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2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Evidentiary Hearing
8 November 6, 2007
9 Jefferson City, Missouri
10 Volume 2
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12 Norman Harrold)
13 Complainant,)
14) Case No.
15) GC-2007-0311
16 Laclede Gas Company)
17 Respondent.)
18 BENJAMIN H. LANE, Presiding,
19 REGULATORY LAW JUDGE
20
21 REPORTED BY:
22 MINDY VISLAY, CCR
23 MIDWEST LITIGATION SERVICES
24
25

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

2

3 RICK ZUCKER, Attorney at Law
4 720 Olive Street
5 St. Louis, MO 63101
6 (314) 342-0532

7

 FOR: Laclede Gas Company

8

9 MARC POSTON, Senior Public Counsel
10 200 Madison Street
11 P.O. Box 2230
12 Jefferson City, MO 65102
13 (573) 751-5565

14 FOR: The Office of Public Counsel.

15

16 LERA SHEMWELL, General Counsel
17 P.O. Box 360
18 200 Madison Street
19 Jefferson City, MO 65102
20 (573) 751-3234

21

 FOR: Staff of the Missouri Public
22 Service Commission.

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

2 JUDGE LANE: My name is Benjamin Lane. I'm
3 the Regulatory Law Judge assigned to this matter. The
4 case is styled Norman Harrold; Complainant versus
5 Laclede Gas Company; Respondent. That's Case No.
6 GC-2007-0311.

7 And this hearing was scheduled by a Commission
8 order dated September 18th which set this complaint
9 for a hearing today at 10:00 a.m. in Conference Room
10 305, and that's Tuesday, November 6th, beginning at
11 10:00 a.m. It's about 10:15, and we do have all the
12 parties on the line now.

13 And I would like to begin -- before we do anything
14 else -- to take oral entries of appearance. I know
15 some of you have entered your written entries of
16 appearance so the record will reflect who is here and
17 who is represented by counsel or representing
18 themselves.

19 Let's begin with the Complainant; Mr. Harrold.

20 I understand you are representing yourself in this
21 matter; is that correct, sir?

22 MR. HARROLD: Yes.

23 JUDGE LANE: How about the Respondent;
24 Laclede Gas?

25 MR. ZUCKER: This is Rick Zucker,

1 Z-U-C-K-E-R, here on behalf of Laclede Gas Company,
2 720 Olive Street, St. Louis, Missouri 63101.

3 JUDGE LANE: Thank you, Mr. Zucker.

4 For the Staff of the Public Service Commission.

5 MS. SHEMWELL: Lera Shemwell representing
6 the Staff of the Missouri Public Service Commission,
7 P.O. Box 360, Jefferson City, Missouri 65102. Thank
8 you.

9 JUDGE LANE: Thank you, Ms. Shemwell.

10 And for the Office of the Public Counsel.

11 MR. POSTON: Mark Poston appearing for the
12 Office of the Public Counsel, P.O. Box 2230, Jefferson
13 City, Missouri 65102.

14 JUDGE LANE: Mr. Poston, thank you.

15 All right. We've now got the entries of
16 appearance, everyone is present. There are no parties
17 that are not here or not represented.

18 Typically, what I do in a hearing situation is to
19 resolve preliminary matters and pending motions.
20 There are a couple of motions that are pending before
21 the Commission right now. But as I understand, there
22 is also another issue that has arisen, and I don't
23 want to get stuck on the formalities.

24 Mr. Harrold, if you would explain to everyone --
25 to the parties and to the Commission -- what your

1 concern is about proceeding with a hearing this
2 morning.

3 MR. HARROLD: Well, I received a letter in
4 the mail from PSC -- Lera -- saying that they had
5 dismissed the complaint based on a motion filed by Mr.
6 Zucker. And at that time I attempted to call the
7 office to find out what that was about.

8 And I left a message, because I couldn't reach her
9 and I was expecting a call this morning. And I
10 checked my answering service and there was nothing on
11 it.

12 So, I was trying to call someone to reschedule a
13 hearing and open the case back up, and then Rick just
14 called me and said the conference hadn't been
15 postponed. So, there was a misdirection there.

