

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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5 TRANSCRIPT OF PROCEEDINGS

6 Evidentiary Hearing

7 May 20, 2011

8 Jefferson City, Missouri

9 Volume 32

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13 In The Matter Of Union)

 Electric Company d/b/a)

14 AmerenUE's Tariff To Increase) File No. ER-2011-0028

 Its Annual Revenue For)

15 Electric Service)

16

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18 MORRIS WOODRUFF, Presiding

 CHIEF REGULATORY LAW JUDGE

19 KEVIN GUNN, Chairman,

 JEFF DAVIS,

20 TERRY JARRETT,

 ROBERT S. KENNEY

21 COMMISSIONERS.

22

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1 PROCEEDINGS

2 JUDGE WOODRUFF: All right. It's ten o'clock.
3 Let's come to order, please.

4 All right. During the break, we switched hats
5 a little bit here. We are still in the Ameren rate case, but
6 we are now talking about the various stipulations and
7 agreements that have been filed in this case. I believe
8 there are four of them, not counting the objected-to
9 stipulation and agreement on class cost of service.

10 At this point, I do not anticipate questions
11 about the class cost of service stipulation agreement as
12 we're dealing with that during the regular process of the --
13 of the hearing otherwise today. So at this point, we're here
14 to ask -- ask Commissioner questions about those other
15 stipulation and agreements, and I'll turn to Commissioner
16 Davis.

17 MR. MILLS: Judge, may I ask a clarifying
18 question?

19 JUDGE WOODRUFF: Sure.

20 MR. MILLS: I believe you said four. Were you
21 counting the one about the low income weatherization that was
22 recently filed?

23 JUDGE WOODRUFF: I am. I understand that was
24 just filed yesterday and that there may not be -- there may
25 still be objections to that.

1 MR. MILLS: There may. And I just wanted to
2 bring that out. The time for objections on that hasn't run
3 yet.

4 JUDGE WOODRUFF: I understand that. But if
5 any Commissioner has a question about that, I'll let them ask
6 that question now and we'll deal with objections as they may
7 come in.

8 MR. MILLS: Okay. Thank you.

9 JUDGE WOODRUFF: Commissioner Davis?

10 COMMISSIONER DAVIS: Okay. I think I only
11 have questions with regard to -- just let me start with Mr.
12 Mills.

13 Mr. Mills, with regard to rate case expense,
14 we sent out an Order directing filing, and you were one of
15 the signatories on the memorandum seeking clarification into
16 narrow areas of inquiry.

17 MR. MILLS: I'm sorry, I was a signatory on
18 what?

19 COMMISSIONER DAVIS: I'm looking here at a
20 document that was filed this morning entitled Memorandum
21 Seeking Clarification Into Narrow Areas of Inquiry in this
22 case, Number ER-2011-0028, and -- no, this is kind of
23 strange. I see Tim Schwarz, John Coffman, Lisa Langeneckert,
24 John Coffman [sic], Diana Vuylsteke, David Woodsmall. I see
25 your name on page 1, but then I don't see it on the signature

1 line. So are you --

2 MR. MILLS: I am not a signatory, nor am I
3 participant in that filing. If my name is in there, it's
4 there by mistake.

5 COMMISSIONER DAVIS: Okay. So to the extent
6 that Office of Public Counsel is a part of this Memorandum
7 seeking Clarification into Narrow Areas of Inquiry, you're
8 not a party?

9 MR. MILLS: I'm not a party. That's simply a
10 scrivener's error.

11 COMMISSIONER DAVIS: Scrivener's error. Okay.

12 MR. MILLS: That's one of Mr. Thompson's
13 favorite phrases.

14 MR. THOMPSON: Don't suck me into this.

15 JUDGE WOODRUFF: Since Ms. Vuylsteke seemed to
16 know something about this, let me inquire of you,
17 Ms. Vuylsteke. We have a docket open right now, Case Number
18 AW-2011-330. Are you familiar with that at all?

