

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

April 21, 2004
Jefferson City, Missouri
Volume 1

Charles A. Cooper,)
)
Petitioner,)
)
v.) Case No. GC-2004-0305
)
Missouri Gas Energy,)
)
Respondent.)

RONALD D. PRIDGIN, Presiding,
REGULATORY LAW JUDGE.

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE PRIDGIN: We're on the record.

3 Good morning. This is the prehearing
4 conference in Case No. GC-2004-0305, Charles A. Cooper vs.
5 Missouri Gas Energy. I am Ron Pridgin; I'm the Regulatory
6 Law Judge assigned to preside over this prehearing
7 conference.

8 It's being held on April 21st, 2004, in the
9 Governor Office Building in Jefferson City, Missouri. The
10 time is about 10 after 10 in the morning. If I could, at
11 this time I would like to get oral entries of appearance
12 beginning with Staff, please.

13 MR. FRANSON: Robert Franson, P.O. Box 360,
14 Jefferson City, Missouri 65102, appearing on behalf of the
15 Staff of the Missouri Public Service Commission.

16 JUDGE PRIDGIN: Mr. Franson, thank you. On
17 behalf of MGE, please.

18 MR. MCCARTNEY: Brian T. McCartney of
19 Brydon, Swearngen & England, P.C., 312 East Capitol
20 Avenue, Jefferson City, Missouri 65102, appearing on
21 behalf of Missouri Gas Energy, a division of Southern
22 Union Company.

23 JUDGE PRIDGIN: Mr. McCartney, thank you.
24 On behalf of the Office of the Public Counsel, please.

25 MR. MICHEEL: Douglas E. Micheel appearing

1 on behalf of the Office of Public Counsel, P.O. Box 2230,
2 Jefferson City, Missouri 65102-2230.

3 JUDGE PRIDGIN: Mr. Micheel, thank you.

4 And now on behalf of Petitioner please.

5 MR. COOPER: Charles Cooper of Marshall --
6 746 East Eastwood, Marshall, Missouri 65340.

7 JUDGE PRIDGIN: Mr. Cooper, thank you.

8 Is there any -- I don't think I have any
9 pending motions. Is there anything that any of the
10 parties want to bring to my attention?

11 MR. FRANSON: Yes, actually there is,
12 Judge. We have been talking about alternative ways to
13 dispose of this case. Not exactly settlement, but rather
14 than a procedural schedule with all the rounds of
15 testimony, we've kind of come up with some ideas we wanted
16 to talk to you about. No. 1 is the possibility of just
17 submitting this to the Commission on the pleadings, as is
18 where is. That would probably be our preferred way.

19 Now, we have talked to Mr. Cooper a
20 little bit, and you may actually want to inquire if that's
21 something that holds your interest, make sure he
22 understands the ramifications of that, but so far it would
23 seem that he does. And that would take it to the
24 Commission right now.

25 The second option would be submit it on the

1 pleadings but hold a hearing with no prefiled testimony,
2 and the idea there would be that this is a very small
3 amount of money. This is a -- I believe there's
4 essentially a series of facts that are really not going to
5 be in dispute. It's more how those apply using MGE's
6 tariffs and whether Mr. Cooper can, in fact, be told he
7 needs to pay this before -- this amount before he can have
8 gas service.

9 And those are the proposals we would have.
10 Those would be in lieu of a formal procedural schedule,
11 with the exception of in the second one we might have
12 a -- we might have a hearing date where we would come in,
13 and the idea would be there's the Staff report, MGE's
14 pleadings, Mr. Cooper's complaint, and I can't remember if
15 Mr. Cooper's filed something else. But all of that would
16 be there, and the Commissioners may have questions, you
17 might have questions. There might be cross-examination.

18 But it would just seem that in this
19 particular instance, prefiled testimony is not necessary,
20 and that's what we're suggesting to you at this point.

21 JUDGE PRIDGIN: Mr. Franson, thank you. Do
22 any parties wish to comment, object? Is that everyone's
23 understanding? Mr. McCartney?

