

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

October 1, 2009
Jefferson City, Missouri
Volume 1

Jefferson Heights Apartments, LLC,)
)
Petitioner,)
)
vs.)Case No. GC-2010-0018
)
Union Electric Company d/b/a)
AmerenUE)
)
Respondent.)

KENNARD L. JONES, Presiding
SENIOR REGULATORY LAW JUDGE

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

2 JUDGE JONES: Okay. We're going on the record.
3 This is Case No. GC-2010-0018, Jefferson Heights
4 Apartments, LLC, versus Union Electric Company doing
5 business as AmerenUE.

6 My name is Kennard Jones. I'm the presiding
7 judge over this matter. At this time, we'll take entries
8 of appearances from the attorneys. And because your
9 addresses and telephone numbers and whatnot are already in
10 the record, just state who you are and who you represent,
11 beginning with the Plaintiff.

12 MR. LANDWEHR: My name is John Landwehr, Cook
13 Vetter, Doerhoff & Landwehr, representing the Complainant.

14 JUDGE JONES: And for Union Electric?

15 MR. KNOWL: This is Alex Knowl, representing
16 Union Electric Company doing business as AmerenUE.

17 MS. TATRO: And Wendy Tatro on behalf AmerenUE.

18 JUDGE JONES: And the Staff of the Commission?

19 MR. DEARMONT: This is Eric Dearmont,
20 representing the Staff the Missouri Public Service
21 Commission.

22 JUDGE JONES: I'll note for the record that the
23 Office of Public Counsel is not present, and they haven't
24 indicated an interest to participate in this matter.

25 The purpose of this prehearing conference is --

1 is primarily to bring the parties together and give them
2 an opportunity to reach an agreement of some sort, or if
3 the issues are -- are complicated enough to also get some
4 understanding of where the conflict actually -- actually
5 lies.

6 It's apparent that this is a back bill situation
7 where Ameren is -- is claiming an automatic meter reading
8 device was not operating properly. And I suppose
9 Jefferson Heights simply doesn't feel it should have to
10 pay for it?

11 MR. LANDWEHR: Well, in general, yes.

12 JUDGE JONES: Okay. Because it was -- the time
13 is gone and now Ameren should have to eat the cost because
14 it's their device that was broken?

15 MR. LANDWEHR: Well, a couple things are going
16 on, and I'll just apprise the parties. The owner of the
17 limited liability property, Mr. McGinnis, died about five
18 weeks ago.

19 I don't know exactly what the disposition of
20 these -- of this real estate will be. The family had a
21 number of different rental properties. I suspect that
22 they are somewhat leveraged because this was a young
23 couple that didn't have time to accumulate a lot of
24 equity. So I don't know exactly what the disposition of
25 these properties will be.

1 And I know that doesn't have any direct bearing
2 on the issues in the case, but I just wanted to let the
3 parties know that if there have been some delays or -- in
4 the case, that's why.

5 I'm working with Mrs. McGinnis to try to sort a
6 number of different things out, this being one of them. I
7 -- and I understand that Ameren made an offer of -- of
8 periodic payments over time. And we -- we do appreciate
9 that.

10 I have a -- just a legal question. And as I
11 read through the tariffs and the -- the regulations, I
12 have a question as to whether or not the residential back
13 billing policy should be applied as opposed to the
14 non-residential.

15 JUDGE JONES: You mean because it's a
16 corporation, not a single family dwelling?

17 MR. LANDWEHR: Well, it -- I'm just -- you folks
18 that have practiced in this area all the time have me at a
19 disadvantage. But -- but I -- when I look at the -- it's
20 a residential operation. It's an older set of -- of
21 apartments here in Jefferson City.

22 As I look at the def -- at the -- the CSR
23 residential services defined as the provision of utility
24 service for a domestic purpose. I'm just throwing out for
25 consideration whether or not the one-year look-back --

1 because I think Ameren's taking the position it's a
2 two-year look-back.

3 MR. KNOWL: That's correct.

4 MR. LANDWEHR: Yeah. And -- and in the interest
5 of just discussing settlement or what -- what number we
6 should be working with, I would just throw out for all you
7 experts in the area whether or not we should be applying
8 the residential look-back or the -- or the
9 non-residential.

10 JUDGE JONES: Mr. Knowl?

11 MR. KNOWL: Yeah. Yes, Judge. I think Ameren's
12 position on that would be that the customer in this case
13 is Jefferson Heights Apartments, LLC, which is a
14 commercial, you know, business. So, therefore, we think
15 that it would fall within the commercial regulations under
16 that section.

