

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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7 TRANSCRIPT OF PROCEEDINGS
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9 EARLY PREHEARING CONFERENCE

10
11 August 9, 2006
12 Jefferson City, Missouri
13 Volume 1
14
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16 In the Matter of the Tariffs)
of Aquila, Inc., d/b/a Aquila)
17 Networks -- MPS and Aquila)
Networks -- L&P Increasing)
18 Electric Rates for the) Case No. ER-2007-0004
Services Provided to Customers)
19 in the Aquila Networks -- MPS)
and Aquila Networks -- L&P)
20 Areas)

21
22 MORRIS L. WOODRUFF, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

23
24 REPORTED BY:
25 STEPHANIE L. KURTZ MORGAN, RPR, CCR
MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2

3 PAUL A. BOUDREAU, Attorney at Law
4 L. RUSSELL MITTEN, Attorney at Law
5 Brydon, Swearengen & England, P.C.
6 312 East Capitol
7 P. O. Box 456
8 Jefferson City, Missouri 65102-0456
9 (573) 635-7166

6

-and-

7

8 RENEE PARSONS, Attorney at Law
9 Aquila, Inc.
10 20 West Ninth Street
11 Kansas City, Missouri 64105
12 (816) 421-6600

10

FOR: Aquila, Inc.

11

12 JOHN B. COFFMAN, Attorney at Law
13 871 Tuxedo Boulevard
14 St. Louis, Missouri 63119
15 (573) 424-6779

13

14

FOR: AARP.

15

16 FRANK HOLLIFIELD, Attorney at Law
17 139 Barnes Drive, Suite 1
18 Tyndall AFB, Florida 32403
19 (850) 283-6217

17

FOR: Federal Executive Agencies.

18

19 JAMES B. LOWERY, Attorney at Law
20 SMITH LEWIS, L.L.P.
21 111 South Ninth Street, Suite 200
22 Columbia, Missouri 65201
23 (573) 443-3141

21

FOR: Union Electric Company, d/b/a AmerenUE.

22

23

24

25

1 APPEARANCES (CONTINUED):

2
3 TODD IVESON, Assistant Attorney General
4 Supreme Court Building
5 207 West High Street
6 P. O. Box 899
7 Jefferson City, Missouri 65102
8 (573) 751-8370

9 FOR: Department of Natural Resources.

10
11 MARK W. COMLEY, Attorney at Law
12 NEWMAN, COMLEY & RUTH, P.C.
13 601 Monroe Street, Suite 301
14 P. O. Box 537
15 Jefferson City, Missouri 65102-0537
16 (573) 634-2266

17 FOR: City of Kansas City, Missouri.

18
19 WILLIAM D. STEINMEIER, Attorney at Law
20 William D. Steinmeier, P.C.
21 2031 Tower Drive
22 P. O. Box 104595
23 Jefferson City, Missouri 65110
24 (573) 659-8672

25 FOR: City of St. Joseph, Missouri.

DAVID WOODSMALL, Attorney at Law
428 East Capitol Avenue, Suite 300
Jefferson City, Missouri 65101
(573) 635-2700

-and-

STUART CONRAD, Attorney at Law
Finnegan, Conrad & Peterson
3100 Broadway
1209 Penntower Office Center
Kansas City, Missouri 64111
(816) 753-1122

FOR: SIEUA and AG Processing.

1 APPEARANCES (CONTINUED):

2

LEWIS R. MILLS, JR., Public Counsel
200 Madison Street, Suite 650
P. O. Box 2230
Jefferson City, Missouri 65102-2230
(573) 751-4857

5

FOR: Office of the Public Counsel and the Public.

6

NATHAN WILLIAMS, Senior Counsel
200 Madison Street
P. O. Box 360
Jefferson City, Missouri 65102
(573) 751-3234

9

FOR: Staff of the Missouri Public Service
Commission.

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

2 JUDGE WOODRUFF: We'll go on the record. Welcome,
3 everyone. My name is Morris Woodruff. I'm the presiding
4 judge in this case. This is Case No. ER-2007-0004, which
5 concerns the -- Aquila's application for a -- a general rate
6 increase.

