Thank you.

20 (The proceedings were concluded at 10:24 a.m. on
21 July 23, 2012.)

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<p style="text-align: center;">A</p> <p>abbreviated 15:11</p> <p>able 16:9</p> <p>accurately 17:13</p> <p>add 6:19 10:23</p> <p>addition 8:18</p> <p>additional 8:1 11:23</p> <p>address 4:18 5:3,19,24 15:12</p> <p>addressed 10:6 10:7</p> <p>adjudication 15:16</p> <p>adjust 9:22</p> <p>agenda 7:6</p> <p>agree 8:19</p> <p>agreeing 9:12</p> <p>ahead 9:13 12:2,9 13:11</p> <p>allowed 7:10</p> <p>amenable 15:8</p> <p>amend 11:15</p> <p>amending 6:19</p> <p>Ameren 14:15</p> <p>anybody 6:1 8:24 11:15 15:12</p> <p>apparently 11:3</p> <p>appearance 4:13</p> <p>appearing 4:17 5:23</p> <p>applies 7:25</p> <p>appreciate 6:20</p> <p>Area 1:13 4:9</p> <p>assigned 4:12</p> <p>Association 2:17 5:5 6:6 6:24</p> <p>assumption 13:12</p>	<p>Attorney 2:23</p> <p>attorneys 5:15</p> <p>August 8:12 13:9 17:17</p> <p>Authority 1:11</p> <p>available 11:2</p> <p>Avenue 2:14</p> <p>aware 12:16</p> <p>a.m 4:4 16:20</p> <hr/> <p style="text-align: center;">B</p> <p>back 12:11 16:1</p> <p>based 7:11</p> <p>basis 13:4</p> <p>behalf 4:17 5:1 5:6,17,23 6:5 6:9</p> <p>believe 6:12 9:2 11:23</p> <p>Bench 12:16</p> <p>best 16:8</p> <p>better 16:4,5</p> <p>birds 7:21</p> <p>Boulevard 1:22</p> <p>Box 2:8,14 5:3</p> <p>bridge 16:16</p> <p>briefing 11:24</p> <p>briefs 8:5</p> <p>bring 4:2 11:16</p> <p>Broadway 2:19 3:5 5:8</p> <p>Brydon 2:13 4:16</p> <p>budget 12:18</p> <p>Bushmann 1:15 4:2,11 4:20,24 5:4 5:10,20,25 6:2,15,21 9:5 9:10,21,25 11:13,25 12:3 12:7 13:7,18 13:20 14:6 15:1,9,19,22 16:11,14</p>	<p>business 5:18</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1,13 3:1 4:1,16</p> <p>calendar 15:16</p> <p>calendars 14:20</p> <p>call 11:2</p> <p>Capitol 2:14</p> <p>caption 17:11</p> <p>captioned 4:6</p> <p>care 12:10</p> <p>Carter 2:13 4:16 16:18</p> <p>case 1:11 4:6 4:12 6:22 8:7 8:14 12:17 14:14,15,23 16:6</p> <p>cases 12:18 15:24 16:3,7</p> <p>CCR 1:21 17:21</p> <p>certain 9:3</p> <p>Certainly 16:13</p> <p>CERTIFICA... 17:1</p> <p>Certified 17:6 17:7</p> <p>certify 17:9</p> <p>Chairman 14:8</p> <p>change 9:6</p> <p>changes 9:3</p> <p>characteristi... 10:9</p> <p>choose 15:10</p> <p>City 1:7,22 2:4 2:9,15,20,24 3:5 5:3,8</p> <p>clarify 6:17</p> <p>clarity 13:25</p> <p>client 6:18,19</p> <p>clients 12:19</p> <p>clock 10:24</p>	<p>coincide 9:7,18</p> <p>come 12:12 14:4</p> <p>coming 7:15 9:23 15:15</p> <p>Commission 1:1 2:2,3 4:5 4:20,23 5:19 11:5,20 13:2 15:8,22</p> <p>Commissione... 7:6,11 12:1,5 13:8</p> <p>company 1:10 1:13 2:11 4:7 4:10,14,18 5:18 8:22 10:18 13:5</p> <p>concern 10:11</p> <p>concluded 16:20</p> <p>concurrently 11:4</p> <p>conference 1:5 4:6</p> <p>confronted 12:20</p> <p>Conrad 2:18 2:18 5:6,7,7 10:1 11:14 12:15</p> <p>consider 13:8</p> <p>Consumers 2:22 5:21,23 6:8,12 7:1</p> <p>contacted 5:12</p> <p>contemplated 10:5</p> <p>CONTINUED 3:1</p> <p>conversations 5:14</p> <p>Cooper 2:12 4:15,16 6:9 13:15,19 14:1 14:2</p>	<p>copy 10:20 15:17,19</p> <p>Counsel 2:6,8 4:13,25 5:2</p> <p>COUNTY 17:4</p> <p>couple 15:14</p> <p>court 2:24 4:19 5:24 17:7</p> <p>CSR 1:21 17:21</p> <p>customer 8:23</p> <p>Customers 1:12 4:9</p> <hr/> <p style="text-align: center;">D</p> <p>D 4:1</p> <p>data 10:14,18 10:20</p> <p>date 7:15,23 8:4,4,22 13:11</p> <p>dates 7:23 8:21 9:3,7,14 12:9 12:13 13:13 14:12</p> <p>David 2:23 5:22</p> <p>days 11:9 13:10 14:7</p> <p>Dean 2:12 4:15 13:15</p> <p>December 14:7</p> <p>decision 12:25</p> <p>defined 16:4,5</p> <p>Department 5:11 6:6,24</p> <p>depends 14:19</p> <p>desired 8:2</p> <p>Diana 2:13 4:16</p> <p>difference 12:18,19 13:6</p> <p>direct 8:3 15:5</p> <p>directly 15:7</p> <p>discovery 9:2 9:11,15,15,18</p>
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