

In the Matter of:
The Empire District Electric Company's Request

ER-2019-0374, VOL 7

April 15, 2020



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Procedural Conference
April 15, 2020
Jefferson City, Missouri
Volume 7

In The Matter Of The Empire)
District Electric Company's)
Request For Authority To File)
Tariffs Increasing Rates For) File No. ER-2019-0374
Electric Service Provided To)
Customers In Its Missouri)
Service Area)

JOHN T. CLARK, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
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(Continued)

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P R O C E E D I N G S

1
2 JUDGE CLARK: We'll go on the record now, Ms.
3 Bentch. Today's date is March 15, 2020. I've got one
4 one more person to admit. Today's date is March 15 of
5 2020, and the current time is 2:02 p.m. The Commission
6 has set aside this time for a procedural conference in
7 the case captioned as In The Matter Of The Empire
8 District Electric Company's Request For Authority To
9 File Tariffs Increasing Rates For Electric Service To
10 Provide To Customers In Its Missouri Service Areas, File
11 No. ER-2019-0374.

12 My name is John Clark. I'm the Regulatory Law
13 Judge in this matter. I'm going to -- Give me two
14 seconds. We'll go off the record momentarily.

15 (Off the record.)

16 JUDGE CLARK: We'll go back on the record. My
17 name is John Clark. I'm the Regulatory Law Judge in
18 this matter. I'm going to begin by having the parties
19 make their entry of appearance starting with the Empire
20 District Electric Company.

21 MS. CARTER: Hi. This is Diana Carter for the
22 Empire District Electric Company.

23 JUDGE CLARK: Thank you, Ms. Carter. For the
24 Commission Staff?

25 MS. PAYNE: Whitney Payne on behalf of the

1 Staff of the Missouri Public Service Commission.

2 JUDGE CLARK: And you also have one additional
3 support staff here, correct?

4 MS. PAYNE: That is correct. Michelle
5 Bocklage is on the line as well.

6 JUDGE CLARK: Thank you. For the Office of
7 the Public Counsel?

8 MR. WILLIAMS: Nathan Williams.

9 JUDGE CLARK: Thank you, Mr. Williams. For
10 the National Housing Trust? I hear no one. Mr. Opitz,
11 do you know if Mr. Linhares was going to call in?

12 MR. OPITZ: I think he was trying to. I just
13 sent him the --

14 JUDGE CLARK: He's here. I've got three other
15 people. Okay. Mr. Linhares. Mr. Linhares, would you
16 like to enter your appearance for the record?

17 MR. LINHARES: Yes, thank you, Judge.
18 Appearing for National Housing Trust, Andrew Linhares.

19 JUDGE CLARK: For the National Resources
20 Defense Council? Well, I saw somebody.

21 MR. HALL: Judge, this is Caleb Hall with the
22 Missouri Office of the Public Counsel. I was delayed
23 getting on the call. Perhaps that's who you saw.

24 JUDGE CLARK: Okay. I see somebody with the
25 name Henry. Is that Henry Robertson?

1 MS. CARTER: I know Henry had an issue on
2 another call we were on where he was having trouble
3 unmuting so that he could talk. He may be having that
4 same issue now.

5 JUDGE CLARK: We'll see if he's able to
6 participate, but for now I'll note at least I see a
7 Henry. That would also be for the Sierra Club.

8 For the Missouri Division of Energy?

9 MR. WESTEN: Yes, Judge, thank you. This is
10 Jacob Westen appearing on behalf of the Division of
11 Energy.

12 JUDGE CLARK: Mr. Westen, you had filed a
13 request to be excused from the hearing in this matter
14 but the hearing was suspended so I had delayed on ruling
15 on that. If at the end of this you want to be excused
16 from the case, let me know and I'm certainly happy to do
17 that.

18 MR. WESTEN: Yes, Judge, I appreciate that. I
19 would want to keep that motion alive and well.

20 JUDGE CLARK: Okay. If you want to be excused
21 from the case, I will grant that motion and you're
22 welcome to disconnect now if you would like.

23 MR. WESTEN: If you don't mind, Judge, that
24 would actually be great. I have multiple conflicts this
25 afternoon, and I don't intend to muddy the waters any

1 further than they already are with the parties.

