

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4
5
6 TRANSCRIPT OF PROCEEDINGS
7 Prehearing Conference
8 September 30, 2008
9 Jefferson City, Missouri
10 Volume 1
11
12 The Staff of the Missouri)
Public Service Commission,)
13)
Complainant,)
14)Case No.
)GC-2009-0036
15)
Missouri Gas Energy, A Division)
16 of Southern Union Company,)
)
17 Respondent.)
18
19 NANCY DIPPELL, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE
20
21
22
23 REPORTED BY:
24 MINDY VISLAY, CCR 1224 (T)
25 MIDWEST LITIGATION SERVICES

1 A P P E A R A N C E S

2

3 PAUL A. BOUDREAU, Attorney at Law
4 Brydon, Swearngen & England, P.C.
5 312 East Capitol Avenue
6 P.O. Box 456
7 Jefferson City, MO 65102
8 (573)635-7166

9

FOR: Missouri Gas Energy

10

11 TODD JACOBS, Senior Counsel
12 Missouri Gas Energy
13 3420 Broadway
14 Kansas City, MO 64111
15 (816)360-5500

16

17 FOR: Missouri Gas Energy

18

19 MARC POSTON, Senior Public Counsel
20 200 Madison Street
21 P.O. Box 2230
22 Jefferson City, MO 65102
23 (573)751-5565

24

FOR: The Office of Public Counsel

25

26 STEVEN REED, General Counsel
27 BOB BERLIN, General Counsel
28 P.O. Box 360
29 200 Madison Street
30 Jefferson City, MO 65102
31 (573)751-3234

32

FOR: Staff of the Missouri Public
Service Commission

33

34

35

36

37

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

2 JUDGE DIPPELL: This is Case No.
3 GC-2009-0036; Staff of the Missouri Public Service
4 Commission versus Missouri Gas Energy, a Division of
5 Southern Union Company.

6 My name is Nancy Dippell. I'm the Regulatory Law
7 Judge assigned to this case, and I've directed the
8 parties to be here today for a prehearing conference
9 to discuss the procedural schedule for this case and
10 any potential settlement talks that they would like to
11 have off the record.

12 And I will begin by asking for the attorneys to
13 make entries of appearance, and I'll start with Staff.

14 MR. REED: Steve Reed and Bob Berlin for
15 the Staff, P.O. Box 360, Jefferson City, Missouri
16 65102.

17 JUDGE DIPPELL: And for MGE.

18 MR. BOUDREAU: Let the record reflect the
19 appearance of Paul Boudreau with the law firm of
20 Bryden, Swearingen & England, P.O. Box 456, Jefferson
21 City, Missouri, appearing on behalf of MGE.

22 Also here today on behalf of MGE is Todd Jacobs,
23 senior attorney. His mailing address is 3420
24 Broadway, Kansas City, Missouri 64111.

25 JUDGE DIPPELL: And Public Counsel.

1 MR. POSTON: Marc Poston appearing for the
2 Office of the Public Counsel and the public.

3 JUDGE DIPPELL: Thank you.

4 Well, as I said, basically I asked you guys to
5 come here today to talk about a procedural schedule
6 and possible settlement of your dispute, and I would
7 greatly encourage those talks to take place.

8 Did anyone have anything that they wanted to bring
9 up to me?

10 MR. BOUDREAU: Actually, I did. And I'll
11 discuss this in more detail with the other parties,
12 but I was looking at the procedural order, which is
13 kind of a standard procedural order, and I'm not sure
14 that this case in some ways is real conducive to
15 setting out a procedural schedule as has been
16 requested.

17 In a lot of cases it's been the procedural
18 schedule that drives things. I mean, the filing
19 reveals things. In this case, although I have a
20 general idea of what Staff's concerns about the tariff
21 are, I'm not sure what their case is going to be, how
22 many witnesses they're going to use, the theories of
23 the case, and so I'm not sure that we're in a good
24 position to know what we are going to have to do to
25 react to that and to prepare a case.

1 So we are going to have to talk about discovery
2 and the length of discovery, the possibility of
3 depositions -- there's just a lot of unknowns about
4 this case.

