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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
Prehearing Conference  
February 18, 2004  
Jefferson City, Missouri  
Volume 1

Milton Jerry Mounts, Jr. and	)	
Kristin Ann Mounts,	)	
	)	
Complainants,	)	
	)	
vs.	)	Case No. GC-2004-0233
	)	
Missouri Gas Energy,	)	
	)	
Respondent.	)	

KENNARD L. JONES, Presiding,  
REGULATORY LAW JUDGE.

REPORTED BY:  
  
KELLENE K. FEDDERSEN, CSR, RPR, CCR  
ASSOCIATED COURT REPORTERS

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

2 JUDGE JONES: This is Hearing  
3 No. GC-2004-0233, Milton Jerry Mounts, Jr. and Kristin Ann  
4 Mounts vs. Missouri Gas Energy. This is a prehearing  
5 conference in this case. My name is Kennard Jones,  
6 presiding judge over this matter.

7 I take it you-all have had an opportunity to  
8 speak to one another prior to this prehearing conference,  
9 but as you know, the prehearing conference is to facilitate  
10 some type of an agreement between the parties. It also  
11 satisfies the Commission that the parties have met at least  
12 once prior to proceeding to a hearing.

13 My understanding of the case thus far is that  
14 Mr. Mounts believes he's been overcharged for service, and  
15 Staff's position is that that assertion -- they've been  
16 unable to ascertain the truth of that assertion, I should  
17 say.

18 At this time I will take entries of  
19 appearance, beginning with Staff.

20 MR. FRANSON: Robert Franson representing the  
21 Staff of the Missouri Public Service Commission, P.O.  
22 Box 360, Jefferson City, Missouri 65102.

23 JUDGE JONES: Okay. Mr. Cooper.

24 MR. COOPER: Dean Cooper from the law firm of  
25 Brydon, Swearngen & England, P.C., P.O. Box 456, Jefferson

1 City, Missouri 65102, appearing on behalf of Missouri Gas  
2 Energy, a division of Southern Union Company.

3 JUDGE JONES: Mr. Mounts?

4 MR. MOUNTS: Milton Jerry Mounts, Jr.,  
5 104 West 128th Street, Kansas City, Missouri, representing  
6 myself and my wife.

7 JUDGE JONES: Mr. Micheel?

8 MR. MICHEEL: Douglas E. Micheel appearing on  
9 behalf of the Office of the Public Counsel, P.O. Box 2230,  
10 Jefferson City, Missouri 65102 -- 10 -- the number 2230.

11 JUDGE JONES: Thank you. All right. Is there  
12 anything you-all need to discuss on the record that you have  
13 concerns about? It doesn't look like there's anything.  
14 Well --

15 MR. FRANSON: Judge, actually, I do. What do  
16 you want to hear from us, assuming we don't resolve the  
17 matter? Do you want a procedural schedule by a certain time  
18 or what is your intent?

19 JUDGE JONES: Yes, I would like a procedural  
20 schedule setting forth the times of the hearing, the dates  
21 of the hearing, how much time you think you may need, I  
22 should say, to even hold a hearing, what witnesses may be  
23 called to testify.

24 Actually, what you can do is tell me after  
25 you-all are done here today whether you were able to reach

1 an agreement or not, and to formalize a procedural schedule  
2 I'll issue an Order establishing or requiring that you-all  
3 file one. You may have suggested dates. I don't know.

4 Mr. Mounts, you had to travel from Kansas City today?

5 MR. MOUNTS: Yes, sir, I did.

6 JUDGE JONES: I don't know what your situation  
7 is and your ability to come to Jeff City for hearings, and I  
8 might say that although the Commission won't bend over to  
9 accommodate a party simply because they have to travel, it  
10 certainly is something that should be considered in trying  
11 to hold a hearing.

12 MR. MOUNTS: Appreciate the 10:30 start.

13 JUDGE JONES: Thought you might. Is that  
14 clear? I'm not real sure if I laid that out for you.

15 MR. FRANSON: I think ultimately, Judge, I  
16 understand you want a procedural schedule, but maybe before  
17 that you want some indication of whether the matter has been  
18 settled or not.

19 JUDGE JONES: Right.

20 MR. FRANSON: I believe that's clear. Thank  
21 you, sir.

22 JUDGE JONES: If the matter is settled, of  
23 course, then we'll need some type of filing indicating that  
24 it has been settled.

25 For your sake, Mr. Mounts, so you'll know the

1 players that are here, Mr. Franson represents the Staff.  
2 Their position is neutral. They are, for lack of a better  
3 word, the seekers of the truth.

4 The Office of the Public Counsel, although he  
5 does not represent your interests, represents the interests  
6 of the public at large, but I want to emphasize the fact  
7 that he is not your attorney, but he does have your  
8 interests in mind.

9 Mr. Cooper, as you know, represents the  
10 company, and he is your opposition. You may take those  
11 things into consideration while you-all discuss any  
12 settlements. Does anyone else have any questions?

13 MR. MICHEEL: I'd just like to say that we  
14 think we seek the truth also, your Honor, justice and the  
15 American way. I'm sure Mr. Cooper thinks that on behalf of  
16 his client.