19 MS. VUYLSTEKE: I am not.

20 COMMISSIONER DAVIS: Okay. Well, essentially
21 the Commission has -- has issued an Order directing the
22 Commission's Staff to investigate the rate case expense of
23 the utilities and to, I guess, make some sort of
24 recommendation. And it's been insinuated that, in essence,
25 that shareholders should pay half of the rate case expense.

1 And I guess you would agree that, you know,
2 what -- what clients and their attorney's fees is, you know,
3 that's -- I guess you would call that a sacred relationship,
4 wouldn't you?

5 MS. VUYLSTEKE: I think I do agree that it's a
6 very important legally protected relationship. It's --
7 sometimes information about fees is waived by parties when
8 they're seeking attorney's fees, but unless there is a waiver
9 or some other unique circumstance, normally that is
10 protected.

11 COMMISSIONER DAVIS: Okay. Now, experts, we
12 would be entitled to inquire as to what the -- what the
13 expert witnesses are being paid for their testimony?

14 MS. VUYLSTEKE: I believe that's the case for
15 testifying experts.

16 COMMISSIONER DAVIS: Okay. So it's for
17 testifying experts, and it would not include non-testifying
18 experts?

19 MS. VUYLSTEKE: I believe the law is that
20 information on the cost of non-testifying experts is normally
21 privileged or not relevant. But there may be exceptions to
22 that. I'm not sure. And I'm not sure in the context of
23 utility recovery of rate case costs, I'm not sure how expert
24 costs play in there.

25 COMMISSIONER DAVIS: Okay. Well, Mr. Mills,

1 you know what our entire budget is here, and we know what
2 your entire budget is here.

3 MR. MILLS: Yes.

4 COMMISSIONER DAVIS: And you're about the only
5 attorney working on this case pretty much, except I think
6 there may have been one day when someone from your office
7 filled in for you.

8 MR. MILLS: It's pretty much just me.

9 COMMISSIONER DAVIS: It's pretty much just
10 you, and then you've got Mr. Kind and Ms. Meisenheimer. And
11 then Staff has to keep billing records as well because they
12 have to bill it out by sector to collect their assessment.

13 MR. MILLS: Yes.

14 COMMISSIONER DAVIS: I guess my concern is
15 where it looks like the Commission is -- how can this -- I
16 mean, if this Commission is moving to adopt some sort of rule
17 that would somehow disallow, you know, half of Ameren's rate
18 case expense or a portion of Ameren's rate case expense in
19 future cases, then at some point wouldn't the amount of money
20 that the other parties are spending become relevant because
21 if we're -- I mean, if -- let's see -- there are -- it looks
22 like one, two, three, four, five -- there were six parties
23 that signed on to -- on to this memorandum today, and I think
24 all six of them are here in the hearing room right now.

25 And, you know, hypothetically speaking, if,

1 you know, those six parties plus the PSC -- doesn't include
2 the PSC Staff or Mr. Mills are spending an aggregate, you
3 know, let's pick a number, two million dollars, then is it --
4 is it really fair for -- for this Commission to promulgate a
5 rule and disallow half of a company's rate case expense?

6 MR. MILLS: I think it would be. And I think
7 the justification is not really so much what other parties
8 spend, but it's the fact that the process of seeking a rate
9 increase benefits shareholders at least as much as it does
10 ratepayers.

11 In my mind, it's sort of a kin to advertising.
12 The Commission looks at advertising and tries to determine
13 which advertising has benefit to the ratepayers and which
14 advertising has benefit only to shareholders and it disallows
15 the portion of the advertising expense that's solely a
16 benefit to shareholders. And to my mind, this is the same
17 thing.

18 So regardless of what other entities may or
19 may not spend, the sharing should be done for that reason
20 alone.

21 COMMISSIONER DAVIS: Okay. So I guess let's
22 set aside return on equity. Do they have a constitutional
23 right to recover their prudently incurred expenses?

24 MR. MILLS: They have a constitutional right
25 to the opportunity to earn a fair rate of return. In

1 Missouri, we don't do cost plus regulation. There is not a
2 constitutional right to recover any particular past expense.
3 There is a right to have a level of revenue that will allow
4 them to meet prudently incurred future expenses and still
5 have an opportunity to make a fair rate of return. But we
6 don't talk about constitutionally any sort of a right to
7 recover a specific level of past expense.