5 And one of the things I wanted to discuss with the
6 other parties, and I wanted to get the Commission's
7 feedback on this, is that one of the things that I
8 want to discuss with OPC and Staff is the possibility
9 of instead of setting a hearing date that we maybe set
10 up a procedural schedule to be finished up with
11 another prehearing conference, and that way, at that
12 point, possibly schedule the hearing. Simply because,
13 you know, trying to set a hearing at this point is
14 kind of problematic.

15 And the only guidance I'd like to know from you
16 is, is that something that the Commission would
17 consider, or is the order saying you need a hearing
18 date, is that firm?

19 JUDGE DIPPELL: No. And certainly you guys
20 could vary from that if you want to, at least, you
21 know, let me know how you'd like things to progress
22 maybe with if you want to put a limit on discovery
23 time, if you want to set another prehearing conference
24 or settlement conference, if you want to -- there's
25 some legal issues in the answer, there's some in these

1 defenses, if you all think that you might want to have
2 oral arguments on those or something along those
3 lines.

4 I would be interested in having a response from
5 Staff and Public Counsel, if they desire, with regard
6 to some of those legal issues that were raised as
7 defenses in the answer.

8 MR. BOUDREAU: That's helpful. I just
9 wanted to know if something like that would be dead on
10 arrival. That gives me some guidance on topics of
11 discussion.

12 JUDGE DIPPELL: Right. So if you can't
13 agree to, or don't want to, or agree not to set an
14 official schedule -- and you're right, this was sort
15 of just a format of procedural -- it might not meet
16 the needs of this case.

17 MR. REED: Judge, along those lines, can we
18 have until the 7th to file it?

19 JUDGE DIPPELL: Yes.

20 MR. REED: Because I think Monday I'm in a
21 seminar all day.

22 JUDGE DIPPELL: All right. And I'm not
23 sure, I think that date got put in there and I got
24 this issued a day later than I had intended.

25 MR. REED: So you'll forgive us if we do it

1 the 7th?

2 JUDGE DIPPELL: In fact, if you like, I'll
3 give you to the end of the week.

4 MR. REED: Of next week?

5 JUDGE DIPPELL: Yeah. I'm not sure what
6 that date is. I think it's the 10th.

7 MR. REED: Yes.

8 JUDGE DIPPELL: And that will give you a
9 little more time. This case might be a little bit
10 more difficult to decide on how it should proceed
11 along.

12 Is there anything else that anyone would like to
13 bring up? I see Steve's got a calendar there, and I
14 didn't think to print off a copy of the Commission's
15 calendar.

16 MR. REED: It's relatively recent, and just
17 in looking at it -- we'll talk about what we want to
18 do, you know, but December is obviously too early, and
19 we have a few dates there, but February and March, I
20 guess, is where the calendar begins to clear. Is that
21 your impression?

22 JUDGE DIPPELL: Yes. I know I've already
23 saved a few dates. When you get past the end of March
24 you start getting back into rate cases again.

25 MR. REED: Is that KCPL?

1 JUDGE DIPPELL: KCPL, Aquila and Greater
2 Kansas City, Missouri, Operations -- whatever their
3 new name is. It's actually two different cases.

4 So right now those dates are reserved. We can
5 double book if we need to, but given that it's a gas
6 hearing and -- well, those are electric cases, but
7 usually it makes it a little difficult for Staff and
8 Public Counsel if you've got those major things going
9 on at the same time.

10 Anything else?

11 MR. BOUDREAU: I don't think so at this
12 time. Will you be around if we need some help?

13 JUDGE DIPPELL: I will be around if you
14 need to know about dates or something, give me a call.
15 We can go ahead and go off the record.

16 (WHEREIN, the hearing was concluded.)

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2

3

4 I, Mindy Vislay, Certified Court Reporter with the
5 firm of Midwest Litigation Services, and Notary Public
6 within and for the State of Missouri, do hereby
7 certify that I was personally present at the
8 proceedings had in the above-entitled cause at the
9 time and place previously described; that I then and
10 there took down in Stenotype the proceedings had; and
11 that the foregoing is a full, true and correct
12 transcript of such Stenotype notes so made at such
13 time and place.

14

15

16

17

18 Mindy Vislay, CCR 1224 (T)

19

Notary Public (County of Cole)

20

My commission expires March 19, 2011

21

22

23

24

25