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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

December 30, 2003

Jefferson City, Missouri

Volume 1

In the Matter of a Proposed Amendment) Case No.
to Commission Rule 4 CSR 240-18.010) EX-2003-0368

BEFORE:

RONALD D. PRIDGIN,
REGULATORY LAW JUDGE.
CONNIE MURRAY,
COMMISSIONER.

REPORTED BY:
TRACY L. THORPE, CSR, CCR
ASSOCIATED COURT REPORTERS

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A P P E A R A N C E S

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1 JUDGE PRIDGIN: Good afternoon. This is the
2 rulemaking hearing for Case No. EX-2003-0368 in the matter
3 of a proposed amendment to Commission Rule 4 CSR 240-18.010.

4 I am Ron Pridgin, the regulatory law judge
5 assigned to preside over this hearing. It's being held on
6 December 30th, 2003 at the Hotel Governor Office Building in
7 Jefferson City, Missouri. The time is about five after 1:00
8 in the afternoon.

9 At this time I would like to get entries of
10 appearance beginning with Staff, please.

11 MR. JOYCE: Dan Joyce on behalf of Staff, PO
12 Box 360, Jefferson City, Missouri 65102.

13 JUDGE PRIDGIN: Mr. Joyce, thank you.

14 On behalf of the Office of the Public Counsel,
15 please.

16 MR. COFFMAN: John B. Coffman appearing on
17 behalf of the Office of the Public Counsel, PO Box 2230,
18 Jefferson City, Missouri 65102.

19 JUDGE PRIDGIN: Mr. Coffman, thank you.

20 Any other parties wishing to enter an
21 appearance?

22 MR. BARNES: Yes. Michael Barnes, attorney
23 for AmerenUE, 1901 Chouteau, St. Louis, Missouri 63103.

24 JUDGE PRIDGIN: Mr. Barnes, thank you.

25 Any other parties wishing to be heard?

1 All right. Just to remind the parties, this
2 is not a contested case and because of that, I will not
3 allow cross-examination from the parties. We'll simply take
4 testimony and then allow questions from the Bench.

5 I will take testimony first from Staff and
6 then from the Office of Public Counsel, if any. Then I will
7 ask if anyone else wishes to testify in support of the
8 proposed rule, if anyone wishes to testify in opposition to
9 it and then we will adjourn.

10 Are there any questions or anything that
11 anyone needs to bring to my attention before we begin?

12 All right. Seeing none, Mr. Joyce, does Staff
13 have any witnesses

14 MR. JOYCE: Yes, your Honor. Warren Wood, the
15 energy department manager is available to testify on behalf
16 of Staff.

17 JUDGE PRIDGIN: All right. Mr. Wood, if you
18 would please approach and be sworn. I'll note that your
19 right hand is raised.

20 (Witness sworn.)

21 JUDGE PRIDGIN: Thank you very much. If you
22 would, please have a seat and briefly identify yourself and
23 make your comments.

24 WARREN WOOD testified as follows:

25 MR. WOOD: Warren Wood, energy department

1 manager with the Missouri Public Service Commission Staff.

2 The proposed amendment that is the subject of
3 this public hearing was developed to update the NESC
4 reference in the rule to the 2002 edition and to provide for
5 a cross-reference to new instant reporting requirement in 4
6 CSR 240-3.190.

7 Staff notes that very few comments were
8 received regarding this proposed amendment and the comments
9 in opposition that were received appeared to only suggest
10 that the cross-reference to 4 CSR 240-3.190 was not
11 supported by the commenting party. Staff will reserve all
12 comments related to 4 CSR 240-3.190 for that public hearing.

13 The deadline for public comments on this rule
14 was December 17th of 2003. Staff has reviewed all comments
15 received and has prepared its responses to each of those
16 comments in an exhibit.

17 Staff is not currently recommending any
18 changes be made to the proposed amendment as published in
19 The Missouri Register on November 17th, 2003 in response to
20 the comments received.

21 Staff would like to enter this exhibit into
22 evidence in this case and hopes that it will help the
23 Commission in its determination of the final language that
24 this proposed amendment will reflect.

25 JUDGE PRIDGIN: All right. Mr. Wood, thank

1 you. Let me verify what is it that you wanted entered as an
2 exhibit?

3 MR. JOYCE: Your Honor, I have a Staff exhibit
4 I'd like to introduce.

5 JUDGE PRIDGIN: All right.

6 (Exhibit No. 1 was marked for identification.)

7 JUDGE PRIDGIN: All right. I will note that I
8 have marked and received into evidence Exhibit No. 1.

9 (Exhibit No. 1 was received into evidence.)

10 JUDGE PRIDGIN: It is a two-page document from
11 Staff on today's hearing. It's just suggested changes to
12 the proposed amendment by Mr. Wood.

13 All right. Thank you very much. Let me see
14 if we have any questions from the Bench. Commissioner
15 Murray?

16 COMMISSIONER MURRAY: I don't believe so.
17 Thank you, Judge.

18 JUDGE PRIDGIN: All right. Thank you.

19 QUESTIONS BY JUDGE PRIDGIN:

20 Q. And I think just to clarify, Mr. Wood, am I
21 correct that there were initially several comments filed in
22 opposition to the rule, but those comments were later
23 withdrawn because they were mistakenly filed in this case
24 and meant for another case?