24 MR. MCCARTNEY: I'd just like to echo what
25 Mr. Franson said. MGE has suggested in their April 5th

1 pleading that we would be willing to have the Commission
2 resolve this matter on the basis of the pleadings that
3 have been filed at this point, and MGE is willing to waive
4 their right to a hearing in this matter because of the
5 small amount in dispute and because the facts have been
6 pretty clearly set forth by the Complainant and Staff and
7 MGE.

8 JUDGE PRIDGIN: Mr. McCartney, thank you.
9 Mr. Cooper, do you have any questions about what
10 Mr. Franson has said? Do you think you understand what
11 he's proposing?

12 MR. COOPER: I believe I have a grasp of
13 that, yes.

14 JUDGE PRIDGIN: Okay. And would you have
15 any objections if that's something that all the parties
16 agree to do? Again, this is assuming everybody agrees.
17 Is that something that you would be willing to do --

18 MR. COOPER: Yes.

19 JUDGE PRIDGIN: -- if the Commission
20 approves?

21 All right. Mr. Cooper. Thank you.

22 MR. MICHEEL: When we say we're going to be
23 submitting it on the pleadings, I'm assuming that the
24 Staff -- the Staff report is going to be considered a
25 pleading. Generally pleadings are the complainant's

1 answer to the complaint, and if that happens, I would want
2 to make sure that the entire file was going to be
3 considered. And I'm assuming that's what both
4 Mr. McCartney and Mr. Franson have in mind.

5 MR. FRANSON: That is exactly what Staff
6 has in mind, and I thank Mr. Micheel for that distinction.
7 I did not actually think of that, but when we say the
8 pleadings, we mean everything that has, in fact, been
9 filed in this case, including the Staff Report on this
10 matter.

11 MR. MCCARTNEY: Yes. And MGE agrees,
12 Attachment A to the Staff Report is a -- also titled Staff
13 Report. We agree that both of those are a pleading.

14 JUDGE PRIDGIN: And that's what I
15 understood when the parties were discussing pleadings. I
16 assumed they meant Staff Report, and that's something I
17 would obviously expect in a proposed procedural schedule,
18 that you would articulate precisely what you want the
19 Commission to consider.

20 MR. FRANSON: Well, Judge, actually I think
21 what we're trying to do here is a -- specifically avoid a
22 proposed procedural schedule of any type if we submit it
23 on the pleadings or if, in addition to pleadings, we were
24 going to have a one-day hearing, the idea would be that
25 would be in lieu of a proposed procedural schedule, and we

1 would not come up with filing dates for testimony and
2 things like that. That's what we're hoping to avoid
3 actually.

4 JUDGE PRIDGIN: Right, Mr. Franson, and I
5 understand, and I think we're saying the same thing. I
6 wouldn't expect a proposed procedural schedule listing
7 dates for prefiled testimony, but simply some sort of
8 stipulation or agreement among the parties saying we agree
9 that we want the Commission to decide this case based on
10 this, based on the pleadings, and that we don't have any
11 further evidence unless the Commission wishes to hold a
12 hearing to inquire from the parties.

13 MR. FRANSON: Well, Judge, again, I think
14 we're -- all the parties are here. We're saying that to
15 you, and are you saying we need to do some kind of
16 pleading or can everyone here today say, Judge, that's
17 what we want to do and then you either need to talk to the
18 Commission or you can tell us today?

19 JUDGE PRIDGIN: I would prefer, even if
20 it's something extremely brief, just some sort of a signed
21 agreement from the parties saying, this is how we agree to
22 submit this case, because I would like to take it to
23 agenda for the Commission, because frankly, I have no --
24 no idea if the Commission would simply want to rule and
25 have me draft an Order based on the pleadings or if they

1 would want to ask questions from the parties.

2 And so I would -- I want something to take
3 to attach to a memo that I draft, to take to agenda
4 saying, this is what the parties agree, would you like me
5 to draft an Order, and if so, what would you like the
6 Order to say, or would you like a brief hearing where you
7 can ask questions of the parties?

