

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

February 8, 2011

Jefferson City, Missouri

Volume 1

The Staff of the Missouri
Public Service Commission

Complainant,

vs.

Laclede Gas Company,

Respondent.

)
)
) File No. GC-2011-0098
)
)
)
)
)
)

MORRIS L. WOODRUFF, Presiding
CHIEF REGULATORY LAW JUDGE

REPORTED BY:
NANCY L. SILVA, RPR, CCR
TIGER COURT REPORTING, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

MR. MICHAEL C. PENDERGAST
MR. RICK ZUCKER

720 Olive Street, Room 1520
St. Louis, Missouri 63101
314.342.0532

FOR: Laclede Gas Company

MR. MARC POSTON

Office of Public Counsel
200 Madison Street
P.O. Box 2230
Jefferson City, Missouri 65102
573.751.5558

FOR: Office of Public Counsel and the Public

MS. LERA SHEMWELL
MS. ANNETTE SLACK

Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
573.751.6726

FOR: Staff of the Missouri Public Service
Commission

1 JUDGE WOODRUFF: We're here for a
2 prehearing conference in Case No. GC-2011-0098,
3 which is Staff's complaint against Laclede Gas
4 Company. We'll start by taking entries of
5 appearance beginning with Laclede.

6 MR. PENDERGAST: Thank you, your
7 Honor.

8 Michael Pendergast and Rick Zucker
9 on behalf of Laclede Gas Company. Our business
10 address is 720 Olive Street, St. Louis, Missouri
11 63101.

12 JUDGE WOODRUFF: And for Staff.

13 MS. SHEMWELL: Good morning and thank
14 you, Judge.

15 Lera Shemwell and Annette Slack for
16 the Staff of the Missouri Public Service
17 Commission.

18 JUDGE WOODRUFF: Okay.

19 MS. SHEMWELL: And our address is on
20 file.

21 JUDGE WOODRUFF: And public counsel.

22 MR. POSTON: Thank you.

23 Mark Poston appearing for the Office
24 of Public Counsel and the public.

25 JUDGE WOODRUFF: All right. Well, I

1 brought you together for this prehearing so we
2 can discuss how to proceed to get this whole
3 complaint resolved as quickly as possible. I
4 think that's something all the parties want to
5 do is move this to resolution.

6 we've certainly had numerous
7 complaints going back and forth, and none of
8 them have actually reached the ultimate issue,
9 so we want to be able to get going on that.
10 There's both a complaint and a counterclaim
11 pending at this point.

12 I don't know if there's factual
13 issues in dispute or if this can be resolved
14 through a stipulation of facts on legal issues.
15 That's something the parties can discuss today.
16 Certainly going to be helpful if we could.

17 Is there anything else that I need
18 to rule upon before we go to hearing? I know
19 there's been discussion about pleading
20 affirmative defenses and so forth, but I haven't
21 seen an actual motion to strike anything, and
22 I'll ask the parties at this point: Is there
23 anything I need to rule on, or is this something
24 that can be resolved at the hearing?

25 MR. ZUCKER: From our perspective, it

1 can be resolved at the hearing. I mean, it's in the
2 nature of -- it is an affirmative defense, which is
3 basically our way of saying that we don't believe
4 that Staff's complaint is valid for this affirmative
5 reason.

6 It seems to me that that's something that
7 can be addressed by testimony or stipulation of facts
8 that we can argue from if, indeed, we can go ahead
9 and get that agreed upon, so our argument would be
10 it's not anything that needs to be addressed before
11 it's taken with the case.

12 JUDGE WOODRUFF: Anything different from
13 Staff or public counsel?

14 MS. SHEMWELL: Yeah, I think we'll take a
15 different stance in that they're requesting equitable
16 relief, so I would probably follow up with a motion
17 to that effect.

18 JUDGE WOODRUFF: Okay. Well, you can
19 address that as part of your procedural schedule --

20 MS. SHEMWELL: Okay.

21 JUDGE WOODRUFF: -- just to keep that in
22 mind then.

23 MR. ZUCKER: Great. Thank you.

24 JUDGE WOODRUFF: I certainly don't mind
25 ruling on motions. That's what we're here for.

1 well, then I'll just ask you to give me a
2 proposed procedural schedule a week from today, and
3 keep in mind, if you flip to the calendar upstairs
4 it's pretty busy the next several months.