7 And we're gonna begin today by taking entries of
8 appearance, beginning with Aquila.

9 MR. BOUDREAU: Thank you. Let the record reflect
10 the appearance of Paul A. Boudreau and Russ Mitten with the
11 law firm of Brydon, Swearngen & England, Jefferson City,
12 Missouri, 312 East Capitol Avenue.

13 And may the record -- on behalf of Aquila, Inc.
14 And also appearing on behalf of Aquila today is Renee
15 Parsons with -- with Aquila at 20 West Ninth, Kansas City,
16 Missouri 64105.

17 JUDGE WOODRUFF: Thank you.

18 And for Staff?

19 MR. WILLIAMS: Nathan Williams, Deputy Counsel,
20 P. O. Box 360, Jefferson City, Missouri 65102.

21 JUDGE WOODRUFF: And for Public Counsel?

22 (NO RESPONSE.)

23 JUDGE WOODRUFF: I hear somebody coming in the
24 door. May be Public Counsel.

25 MR. CONRAD: No, that's -- yes. Yes, it is.

1 JUDGE WOODRUFF: We -- we just got started.

2 MR. MILLS: Your Honor, on behalf of the Office of
3 Public Counsel and the Public, my name is Lewis Mills, Post
4 Office Box 2230, Jefferson City, Missouri 65102.

5 JUDGE WOODRUFF: Thank you.

6 For AARP?

7 MR. COFFMAN: John B. Coffman, 871 Tuxedo
8 Boulevard, St. Louis, Missouri, 63111, appearing on behalf
9 of AARP.

10 JUDGE WOODRUFF: Thank you.

11 For the Federal Executive Agencies?

12 MR. HOLLIFIELD: Captain Frank Hollifield,
13 AFCISA/ULT (phonetic sp.), 139 Barnes Drive, Suite 1,
14 Tyndall Air Force Base, Florida 32403.

15 JUDGE WOODRUFF: Thank you very much.

16 For AmerenUE?

17 MR. LOWERY: James B. Lowery, Smith Lewis,
18 L.L.P., 111 South Ninth Street, Columbia, Missouri, 65201,
19 appearing on behalf of AmerenUE.

20 JUDGE WOODRUFF: Okay.

21 For DNR?

22 MR. IVESON: Todd Iveson. I'm actually appearing
23 for Shelly Woods from our office -- the Attorney General's
24 Office, and Brenda Wilbers from DNR.

25 JUDGE WOODRUFF: Thank you.

1 For Kansas City?

2 MR. COMLEY: Good morning, Judge Woodruff. Let
3 the record reflect the entry of Mark W. Comley, Newman,
4 Comley & Ruth, 601 Monroe Street, Suite 301, Jefferson City,
5 Missouri on behalf of the City of Kansas City.

6 JUDGE WOODRUFF: For the City of St. Joseph?

7 MR. STEINMEIER: Thank you, Your Honor. Please
8 let the record reflect the appearance of William D.
9 Steinmeier, William D. Steinmeier, P.C., P. O. Box 104595,
10 Jefferson City, appearing on behalf of the city of
11 St. Joseph, Missouri.

12 JUDGE WOODRUFF: And for the Sedalia Industrial
13 Energy Users Association?

14 MR. WOODSMALL: On behalf of SIEUA and AG
15 Processing, Stu Conrad, 3100 -- of the firm of Finnegan,
16 Conrad & Peterson, 3100 Broadway, Suite 1209, Kansas City,
17 Missouri 64111, and David Woodsmall of the same firm,
18 428 East Capitol, Suite 300, Jefferson City, Missouri 65101.

19 JUDGE WOODRUFF: Thank you very much.

20 And I believe that's all the parties, unless I've
21 missed somebody. Speak up now if I did.

22 (NO RESPONSE.)

23 JUDGE WOODRUFF: Okay. Well, the main purpose of
24 this gathering today is for you to get together and discuss
25 where we're going with this case.

1 There's a couple of things that need to be done.
2 A proposed procedural schedule is due by the 16th of August,
3 and also recommendations regarding local public hearings,
4 the locations, times and so forth on -- due on the same day.

5 Beyond that, I don't have anything else that we
6 need to do on the record. Is there anything else that
7 one -- anyone wants to bring up on the record?

