STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

May 27, 2004
Jefferson City, Missouri
Volume 2

In the Matter of the Verified Application and Petition of Laclede Gas Company for Establishment of an Infrastructure System Replacement Surcharge.	)))))	Case No. GO-2004-0443

LEWIS MILLS, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

REPORTED BY:

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P R O C E E D I N G S

JUDGE MILLS: We're on the record this morning for what was originally scheduled to be an evidentiary hearing in GO-2004-0443. It's my understanding that the parties have entered into an agreement to settle the case and they're in the process of finalizing and filing that agreement.

So we won't be proceeding to an evidentiary hearing, but I just wanted to first of all confirm on the record that that stipulation is in the works and close to being filed, and second to ask just a couple of brief questions about the impact of this situation on possible other ISRS filings, both by Laclede and by other entities.

I got a call yesterday afternoon from the Missouri Energy Group, and they do not plan to attend the hearing. I got a call this morning from the Office of Public Counsel who does not plan to attend this morning. And I believe the Missouri Industrial Energy Consumers are planning to be here this morning. In fact, I saw counsel here earlier.

So with that, I'll take entries of appearance from Staff and Laclede who are here, and then we'll proceed quickly through the two items I want to cover.

MS. SHEMWELL: Good morning. Lera Shemwell

representing the Staff of the Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102.

I might note that Mr. Downey was here, and we indicated that we would be discussing the stipulation, so he went ahead and left.

JUDGE MILLS: Okay. Thank you. For Laclede?

MR. PENDERGAST: Yes. Michael C. Pendergast with Laclede Gas Company, 720 Olive Street, St. Louis, Missouri 63101. Mr. England is also here on behalf of the company.

JUDGE MILLS: Thank you.

First of all, where are we -- from either entity, where are we on the filing of a Stipulation & Agreement?

MS. SHEMWELL: We're very close. It's just a matter of getting some last-minute wording in and getting it filed.

MR. PENDERGAST: Yes, your Honor, if I could just briefly elaborate on that. We are in the process of getting this completed. I just wanted to give you a sense of what it hopefully will look like because I think we've reached agreement on all the salient points.

We're going to be talking about a

Stipulation & Agreement that's about four pages in length. It's going to have one tariff sheet attached to it that's designed to implement the ISRS charges that are being recommended as a result of the Stipulation & Agreement. It obviously resolves in a black box settlement fashion the one issue we had in this case relating to treatment of tax deductions, and you'll see how it resolves it with simply recommending a dollar number.

The other two features of it is that the parties have agreed to continue to discuss the issues, see if they can resolve their differences in advance of either an ISRS filing or rate case, whichever comes first, and it does have a company request in there that it be made effective by June 10th, which from our perspective was an important element of trying to get this stipulation done, and neither Staff nor any of the other parties oppose that.

And if we don't have it to you in an hour, I would be surprised.

JUDGE MILLS: Okay. Great. In terms of the tariff sheet that you're going to attach, is that going to be an illustrative tariff sheet or an actual tariff sheet with issue and effective dates?

MS. SHEMWELL: We had anticipated it would be a specimen or illustrative tariff sheet, but --

MR. PENDERGAST: Yeah. I guess from the standpoint since there is a relatively short time, any advice you could give us on what the best way of accommodating that would be. It's certainly in the specimen form now, but in the past I know at least in one settlement we simultaneously filed a tariff sheet, too, with the proviso, of course, that it would depend on whether the Commission approved the Stipulation & Agreement as to whether the tariff would be approved. Would that be an appropriate thing to do?

JUDGE MILLS: It can. I don't think it's commonly done. It was done in Laclede's school aggregation case that settled, and it saves a few days because you don't have to wait for the Order Approving Stipulation to come out, then file an illustrative tariff, then wait for a Staff rec. It's all pending all at once. So it's an option. It's really entirely up to you.

MR. PENDERGAST: Okay. I think that's probably what we would prefer to do.

JUDGE MILLS: It can be done that way.

MR. PENDERGAST: Thank you.

JUDGE MILLS: Now, in terms of the actual issue in this case, the settlement -- and I have a feeling the Commissioners are likely to be concerned that by settling this case they're simply ducking an issue that's

likely to come back at them all the time.

Is it the case that this is something unique to Laclede's books and that it won't face them with other companies?

MS. SHEMWELL: That's correct, Judge Mills. And Staff has verified with other companies that they do not have this issue. It's a matter of how taxes are handled. It's unique to Laclede because of their use of in-house labor and it's the way they book their taxes, and other companies do not book their taxes that way.

The way Laclede does book its taxes is of benefit to consumers because they get a deduction. It creates a tax deduction for them and then they pass that through to consumers. So it's not something that Staff would be eager to change, especially I don't know that we could do it in an ISRS filing anyway.

But Staff has checked with other companies, and they do not have this situation, so it's unique to Laclede.

JUDGE MILLS: Okay. Good. Anything to add?

MR. PENDERGAST: The only thing I would add is, we are going to have a commitment in the Stipulation & Agreement to sit down and discuss this issue, and there are a number of ways that it can be potentially resolved.

I certainly don't want to make any representation today that it will be resolved, but both parties have agreed to make the effort. So it is an issue that potentially might not arise in the future, and if we can't reach a resolution, then we will bring it before the Commission.

MS. SHEMWELL: And we're committing to do that prior to their next ISRS filing in the Stipulation.

JUDGE MILLS: Great. Anything further? Okay. Thank you-all for your time. Almost got it.

MR. PENDERGAST: Almost. One of the terms of the Stipulation & Agreement was that we would simply receive into evidence the various testimony that was filed. It's only three pieces of testimony. Would you prefer to do that at a different time?

JUDGE MILLS: Yeah. I think I'd just as soon wait until I have the Stipulation filed that says you stipulated to its admission before I admit it.

MR. PENDERGAST: I think that probably is wise.

JUDGE MILLS: That can be done in an order approving the Stipulation if it's requested in the Stipulation.

MR. PENDERGAST: Very fine. Thank you.

MS. SHEMWELL: Judge, do you have any feeling or indication from the Commission about when, if

they want an on-the-record presentation, that might occur?

JUDGE MILLS: No, I don't. I plan to discuss it with them today in agenda under scheduling. I'll let them know what transpired this morning and ask them, and if it's -- if you-all have the Stipulation filed before agenda begins, that will help me discuss it with them.

But even if you don't, I'll let them know what we talked about this morning and get their thoughts on when they -- when or if they'll want a stipulation presentation.

MR. PENDERGAST: Your Honor, if they do have questions, I just want to let you know that we will, of course, be available today and we'll be available all day tomorrow as well.

MS. SHEMWELL: Any thought that we should be available in agenda?

JUDGE MILLS: I wouldn't think so, but who am I to try to predict that?

MS. SHEMWELL: Thank you.

JUDGE MILLS: Okay. Anything further? Thank you all. We're off the record.

WHEREUPON, the hearing of this case was concluded.