25 A. Yes. There were several comments received in

1 that fashion. They were moved over to the 3.190 rulemaking
2 case.

3 JUDGE PRIDGIN: All right. Thank you. And I
4 don't believe I have any further questions.

5 Mr. Wood, thank you very much, sir.

6 THE WITNESS: Thank you.

7 JUDGE PRIDGIN: Mr. Joyce, any further
8 witnesses on behalf of Staff?

9 MR. JOYCE: No, your Honor.

10 JUDGE PRIDGIN: All right. Thank you.

11 Mr. Coffman, any witnesses on behalf of the
12 Office of Public Counsel?

13 MR. COFFMAN: No, your Honor. I have no
14 witnesses and no comments to make other than to state Public
15 Counsel's support of the proposed rule.

16 JUDGE PRIDGIN: All right. Mr. Coffman, thank
17 you.

18 Mr. Barnes, any witnesses on behalf of
19 AmerenUE?

20 MR. BARNES: Your Honor, I have no witnesses.
21 Union Electric has filed comments supporting the adoption of
22 the latest edition of the National Electrical Safety Code.
23 We believe it's vitally important that the latest edition be
24 the official standard in the state --

25 JUDGE PRIDGIN: Mr. Barnes, I'm sorry to

1 interrupt. We're very glad to hear your comment, but first
2 of all, I would need your microphone on. And if you really
3 wanted to comment, I would need to have you sworn in as a
4 witness.

5 All right. If you would, please come forward
6 and be sworn.

7 (Witness sworn.)

8 JUDGE PRIDGIN: Thank you, very much, sir. If
9 you would, please have a seat in the witness chair. And,
10 Mr. Barnes, if you'll just briefly identify yourself and
11 give your comments.

12 MICHAEL BARNES testified as follows:

13 MR. BARNES: My name is Michael Barnes. I'm
14 an attorney for AmerenUE in St. Louis, Missouri.

15 As the Staff witness noted, we have filed
16 comments in support of the National Electrical Safety Code's
17 latest edition being the official law of the state. We
18 think it's vitally important that the public and the
19 Commission and the utilities and the co-ops be on the same
20 page as far as what the standards are.

21 I would note that from time to time the legal
22 department gets queries from our engineers when there is a
23 difference in the current standard versus what -- current
24 standard adopted by the Commission versus perhaps the most
25 recent edition published. And our advice usually is to go

1 by the most recent edition published, whether or not it's
2 been adopted by the Public Service Commission or not.

3 Such advice may render the company open maybe
4 to a technical violation of the safety code, but we think
5 that it's probably more prudent to go with the latest
6 edition published even though it has not been adopted by the
7 Public Service Commission. So, in summary, we're very much
8 in support of the edition.

9 JUDGE PRIDGIN: Mr. Barnes, thank you.

10 Let me see if we have any questions from the
11 Bench. Commissioner Murray?

12 COMMISSIONER MURRAY: Just one brief one.

13 Thank you.

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. And excuse me for asking this question,
16 because it seems like that we have discussed this with Staff
17 previously as to why we don't put in our rulemaking just the
18 latest edition of the specific code rather than the date.
19 And here we're referencing it to a date again. What would
20 be your feeling if we just referenced it to the latest
21 edition?

22 A. I think that would probably be fine. I would
23 note that the Illinois Commerce Commission, I believe the
24 last time I checked, they take the latest adopted edition
25 and they make certain exceptions to it for specific State of

1 Illinois concerns. I don't know whether that logic would
2 apply in Missouri or not. I think that's the only answer I
3 have.

4 Q. And I suppose the problem with doing that is
5 that we don't really -- we don't know in advance what the
6 latest edition will say and whether we really would want to
7 adopt it in its entirety; whereas, if we do it as the
8 editions change, then we're actually making a statement that
9 as that edition is written, that's what we want to adopt?

10 A. My understanding is that when an edition is
11 being reviewed for changes, I believe that there is a fairly
12 large committee that works on that. And I believe that
13 utilities and Public Service Commissions can have input. I
14 think it means going to meetings and maybe looking at
15 drafts. So I think to that extent, there would be a chance
16 for the Commission to review any changes as they're in
17 progress.

18 COMMISSIONER MURRAY: Okay. Thank you.

19 JUDGE PRIDGIN: Commissioner Murray, thank
20 you.

21 And, Mr. Barnes, I don't believe I have any
22 questions for you. Thank you very much.

23 All right. Mr. Barnes, any further witnesses
24 on behalf of AmerenUE?

25 MR. BARNES: No, your Honor.

1 JUDGE PRIDGIN: Thank you, very much.
2 Is there anyone else who wishes to testify in
3 support of the proposed rule?
4 Anyone else wishing to testify in opposition
5 to it?
6 All right. Seeing no volunteers, let me
7 double check with counsel, make sure there's nothing else
8 that counsel wishes to cover.
9 MR. JOYCE: No, your Honor.
10 JUDGE PRIDGIN: All right. Seeing nothing,
11 that concludes the hearing in Case No. EX-2003-0368. We are
12 off the record.
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