

THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference
December 21, 2016
Jefferson City, Missouri
Volume 1

Missouri Propane Gas)
Association,)
)
Complainant,) File No. GC-2016-0083
vs.)
)
Summit Natural Gas of)
Missouri, Incorporated,)
)
Respondent.)

KIM S. BURTON, Presiding
SENIOR REGULATORY LAW JUDGE

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1 Judge Burton: We are on the record In the
2 Matter of Missouri Propane Gas Association versus Summit
3 Natural Gas of Missouri , Incorporated, File Number
4 GC-2016-0083.

5 Today is December 21st, 2016, and the time is
6 approximately 2:00 p.m. The Commission has set this time
7 for a prehearing conference in this matter.

8 At this time I would ask for the parties to
9 enter their appearance for the record.

10 On behalf of Missouri Propane Gas
11 Association.

12 MR. JARRETT: Terry Jarrett with Healy Law
13 Offices, LLC, for the Complainant, Missouri Propane Gas
14 Association.

15 Judge Burton: All right. Thank you.

16 On behalf of Summit Natural Gas of Missouri ,
17 Incorporated.

18 MR. MILLS: On behalf of Summit Natural Gas,
19 Lewis Mills and Bettina Strauss of the law firm of Bryan
20 Cave. And the court reporter has my contact information.

21 JUDGE BURTON: Okay. Thank you.

22 On behalf of the Staff of the Missouri Public
23 Service Commission.

24 MS. MYERS: Jamie Myers on behalf of the
25 Staff. The court reporter has my information.

1 JUDGE BURTON: On behalf of the Missouri
2 Office of Public Counsel.

3 MR. POSTON: Marc Poston, the Office of
4 Public Counsel and the public.

5 JUDGE BURTON: And is there any other party
6 present who I've missed?

7 Seeing no show of hands, I will also note
8 that we do have a call-in participant via the phone.

9 Now, the reason we are conducting this
10 prehearing conference is to look at potentially setting
11 up a procedural schedule. Now, I know there has been
12 some discussion of preferences while we were off the
13 record. So at this point I'm going to allow the parties
14 to explain their positions on the record.

15 So, Mr. Jarrett, I'll let you begin.

16 MR. JARRETT: Yes. I am not opposed to
17 setting -- or not setting a procedural conference [sic]
18 at this date. In talking with Mr. Mills, he indicated
19 that they had wanted to see our direct -- our witness --
20 expert witness testimony that we are going to file in the
21 case before we sit down and decide an actual prehearing
22 conference. I don't have any objection to that.

23 JUDGE BURTON: Okay.

24 MR. JARRETT: And I certainly want to make
25 sure that Mr. Mills is comfortable with a schedule and

1 has plenty of time to prepare his case.

2 What I would like, though, is that we do at
3 least set a tentative hearing date today to try to -- to
4 try to get this matter -- at least that will give us an
5 end date with which to work toward. We can work
6 backward. And, you know, the reason being, there's
7 really one issue in the case, which is the definition of
8 specifications. It's discrete and fairly narrow.

9 So while certainly there will, you know,
10 probably almost be discovery, it will not be extensive.
11 You know, I would think, from my standpoint, you know,
12 setting a hearing date, say, in late April. That's four
13 months from now. You know, a full-blown rate case takes,
14 you know, 11 months. So I would think four months would
15 be an adequate time for everyone to prepare their cases
16 and be ready for hearing.

17 JUDGE BURTON: Okay. Mr. Mills.

18 MR. MILLS: Yeah, I'd certainly -- I don't
19 know that it's going to be all that productive to sort of
20 set a hearing date at random, because our issue is we
21 don't know what witnesses MPGA is going to put on, we
22 don't know what witnesses Staff may be putting on, we
23 don't know what witnesses Public Counsel may be putting
24 on. And so I would like to hope that there won't be a
25 need for extensive discovery, but I just don't know that

1 yet. So --

2 JUDGE BURTON: Let me ask you this: Do you
3 think a potential hearing date in April or May would be
4 impossible right now? Do you foresee any difficulties
5 with conducting your discovery?

6 MR. MILLS: No. When I sort of sketched out
7 where I thought the case was going to go, I thought a
8 hearing date towards the middle or end of May would be
9 appropriate.

10 JUDGE BURTON: This is what my thought is
11 right now: I'm not going to set a hearing date at this
12 time just because, one, I'm having problems logging into
13 the computer to actually see the Commission's schedule;
14 and, second, I want to verify with the commissioners that
15 they won't be traveling and that they don't have any
16 personal conflicts with the hearing date.

17 But what I would like the parties to do is to
18 submit to me exclusionary dates for April and May. That
19 way we can work for that. And, also, I'm willing to
20 accept proposed procedural schedules from the parties
21 dealing with the discovery and the time frame for
22 conducting of discovery by the parties. And I would also
23 say submit dates in there for any discovery conferences
24 that we might need, just because if that is an issue, I
25 would like to have that.

1 I'm fine with waiving any of the requirements
2 for calling in to talk to the judge beforehand. But if
3 you think it's beneficial, I'm more than willing. But if
4 you would like to go ahead and just submit a motion and
5 deal with it that way or just handle it through the
6 discovery conference, that's fine with me.

7 Let's say -- and I am not trying to
8 inconvenience everyone with getting together with your
9 potential witnesses and looking at this being done before
10 Christmas or even before New Year's Eve. But let's say
11 January 3rd can we get a joint filing on a proposed
12 procedural schedule?