17 It's not the individual homeowners in this -- in
18 this situation. So it wouldn't be residential as
19 classified under the regulation.

20 MR. LANDWEHR: Okay.

21 JUDGE JONES: Okay. That may be a point of law
22 that will need to be decided by the Commission. So that's
23 something you all might discuss, to at least agree on the
24 -- the facts that -- that may lead us to some legal
25 conclusion.

1 If you can't, of course, then we'll have to make
2 factual findings. Now, if you all are unable to agree on
3 something, then, of course, we'll have to move on to the
4 hearings procedure.

5 And what I want you to do is, if you are unable
6 to agree -- to agree, decide how many witnesses you might
7 need to call, how much time would be needed and whether or
8 not you want to file pre-filed testimony, which, in this
9 case, I would discourage. I don't think it's complicated
10 enough for you all to have to make all those filings prior
11 to going to hearing.

12 But if you think it's necessary, that's fine.
13 It's your -- it's your game. I'm just the referee.
14 Mr. Landwehr, you aren't familiar with this process, are
15 you?

16 MR. LANDWEHR: It's been a while since I've been
17 over here.

18 JUDGE JONES: Okay. Do you have any questions?

19 MR. LANDWEHR: No. I think I'm okay. What --
20 what we might do, either now or I'd be glad to visit with
21 Ameren counsel independently, but, you know, the family's
22 not in the position to litigate this to the Supreme Court.

23 I mean, right now, it's a \$7,000 case. And I
24 usually try to not charge my clients more than is at issue
25 in the case. That's my general rule. And so, I mean,

1 we've got -- we've got a case that -- that probably should
2 be settled. I've got a family that -- where the -- where
3 the fellow is dead, and I don't know what's going to
4 happen to the properties.

5 Ameren's made an offer to make some payments
6 over time. And I -- I think that -- I think that strategy
7 is probably a good one. If we could work toward a, maybe
8 a different amount and a payment plan that -- that -- that
9 the -- that the family can absorb in light of their
10 circumstances, I'd be glad to recommend that.

11 JUDGE JONES: Okay.

12 MS. TATRO: Your Honor, this is Wendy. If we
13 could go ahead and finish up the on-the-record portion --
14 I mean, there's some discussions going on that we probably
15 should be doing off the record to see if there is a
16 resolution versus doing it on the record.

17 JUDGE JONES: All right. Well, of course, I
18 don't participate in the off-the-record portion of the
19 hearing. So -- unless anyone has anything they'd like to
20 discuss on the record, we can go off the record so you all
21 can see if you can decide the matter.

22 MR. DEARMONT: I have just one point, your
23 Honor.

24 JUDGE JONES: Okay.

25 MR. DEARMONT: In this matter, Marilyn Doerhoff

1 filed or sponsored the Staff recommendation that was filed
2 in this case. And she will be retiring, I believe, at the
3 end of this week. So I just wanted to let the parties
4 know that Gay Fred will be adopting her testimony, and she
5 will be Staff's witness going forward. So she's here if
6 anyone has any questions. And she can be reached through
7 me in the future.

8 MR. LANDWEHR: How do you spell the new name?

9 MS. FRED: G-a-y F-r-e-d.

10 MR. DEARMONT: Gay has served as Marilyn's
11 supervisor throughout this process, and she is and will
12 continue to be familiar with -- our position.

13 MR. LANDWEHR: That's fine. Sure.

14 JUDGE JONES: So we're not going to have an
15 evidentiary problem with this if we go to hearing, are we?

16 MR. LANDWEHR: I don't think so.

17 JUDGE JONES: Ameren?

18 MR. KNOWL: I don't think so.

19 JUDGE JONES: Okay. If so, we can raise it, and
20 I'll rule. Okay. Well with that, then, we will go off
21 the record, and I'll leave you all to see if you can reach
22 an agreement. Good luck.

23 MR. KNOWL: Thank you, Judge.

24 MS. TATRO: Thank you, Judge.

25 JUDGE JONES: We're off the record.

1 (The proceedings were concluded at 11:10 a.m. on
2 October 1, 2009.)

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1 REPORTER'S CERTIFICATE

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

5

6 I, Monnie S. Mealy, 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

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17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal on October 5, 2009.

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Monnie S. Mealy, CSR, CCR #0539
24 Registered Professional Reporter

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