8 Mr. Williams?

9 MR. WILLIAMS: Judge, although the Commission has
10 indicated some hearing dates, the Staff's been discussing
11 some alternative dates --

12 JUDGE WOODRUFF: Okay.

13 MR. WILLIAMS: -- that currently we believe are
14 open on the Commission's calendar.

15 And we'd like to keep those open, at least until
16 we resolve whether or not what dates the parties may propose
17 to the Commission.

18 JUDGE WOODRUFF: Okay.

19 MR. WILLIAMS: And what the Staff is looking at
20 are the weeks of April 2nd, April 9th and April 16th of next
21 year.

22 JUDGE WOODRUFF: Okay. And I know we're gonna be
23 running into the Ameren -- the dates that are reserved for
24 Ameren.

25 MR. WILLIAMS: I believe none of these dates

1 overlap with the Ameren dates that are currently shown on
2 the calendar.

3 MR. SMITH: That's -- that's correct, Your Honor.
4 These Ameren hearing dates are set in March at this point in
5 time.

6 JUDGE WOODRUFF: Okay.

7 MR. WILLIAMS: What I'm really asking is if --
8 whatever action you can take to keep those dates from
9 getting used until we've decided whether or not those would
10 be the ones we propose to -- as a whole are kept open.

11 JUDGE WOODRUFF: Okay. What were those dates
12 again?

13 MR. WILLIAMS: The week of April 2nd, the week of
14 April 9th and the week of April 16th.

15 JUDGE WOODRUFF: Okay. I'll go upstairs and --
16 and mark them on the calendar as a possibility.

17 MR. WILLIAMS: Thank you.

18 JUDGE WOODRUFF: And would you discuss that and,
19 of course, make your recommendations next week?

20 Anything else anyone wants to bring up on the
21 record?

22 MR. CONRAD: Yes.

23 JUDGE WOODRUFF: Mr. Conrad?

24 MR. CONRAD: Judge Woodruff, I'd rise to really
25 seek a clarification point. I realize that these things

1 have a tendency to creep into the forms and sometimes get
2 buttons pushed. But I'm looking at Your Honor's order of
3 July 5, which is the suspension order.

4 JUDGE WOODRUFF: Uh-huh.

5 MR. CONRAD: And on page 5 of that order,
6 paragraph 10, the parties are put on notice that the
7 Commission will not grant a motion for continuance of the
8 hearing filed less than a month before the beginning of
9 that -- of the hearing unless a unanimous stipulation and
10 agreement is filed along with motion for continuance.

11 It has been my experience, and I'm seeking
12 clarification, I guess, that the Commission's rules provide
13 for submission of non-unanimous stipulations in a period of
14 time following that -- that non-signatories --

15 JUDGE WOODRUFF: Certainly.

16 MR. CONRAD: -- who may not oppose a stipulation
17 and don't intend to, may nonetheless file indications that
18 they don't or if somebody does oppose.

19 Now, I can certainly understand why the Commission
20 might not want to have the schedule disrupted at the last
21 moment. And I've been involved with enough of these. But
22 I'm kind of questioning the phrase "unanimous stipulation
23 and agreement" and what that means.

24 Does that, in -- in your view, since you authored
25 this order, I take it --

1 JUDGE WOODRUFF: Yes, I did.

2 MR. CONRAD: -- does that -- does that mean that
3 everybody has to agree?

4 Because again, in my experience, there are
5 numerous stipulations that parties may not have either
6 authority from clients or for various other reasons not
7 choose to sign a stipulation, but nonetheless may choose not
8 to oppose that stipulation, which after the expiration of
9 time, then under the Commission's rules, as you're well
10 aware, operates as a unanimous stipulation --

11 JUDGE WOODRUFF: Sure.

12 MR. CONRAD: -- but it would not be possible to
13 file that as a unanimous stipulation.

14 So I seek clarification as to what the
15 Commission's intent is. Are they intending to change the
16 rule in that regard or just for this case, or are we just
17 kind of throwing that away?

18 JUDGE WOODRUFF: Well, you -- you put -- you
19 already realize what the concern is about --

20 MR. CONRAD: Sure.

21 JUDGE WOODRUFF: -- that I've gotten from the
22 Commission.

23 And that is that, in effect, it comes back to
24 the -- the last Aquila rate case where we had about two or
25 three weeks of, well, we're about to file it, we're about to

1 file it, about to file it, and the Commissions were getting
2 nervous that, well, what happens if they don't? And what
3 happens, then, if wind -- wind up having to find time to do
4 two weeks of hearings? So that's -- that's what we're
5 concerned about.