8 COMMISSIONER DAVIS: Okay.

9 MR. MILLS: Like rate case expense. So no, I
10 don't believe that there is any constitutional right to
11 recover rate case expense, fuel expense or any particular
12 past expense.

13 COMMISSIONER DAVIS: Okay. But there is a
14 right to have expenses set to recover -- or to -- I guess
15 there is a right to have the rates set in a manner that would
16 recover a -- how would you rephrase that, again, Mr. Mills?

17 MR. MILLS: To allow the Company an
18 opportunity to cover its reasonably expected future expenses
19 and earn a return.

20 COMMISSIONER DAVIS: Reasonably expected
21 future expenses.

22 MR. MILLS: Because that's really all we're
23 doing with the test year. We're trying to determine an
24 appropriate level of revenues, rate base, and expense that
25 will -- that will in the future allow the Company that

1 reasonable opportunity to earn a fair rate of return. We're
2 not trying to match up exactly past expenses and say, you
3 know, we know that one's going to occur in the future and
4 that one's not. We're trying to come up with that
5 relationship among revenue expenses in rate base so as to set
6 a level of future revenues that will allow the Company that
7 opportunity.

8 COMMISSIONER DAVIS: Okay. But you're saying
9 it's perfectly acceptable for the Commission to promulgate a
10 rule that would say shareholders eat one-half of the rate
11 case expense so that, you know, a company could come in and
12 say we have two million dollars in prudently incurred costs,
13 and that the Commission would say, well, pursuant to our
14 rule, we're going to deny you half of that recovery.

15 MR. MILLS: In exactly the same way that the
16 Commission disallows advertising expense, yes, I agree.

17 COMMISSIONER DAVIS: But we don't disallow
18 advertising expense in that way; do we?

19 MR. MILLS: Yes. Not by rule, but you have a
20 practice that goes back -- that divides advertising expenses
21 into five buckets, and I think if I recall correctly two or
22 three of those are simply disallowed. Even though they may
23 be prudently incurred expenses, they're disallowed as being
24 solely a benefit to shareholders and not a benefit to
25 ratepayers.

1 COMMISSIONER DAVIS: Okay. Well -- but still
2 isn't that a little bit different than just saying, well,
3 we're going to take the ax out and cut it in half?

4 MR. MILLS: It's a different calculation, but
5 it's the same end result.

6 MR. BYRNE: Commissioner, can I address that?

7 COMMISSIONER DAVIS: Sure.

8 MR. BYRNE: I think it's very different from
9 advertising expense. The types of advertising expense that
10 are disallowed by the Commission are, you know, sort of
11 puffery, things that make your company look better, things
12 that don't provide direct benefits to customers. And I think
13 those kinds of advertising expenses are discretionary.

14 The Company could choose not to do, you know,
15 what's called institutional advertising that just tries to
16 make the company look good. We can still perform our
17 functions, run our company, and do everything that we have to
18 do to provide service without that kind of advertising. So I
19 think that's the justification for disallowing that
20 advertising.

21 In contrast, we don't have a choice when our
22 costs are going up to file a rate case. That's a fundamental
23 part of our business and that's something we have to do if
24 the costs are going up. And to my mind, that's the
25 difference. And as long as we incur a prudent level of rate

1 case expense, of course the Commission can always look at the
2 prudence of our expense. But as long as it's a prudent level
3 of rate case expense, we're entitled to recover a hundred
4 percent of it.

5 And I do think it's an interesting question
6 what the other parties are spending on lawyers and experts in
7 the rate case because I do think -- I understand the concern
8 about attorney-client privilege. We have that concern, too,
9 when our legal bills looked at. But at the same time, you
10 know, I think 23 lawyers representing other people entered
11 their appearance on day one of this hearing. And in judging
12 the prudence of what we spend, I do think it's relevant to
13 look at the level of the opposition that we face and the
14 level of resources that are put toward that. And I think
15 maybe there are ways to look at overall levels of expense
16 where you don't flyspeck the bills and see exactly what
17 lawyers are doing that might not violate the attorney-client
18 privilege, so that that's my thought on it.