5 MS. SHEMWELL: Okay. We'll certainly take
6 a good look at it, Judge.

7 JUDGE WOODRUFF: Come up with whatever you
8 can give me.

9 MS. SHEMWELL: Thank you very much.

10 JUDGE WOODRUFF: All right.

11 MS. SLACK: Do you have any idea as to how
12 far out you want us to go with the hearings going on,
13 or do you want us to --

14 JUDGE WOODRUFF: I know I'm -- I have
15 Ameren case, and that's going to hearing in late
16 April and May, so you'll need to either be before
17 that or after June --

18 MS. SHEMWELL: Okay.

19 JUDGE WOODRUFF: -- because I won't have
20 time to deal with it, unless they can all settle
21 Ameren but --

22 MS. SHEMWELL: I don't know.

23 JUDGE WOODRUFF: Okay. Well, anything
24 else you need to bring up while we're on the record?

25 MS. SHEMWELL: I don't think so.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE WOODRUFF: I'll leave you to
discussions then.

MS. SHEMWELL: Thank you, Judge.

(The hearing concluded.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Nancy L. Silva, RPR, a Certified Court Reporter, CCR No. 890, the officer before whom the foregoing hearing was taken, do hereby certify that the witness whose testimony appears in the foregoing hearing was duly sworn; that the testimony of said witness 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.

Nancy L. Silva, RPR, CCR

<p><u>1</u> 1 1:8 1520 2:3</p> <p><u>2</u> 200 2:10 2011 1:6 2230 2:11</p> <p><u>3</u> 314.342.0532 2:5 360 2:19</p> <p><u>5</u> 573.751.5558 2:13 573.751.6726 2:21</p> <p><u>6</u> 63101 2:4 3:11 65102 2:12,20</p> <p><u>7</u> 720 2:3 3:10</p> <p><u>8</u> 8 1:6 890 8:3</p>	<p>am 8:9,12 Ameren 6:15,21 Annette 2:17 3:15 anything 4:17,21,23 5:10,12 6:23 appearance 3:5 appearing 3:23 appears 8:5 April 6:16 argue 5:8 arguement 5:9 attorney 8:13</p> <p><u>B</u> basically 5:3 beginning 3:5 behalf 3:9 believe 5:3 best 8:8 Box 2:11,19 bring 6:24 brought 4:1 business 3:9 busy 6:4</p>	<p>1:1,12 2:18,23 3:17 Company 1:15 2:6 3:4,9 Complainant 1:13 complaint 3:3 4:3,10 5:4 complaints 4:7 concluded 7:4 conference 1:5 3:2 counsel 2:9,14 3:21,24 5:13 8:10,13 counterclaim 4:10 Court 1:24 8:3</p> <p><u>D</u> deal 6:20 defense 5:2 defenses 4:20 different 5:12,15 direction 8:9 discuss 4:2,15 discussion 4:19 discussions 7:2 dispute 4:13 duly 8:6</p>	<p>5:15</p> <p><u>F</u> facts 4:14 5:7 factual 4:12 February 1:6 file 1:13 3:20 financially 8:14 flip 6:3 foregoing 8:4,6 forth 4:7,20</p> <p><u>G</u> Gas 1:15 2:6 3:3,9 GC-2011-0098 1:13 3:2 Great 5:23</p>
<p><u>A</u> ability 8:8 able 4:9 action 8:11,16 actual 4:21 actually 4:8 address 3:10,19 5:19 addressed 5:7,10 affirmative 4:20 5:2,4 against 3:3 agreed 5:9 ahead 5:8</p>	<p><u>C</u> calendar 6:3 case 3:2 5:11 6:15 CCR 1:23 8:3,19 certainly 4:6,16 5:24 6:5 CERTIFICATE 8:1 Certified 8:2 certify 8:5 CHIEF 1:19 City 1:7 2:12,20 Commission</p>	<p><u>E</u> effect 5:17 either 6:16 else 4:17 6:24 employed 8:10,14 employee 8:13 entries 3:4 equitable</p>	<p><u>H</u> haven't 4:20 hearing 4:18,24 5:1 6:15 7:4 8:4,6,12 hearings 6:12 helpful 4:16 hereby 8:4 Honor 3:7</p> <p><u>I</u> idea 6:11 I'll 4:22 6:1 7:1 I'm 6:14 indeed 5:8 interested 8:15 issue 4:8 issues 4:13,14 it's 5:1,10,11 6:4</p>