6 And I understand you're concerned about -- it's
7 almost impossible to find a unanimous stipulation agreement
8 where everybody actually signs it, as it was in that case
9 where two or three parties decided that they did not oppose
10 the stipulation, but for various reasons didn't want to sign
11 it.

12 And I -- I think that's understandable and would
13 be taken into account by the Commission. This is -- this
14 provision in the -- this order is not intended to make a
15 decision on anything that's been filed or that may be filed
16 six months from now.

17 It was just an intent to warn the parties that --
18 that the Commission is concerned about that, that if we get
19 a non-unanimous stipulation agreement that looks like it's
20 going to be, in fact, accepted by all the other parties, the
21 Commission would probably grant a continuance. But again,
22 it was just put on -- in the order to make everybody aware
23 of that concern.

24 Does that clarify the con-- your -- your concerns?

25 MR. CONRAD: To some extent.

1 JUDGE WOODRUFF: Okay.

2 MR. CONRAD: And it's obviously a point that may
3 never arise.

4 JUDGE WOODRUFF: Certainly.

5 MR. CONRAD: But I have thought that it is perhaps
6 useful to have the understanding.

7 JUDGE WOODRUFF: Certainly.

8 MR. CONRAD: So what I hear Your Honor saying is
9 that if -- if it were a miracle to occur, lightning struck,
10 and we were able to get to some kind of a resolution of this
11 proceeding within that one-month period, all be it not a
12 resolution that all could sign, but that the parties would
13 not oppose, that would nonetheless be acceptable?

14 JUDGE WOODRUFF: Yes.

15 MR. CONRAD: Okay.

16 JUDGE WOODRUFF: And -- and I -- I want to
17 emphasize that I want to have enough flexibility to deal
18 with situations here. I'm not trying to set out iron-clad
19 decisions at this point.

20 MR. CONRAD: Well, it struck me that that was --

21 JUDGE WOODRUFF: Yeah.

22 MR. CONRAD: -- iron-clad.

23 So if you're rec-- receding from that, that's
24 fine.

25 JUDGE WOODRUFF: As you know, Mr. Conrad, I

1 don't -- I try to avoid being iron clad in everything, so --
2 but I did want to make the parties aware of the concerns
3 that the Commission has -- has expressed in the past cases
4 so that we don't have difficulties in the future.

5 MR. CONRAD: Enough said. Thank you.

6 JUDGE WOODRUFF: All right. Anything else that
7 anyone wants -- wants to bring up while we're on the record?

8 MR. WOODSMALL: Just real briefly. There has been
9 various discussion in agendas, as well as in previous
10 prehearing conferences, about where the Commission is on
11 prehearing briefs and whether those are now out and we're
12 going to pos-- statement of positions with post-hearing
13 briefs.

14 JUDGE WOODRUFF: Uh-huh.

15 MR. WOODSMALL: Do you have any sense as to where
16 the Commission is on that issue now?

17 JUDGE WOODRUFF: I don't. And that's something
18 that you can pose for your proposed procedural schedule for
19 next week.

20 MR. WOODSMALL: Okay.

21 JUDGE WOODRUFF: And we'll consider it then.

22 MR. WOODSMALL: Thank you.

23 JUDGE WOODRUFF: I -- I've gone both ways on it.
24 Sometimes I've -- I thought in the situation that I found
25 myself in the last Aquila case, where I took it over at the

1 last minute, the prehearing briefs were very helpful if we
2 had to go to hearing on that.

3 But I can -- I can understand why prehearing
4 briefs in other situations may be burdensome on the parties
5 and may not be something that you want to do.

6 MR. WOODSMALL: Okay.

7 JUDGE WOODRUFF: Get your proposal, and we'll see
8 what the Commission says.

9 Anything else?

10 (NO RESPONSE.)

11 JUDGE WOODRUFF: All right. With that, then,
12 we'll adjourn the on-the-record portion of the prehearing
13 conference. And I'll leave you to your discussions.

14 Thank you.

15 WHEREUPON, the on-the-record portion of the
16 prehearing conference was concluded.

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