16 And I had sent people information on what I care
17 to discuss during the conference itself, but if you
18 notice -- I assume everyone received a fax -- you will
19 notice I've got a lot of numbers on it, so I could
20 discuss it. I knew I couldn't cover all this
21 information verbally without something physical to
22 visualize on the phone.

23 But I was going to prepare it to explain myself
24 using all those numbers and what not, and when I got
25 that notice I just said, well, that's it, I'm not

1 going to have a conference, so I didn't prepare for
2 it.

3 JUDGE LANE: This notice that you received,
4 was this a notice from the Commission or a
5 communication from one of the parties?

6 MR. HARROLD: It was from Lera Shemwell.

7 MR. ZUCKER: I think what he is talking
8 about is Staff's response to Laclede's motion that
9 Lera filed on November 2nd, last Friday.

10 JUDGE LANE: Is that what you are referring
11 to, Mr. Harrold, the Staff's response to Laclede Gas
12 Company's motion to --

13 MR. HARROLD: Right, it says that they
14 accept the motion to dismiss the case.

15 JUDGE LANE: Well, Staff indicated they
16 agreed with Laclede Gas Company's position on the
17 matter.

18 MR. HARROLD: Okay.

19 JUDGE LANE: But certainly that wasn't an
20 order from the Commission canceling the hearing. If
21 that's what you are talking about?

22 MR. HARROLD: Okay. The way I read it, it
23 says they did accept Laclede Gas Company's -- agree
24 with Laclede's motion to dismiss and making the matter
25 closed.

1 I put that stuff away because I thought that was
2 pretty much done. I was preparing to talk to someone
3 to get it opened back up again.

4 JUDGE LANE: I'm going to let Ms. Shemwell
5 respond to your comments, maybe she can shed some
6 further light on this.

7 MS. SHEMWELL: Mr. Harrold, I represent the
8 Staff in this case. And Staff did agree with
9 Laclede's motion. I think the confusion may be that,
10 even though Staff may agree, that doesn't mean that
11 the Commission has accepted that motion. So, the
12 Commission has not closed your case.

13 I apologize, I was out of the office yesterday. I
14 did try to call you this morning on this 9585 number
15 and left a message once. I'm sorry that didn't get
16 through. And I apologize for the misunderstanding.

17 MR. HARROLD: Okay. May I read the letter
18 I got? I did find the letter.

19 And the last -- Section 4 says: Joint steps
20 Laclede -- excuse me. Staff joins Laclede in moving
21 the Commission to cancel the hearing set forth
22 November 6th in this case and dismiss the complaint as
23 having been fully satisfied.

24 Wherefore Staff supports Laclede's request, the
25 Commission finds the relief requested by the

1 Complainant has been fully satisfied, and on that
2 basis canceled the hearing set forth for November 6th
3 and dismissed the complaint.

4 MS. SHEMWELL: Yes, sir. We made that
5 recommendation to the Commission, but the Commission
6 has not accepted that recommendation.

7 JUDGE LANE: Mr. Harrold, what may be
8 confusing you is that the Staff of the Commission is
9 not the same as the Commission. The Staff of the
10 Commission is a group that aids the Commission in the
11 performance of its functions, and they make
12 recommendations, they do investigations, they have a
13 Staff of experts. But they are not the Commission.

14 So, all Staff did, basically, in that pleading,
15 was say that they agreed with the position of Laclede,
16 that the complaint had been satisfied and that there
17 was no need for a hearing.

18 Now, the Commission has not ruled on that motion,
19 that's what we are doing right now. When I talked
20 about preliminary matters, and I mentioned there were
21 a few motions before the Commission that need to be
22 decided, that's one of the motions that needs to be
23 decided.

24 You may have gotten confused with, maybe, Staff
25 taking a position and thinking that meant the

1 Commission made a decision.

2 MR. HARROLD: I understand that now.

3 JUDGE LANE: All right. So, what I hear
4 you saying is that because of the confusion over
5 whether you thought the hearing was going to proceed
6 as scheduled and the inability of anyone to get a hold
7 of you this morning beforehand, are you saying you are
8 not prepared to prosecute your complaint right now?

