

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Early Prehearing Conference

November 1, 2010

Jefferson City, Missouri

Volume 1

In The Matter Of:

The Empire District Electric)
Company of Joplin, Missouri,)
for authority to file tariffs)
increasing rates for electric) File No. ER-2011-0004
service provided to customers)
in the Missouri service area)
of The Company)

HAROLD STEARLEY, Presiding
SENIOR REGULATORY LAW JUDGE

REPORTED BY:

NANCY L. SILVA, RPR, CCR

TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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A P P E A R A N C E S (cont.)

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1 MR. STEARLEY: Let's go on record.
2 Good morning. The date is Monday, November 1, 2010.
3 We are here for a prehearing conference in the matter
4 of The Empire District Electric Company of Joplin,
5 Missouri, for authority to file tariffs increasing
6 rates for electric service provided to customers in
7 the Missouri service area of the company, File No.
8 ER-2011-0004.

9 My name is Harold Stearley and I'm the
10 presiding officer over this hearing. We can begin by
11 taking entries of appearance starting with Empire
12 District Electric Company.

13 MR. MITTEN: Here on behalf of the Empire
14 District Electric Company are James C. Swearengen,
15 Diana Carter, and L. Russell Mitten.

16 MR. STEARLEY: Thank you, Mr. Mitten.
17 For Kansas City Power and Light Company.

18 MR. DORITY: Thank you, Judge. Appearing
19 on behalf of Intervener, Kansas Power and Light
20 Company, Larry DORITY with the firm of Fischer and
21 DORITY, P.C. Thank you.

22 MR. STEARLEY: Thank you, Mr. DORITY.
23 For the City of Joplin, Missouri.

24 MR. SCHWARZ: For the City of Joplin, Tom
25 Schwarz; Blitz, Bardgett & Deutsch, 308 East High,

1 Jefferson City, Missouri.

2 MR. STEARLEY: Thank you, Mr. Schwarz.

3 For the Missouri Department of Natural
4 Resources.

5 MS. MANGELSDORF: Sarah Mangelsdorf
6 appearing for the Missouri Department of Natural
7 Resources.

8 MR. STEARLEY: Thank you, Ms. Mangelsdorf.
9 For the Midwest Energy Users Association.

10 MR. WOODSMALL: Thank you, your Honor.
11 David woodsmall and Stu Conrad with the firm of
12 Finnegan, Conrad & Peterson.

13 MR. STEARLEY: Thank you, Mr. woodsmall.
14 For the office of Public Counsel.

15 MR. MILLS: On behalf of the Office of
16 Public Counsel and the public, my name is Lewis
17 Mills. My address is P.O. Box 2230, Jefferson City,
18 Missouri 65102.

19 MR. STEARLEY: Thank you, Mr. Mills.
20 And for the Staff of the Missouri Public
21 Service Commission.

22 Thank you, Judge. Sarah Kliethermes and
23 Nathan Williams for Staff.

24 MR. STEARLEY: Thank you, Ms. Kliethermes.
25 Did I miss anyone?

1 (No response.)

2 MR. STEARLEY: Are there any preliminary
3 matters we need to take up this morning?

4 (No response.)

5 MR. STEARLEY: We have one housecleaning
6 measure. I noticed when going back through my file
7 today that I had issued a couple procedural orders
8 referring to Empire submitting its tariffs on
9 September 28, 2011, and how I would like to have the
10 ability to travel into the future, I haven't mastered
11 that, and I don't believe Empire has either.

12 MR. SCHWARZ: We're not too crazy about
13 the operation of law day either.

14 MR. STEARLEY: So those orders are hereby
15 corrected.

16 Now, we also have a pending intervention
17 dispute going on right now, and just for clarity,
18 Mr. Woodsmall, are the current members of MEUA right
19 now just Praxair, Explorer, and Enbridge; is that
20 correct?

21 MR. WOODSMALL: Currently, yes. We expect
22 to hear from a couple more this week.

23 MR. STEARLEY: Does Empire or MEUA wish to
24 add anything at this time to the pleadings already
25 filed regarding that?

1 MR. WOODSMALL: No, we filed our
2 response to the objection on Friday afternoon,
3 and we have nothing more to add to that.

4 MR. STEARLEY: All right. Very good.

5 And I'm sure you're all aware the
6 Commission had already set dates for an
7 evidentiary hearing with a reasonably rapid
8 turnaround for a rate case.

9 There is a little bit of flexibility
10 in the adjudication calendar right now, but it
11 is really pretty booked-up, so I know it's not
12 uncommon for the parties to seek a later date
13 than that originally set by the Commission, but
14 we've got kind of a narrow window time frame for
15 you-all to look at there.

16 Ms. Kliethermes, I believe you've
17 got the available dates with you, so if that
18 does get pushed back, we want to try to be sure
19 that we do not have simultaneous rate cases
20 occurring, because we have quite a few already
21 stacked up for the first four months of next
22 year.

23 when you do file your procedural
24 schedule next week, I'd like you to include a
25 date, probably the same date as surrebuttal

1 testimony for there to be a joint stipulation of
2 nondisputed material facts, and along with the
3 briefing schedule, same timing for proposed
4 findings of fact and conclusions of law.

5 MR. WOODSMALL: Just so I'm clear,
6 the joint stipulation of nondisputed facts, is
7 that something new, or what's that designed to
8 entail?