2 JUDGE CLARK: I apologize that I drug you to
3 this then. I appreciate you checking in, and you're
4 excused.

5 MR. WESTEN: Not a problem. Thank you so
6 much, Judge. Thank you everyone.

7 JUDGE CLARK: Okay. Are there any other --
8 There are some other parties, the SERP Retirees and the
9 unions. Is there anybody here on their behalf?

10 MR. WOODSMALL: David Woodsmall for the SERP
11 Retirees, as well as Midwest Energy Consumers Group.

12 JUDGE CLARK: Thank you, Mr. Woodsmall.
13 Anybody else? Have I forgotten anybody?

14 MR. OPITZ: Tim Opitz for Renew Missouri.

15 JUDGE CLARK: I'm getting increasingly worse
16 about that, Mr. Opitz.

17 MR. JARRETT: Yes, and Terry Jarrett for the
18 Empire District Retirees and Spouses Association.

19 JUDGE CLARK: Okay. Thank you everybody for
20 entering your appearance for the record. When I
21 scheduled this, I kind of didn't know where things were
22 going to go. There have been some motions filed and
23 some alterations made as we went along.

24 So I guess there's a few things I wanted to
25 kind of check in on. And to let you know why we're

1 using the Zoom platform and not the Cisco platform, I
2 was asked to familiarize myself with this because it
3 might be an easier way to conduct an evidentiary hearing
4 or Q&A. I'm going to start out by saying I think if you
5 listened a week ago to the agenda, I think there was
6 some confusion on the part of the Commission in regards
7 to the offers of evidence date. And I think that the
8 assumption on their part was that that was going to be
9 on the record an on the record date.

10 The assumption on my part, and correct me if
11 I'm wrong, was that that was the last day for the
12 parties to submit additional new evidence and objections
13 to that evidence would be included on the same filing
14 date that the initial briefs were due. Is my
15 understanding correct or is what the Commission had
16 announced correct?

17 MS. CARTER: Judge, this is Diana Carter. I
18 was thinking generally in line with what you stated.
19 Only I planned on for the company including an offer of
20 evidence of everything we were asking to have admitted
21 including all our prefiled testimony that we'd want
22 admitted into the record with exhibit numbers.

23 JUDGE CLARK: Is that different from the
24 understanding of any other party?

25 MS. PAYNE: I would say the only difference as

1 far as Staff is concerned is I think we thought that
2 there might be time to lobby objections against new
3 evidence after the filing on Friday.

4 JUDGE CLARK: I assumed that those objections
5 were going to be received with initial briefs also in
6 writing. That's what I have in my modified procedural
7 schedule.

8 MS. PAYNE: That's fine. I appreciate it. I
9 just realized I don't think any of the parties were
10 going to be able to circulate evidence prior to the
11 Friday filing date.

12 MR. WILLIAMS: Judge, how do you anticipate --
13 this is Nathan Williams by the way. How do you
14 anticipate the filings to be made? Are we filing
15 exhibits in EFIS or is there some other way you want
16 that handled?

17 JUDGE CLARK: I would like them filed in EFIS.
18 So that's the way I'd prefer to do that with the same --
19 if you're filing a public and a confidential document
20 doing it the same way. What's going to happen, and it's
21 going to seem a little muddy but it makes a lot of sense
22 to me, I like to have access to EFIS as the electronic
23 record. So what you're going to see unfortunately, but
24 I can't think of a better way to do it, is you'll see
25 your prefiled testimony, then you'll see your exhibits,

1 and then finally at the end after this is all done
2 you'll see the admitted exhibits and testimony. And
3 those will be entered by my admin. Okay.

4 MR. WILLIAMS: Judge, just so you're aware,
5 we're going to have erratas to some of what was
6 prefiled. I was then contemplating like we normally do
7 during a hearing submitting all of our exhibits together
8 including what was previously prefiled.

9 JUDGE CLARK: If you want to submit them all
10 as a bundle, I have no problem with that. I'll figure
11 out a way to sort it out.

12 MR. WILLIAMS: It would be pretty much a
13 bundle except to the extent other parties file and are
14 leaving which could occur.

15 JUDGE CLARK: You mean some parties -- some
16 additional parties requesting to be excused? Is that
17 what --

18 MR. WILLIAMS: What I meant by that, I'm
19 saying we may not get a block that's all together
20 because other parties may file during while we're filing
21 our block.

