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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Prehearing Conference

6

June 3, 2014

7

Jefferson City, Missouri

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Volume 1

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10

11 MICHAEL STARK

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Complainant,

) File No.

) GC-2014-0202

13

VS.

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SUMMIT NATURAL GAS OF MISSOURI,)

INC.)

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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: All right. On the record in
3 Case No. GC-2014-0202, Michael Stark versus Summit
4 Natural Gas of Missouri, Inc.

5 At this time we'll take entries of
6 appearances.

7 Mr. Stark, just introduce yourself.

8 MR. STARK: My name is Michael Stark. I'm
9 the Complainant in the case against Summit Natural Gas.

10 JUDGE JONES: And from Summit Natural Gas.

11 MS. CARTE: Diana Carter with the law firm
12 Brydon, Swearngen & England, 312 East Capitol Avenue,
13 Jefferson City, Missouri 65102, for Summit Natural Gas
14 of Missouri.

15 JUDGE JONES: And, Ms. Carter, are you the
16 only one on the line?

17 MS. CARTER: Yes.

18 JUDGE JONES: Okay. And for the Staff of the
19 Commission.

20 MR. ANTAL: Alex Antal and John Borgmeyer for
21 Staff of the Missouri Public Service Commission,
22 P. O. Box 360, Jefferson City, Missouri 65102.

23 JUDGE JONES: Now, I will note for the record
24 that although the Office of Public Counsel is a party in
25 all of our cases, they have not participated in this

1 complaint.

2 Well, for your benefit, Mr. Stark, this is a
3 prehearing conference, the purpose of which is to give
4 the parties an opportunity to settle the matter or to
5 agree on a procedural schedule towards an evidentiary
6 hearing.

7 We'll have an evidentiary hearing if there
8 are any facts in dispute. I've looked through most of
9 these pleadings, and someone will have to tell me if
10 there are any facts in dispute.

11 MR. STARK: Yes, there are.

12 JUDGE JONES: So there are some facts that
13 the company has set out that you disagree with?

14 MR. STARK: Absolutely.

15 JUDGE JONES: You don't need to go over them
16 right now.

17 Ms. Carter --

18 MS. CARTER: Yes.

19 JUDGE JONES: -- is that your sentiment also,
20 that there are facts in dispute in this matter?

21 MS. CARTER: There is no dispute that
22 Summit was not in their right-of-way. Summit has
23 admitted that or acknowledged that they do not have an
24 easement on Mr. Stark's property and the actual county
25 right-of-way is not where they thought it was.

1 So there is no dispute that Summit did not
2 have a right-of-way where they placed the pipe.

3 JUDGE JONES: Okay. And that to me seems to
4 be the issue you really have.

5 MR. STARK: The issue is what they did after
6 I told them it was not appropriate for them to be there,
7 that they had no authorization to be there and that they
8 continued their work afterwards, after they were told it
9 was my property, and that's -- that's the issue that is
10 in dispute.

11 In fact, there's even disputes between what
12 the attorney for Summit Gas has submitted to the Public
13 Service Commission and what they've submitted to the
14 court in my civil suit against them.

15 So there is even -- there's one version for
16 the civil suit and another version for the Public
17 Service Commission.

18 JUDGE JONES: Okay.

19 Well, if that's the case, then you-all should
20 be working on a procedural schedule.

21 What I would like is a statement of facts
22 that you all agree on so that we don't have to have
23 evidence on facts that no one disputes.

24 Mr. Stark.

25 MR. STARK: I would agree with the attorney

1 for Summit's statement that they had no easement and no
2 right to be on my property and I would agree there is a
3 point of agreement.

4 JUDGE JONES: Okay.

5 Are there any witnesses you'll need to call,
6 Mr. Stark?

7 MR. STARK: Perhaps so --

8 JUDGE JONES: Okay.

9 MR. STARK: -- but I'm not sure that I'll
10 have all --

11 JUDGE JONES: You'll have time to think that
12 through, but that is something that I'll need to
13 consider.

14 I don't anticipate this being more than a
15 one-day hearing, probably a half-day hearing, and you
16 all have to agree on a date. It will be here, down the
17 hall in the larger hearing room, or it could probably be
18 held in 305.

19 Let's see.

20 Do you have any questions about this process?

21 MR. STARK: Yes, I do, a couple things that I
22 have to do.

23 I'd like to know what sort of criteria the
24 court will require from witnesses. Will witnesses be
25 allowed to phone in? Witnesses, will I be allowed to

1 bring a statement from them, a written statement? If I
2 have a written statement, do you want it to be
3 notarized? Or do you actually feel as though those
4 witnesses actually have to be here at the hearing?

5 JUDGE JONES: Well, being at the hearing, of
6 course, is always best because then their credibility
7 can be observed by myself and the commissioners.