9 MR. STEARLEY: It's not new for my
10 cases, Mr. Woodsmall.

11 MR. WOODSMALL: Okay.

12 MR. STEARLEY: I've been doing it in
13 all of them. If all you agree upon is who you
14 are, it'll just simply list who the parties
15 are. If there are matters that are material and
16 are not in dispute, however, I'd appreciate if
17 the parties listed those items out. I've gotten
18 very detailed listings in from past cases. I've
19 gotten very short listings in past cases.

20 MR. WOODSMALL: Okay.

21 MR. STEARLEY: It generally helps,
22 just as the converse of the issues list helps
23 focus the parties and the Commission as to
24 exactly which issues are in dispute and what the
25 matters are in dispute.

1 MR. WOODSMALL: Thank you.

2 MS. CARTER: And Judge, was it with
3 the posthearing briefs that you wanted proposed
4 findings of facts and conclusions of law?

5 MR. STEARLEY: That's correct.

6 MR. MILLS: And, Judge, just to
7 clarify, did you suggest that the stipulated
8 facts be filed at the same time as the
9 surrebuttal testimony?

10 MR. STEARLEY: Either right about
11 that same date or shortly thereafter.

12 MR. MILLS: Okay. I think shortly
13 thereafter would probably -- given the number of
14 electric cases going on now and --

15 MR. STEARLEY: That would be fine.

16 MR. MILLS: -- if we need to put
17 together surrebuttal testimony, a couple extra
18 days would be helpful.

19 MR. STEARLEY: Certainly.

20 MR. MILLS: Okay.

21 MR. STEARLEY: Is there anything else
22 we need to take up this morning?

23 (No response.)

24 MR. STEARLEY: well, hearing nothing
25 we will go ahead and adjourn the on-the-record

1 portion of this conference, and I'll leave
2 you-all here to discussions.

3 Thank you all very much.

4 (The hearing concluded.)

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CERTIFICATE OF REPORTER

I, Nancy L. Silva, RPR, CCR, within and for the State of Missouri, do hereby certify that the witness' testimony that appears in the foregoing proceeding was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Nancy L. Silva, RPR, CCR

<p><u>1</u> 1 1:6,8 4:2 101 2:8</p> <hr/> <p><u>2</u> 200 2:4 3:3 2010 1:6 4:2 2011 6:9 2220 2:15 2230 5:17 28 6:9</p> <hr/> <p><u>3</u> 300 2:19 301 2:11 308 2:11 4:25 312 2:4 360 3:3</p> <hr/> <p><u>4</u> 400 2:8 428 2:19 456 2:4</p> <hr/> <p><u>5</u> 573.634.2500 2:12 573.635.2700 2:20 573.635.7166 2:5 573.636.6758 2:9 573.751.0052 2:24 573.751.4857 2:16 573.751.6726 3:4</p> <hr/> <p><u>6</u> 65101 2:8,19 65102 2:5,15,23 3:4 5:18 65109 2:12</p> <hr/> <p><u>8</u></p>	<p>899 2:23</p> <hr/> <p><u>A</u> ability 6:10 11:6 action 11:9,14 add 6:24 7:3 address 5:17 adjourn 9:25 adjudication 7:10 afternoon 7:2 ahead 9:25 already 6:24 7:6,20 am 11:7,10 anyone 5:25 anything 6:24 9:21 appearance 4:11 appearing 4:18 5:6 appears 11:4 appreciate 8:16 area 1:14 4:7 Assistant 2:22 Association 5:9 attorney 2:22 11:11 authority 1:13 4:5 available 7:17 Avenue 2:4 aware 7:5</p> <hr/> <p><u>B</u> Bardgett 2:11 4:25 begin 4:10 behalf 4:13,19 5:15 believe 6:11</p>	<p>7:16 best 11:5 bit 7:9 Blitz 2:11 4:25 booked-up 7:11 Box 2:4,15,23 3:3 5:17 briefing 8:3 briefs 9:3 Brydon 2:3</p> <hr/> <p><u>C</u> calendar 7:10 Capitol 2:4,19 Carter 2:2 4:15 9:2 case 7:8 cases 7:19 8:10,18,19 9:14 CCR 1:22 11:2,18 Certainly 9:19 CERTIFICATE 11:1 certify 11:3 City 1:7 2:5,8,9,12,1 3,15,19,23 3:4 4:17,23,24 5:1,17 clarify 9:7 clarity 6:17 clear 8:5 Commission 1:1 3:2,5 5:21 7:6,13 8:23 company 1:12,15 2:6,9 4:4,7,12,14, 17,20 concluded</p>	<p>10:4 conclusions 8:4 9:4 conference 1:5 4:3 10:1 Conrad 2:18 5:11,12 cont 3:1 converse 8:22 correct 6:20 9:5 corrected 6:15 counsel 2:14,16 5:14,16 11:8,12 couple 6:7,22 9:17 COURT 1:23 crazy 6:12 current 6:18 Currently 6:21 customers 1:14 4:6</p> <hr/> <p><u>D</u> date 4:2 7:12,25 9:11 dates 7:6,17 David 2:17 5:11 day 6:13 days 9:18 Department 2:24 5:3,6 designed 8:7 detailed 8:18 Deutsch 2:11 4:25 Diana 2:2 4:15 direction 11:7 discussions 10:2 dispute 6:17</p>
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