22 MS. PAYNE: So what you're saying is, Nathan,
23 that you'd be filing it at the same time but in separate
24 documents so it's possible that if two parties are
25 filing at the same time that may overlap and it wouldn't

1 be back to back?

2 MR. WILLIAMS: Right. That's all I meant.

3 JUDGE CLARK: Okay. I'm not really as worried
4 about that as long as you're using -- Did I ever assign
5 number blocks to people?

6 MR. WILLIAMS: Yes, you did.

7 MS. PAYNE: You did. I went back and looked.

8 JUDGE CLARK: As long as the exhibits are
9 correctly numbered, I'm fine with it. I'll sort it out.

10 MS. CARTER: And hopefully we can all just
11 have an exhibit list maybe as our first thing.

12 JUDGE CLARK: I had one person admitted to the
13 hearing. Who is that?

14 MR. ROBERTSON: Judge, this is Henry
15 Robertson.

16 JUDGE CLARK: I apologize. I thought I saw
17 you on earlier. It was indicated you might have some
18 problems. I will note for the record that Henry
19 Robertson is here on behalf of the Natural Resources
20 Defense Council and the Sierra Club, I believe.

21 MR. ROBERTSON: Yes.

22 JUDGE CLARK: Just to catch you up to date
23 with what we're talking about, we were talking about
24 admitting evidence, and I believe I'm asking on the date
25 that all evidence is due, including any additional or

1 new evidence which is going to be the April 17 date,
2 that the parties file that in EFIS and use the same
3 public and confidential designations so that nothing
4 that's not supposed to be public is made public. Mr.
5 Williams brought up that if the parties are filing at
6 the same time that they may not get all of their
7 evidence filed as a block. I don't see that as a
8 problem, because when I look at it I will organize it
9 into blocks that makes sense to me. So I don't see that
10 as being an issue.

11 MS. PAYNE: Judge, we were trying to consider
12 how to do corrections to testimony. Normally when we
13 put someone on the stand we ask them if they have
14 corrections. Would you want us to refile the entire
15 piece of testimony, and really this is a question in
16 general, with the errata sheet attached or did you want
17 us to just simply file the errata sheet referencing the
18 previously filed piece of testimony?

19 JUDGE CLARK: I'd prefer the errata sheet. I
20 think it would be easier for everybody to see what
21 changes are occurring at a glance.

22 MS. PAYNE: Okay. Just file the errata sheet
23 referencing the previous piece of testimony that was
24 filed?

25 JUDGE CLARK: Correct. By errata sheet, I'm

1 just going to take it you mean a sheet containing the
2 changes?

3 MS. PAYNE: Right, outlining only what was --
4 basically exactly outlining what our witness would say
5 on the stand.

6 MR. WILLIAMS: Judge, this is Nathan Williams.
7 What I'm contemplating, or planning actually, is to file
8 the testimony and include with it an errata sheet that
9 shows changes from what was prefiled.

10 JUDGE CLARK: I actually like that better.
11 Let's do that. If that's not going to cause too much of
12 a hardship for people, I like that because that way I'm
13 not later looking back at testimony that may have
14 erroneous things in it without looking at the errata
15 sheet knowing what those are. That way I know what's
16 been changed and I know it's also been changed in the
17 testimony I'm going to be referencing.

18 MR. WILLIAMS: You'll also get it on the 17th.

19 JUDGE CLARK: I'm sorry?

20 MR. WILLIAMS: You'll also get it all on the
21 17th.

22 JUDGE CLARK: I appreciate all the parties
23 have made concessions in this to try and get it done.
24 I'm not trying to put more onto the parties than makes
25 it possible for me to work with, but we are kind of

1 crunching the end game here as it is, which brings me to
2 my next thing.

3 I know that the parties had requested -- well,
4 not the parties. I know that Empire had requested to
5 push off the position statements until after the 17th
6 and I assume what they meant by that was next week. And
7 after discussions it was determined that we would make
8 those due on the 17th as well. And to give you kind of
9 some reasoning as to why is a lot of those position --
10 from those position statements the Commission gets a
11 better idea of the depth and the nature of the
12 controversy regarding particular issues between the
13 parties and it kind of guides the Commission in knowing
14 what questions they were going to ask. So with that in
15 mind, what I'd like to, and I'm not saying that this
16 will definitely occur but I want to have a date kind of
17 locked in, is I know that with initial briefs being due
18 the 27th I don't want to take too much time away from
19 people but how the parties feel about a potential time
20 to answer questions from the Commission on the 22nd,
21 which would be probably in the afternoon since agenda
22 will be in the morning.