19 COMMISSIONER DAVIS: Mr. Williams, are you an
20 expert on the Commission's policy on advertising?

21 MR. WILLIAMS: It's been a while since I've
22 handled the advertising issue; I suspect Mr. Rackers is.

23 COMMISSIONER DAVIS: Well, I don't want to
24 call Mr. Rackers down here. Mr. Schwarz?

25 MR. SCHWARZ: I was unaware that the

1 Commission was investigating a rulemaking to resolve what is
2 typically a contested factual issue in rate cases. I don't
3 think it would be appropriate for the Commission to adopt a
4 rule that decreed that 50 percent or 75 percent or 40 percent
5 or 98 percent of a rate case expense is -- is automatically
6 going to be passed through, or some portion is going to be
7 disallowed.

8 I think that Mr. Byrne's point is well taken
9 that the complexity of particularly major rate cases is
10 increasing. I think more parties are becoming aware of the
11 impact of rate cases on them, and consequently you made --
12 utilities may now be participating in 30 depositions; whereas
13 when I started, probably doing 10 in a rate case was -- was
14 if not the norm, certainly -- there is more activity on the
15 other side. But it's still case- and fact-specific.

16 You may recall that in 2003, the only reason I
17 remember the year is the McDonough (phonetic) decision came
18 down during an MGE rate case. When MGE had retained a New
19 York law firm at \$700 an hour and -- and brought in an
20 attorney who had never dealt with a -- a rate case. And the
21 Commission disallowed a portion of the attorney's fees as
22 rate case expense. So I think that it's that kind of thing
23 that has to be done on a case-by-case basis.

24 I think that as far as the non-utility parties
25 are concerned, that the -- the -- as far as the attorney's

1 fees are concerned, they're not an issue, they're not
2 material to anything that the Commission has to decide in the
3 case, and I think that Rule 4-1.6 of the Supreme Court rules
4 say, A lawyer shall not reveal information relating to the
5 representation of a client unless the client gives informed
6 consent, the disclosure is impalpably authorized in order to
7 carry out the representation, or the disclosure is permitted
8 by Rule 4-1.6(c), which includes things like to prevent a
9 murder. And the only one that would be applicable in these
10 circumstances is to comply with other law or a court order.

11 I can say unequivocally the Commission is not
12 a court. And I don't believe that there is any other law
13 which would authorize the Commission to broach the privilege.
14 As Ms. Vuylsteke pointed out, when you put attorney's fees --
15 recovery of attorney's fees at issue, you waive the privilege
16 as to the reasonableness of the fees charged. Although the
17 courts have held that by using load star principles, you may
18 be able to avoid inquiry into specific attorney's fees in
19 specific cases. So I think that doing it by rule is
20 probably, at best, a very poor practice.

21 COMMISSIONER DAVIS: Anybody else have
22 anything to add on that point?

23 MR. COFFMAN: Your Honor, this is John
24 Coffman.

25 COMMISSIONER DAVIS: Sure.

1 MR. COFFMAN: I can't see you.

2 COMMISSIONER DAVIS: I can't -- I'll look
3 around.

4 MR. BYRNE: Not the Public Counsel.

5 MR. COFFMAN: I would agree with Mr. Schwarz's
6 comments. My clients have asked me to respectfully tell you
7 that they have retained privilege. They would like to retain
8 privilege about the rate case expense that they've incurred,
9 and I can assure you it's not, you know, anywhere near what
10 Ameren has incurred in this case.

11 And I think the main issue here is what's at
12 issue. In this case, the electric company is asking the
13 customers to pay for their legal bills in this case. The
14 legal bills of other, you know, of intervenors are not at
15 issue and they're not asking anyone else to pay their own
16 individual bills.