17 JUDGE JONES: That's what all attorneys would  
18 say.

19 MR. MOUNTS: Even though the Staff has already  
20 made an opinion, recommended dismissal of the case?

21 JUDGE JONES: They have recommended that  
22 dismissal. I'm assuming that's part of -- if they don't see  
23 the strength of a complaint, then it's a matter of course to  
24 recommend dismissal. Is that true, Mr. Franson?

25 MR. FRANSON: Well, Judge, that was done in

1 this case, but no, that would not necessarily be the case.  
2 Quite often in situations like this Staff is asked to look  
3 at the matter, as the Order said here, as a neutral party,  
4 and we provide a report to the Commission, and that might  
5 just be that we don't see that it can be proven or we see  
6 great merit to it or something in between. It may or may  
7 not have a recommendation for dismissal. In this particular  
8 case, it did.

9 JUDGE JONES: Okay. So they have taken a  
10 position, I don't know what more information they might  
11 need to have a different position. I don't know.

12 All right. Are there any other concerns?  
13 Hearing none, you-all have this room, I believe, for the  
14 rest of the day. I don't think there's anything that needs  
15 to happen in here today. So take as much time as you like  
16 to try to figure something out. We do encourage settlement.  
17 Okay. With that, we will conclude the record.

18 (Discussion off the record.

19 JUDGE JONES: With our hearings, we have  
20 prefiled testimony, so the testimony will be filed and --  
21 direct testimony, I should say, will be filed, and rebuttal  
22 and surrebuttal testimony filed. What happens during the  
23 hearing is cross-examination of the witnesses who have filed  
24 prefiled testimony.

25 That's probably the only difference between

1   our hearings and those hearings in regular circuit court.  
2   If you decide to hire an attorney, of course, they'll need  
3   to enter their appearance in the matter. Other than that, I  
4   can't think of anything particularly peculiar about our  
5   hearings.

6                   MR. COOPER: The Commission does have practice  
7   rules that are set out in a specific chapter of its rules  
8   that would be available.

9                   MR. FRANSON: Judge, just as a matter of  
10  course, anyone representing themselves, of course, have to  
11  comply with those rules as anyone represented by an attorney  
12  would.

13                  JUDGE JONES: That certainly is true. Do you  
14  understand that, Mr. Mounts?

15                  MR. MOUNTS: Yes.

16                  JUDGE JONES: And I don't know if you have  
17  access to the Internet or not, but our rules are on the  
18  Internet. They're in the Code of State Regulations on the  
19  Missouri website, and our rules are under Chapter 4,  
20  Economic Development, section -- is it section or  
21  subsection? Section 240 or division 240, Chapter 4,  
22  division 240. It lays out all of our procedural rules.  
23  You'll find our rules in Chapter 2. The Commission's rules  
24  are in Chapter 2 amongst all of those different chapters.

25                  MR. MICHEEL: And, your Honor, I'll provide



1 Mr. Mounts any guidance that he needs in complying with the  
2 Commission rules and see to it that he receives copies of  
3 Chapter 2 and an idea of what he needs to do if he chooses  
4 to go forward with this complaint.

5 JUDGE JONES: Thank you, Mr. Micheel. Any  
6 other concerns or --

7 MR. MOUNTS: Any depositions of witnesses, the  
8 witnesses would be required to be present at the hearing; is  
9 that correct?

10 JUDGE JONES: I don't believe so. There's an  
11 opportunity for examination of a witness during deposition.  
12 I don't know what purpose it would serve for. The  
13 deposition I'm assuming is being taken because the witness  
14 can't be present. Am I stating that correctly?

15 MR. FRANSON: Well, Judge, I think you're  
16 correct on what the rules require. However, one of the  
17 things that you quite often run into is that if you take a  
18 deposition of a particular witness, you always have to be  
19 cognizant of the possibility that the Commissioners may  
20 actually have questions of that witness, and that is  
21 something that is certainly a matter that might want to be  
22 brought up if you want to depose a witness but your intent  
23 is not to have that witness here. That is something that  
24 might need to be brought to your attention.

25 JUDGE JONES: Thank you, Mr. Franson.

1 Mr. Mounts?

2 MR. MOUNTS: I guess I'm just thinking again  
3 from a work schedule standpoint. For instance, a couple  
4 former MGE employees would like to testify, but job  
5 constraints would probably prohibit them from coming to  
6 Jefferson City. Couldn't we, in fact, do a deposition on  
7 those folks in Kansas City with MGE legal counsel present  
8 and satisfy all the requirements?

9 JUDGE JONES: I guess if a person cannot be  
10 here, then they can't be here. I don't know how we bring a  
11 person here that can't be here.

12 As far as solving the problem of the  
13 Commissioners or even myself having questions of that  
14 witness, I think it probably would be best that we try to  
15 deal with that as we come upon the problem.

16 MR. MOUNTS: I would assume the same holds  
17 true for expert witnesses in the energy consulting field?

18 JUDGE JONES: It would hold true. Someone  
19 like an expert, though, I'm almost certain the Commissioners  
20 would have questions of anyone who testified as an expert.  
21 And the reasons for a person not being present in our  
22 hearings is consistent with the same reasons that they  
23 wouldn't be present in a hearing in circuit court.

24 MR. MOUNTS: Thank you, your Honor.

25 JUDGE JONES: Any other concerns or questions?

1    Seeing none, we will then again go off the record.  
2                   WHEREUPON, the recorded portion of the  
3    prehearing conference was concluded.  
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