8 An affidavit is fine. Yes, it does have to
9 be notarized. Telephone, we'll have to play that by ear
10 if it's absolutely necessary, because in an actual
11 evidentiary hearing it will create a difficulty. It's a
12 logistical issue but it's possible.

13 MR. STARK: I understand.

14 JUDGE JONES: It's not impossible.
15 Everything is possible.

16 MR. STARK: The second question I have, news
17 reports about my incident with the gas company having
18 come without a legitimate basis for doing so and
19 destroying my property and not taking care of it, as
20 well as other similar instances in our area, are now
21 part of news reports, and the attorney for Summit has
22 made those news reports part of the record by referring
23 to them in her response to the Commission.

24 So I'd like to know in what format I can have
25 those news reports conveyed to the court? Can I simply

1 provide the link to those news articles or what will the
2 court want?

3 JUDGE JONES: What you're doing now and
4 giving you procedural advice as far as how to proceed in
5 the case in this matter, I don't have a problem with
6 that, but you're starting to drift into me giving you
7 legal advice.

8 MR. STARK: I'm just asking what the court
9 will consider that they want to -- to represent those
10 news reports?

11 JUDGE JONES: Well, the reason I say that is
12 for me to suggest to you a method of presenting those
13 news reports assumes that the news reports are evidence.

14 MR. STARK: Well --

15 JUDGE JONES: They're not evidence.

16 MR. STARK: Well, at this point they would be
17 evidence because they're --

18 JUDGE JONES: Not when I said they're not
19 evidence.

20 MR. STARK: Okay, sir.

21 JUDGE JONES: There is no record for there to
22 be evidence at this point.

23 MR. STARK: They are in the --

24 JUDGE JONES: So for me to suggest to you a
25 format to present something creates presumption that it

1 is admissible.

2 MR. STARK: So then --

3 JUDGE JONES: I'm not going to advise you on
4 that.

5 MR. STARK: Then am I to understand that the
6 references to it in the Plaintiff's response to the
7 Commission's demand for an explanation of why it was on
8 my property is -- am I to understand then that those
9 will not be considered?

10 JUDGE JONES: No, you're not to understand
11 it. You're not to understand anything from my response.
12 That's the point I'm making is that I'm not going to
13 create any fertile ground for you to be able to present
14 anything that presents your case.

15 MR. STARK: I understand.

16 JUDGE JONES: Consult a lawyer or read a book
17 or something, I don't know, to figure out how those
18 things can be presented to the Commission.

19 MR. STARK: Okay.

20 JUDGE JONES: What I'm asking you is if you
21 have questions about the process that we're going
22 through.

23 Like now we're having a procedural hearing.
24 You and our Staff and Summit will then discuss a
25 procedural schedule, the timeframe under which certain

1 things will happen and what is necessary to happen in
2 order to come to the resolution of the case.

3 MR. STARK: Am I to understand that the
4 purpose of this conference is to encourage the parties
5 to come to some sort of a -- maybe we'll use the word
6 compromise or consensus?

7 JUDGE JONES: It is. It is.

8 MR. STARK: Okay. Thank you.

9 JUDGE JONES: Okay. Mr. Antal,
10 Mr. Borgmeyer, do you have any questions?

11 MR. BORGMEYER: Just to see whether or not
12 you have any -- the Commission has any specific
13 expectations in terms of filing testimony or if
14 that's --

15 JUDGE JONES: Prefiled testimony is overkill
16 in this case. We won't need any prefiled testimony.

17 In some of our cases we have witnesses
18 prefile testimony. It's a method of discovery they
19 usually only have in large rate cases.

20 MR. BORGMEYER: So the Commission is not
21 necessarily anticipating some sort of report from the
22 Staff prior to the hearing?

23 JUDGE JONES: No.

24 MR. STARK: I'm curious if this would be an
25 appropriate question to ask.

1 If and when the Commission determines that
2 Summit violated its tariff by not having the appropriate
3 easements to come on to my property, what is the course
4 of action then that the Public Service Commission might
5 take as a result of that?

6 JUDGE JONES: I won't speak for the
7 Commissioners.

8 MR. STARK: Okay.

9 JUDGE JONES: Ms. Carter, do you have any
10 questions or concerns?

11 MS. CARTER: No, Judge, unless you have a
12 goal for a hearing date on how quickly you'd like us
13 to --

14 JUDGE JONES: That's between you-all. I'll
15 be here.

16 MS. CARTER: Okay.

17 JUDGE JONES: Okay. Anyone else have any
18 questions?

19 Well, good luck. Maybe we won't need a
20 hearing. Maybe you all will come to an agreement of
21 some sort. All right.

22 Okay. With that we'll go off the record.

23 WHEREIN, the prehearing conference concluded
24 at 10:13.

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CERTIFICATE OF REPORTER

I, Patricia A. Stewart, RMR, RPR, CCR, a
Certified Court Reporter in the State of Missouri, do
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in the outcome of the action.

Patricia A. Stewart

CCR No. 401

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