17 I'm sure you're aware of other states where
18 they do have something called participant funding where
19 intervenors can request a Public Utility Commission put a
20 portion of their expenses into the cost of service if they
21 have done something material to assist the case, but we don't
22 have that law here in Missouri and my clients are not asking
23 anyone else to pay their bills. And I think I would agree, I
24 wasn't aware of this rulemaking. I'll have to look --

25 COMMISSIONER DAVIS: It's a, quote, working

1 document right now.

2 MR. COFFMAN: Okay. But I would agree that
3 rate case expense is a factual matter. And for instance, in
4 cases where the utility company has multiple witnesses on a
5 particular topic, I think that -- or multiple lawyers, I
6 think that is something that the Commission is -- has the
7 authority to look at and to make a decision about what's --
8 what's an adequate level. Not that the utility can't, you
9 know, have eight witnesses on fuel adjustment clause or half
10 a dozen lawyers on a particular topic. But that the rate
11 case expense only cover the minimal amount that they would
12 adequately need to participate.

13 COMMISSIONER DAVIS: All right. But I
14 guess -- I guess we could take notice of the number of party
15 litigants in the case. And if there are 23, as Mr. Byrne
16 represented, and I guess -- would you agree, Mr. Coffman,
17 that I don't know how many attorneys Ameren has working on
18 this. I'm going to guess six, eight, ten, maybe more. There
19 may be lots of people in the back room that I haven't seen.

20 MR. COFFMAN: I would just say that rate case
21 expense is a factual issue that should be explored by the
22 Commission. I don't know if there's any particular formula
23 or accounting that you could necessarily rely upon. But it
24 should be reviewed on a case-by-case basis.

25 COMMISSIONER DAVIS: All right. Thank you,

1 Mr. Coffman.

2 MR. BYRNE: Can I add something, Commissioner?

3 COMMISSIONER DAVIS: You can add something,
4 and we can go to Mr. Thompson. And then I have no more
5 questions and we can get on with the hearing. But go ahead,
6 Mr. Byrne.

7 MR. BYRNE: We had six lawyers enter their
8 appearance in this case, maybe a couple of others worked
9 behind the scenes, in case you want to know.

10 The -- one thing I wanted to just briefly
11 mention is the logic of saying because -- because
12 shareholders can benefit from a rate case outcome, they ought
13 to pay a share of the cost is not good logic, in my view.
14 Shareholders and customers benefit from almost everything the
15 utility does. For example, every time you put a rate base
16 item into rate base, shareholders benefit because they get to
17 earn a return on their investment. I don't think that logic
18 would say a share of the rate base investment ought to be
19 disallowed just because shareholders benefit.

20 Again, you know, rate cases are a fundamental
21 part of running an electric utility business in this state --
22 and I guess just about every other state -- and the cost of
23 service of that, if prudently incurred, ought to be allowed.

24 COMMISSIONER DAVIS: Mr. Thompson?

25 MR. THOMPSON: Yes, Mr. Commissioner. I just

1 wanted to tell you Staff has had 12 different attorneys who
2 have had a part of this case. Thank you.

3 COMMISSIONER DAVIS: If I could think of some
4 wise retort about a dozen, I would. Anyway. I don't have
5 any questions -- any more questions on this stip or any other
6 stip, Judge.

7 JUDGE WOODRUFF: Thank you. Commissioner
8 Jarrett?

9 COMMISSIONER JARRETT: I do have one question
10 and it's of Mr. Mills, Mr. Byrne, anybody who wants to weigh
11 in.

12 I mean, it kind of goes beyond the stip and
13 everything, but since you were having the conversation with
14 Commissioner Davis, the idea that the shareholders benefit
15 from rate case expense, I guess my question is I want to know
16 where did that come from?

17 I mean, I've done a search, it's not an
18 exhaustive search, but I'm not aware of any state that just
19 arbitrarily limits rate case expense to 50 percent of what is
20 spent. I know some states have a cap on rate case expense,
21 and I know Ohio, in the legislature, there's a bill
22 introduced every year trying to -- trying to do rate case
23 expense sharing but it always dies.

