

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

May 11, 2009
Jefferson City, Missouri
Volume 11

In the Matter of the Application)
of Aquila, Inc., d/b/a KCP&L)
Greater Missouri Operations)Case No. ER-2009-0090
Company for Approval to Make)
Certain Changes in its Charges)
for Electric Service)

NANCY DIPPELL, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE
ROBERT M. CLAYTON, III, Chairman,
TERRY JARRETT,
COMMISSIONER

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

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

2 JUDGE DIPPELL: All right. Then we'll go ahead
3 and go on the record. Good morning. This is Case No.
4 ER-2009-0090 in the matter of the application of Kansas --
5 KCP&L Greater Missouri Operations Company for approval to
6 make certain changes in its charges for electric service.

7 My name is Nancy Dippell. I'm the Regulatory
8 Law Judge presiding over this proceeding. We are here
9 this morning for an evidentiary hearing, and I'm going to
10 begin with entries of appearance.

11 Let me start with Kansas City Greater Missouri
12 Operations Company.

13 MR. FISCHER: Thank you, Judge. On behalf of
14 KCPL Greater Missouri Operations Company, let the record
15 reflect the appearance of the Curtis Blanc and James
16 Fischer. Our address and telephone numbers are on our
17 written entry of appearance.

18 JUDGE DIPPELL: Thank you. Go with Staff.

19 MR. WILLIAMS: Kevin Thompson, Steven Dottheim,
20 Nathan Williams, Sarah Kliethermes, Eric Dearmont,
21 Jennifer Hernandez, Jamie Otts, and Samuel Ritchie, P.O.
22 Box 360, Jefferson City, Missouri, 65102.

23 JUDGE DIPPELL: And the Office of Public
24 Counsel?

25 MR. MILLS: On behalf of the Office of the

1 Public Counsel and the public, my name is Lewis Mills. My
2 address is Post Office Box 2230, Jefferson City, Missouri,
3 65102. JUDGE DIPPELL: And what I'll refer to as
4 the industrial intervenors.

5 MR. WOODSMALL: Thank you, your Honor.
6 Appearing on behalf of Ag. Processing, Sedalia Industrial
7 Energy Users Association, Wal-Mart Stores, again, is
8 Stuart Conrad and David Woodsmall. We've previously
9 entered our address.

10 JUDGE DIPPELL: Thank you. The hospital
11 intervenors?

12 MR. ZAKOURA: Thank you, your Honor. On behalf
13 of the hospital -- on behalf of the hospital intervenors,
14 James P. Zakoura. And I previously entered a written
15 appearance, and the Court has allowed me to appear. I'm
16 an out of state attorney, but they've allowed me to
17 appear.

18 JUDGE DIPPELL: Thank you. Dogwood Energy?

19 MR. LUMLEY: Good morning. Appearing on behalf
20 of Dogwood Energy, LLC, Carl Lumley of the Curtis Hines
21 Law Firm. And I filed a written entry. And I think you
22 inadvertently referred to this as the 92 case, and it's
23 the 90 case.

24 JUDGE DIPPELL: Thank you very much. I see I
25 still have 92 on my paper in front of me. Missouri

1 Department of Resources -- Natural Resources?

2 MS. WOODS: Good morning. Shelley Woods,
3 Assistant Attorney General, Post Office Box 899, Jefferson
4 City, Missouri, 65102, appearing on behalf of the Missouri
5 Department of Natural Resources.

6 JUDGE DIPPELL: Thank you. City of Kansas City?

7 MR. COMLEY: Good morning, Judge Dippell. Let
8 the record reflect the entry of Mark W. Comley, Newman,
9 Comley & Ruth, 601 Monroe, Suite 301, Jefferson City,
10 Missouri, on behalf of the City of Kansas City.

11 JUDGE DIPPELL: And Federal Executive Agencies?

12 MS. MCNEILL: Good morning, ma'am. Captain
13 Shayla McNeill on behalf of the Federal Executive
14 Agencies, more specifically, Whiteman Air Force Base. And
15 my address is on my written entry of appearance worksheet.

16 JUDGE DIPPELL: Thank you. Is there anyone here
17 for the unions? I also had a request from AmerenUE
18 earlier -- or last week to waive their opening and that
19 they would not be present this morning.

20 Is there anyone else that needs to make an entry
21 of appearance? All right. Seeing none, I -- it was my
22 understanding over the weekend that you all had some
23 discovery disputes that Judge Sturley was handling for you
24 and that perhaps there were some settlement negotiations
25 that took place. Would anyone like to give me an update

1 on the status of that? Mr. Williams?