8 MR. MICHEEL: And, your Honor, I guess with
9 that, we could point to the items in the record that we
10 would specifically like the Commission to consider in
11 resolving this matter?

12 JUDGE PRIDGIN: Absolutely.

13 MR. FRANSON: And, Judge, would you also
14 along with that like some prospective dates?

15 JUDGE PRIDGIN: Yes, please.

16 MR. FRANSON: For, I would think, a one-day
17 hearing.

18 JUDGE PRIDGIN: Please, absolutely.

19 MR. FRANSON: Okay. The RLJ calendar is
20 still updated and available, then?

21 JUDGE PRIDGIN: It's available. It's
22 supposed to be updated. I won't make any warranties.
23 It's supposed to be updated. If the parties are looking
24 for potential dates, let me warn the parties that any days
25 on either side of Memorial Day, I may be unavailable. So

1 they may look free on the calendar, but I will probably be
2 out of town. So if you're looking for days, a few days on
3 either side of Memorial Day, if you want to talk to me to
4 make sure that I'll be available.

5 Mr. McCartney, did you have any?

6 MR. McCARTNEY: No, Judge.

7 JUDGE PRIDGIN: Okay. All right. I think
8 we're all -- I think we're all saying the same thing, and
9 again, what I want to do is be sure that I don't
10 misunderstand and don't misspeak to the Commission.
11 That's why I want something signed from the parties. It
12 can be extremely brief, that's perfectly fine, in lieu of
13 a procedural schedule saying, this is how we'd like to
14 submit to the Commission, so I can take it to them and
15 say, do you want an Order based just on this or do you
16 want to ask questions?

17 MR. FRANSON: Judge, would a pleading filed
18 by one of the parties with a clear statement that the
19 other parties are in agreement suffice? Because
20 signatures may be a little bit difficult, given logistics.

21 MR. McCARTNEY: I think that we would need
22 to express at some point all of our willingness to waive
23 the right to a hearing. I don't think one signature would
24 accomplish that.

25 MR. FRANSON: Right.

1 JUDGE PRIDGIN: That's fine. If --

2 MR. FRANSON: We'll prepare something.

3 JUDGE PRIDGIN: Okay. It doesn't matter to
4 me. You know, if everybody signs it -- it might be a
5 little cleaner if everybody signs it saying, we all waive
6 our right to a hearing, unless, of course, the Commission
7 wants us there, and then we'll appear. That would be my
8 preferred method.

9 MR. FRANSON: We would also have the option
10 of more than one pleading but, for instance, MGE may need
11 to do a pleading that they wanted submitted on the
12 pleadings and waive the right to a hearing. I'm just
13 saying that to get -- it may get unwieldy to do one
14 pleading.

15 JUDGE PRIDGIN: I see what you're saying.
16 And so we might get more than one.

17 MR. FRANSON: Right, but headed toward the
18 same goal.

19 JUDGE PRIDGIN: That's fine. That's fine.
20 As far as I'm concerned, this -- my order ordering the
21 proposed procedural schedule is still in effect with the
22 understanding that, in lieu of that, you're going to file
23 something instead. And so I won't do anything for a week.
24 If for some reason everybody can't get signatures within a
25 week, somebody please file something, and I'll be glad to

1 extend, suspend the schedule or whatever. That basically
2 gives you a week.

3 MR. FRANSON: Thank you, Judge.

4 JUDGE PRIDGIN: Any other questions?
5 Anything else from the parties?

6 (No response.)

7 JUDGE PRIDGIN: Okay. You have access to
8 this room for the rest of the day. I'm up on the ninth
9 floor if you have any questions. The hearing calendar is
10 on the ninth floor. Anything else from the parties?

11 (No response.)

12 JUDGE PRIDGIN: Hearing nothing, this
13 prehearing conference is concluded. We're off the record.

14 WHEREUPON, the recorded portion of the
15 prehearing conference was concluded.

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