24 Is there a treatise out there? Has Phillips
25 or Bonbright written a book about this? I just -- is there

1 some legal authority? Is there a law review article? Where
2 did this idea come from?

3 MR. MILLS: Well, in this case, it's a settled
4 issue. So it's covered in one of the stipulations and
5 agreements. It was raised in the testimony of Public Counsel
6 witness Robertson and it was based on the specific facts
7 presented in this case, which is the number of outside
8 experts, the number of outside attorneys, the number of
9 people within the Ameren company and the Ameren family of
10 companies that had the qualifications to do the things that
11 the outside experts were hired for. And then a calculation
12 done based on that analysis to disallow a certain portion of
13 the rate case expense in this case.

14 But as to the broader question, I am not aware
15 that Phillips or Bonbright have addressed this question one
16 way or the other.

17 COMMISSIONER JARRETT: Has anybody?

18 MR. MILLS: Not that I'm aware of.

19 COMMISSIONER JARRETT: So where did the idea
20 originate?

21 MR. MILLS: In this case, it was filed as a
22 position in testimony based on the facts of this case.

23 COMMISSIONER JARRETT: Well, it was an issue
24 in the KCP&L rate case, too, because we discussed that in
25 agenda, and that's the reason why we opened a working docket.

1 So it is out there. Where did it come from?

2 MR. WOODSMALL: At least in the KCP&L case, I
3 raised it, in part, in my brief. And that was based -- I
4 haven't been here for the hearing, so I am not commenting on
5 Ameren's rate case expense. I don't know how many attorneys
6 or anything like that.

7 But at least in the KCP&L case, ten attorneys
8 entered appearances for KCP&L and part of my concern was the
9 complete lack of evidence of cost containment. I raised in
10 my brief, based upon evidence in the case, that KCP&L has
11 in-house attorneys that never asked a single question in the
12 case. During the KCP&L case, even for matters so simple as
13 finalizing the case and offering up all the non-contested
14 testimony, KCP&L had four attorneys in here. So I raised the
15 issue of complete lack of cost containment in that case.

16 Based upon that, I went to a '93 Missouri
17 American case where the Commission said given Missouri
18 American's lack of evidence of cost containment, they
19 disallowed approximately 33 percent. So I raised it in the
20 KCP&L case based upon a holding in a Commission case from
21 '93.

22 COMMISSIONER JARRETT: And I understand that.
23 That's in the context of a rate case and you have evidence or
24 lack of evidence.

25 MR. WOODSMALL: And --

1 COMMISSIONER JARRETT: But I guess what I'm
2 asking is, and Mr. Mills said it, that the idea that
3 ratepayers -- or shareholders benefit from having rate cases.
4 And so therefore, as a general matter, we should consider
5 arbitrarily lopping off part of those expenses because the
6 shareholders benefit. I want know where that idea came from.
7 Where did it originate?

8 MR. THOMPSON: Those are the tests applied to
9 every expenditure of the company.

10 COMMISSIONER JARRETT: No, no, no, that's not
11 what I'm asking.

12 MR. THOMPSON: Are they necessary, do they
13 benefit the ratepayers?

14 COMMISSIONER JARRETT: Mr. Schwarz, do you
15 have an answer to this?

16 MR. SCHWARZ: I'm not aware of the genesis of
17 this as a particular rule or statement. I know that the --
18 if you look at old ABA journals and law review articles, you
19 can find a lot of information on the relationship between not
20 just utilities but corporations and outside counsel. Those
21 are -- are negotiated, sophisticated arrangements.

22 And just as the utilities acquisition
23 practices or purchasing practices are applied in coal and
24 transportation and smoke stack building and every item that
25 the company does, that the acquisition of legal services is

1 subject to the same scrutiny by the public -- by the public
2 utility regulator.

3 I'm not aware of any proposal that would
4 standardize three percent as being exclusively beneficial to
5 shareholders. That's new to me this morning.