<p>_____</p> <p>J</p> <p>Jefferson 1:7 2:12,20</p> <p>Judge 1:19 3:1,12,14,18 ,21,25 5:12,18,21,2 4 6:6,7,10,14, 19,23 7:1,3</p> <p>June 6:17</p> <p>_____</p> <p>L</p> <p>Laclede 1:15 2:6 3:3,5,9</p> <p>late 6:15</p> <p>LAW 1:19</p> <p>leave 7:1</p> <p>legal 4:14</p> <p>Lera 2:16 3:15</p> <p>LLC 1:24</p> <p>Louis 2:4 3:10</p> <p>_____</p> <p>M</p> <p>Madison 2:10</p> <p>MARC 2:8</p> <p>Mark 3:23</p> <p>May 6:16</p> <p>mean 5:1</p> <p>Michael 2:2 3:8</p> <p>mind 5:22,24 6:3</p> <p>Missouri 1:2,7,12 2:4,12,18,20 ,22 3:10,16</p> <p>months 6:4</p> <p>morning 3:13</p> <p>MORRIS 1:19</p> <p>motion 4:21 5:16</p> <p>motions 5:25</p> <p>move 4:5</p> <p>_____</p> <p>N</p>	<p>Nancy 1:23 8:2,19</p> <p>nature 5:2</p> <p>neither 8:10</p> <p>none 4:7</p> <p>nor 8:10,14</p> <p>numerous 4:6</p> <p>_____</p> <p>O</p> <p>Office 2:9,14 3:23</p> <p>officer 8:3</p> <p>Okay 3:18 5:18,20 6:5,18,23</p> <p>Olive 2:3 3:10</p> <p>otherwise 8:15</p> <p>outcome 8:15</p> <p>_____</p> <p>P</p> <p>P.O 2:11,19</p> <p>parties 4:4,15,22 8:11,14</p> <p>Pendergast 2:2 3:6,8</p> <p>pending 4:11</p> <p>perspective 4:25</p> <p>pleading 4:19</p> <p>point 4:11,22</p> <p>possible 4:3</p> <p>Poston 2:8 3:22,23</p> <p>prehearing 1:5 3:2 4:1</p> <p>Presiding 1:19</p> <p>pretty 6:4</p> <p>probably 5:16</p> <p>procedural 5:19 6:2</p> <p>proceed 4:2</p> <p>PROCEEDINGS 1:4</p>	<p>proposed 6:2</p> <p>public 1:1,12 2:9,14,18,22 3:16,21,24 5:13</p> <p>_____</p> <p>Q</p> <p>quickly 4:3</p> <p>_____</p> <p>R</p> <p>reached 4:8</p> <p>reason 5:5</p> <p>record 6:24</p> <p>reduced 8:8</p> <p>REGULATORY 1:19</p> <p>related 8:10</p> <p>relative 8:13</p> <p>relief 5:16</p> <p>REPORTED 1:23</p> <p>Reporter 8:3</p> <p>REPORTING 1:24</p> <p>requesting 5:15</p> <p>resolution 4:5</p> <p>resolved 4:3,13,24 5:1</p> <p>Respondent 1:16</p> <p>Rick 2:2 3:8</p> <p>Room 2:3</p> <p>RPR 1:23 8:2,19</p> <p>rule 4:18,23</p> <p>ruling 5:25</p> <p>_____</p> <p>S</p> <p>schedule 5:19 6:2</p> <p>seems 5:6</p> <p>seen 4:21</p> <p>Service 1:1,12 2:18,22 3:16</p> <p>settle 6:20</p>	<p>several 6:4</p> <p>Shemwell 2:16 3:13,15,19 5:14,20 6:5,9,18,22, 25 7:3</p> <p>Silva 1:23 8:2,19</p> <p>Slack 2:17 3:15 6:11</p> <p>st 2:4 3:10</p> <p>Staff 1:12 2:22 3:12,16 5:13</p> <p>Staff's 3:3 5:4</p> <p>stance 5:15</p> <p>start 3:4</p> <p>STATE 1:2</p> <p>stipulation 4:14 5:7</p> <p>Street 2:3,10 3:10</p> <p>strike 4:21</p> <p>sworn 8:6</p> <p>_____</p> <p>T</p> <p>taking 3:4</p> <p>testimony 5:7 8:5,7</p> <p>thank 3:6,13,22 5:23 6:9 7:3</p> <p>that's 4:4,15 5:6,25 6:15</p> <p>thereafter 8:8</p> <p>there's 4:10,12,19</p> <p>thereto 8:14</p> <p>they're 5:15</p> <p>TIGER 1:24</p> <p>today 4:15 6:2</p> <p>TRANSCRIPT 1:4</p> <p>typewriting 8:9</p>
---	---	---	--

<p> <hr/> U ultimate 4:8 unless 6:20 upon 4:18 5:9 upstairs 6:3 <hr/> V valid 5:4 volume 1:8 vs 1:14 <hr/> W week 6:2 we'll 3:4 5:14 6:5 we're 3:1 5:25 6:24 we've 4:6 whatever 6:7 whole 4:2 whom 8:4 whose 8:5 witness 8:5,7 WOODRUFF 1:19 3:1,12,18,21 ,25 5:12,18,21,2 4 6:7,10,14,19 ,23 7:1 <hr/> Y you'll 6:16 <hr/> Z zucker 2:2 3:8 4:25 5:23 </p>			
--	--	--	--