13 MR. MILLS: So you want a procedural schedule
14 before we see the MPGA testimony?

15 JUDGE BURTON: I simply want -- well, how
16 long are we looking at for that? I'm just looking at a
17 proposed procedural schedule, as far as a time frame for
18 deadlines for when the testimony would be filed. That
19 would be incorporated in there. And then you can make a
20 determination if we are looking at a date for May or
21 April for a hearing date. I was hoping you would be able
22 to work together to say when would you be able to get
23 your testimony --

24 MR. JARRETT: Right.

25 JUDGE BURTON: -- when would you be able to

1 have your witnesses review this and submit that. I want
2 to make this as convenient for you. If it's something
3 that you prefer that we as the Commission set, then
4 that's fine as well.

5 MR. MILLS: No, no, no. We certainly would
6 like to have input on what the schedule is. My issue,
7 though, is that not knowing what MPGA is going to file,
8 it's just a little difficult for me to say, well, we only
9 need two weeks or we'll just need one round of discovery
10 or --

11 JUDGE BURTON: Okay.

12 MR. MILLS: -- we may want to do -- I mean,
13 if there are three witnesses, we -- you know, we have --
14 we have an expert that we use to support the response and
15 motion for summary determination with an affidavit. But
16 if that's not the proper expert, depending on what they
17 file, then we're going to have to go out in a relatively
18 short period of time to find an expert who is the right
19 person to respond to whatever MPGA puts on.

20 So the period of time between their direct
21 testimony and our rebuttal testimony could be a month or
22 we may need two months. Without seeing what they're
23 going to file, we just don't know yet.

24 JUDGE BURTON: Mr. Jarrett, when do you
25 expect to have your direct testimony available?

1 MR. JARRETT: I certainly could have
2 something within three to four weeks.

3 MR. MILLS: And my suggestion would be that
4 we file a procedural --

5 JUDGE BURTON: After that?

6 MR. MILLS: -- schedule a week after that.

7 JUDGE BURTON: That would be fine. And I
8 would say how about if we just do a month out? Just,
9 again, buyer beware. And you two of everyone would
10 understand that the farther out we go, as far as getting
11 a hearing date, the more conflicts might arise.

12 MR. MILLS: Right.

13 JUDGE BURTON: So let's say -- would
14 Thursday, January 19th, be feasible? Or do we just want
15 to push it out until a week later for submitting a
16 proposed procedural schedule?

17 MR. MILLS: If MPGA is going to file their
18 direct testimony on the 12th -- is that what we're
19 looking at, a couple weeks from now?

20 MR. JARRETT: Yeah, I was thinking three to
21 four weeks.

22 MR. MILLS: Okay.

23 MR. JARRETT: So...

24 JUDGE BURTON: So we might be looking around
25 the week of the 23rd to the 26th of January?

1 MR. JARRETT: Right.

2 JUDGE BURTON: Let me know. You can always
3 file something if, let's say, a January 26th deadline of
4 2017 is just not realistic due to the filing, and we can
5 work from there on rebuttal and surrebuttal testimony.

6 I'm assuming Commission and PSC have no
7 objection to this?

8 MR. POSTON: No.

9 MS. MYERS: No. My only question -- and I
10 want to clarify what Staff's role is here. I don't
11 anticipate we would need to file direct. I would like to
12 reserve the right to rebuttal and surrebuttal. And as
13 long as that's okay with the parties.

14 MR. MILLS: That's fine.

15 JUDGE BURTON: I will state that I would
16 expect any proposed procedural schedule to include a
17 flat-out rebuttal and surrebuttal time frame for
18 everyone, not to exclude any of the parties.

19 MR. MILLS: Right.

20 MS. MYERS: But in terms of direct, I don't
21 anticipate filing any.

22 JUDGE BURTON: That should work. And let's
23 say the same time frame for the parties to submit their
24 exclusi onary dates for hearing.

25 MR. MILLS: Right.

1 MR. JARRETT: So we're talking --

2 JUDGE BURTON: So that would be January 26th.
3 And I'm just picking this date off my calendar. If
4 there's another date that seems more manageable, please
5 let me know.

6 All right. Hearing no objection to that, is
7 there anything else that we need to address while we're
8 on the record?

9 MR. MILLS: Not that I know of.

10 MR. JARRETT: No.

11 JUDGE BURTON: Okay. Then I look forward to
12 receiving the proposed procedural schedule on the 26th.
13 And I will -- if there is any known conflict that I see
14 in late April or through May, what I will probably do is
15 just submit an email to all the counsels present here
16 today to let them know so that you can submit your
17 schedules and your available dates based off of that as
18 well.

19 MR. MILLS: Okay.

20 MR. JARRETT: Perfect.

21 JUDGE BURTON: All right. Hearing nothing
22 else, let's go ahead and conclude. And we are off the
23 record.

24 MS. STRAUSS: Thank you, Your Honor.

25 MR. MILLS: Thank you.

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MR. JARRETT: Thank you.
(Off the record.)

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CERTIFICATE OF REPORTER

I, Angie D. Threlkeld, a Certified Court Reporter, CCR No. 1382, the officer before whom the foregoing hearing was taken, do hereby certify that the foregoing hearing 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 hearing 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.

Angie D. Threlkeld

Angie D. Threlkeld, CCR



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