23 MS. PAYNE: On April 22nd?

24 JUDGE CLARK: Yes.

25 MS. CARTER: Judge, would that be are you

1 contemplating us having all our witnesses available for
2 that or just attorneys?

3 JUDGE CLARK: I am kind of undecided on that.
4 I'm kind of -- My preference right now, and I'm kind of
5 feeling out the Commission in regard to that, my
6 preference right now is have the Commission give me the
7 questions that they want to ask, have me submit them to
8 the parties. And if that's the case, what I want to
9 avoid doing if at all possible is generating new
10 evidence for the record. So if possible I'd like to
11 submit questions theoretically that can be answered with
12 information already in the record. And given the amount
13 that's been filed so far, I wouldn't think that would be
14 difficult.

15 MS. CARTER: And, Judge, I was asking because
16 of the date. That day works fine for me. I can make
17 whatever work basically right now. I just wouldn't
18 necessarily know on some of my witnesses in terms of
19 availability.

20 JUDGE CLARK: I understand that. What I'm
21 trying to do is I'm trying to meet some of the minimum
22 prongs of due process. What I can't do is have a lot of
23 back and forth here. So if I'm going to do that format,
24 what I'm going to do is probably ask questions generally
25 and allow each party to proffer an answer however they

1 would like rather than doing like would normally be done
2 on the stand and asking one witness and then allowing a
3 cross and then a recross and then a redirect or what
4 have you.

5 MR. WILLIAMS: How much time are you thinking
6 for responses to the questions?

7 JUDGE CLARK: That is a good question. Off
8 the top of my head, I was thinking if I'm not doing
9 multiple rounds, which I don't want to do, if we're
10 going to do it that way I would have the answers to
11 those same questions come in with the initial briefs
12 along with the objections. Are there any strong
13 feelings for or against that?

14 MS. PAYNE: Just to recap, it would be then we
15 would -- there would be -- I'm a little confused. So we
16 would get the questions in writing and then be able to
17 file answers to them?

18 JUDGE CLARK: I think what I would prefer to
19 do is do it in a procedural conference type setting like
20 this so that I could ask the questions and get questions
21 from counsel -- the questions, I could try and answer
22 those right there so that everybody is going away with
23 the same understanding of what the question is.

24 MR. WILLIAMS: This is Nathan -- I'm sorry.

25 MR. WOODSMALL: I was going to say, this is

1 Dave Woodsmall, so what will happen on the 22nd is you
2 would be providing us the questions and then five days
3 later with our initial briefs we would be providing you
4 with the answers?

5 JUDGE CLARK: That's correct.

6 MS. PAYNE: I was misunderstanding is that we
7 would get the questions in a conference format and then
8 we would provide them in briefs, give answers in briefs?

9 JUDGE CLARK: Correct.

10 MS. CARTER: I think that sounds great.

11 MR. WILLIAMS: Judge, I suggest that you send
12 written questions out a little bit in advance if
13 possible. I think that might move the discussion
14 forward --

15 JUDGE CLARK: I will do that --

16 MR. WILLIAMS: -- if people have questions
17 about the questions.

18 JUDGE CLARK: I will do that to the best of my
19 ability. I make no guarantees because I don't know what
20 questions the Commission is going to have or when
21 they're going to get them to me. What I will probably
22 do is much like I emailed everybody the invites to this
23 is once I have those questions, whether it be a day or
24 an hour in advance, I will email them out to counsel.
25 Is that acceptable?

1 MR. WOODSMALL: Yes.

2 MR. WILLIAMS: Judge, would you make sure that
3 my direct email address is on there as well as well
4 OPC's?

5 JUDGE CLARK: Did I not get yours in the past?

6 MR. WILLIAMS: Correct.

7 JUDGE CLARK: I apologize, Mr. Williams. I
8 will certainly see that you are added. I apologize if
9 I've neglected that.