2 MR. WILLIAMS: We're still going through the
3 discovery disputes, so it has not been finally resolved.
4 There were settlement discussions. And, in fact, I
5 believe the company would like to advise the Commission
6 that they would like to break now to do some further
7 discussions.

8 MR. FISCHER: Yes, Judge. I believe we've
9 reached an agreement in principal with several of the
10 parties. And I understand a break would be helpful to
11 confirm where we are on that and then perhaps come back on
12 the record without too much of a delay to announce the
13 terms or whatever the Bench would like to hear.

14 JUDGE DIPPELL: Okay. And is there any
15 objection to doing that at this time? All right. Let me
16 very quickly -- before we do break, I have a few pending
17 motions, just some housekeeping things that I will take
18 care of, and then we can break.

19 And those were -- it was a request to late file
20 a position statement by the unions. That's granted.
21 There was a motion to late file statement of positions by
22 the industrial intervenors, and that is granted.

23 GMO had a motion to file the curriculum vitae of
24 -- of Haddaway and that is granted. Staff had a motion
25 for leave to late file some affidavits, and that is

1 granted. And there was also a pending motion to strike
2 Dogwood's surrebuttal testimony, and that is overruled.

3 Are there any other pending motions that I
4 didn't get? All right, then. How much time do you all
5 think that you need this morning?

6 MR. WILLIAMS: It's a pure guess, but I'd guess
7 an hour or two.

8 JUDGE DIPPELL: All right. I don't want to have
9 everybody sitting around at the same time. I want you to
10 have enough time to complete what you need to complete.
11 But --

12 MR. FISCHER: We would suggest an hour, Judge.
13 And if that is not enough time, we can always ask for more
14 time.

15 JUDGE DIPPELL: Okay. Let's go ahead, then, and
16 take an hour break. We can come back here at 10:15.
17 Let's go off the record.

18 (Break in proceedings.)

19 JUDGE DIPPELL: All right, then. Let's go back
20 on the record. Okay. We're back on the record after our
21 break. Does anyone want to give me an update?

22 MR. FISCHER: Yes, Judge. We'd be very happy
23 to. We are pleased to announce that we do have an
24 agreement in principle with the parties to the case
25 subject to -- subject to finalizing a stipulation and

1 agreement.

2 And I think that parties have to check with
3 their clients to determine their final position. But as
4 far as going forward with the hearing, it's not necessary.
5 I think we have an agreement in principle, and the parties
6 can chime in and let you know how -- how that is.

7 But we would at some point like to announce the
8 financially material parts of that agreement at your
9 pleasure.

10 JUDGE DIPPELL: All right. I think you can go
11 ahead with that unless someone else has a comment they
12 want to make at this time. Go ahead, Mr. Fischer.

13 Mr. FISCHER: Judge, just in terms -- there will
14 be a number of provisions to our agreement, but there are
15 several that are probably considered financially material.

16 The first would be that the company would be
17 authorized to file revised tariff sheets containing
18 schedules for electric service designed to produce an
19 increase in overall Missouri jurisdictional gross annual
20 revenues for the Missouri Public Service division and MPS
21 division of \$48 million. And for the L&P division, it
22 would be \$15 million. And those would be effective for
23 service rendered on and after September 1st of 2009.

24 Another financially material provision will be
25 similar to the KCP&L stipulation regarding prudence and

1 in-service timing of IATAN-I.

2 In this case, related to GMO, there will be a
3 cap on the maximum amount of the Missouri's jurisdictional
4 rate based disallowance that could be proposed of \$15
5 million related to the IATAN project.

6 Then there might also be another material
7 provision that I should mention. And that is the company
8 is agreeing to not pursue in this case and not to pursue
9 in future cases the income tax cost of removal issue that
10 has been pending in this proceeding.

11 And as I mentioned, there are a number of other
12 provisions that are certainly material to other parties,
13 but those are the ones that I think are considered
14 financially material.

15 JUDGE DIPPELL: All right. Does anyone else
16 have anything they would like to add to that? Mr. Mills?

17 MR. MILLS: Judge, I -- I just want to -- to
18 emphasize that the provisions that Mr. Fischer enunciated
19 are just a -- a handful out of -- out of a great many
20 more, all of which are interdependent and all of which
21 have yet to be reduced to writing.