6 MR. BYRNE: From Ameren's standpoint, we're
7 unaware of any source for that idea in books or law review
8 articles or anything like that. I think it's just been
9 invented by -- by parties and really, I mean, not even
10 parties to this case. I think what these guys have said, or
11 at least what Mr. Woodsmall has said, is that that's
12 perfectly legitimate. That's questioning the prudence of
13 legal expenses, which is a completely legitimate inquiry.

14 COMMISSIONER JARRETT: Right.

15 MR. BYRNE: But to have an arbitrary
16 percentage that says whether you pay \$700 an hour for lawyers
17 from New York or you hire Mid-Missouri lawyers at costs that
18 are reasonable in the community, you just automatically get
19 50 percent lopped off or something just doesn't seem to be
20 reasonable to me.

21 MR. WOODSMALL: And I think maybe at base your
22 question is: Where did the idea of a rulemaking for this
23 come from? I don't think any party in any case That I've
24 seen has asked the Commission, set up a rulemaking and try to
25 deal with this in a one-size-fits-all manner. It has been

1 raised in -- I believe, Public Counsel's raised it in the MGE
2 case. Disallowance is not a one-size-fits-all --

3 COMMISSIONER JARRETT: Right.

4 MR. WOODSMALL: -- rule. I raised it in the
5 GMO/KCP&L case, so it has become a contested issue, but to
6 the best of my knowledge, no one asked to take that out of
7 the contested issue arena and put it into a rulemaking. I
8 think that was done in Commission deliberations wanting to
9 just look at it on a broader spectrum.

10 COMMISSIONER JARRETT: Well, as we do have the
11 working docket, I invite anybody here if they can find any
12 authority like that, to please put it in the docket.

13 MR. COFFMAN: Commissioner, it's been awhile
14 since I've done research in this area, but I do think that
15 the New York Public Service Commission has some -- has done
16 an investigation that perhaps about ten years ago.

17 COMMISSIONER JARRETT: Oh, okay.

18 MR. COFFMAN: On that matter. And I think
19 their specific inquiry was into outside counsel and outside
20 experts. But I think they may have done a more thorough
21 expiration of the origins. But from my perspective, I
22 actually -- it would be a more interesting question to me
23 where the idea came up that rate case expense actually
24 benefits ratepayers. I understand power plants and customer
25 service and lines and so forth benefit consumers, but from a

1 consumer perspective, the rate case expense of the utility is
2 designed to make ratepayers pay more. It's not generally a
3 benefit.

4 COMMISSIONER JARRETT: Well, it is a benefit
5 if the utility needs to buy poles and they don't have any
6 money to buy poles so the lines go down and the customers
7 can't get electricity. So in that case, then, should --
8 should the shareholders have to pay for 50 percent of the
9 poles?

10 MR. BYRNE: I think the outcome of a rate case
11 benefits, you know, if done properly, sets just and
12 reasonable rates that benefit the public as well as customers
13 as well as shareholders.

14 COMMISSIONER JARRETT: Well, I didn't mean to
15 go down this road. Sorry. I don't have any questions about
16 the stips.

17 JUDGE WOODRUFF: All right. Commissioner
18 Davis, anything else?

19 COMMISSIONER DAVIS: No mas.

20 JUDGE WOODRUFF: That will conclude, then, the
21 on the record presentation. We'll need to take another short
22 break to allow the court reporter to change over to -- back
23 to the hearing. We'll come back at 10:45.

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)

) ss:

3 COUNTY OF GASCONADE)

4

5 I, JENNIFER L. LEIBACH, Registered Professional
6 Reporter, Certified Court Reporter, CCR #1108, and Certified
7 Realtime Reporter, the officer before whom the foregoing
8 matter was taken, do hereby certify that the witness/es whose
9 testimony appears in the foregoing matter was duly sworn;
10 that the testimony of said witness/es was taken by me to the
11 best of my ability and thereafter reduced to typewriting
12 under my direction; that I am neither counsel for, related
13 to, nor employed by any of the parties to the action in which
14 this matter was taken, and further that I am not a relative
15 or employee of any attorney or counsel employed by the
16 parties thereto, nor financially or otherwise interested in
17 the outcome of the action.

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20 Court Reporter

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