10 MR. WILLIAMS: No apology needed. It just
11 causes some delay sometimes.

12 JUDGE CLARK: I certainly didn't mean to do
13 that. I will certainly -- I'll make a note of it to --
14 I mean, that's what I've put forth to the Commission at
15 this time. It is entirely possible -- I just want to
16 reserve that date in the afternoon. Part of the reason
17 I did it in the afternoon of an agenda day is so that if
18 the Commission decides they want to do an on the record
19 I can in advance prepare to make that happen. Obviously
20 if that's the case where they want to do an on the
21 record in a format like this, I'll give the parties
22 advanced notice so they can have any necessary witnesses
23 on call. But I'm thinking right now that the Commission
24 is going to be agreeable to just have me present the
25 questions.

1 In regard to that, I think when I received the
2 list of issues, which included if I remember 46 issues
3 and roughly 250 sub-issues, which was a tremendous
4 amount to digest. How far along -- Does it look like
5 any of these issues are going to be resolved?

6 MS. PAYNE: Actually, Judge, that was my
7 question. We should be filing a non-global stipulation
8 and agreement in the case maybe today yet. I was going
9 to ask you if the Commission would permit us to file a
10 modified list of issues potentially based on that
11 agreement.

12 JUDGE CLARK: Yes, I have no problem with
13 that. Are there any objections to that?

14 MR. WILLIAMS: This is Nathan Williams. I
15 will say a lot of the issues on the list are not ours
16 and I think I believe a few of our issues, a couple of
17 them are dropping off. So we're anticipating that the
18 contested issues before the Commission will change.

19 JUDGE CLARK: Okay. That is good to know. As
20 I said, you only have to file position statements as to
21 contested issues. So if an issue is not contested,
22 there's no need for me to see a position statement on
23 it. I think again that will help narrow down the scope
24 of the Commission's questions.

25 MR. WILLIAMS: Judge, just to be very clear, I

1 thought I was being clear with what we proposed. In
2 anticipation the Commission, assuming we don't have some
3 kind of a unanimous global resolution of the case,
4 Public Counsel anticipates that some of the evidence
5 that it offers may be not allowed into evidence and with
6 that we're anticipating requesting that it be put into
7 the record as an offer of proof.

8 JUDGE CLARK: I have never shut down an offer
9 of proof nor do I intend to start doing that. If that
10 becomes the case, I will certainly keep it in the record
11 as an offer of proof. Okay?

12 MR. WILLIAMS: Thank you. I just want to make
13 sure you're aware that we're anticipating that as a
14 possibility.

15 JUDGE CLARK: I will tell you I've given a lot
16 of thought to what occurred at a previous procedural
17 conference. And while I understand the Commission's
18 order in regard to Asbury, I am not sure it would be
19 appropriate for the Commission not to hear evidence
20 concerning Asbury and the FAC. But that's not a ruling
21 I have to make now.

22 MS. PAYNE: Judge, did you have any vision on
23 a format for evidence? I'm, of course, talking about as
24 far as like the prefiled testimony, do you want us to
25 affix an exhibit number onto the document itself or is

1 it okay to simply file it with the title of the exhibit
2 number?

3 JUDGE CLARK: I think filing it with the title
4 of the exhibit number is fine. This isn't a situation
5 where we have -- Since we're submitting it on the record
6 rather than having a court reporter live at the hearing.
7 That was Ms. Payne, correct?

8 MS. PAYNE: Yes, I apologize. This is Whitney
9 Payne.

10 JUDGE CLARK: So I think filing -- I don't
11 think there needs to be a physical marking on the
12 exhibit, but I think there needs to be something where
13 when I look at the EFIS filing I can see what exhibit it
14 is.

15 MS. PAYNE: Okay. And then as far as like
16 format, what Staff is kind of envisioning is as far as
17 items other than prefiled testimony, is it okay to file
18 just like perhaps a chart or an explanation kind of with
19 a little piece from the witness qualifying as to why it
20 should be admitted into the record such as they would
21 verbally in a hearing?

22 JUDGE CLARK: Yeah, I think that would be
23 fine. If you're talking about foundational
24 requirements, I think you ought to provide the same
25 information that would be provided in foundational

1 questions. Subject to that and assuming that that's new
2 evidence or hasn't been offered yet, that would also be
3 subject to objection in initial brief.