22 And so while I don't anticipate any problems,
23 until we have a final agreement in which all the Is are
24 dotted and all the Ts are crossed, I think it's a little
25 premature to say that those -- that those are the settled

1 items. There's a lot of things that have to be -- well,
2 there are a lot of things that have to be reduced to
3 writing before those particular terms and all the rest are
4 -- all the rest of the terms are final.

5 JUDGE DIPPELL: Thank you, Mr. Mills.
6 Mr. Williams, did you have a comment?

7 Mr. WILLIAMS: Yes, Judge. As Mr. Mills
8 indicated and as the company has indicated, there are a
9 number of additional terms beyond those -- principal terms
10 beyond those that have been disclosed by the company.

11 And until the -- the document is finalized in
12 final form, there's always the possibility that the -- the
13 agreement won't become final. But the company has
14 accurately related what's in the agreement.

15 Although I would note that the prudence
16 limitation that was mentioned that's similar to the
17 agreement with Kansas City Power & Light company pertains
18 to IATAN-I. I'm not sure if they were explicitly clear on
19 that.

20 JUDGE DIPPELL: All right. Are there any other
21 comments at this time?

22 MR. LUMLEY: Judge, on behalf of Dogwood, the
23 same caveats that Public Counsel and Staff have expressed.
24 We just support the direction this is headed.

25 JUDGE DIPPELL: All right. Mr. Dottheim?

1 MR. DOTTHEIM: Yes. Thank you, Judge. I don't
2 mean to speak on behalf of any other party. I think
3 Mr. Fischer indicated that other parties are checking with
4 their clients.

5 I don't want the Commission to have the
6 impression that this is necessarily a unanimous
7 stipulation and agreement. We expect parties will be
8 hearing back from their clients, so it's -- it's not known
9 at this point whether this will be a unanimous stipulation
10 and agreement.

11 JUDGE DIPPELL: All right. At this point, is
12 there anybody anyone who knows that they will have an
13 objection to what has been proposed? And you're not
14 obligated if you say one way or the other.

15 Obviously, once an agreement is filed, you'll
16 have an opportunity to raise any objections to that
17 particular agreement. But just so that I know where we're
18 headed here today, it sounds like, you know, we're
19 following the same path that we have with the previous two
20 cases related to this, and that is that you all are not
21 wanting to go forward with the hearing at this point, that
22 you want to submit an agreement in writing and -- and have
23 an opportunity to see if this can be resolved by that
24 agreement.

25 When do you believe we will see an agreement in

1 writing? Mr. Fischer?

2 MR. FISCHER: Judge, I have taken a stab at
3 starting that process. Sometimes it takes longer, though,
4 than what I would expect. I'd appreciate the input of
5 other parties, but I would think by the end of the week we
6 would file that.

7 JUDGE DIPPELL: I'm seeing heads nodding yes.
8 Mr. Williams, did you have something to add?

9 MR. WILLIAMS: No. I just -- that sounds
10 reasonable.

11 JUDGE DIPPELL: All right. Well, I will set
12 that deadline as Friday for filing a written agreement.
13 And Mr. Woodsmall seems like he might have a concern.

14 MR. WOODSMALL: No.

15 JUDGE DIPPELL: No? Okay. Well, is there
16 anything else that anyone needs to put into the record at
17 this time?

18 MR. FISCHER: I would just like to express my
19 appreciation of the parties working with us in this case
20 and also the Commission and the Judge. Thank you very
21 much.

22 JUDGE DIPPELL: Okay. Well, seeing that you all
23 have -- or at least most of the parties have reached an
24 agreement in principle, and hopefully all of you have, I
25 guess that will be all for this afternoon -- or for this

1 morning.

2 We can adjourn the hearing awaiting a written
3 stipulation which will be due on Friday. If something
4 falls apart, we will reschedule the hearing as quickly as
5 possible. So thank you all very much. We can be
6 adjourned. We can go off the record.

7 (The proceedings were concluded at 10:30 a.m. on
8 May 11, 2009.)

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1 REPORTER'S CERTIFICATE

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3 STATE OF MISSOURI)
)ss.
4 COUNTY OF OSAGE)

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6 I, Monnie S. VanZant, Certified Shorthand Reporter,
7 Certified Court Reporter #0538, and Registered
8 Professional Reporter, and Notary Public, within and for
9 the State of Missouri, do hereby certify that I was
10 personally present at the proceedings as set forth in the
11 caption sheet hereof; that I then and there took down in
12 stenotype the proceedings had at said time and was
13 thereafter transcribed by me, and is fully and accurately
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal on May 11, 2009.

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21 Monnie S. VanZant, CSR, CCR #0539

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23 Registered Professional Reporter

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