9 MR. HARROLD: That's correct. I don't
10 think I could properly do it because I had made final
11 preparations to refer to the information that I had
12 faxed everyone.

13 I assume everyone received the fax I sent?

14 MR. ZUCKER: Yes.

15 MS. SHEMWELL: Yes.

16 JUDGE LANE: Yes, everyone received it at
17 the fax numbers that you specified, and that's also
18 been filed in the Commission's electronic filing;
19 EFIS. Yes, everyone received that pleading. And
20 that's another one of the requests that needs to be
21 ruled by the Commission.

22 I just wanted to find out what your position was
23 and whether you were ready to proceed. And what I am
24 hearing from you is that you are not ready to proceed.

25 MR. HARROLD: Right. I don't believe that

1 I am. I don't believe that we can complete the
2 proceedings efficiently today because I'm not
3 organized. I intended to get organized so I could go
4 step by step through the case. But most of the
5 information is pretty much here.

6 JUDGE LANE: I understand, sir. And I
7 looked at your pleading and I wondered what all those
8 numbers were, and now I know.

9 Okay. Let's take up the motions that are pending
10 before the Commission. The first motion that I would
11 like to take up for consideration this morning is
12 Laclede's motion to cancel hearing and dismiss
13 complaint as satisfied. That was filed on
14 October 30th.

15 And associated with that pleading, Staff filed its
16 response to Laclede's motion to cancel the hearing and
17 dismiss the complaint as satisfied, and that was filed
18 on November 2nd.

19 Now, Mr. Zucker, you have received copies of both
20 those motions, have you not?

21 MR. HARROLD: Well, I explained, I received
22 the one. Which one are you speaking of, the
23 Laclede -- you said there's one from Laclede and one
24 from the Staff?

25 JUDGE LANE: One from Laclede that was

1 filed on the 30th, and I faxed you a copy of that one
2 a few days ago.

3 MR. HARROLD: I've got that.

4 JUDGE LANE: And another one filed by the
5 Staff.

6 MR. HARROLD: I think that's the one I must
7 have just gotten.

8 JUDGE LANE: That was the one you just got
9 that was filed in EFIS on November 2nd.

10 MR. HARROLD: Where they agreed?

11 JUDGE LANE: Right. And have you had a
12 chance to review those motions, sir?

13 MR. HARROLD: I can't tell you exactly what
14 they say, but I did not agree with them.

15 JUDGE LANE: All right. That's what I am
16 asking. Are you satisfied with the relief that
17 Laclede has offered in its pleading?

18 MR. HARROLD: No. As a matter of fact, the
19 information that I sent you on Page 10, in the lower
20 right-hand corner of Page 10, that page lays out
21 exactly what I feel the cubic feet of gas that I'm
22 entitled credit for. That's my calculation. And I
23 believe he went with the previous calculation that I
24 had sent in.

25 But as I explained in the pre-hearing, that was

1 only sent to elicit some type of response so I could
2 get account information so I could properly calculate
3 the bill.

4 JUDGE LANE: Okay. So, let me get this
5 straight. On Page 10 of your pleading -- which we'll
6 get to in a moment -- you indicate that you would like
7 to have a CCF credit of 1874 CCF; is that correct?

8 MR. HARROLD: Right. Plus any refunds that
9 I have coming. I had deposits and that sort of thing.

10 JUDGE LANE: Right. Let me ask this; I
11 believe the amount Laclede had offered to provide is
12 for 1238 CCF; is that right?

13 MR. HARROLD: I believe he took exactly
14 what was in the original complaint. That's what he
15 informed me. I haven't checked it.

16 JUDGE LANE: So, you are basically amending
17 your complaint then, sir; right? You are now asking
18 not for a credit of 1238 CCF but a credit of 1874 CCF?