4 MS. WHITNEY: Correct. A follow up question.
5 Is there any kind of a limitation as to the type of
6 evidence that can be submitted of course subject to
7 objections from the other parties?

8 JUDGE CLARK: This is when you're asking me to
9 define what the parameters that you all asked for. What
10 you agreed to -- let me finish, please. What you agreed
11 to is that you would submit the standard direct,
12 rebuttal, surrebuttal and then there would be an
13 additional filing of evidence that would also serve as
14 the deadline I guess for other evidence but that there
15 would be an additional filing for additional evidence.
16 At that time I had contemplated that I know that
17 Mr. Williams had put me on notice that there might be
18 additional Asbury information that they wanted to file.
19 I assumed that the parties would file things. Again in
20 regards to the Covid-19 pandemic, and I understand -- I
21 I was not able to view agenda this morning but I
22 understand that that order was pulled from agenda. But
23 any additional evidence, I mean, that's the whole reason
24 for having objections to additional evidence due at the
25 same time as briefs is that I contemplate there will be

1 new evidence. Essentially I see that as making up for
2 what would normally be additional evidence outside of
3 the testimony, outside of prefiled testimony that gets
4 offered at a hearing anyway.

5 MS. PAYNE: Thank you, Judge. I think that
6 answers my question.

7 JUDGE CLARK: Okay. Sorry. I kind of went
8 around that one. I think that -- go ahead.

9 MS. PAYNE: I'm sorry. I was going to say I
10 do understand that the parties filed something and now
11 we're asking you to interpret that. I wanted to have an
12 understanding of what the Commission was contemplating
13 perhaps even though it might be a bit abstract.

14 JUDGE CLARK: No, I think that's fine. I
15 actually appreciate the parties leaving me some broad
16 interpretation in that regard, but that I think is -- I
17 always took it and I think the Commission always took it
18 that this last filing of offers of additional evidence
19 would include anything additionally that the parties
20 wanted to file for some relevance. It may be something
21 that falls outside the standard direct, rebuttal,
22 surrebuttal that comes up. And that's why there is --
23 again, I assume that's why the parties put in that area
24 of filing at the same time as the initial brief to
25 object and then any report and order will also rule on

1 those objections if they're not ruled on by separate
2 document.

3 That's kind of all I had to discuss. You said
4 you indicated that there might be some sort of
5 non-unanimous agreement between the parties that gets
6 filed. Can you give me any idea when that might be
7 filed?

8 MS. CARTER: Hoping for this afternoon, Judge.
9 This is Diana.

10 MR. WOODSMALL: Judge, can I rehash --

11 MS. PAYNE: Dave, can I ask one question
12 before we rehash?

13 MR. WOODSMALL: Go ahead.

14 MS. PAYNE: This is Whitney from Staff. I was
15 curious we have a witness who retired since they filed
16 testimony. And I wanted to ask whether we need to have
17 someone adopt that testimony prior to filing it as an
18 exhibit or if you would prefer we wait and see if the
19 Commission has any questions regarding that testimony.

20 MR. WILLIAMS: This is Nathan Williams. I
21 think you're probably speaking about Dana Eaves, but my
22 perspective on it is unless you're going to have Dana
23 Eaves do some update or correction to it, well, I don't
24 know that I have a problem with corrections even, but
25 some update to it or some material change I'm good with

1 it as is.

2 MS. PAYNE: What it is is more just -- it's
3 not because we're changing the testimony. It's just
4 that if the Commission wanted to ask a question we would
5 have to have another witness adopt his testimony and
6 answer those questions.

7 MR. WILLIAMS: I don't know that you would
8 have to have another witness adopt his testimony. You
9 would certainly need to have a live witness to be able
10 to answer the Commissioner question.

11 MS. PAYNE: Well, I was really just wanting to
12 know if the judge needed us to do that.

13 JUDGE CLARK: I'm going to say since I don't
14 want to -- I'm going to say let's not muddy this any
15 more. This is procedurally as difficult as I'd like to
16 make it. So why don't we hold off on getting a witness
17 to adopt testimony until it becomes necessary. And if
18 it becomes necessary, I'll try and come up with enough
19 of a heads up that that can happen.

20 MS. PAYNE: Hopefully it is not necessary.

21 JUDGE CLARK: Hopefully it is not necessary.

22 MS. PAYNE: Okay. Thank you, Judge. I
23 apologize for interrupting if you want to rehash.

24 MR. WOODSMALL: This is Dave Woodsmall again.
25 Just so I understand procedurally what is happening on

1 what date. On Friday we are filing our prefiled
2 testimony, we're also filing any new evidence and we're
3 filing position statements.

4 JUDGE CLARK: Correct.

5 MR. WOODSMALL: And then on the 22nd we are
6 going to have some kind of conference bridge where we're
7 going to receive questions from the Commission?

8 JUDGE CLARK: Possibly. I'm going to go ahead
9 and schedule it for the 22nd so everybody knows. So the
10 22nd if it becomes necessary a filing will go out along
11 with email.

12 MR. WOODSMALL: Okay. And then on the 27th we
13 will answer those questions, we will object to evidence
14 that was offered by a party on the 17th and we will file
15 our initial briefs?

16 JUDGE CLARK: That is correct.

17 MR. WOODSMALL: Great. Thank you. Okay.
18 That's all I had.

19 JUDGE CLARK: Are there any other questions?
20 Are there any things I need to address? All right.

21 MR. WILLIAMS: Thank you.

22 JUDGE CLARK: All right. Hearing no other
23 issues that need to be addressed by the Commission at
24 this time, I'm going to adjourn this procedural
25 conference and go off the record. I look forward to

1 seeing any sort of non-unanimous agreement or
2 stipulation that's filed. If I have any additional
3 questions or changes, I'll try and email all the
4 parties.

5 MR. WOODSMALL: Judge, can I ask, okay, the
6 way I envision this falling out, hopefully we can get a
7 settlement filed today, early tomorrow. The objecting
8 party we're then counting on to narrow down the list of
9 issues.

10 JUDGE CLARK: Objecting party or parties. I
11 think that sounds correct. I think this is an unusual
12 situation because technically a non-unanimous
13 stipulation is merely a position statement.

14 MR. WOODSMALL: Right. I guess what I'm
15 asking is there any chance -- I mean, we're already
16 Wednesday. If we get their list of issues on Thursday,
17 then we're trying to turn around and file the position
18 statements on Friday. Any chance we can push those
19 position statements around until Monday?

20 MR. WILLIAMS: This is Nathan Williams with
21 Public Counsel. Dave, you know a lot of those issues
22 are not Public Counsel.

23 MR. WOODSMALL: Yeah, but it's going to depend
24 -- I don't know what issues in the settlement you may be
25 raising.

1 MS. PAYNE: I mean, maybe we can have a quick
2 conference call this afternoon or first thing tomorrow
3 morning and work this out.

4 MR. WOODSMALL: Okay.

5 MR. WILLIAMS: I think the parties can
6 probably get that resolved. First of all, there has to
7 be some kind of an agreement filed.

8 MR. WOODSMALL: Okay. We'll try for position
9 statements on Friday.

10 JUDGE CLARK: That's my expectation. As I
11 said, the turnaround time between Friday and Wednesday
12 to give the time for the Commission to read up on the
13 relevant issues that are still in dispute, formulate
14 their questions, get those questions to me and then have
15 me present them to you or alternatively them ask them
16 themselves, it's such short turnaround I'd rather not
17 move those position statements unless I have to. The
18 only thing that would really tempt me to move those
19 statements is if it looks like that's what's standing --
20 if it looks like that's going to resolve everything but
21 maybe one or two issues.

22 MR. WOODSMALL: Okay. Thank you.

23 JUDGE CLARK: Am I already off the record, Ms.
24 Bentch, or are we just going along?

25 THE COURT REPORTER: We're going along.

1 JUDGE CLARK: Okay. Are there any other
2 issues that need to be addressed by the Commission at
3 this time? Hearing none, we will go off the record and
4 I will adjourn this procedural conference. Thank you
5 all for your attendance.

6 Mr. Williams, I'll be sure that you're added
7 to my email list.

8 MR. WILLIAMS: Thank you.

9 MS. CARTER: Thank you, Judge.

10 MR. WOODSMALL: Thank you.

11 MS. PAYNE: Thank you, Judge.

12 (Off the record.)
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