19 MR. HARROLD: That's correct. Because the
20 information needed to calculate this was not available
21 at the time. I was not aware that they are were using
22 prior usage calculations, and neither was I aware that
23 they were using the degree-day method for prorating
24 the gas usage either.

25 JUDGE LANE: So, your position then is that

1 the hearing should not be canceled and the complaint
2 should not be dismissed as satisfied, because you have
3 now amended your complaint to ask for a credit larger
4 than the one you originally requested in your original
5 complaint?

6 MR. HARROLD: I guess what I'm saying is
7 now I'm in a little state of confusion here. Because
8 I wanted to thoroughly explain, not just that, but in
9 the PSC's final investigative report, they claim that,
10 you know, I had added to confusion and I was partially
11 responsible and those types of things. But it wasn't
12 until then that I got enough information to be able to
13 defend my position in this case. Like I said, that's
14 when I had to revise everything.

15 And the report just said that primarily the issue
16 was the bill itself and there were other issues. And
17 what I wanted to demonstrate in the hearing was that
18 the other issues were more significant than just the
19 bill itself.

20 JUDGE LANE: Yes, and that's the other
21 thing I wanted to get to. So, what I hear you saying,
22 sir, is that not only do you feel you are entitled to
23 a credit larger than the one you originally plead or
24 asked for in your original complaint, but you believe
25 there are other potentially even more serious issues

1 that you would like to raise and have litigated?

2 MR. HARROLD: Right.

3 JUDGE LANE: And as I understand, some of
4 those issues are actually spelled out in your
5 pleading, which you filed on November 5th, your
6 request to file issues out of time and motion to
7 continue with the hearing as scheduled?

8 MR. HARROLD: Right.

9 JUDGE LANE: Now, in that request you have
10 13 numbered paragraphs, which are factual allegations
11 against Laclede.

12 And I assume -- and I want to ask you -- you would
13 like to amend your complaint to include these
14 allegations as amongst those that would be determined
15 by the Commission in this proceeding; is that correct?

16 MR. HARROLD: That is correct. Because
17 every one of them are referenced in all the
18 communications that we have had prior to today.

19 JUDGE LANE: Yes, and that may be true. I
20 don't want to get into that. I just want to say that
21 these allegations had never been included in any
22 pleading of yours prior to this?

23 MR. HARROLD: No. I'm acting pro se, I
24 don't know all the legalities of it. But I do know
25 that everything heard has been referenced in

1 correspondence.

2 JUDGE LANE: Okay. I'll tell you what I
3 think I told you when I talked about getting this
4 hearing scheduled. The Commission can only go off of
5 pleadings. I mean, the pleadings frame the issues.
6 The pleadings define the issues for consideration by
7 the Commission.

8 And I understand what you are saying is that some
9 of those things may have been discussed back and forth
10 in letters between Staff and you or Laclede and you.
11 But the Commission is not privy to all that
12 information and it certainly has not been put forth in
13 evidence.

14 So, all I'm saying is, for the first time you are,
15 in writing, making these allegations against Laclede,
16 and you would like to amend your complaint so these
17 issues would be explicitly addressed as well as the
18 amount of CCF usage you are entitled to a credit for?

19 MR. HARROLD: I partially agree to what you
20 just said. But we had a pre-hearing conference, and I
21 specifically began that pre-hearing conference
22 discussing the contract issue.

23 JUDGE LANE: Right, but the Regulatory Law
24 Judge wasn't there for that part; right? Hadn't I
25 already gone off the record and left the room?

1 MR. HARROLD: I'm not sure who the
2 Regulatory Law Judge is or whatever. I mean, someone
3 else may know. I don't know.

4 JUDGE LANE: Well, that would be me, and
5 I'm saying I don't remember that. I think we went off
6 the record before we started getting into those
7 substantive issues.

8 MR. HARROLD: I can provide you a
9 transcript of that pre-hearing conference, if you
10 would like, to support my position that that is
11 admissible.

12 MS. SHEMWELL: Judge Lane has access to
13 that transcript, Mr. Harrold.

14 And let me mention that, as a formal issue, the
15 negotiations that occur at a pre-hearing conference
16 are typically considered to be confidential.

17 MR. HARROLD: Okay.

18 MS. SHEMWELL: So, what you have filed in
19 front of the Judge currently would be what is in front
20 of the Commission.

21 MR. HARROLD: Okay.

22 MS. SHEMWELL: Does that help?

23 MR. HARROLD: Well, as long as it's before
24 the Commission then that's fine.

25 MR. POSTON: This new filing that he has

1 made, this is being treated like a filing?

2 JUDGE LANE: Yes. I'm treating it -- it's
3 a pleading, it's a request. And the reason I've been
4 asking these questions of Mr. Harrold is I want to
5 ascertain whether it's his intent to amend his
6 complaint --

7 MR. HARROLD: Yes.

8 JUDGE LANE: -- and add these new
9 allegations for the consideration by the Commission.

10 MR. HARROLD: That is correct. But I
11 wouldn't want them to just be presented as new
12 allegations. They are formalized, I guess.

13 JUDGE LANE: Fair enough. Formalized in
14 writing and submitted as a pleading to the Commission,
15 that's fine.

16 MR. HARROLD: Uh-huh.

17 JUDGE LANE: Well, while we're talking
18 about it, let's go ahead, and before ruling on those
19 other two requests by Staff and Laclede, Mr. Harrold,
20 let's talk about your November 5th request to file
21 issues out of time and motion to continue with the
22 hearing as scheduled.

23 Now, I take it the reason that this was filed was
24 not only to formalize the additional allegations you
25 wish to place before the Commission and the parties

1 for resolution, but also to comply with the
2 Commission's order of September 18th which required
3 all the parties to file copies of their documents and
4 exhibits they plan to rely on at the hearing?

5 MR. HARROLD: Yes. Because I had spoke to
6 Rick, and we were still talking about settling. That
7 didn't work out, so I said I had to get that
8 information in so everybody would be informed of what
9 I wanted to discuss during the hearing itself.

10 JUDGE LANE: All right. I'm going to
11 consider this not only a request to file these
12 documents out of time, since they were due by no later
13 than five o'clock on October 30th -- and motion to
14 continue the hearing, but I'm also going to consider
15 it a motion to file an amended complaint which would
16 specifically add these allegations to the mix.

17 MR. HARROLD: Okay.

18 JUDGE LANE: Are there any objections to
19 Mr. Harrold's motion to amend his complaint?

20 MS. SHEMWELL: Speaking for Staff, we do
21 not object to his motion to amend the complaint.

22 However, since it was just filed yesterday, Staff
23 has not had the opportunity to fully review it,
24 unfortunately, and to completely prepare for a
25 response today.

1 Unfortunately, Staff's witness on this was not in
2 the office yesterday afternoon nor was I. So, my
3 concern is having adequate time to respond.

4 JUDGE LANE: I understand that, Ms.
5 Shemwell. And all I'm getting at here is whether
6 there's an objection to amend, not the overarching
7 issue which I will get to in a moment.

8 MS. SHEMWELL: Staff does not object to
9 that.

10 JUDGE LANE: Does Office of the Public
11 Counsel have any objection to the amendment of the
12 complaint?

13 MR. POSTON: No, Judge.

14 JUDGE LANE: How about Laclede?

15 MR. ZUCKER: Well, I guess we've come all
16 the way from his original complaint early in the year
17 to the day before the hearing and now he suddenly has
18 this entirely new complaint to file.

19 And I guess he has the right to file a
20 complaint -- a new complaint -- or change his
21 complaint if he wants to, but that just starts the
22 process over.

23 So, I guess I don't object to Mr. Harrold's right
24 to file whatever he wants as a complaint, subject to,
25 you know, an entirely new procedural schedule.

1 JUDGE LANE: I understand that, sir. And
2 given that there's no opposition, I'm going to -- from
3 the bench here -- grant that motion to amend, also to
4 file his list of issues out of time.

5 He also requests a motion to continue with the
6 hearing as scheduled. That part of his motion is
7 going to be denied. Let me explain that.

8 As explained by Counsel for Staff -- and I'm sure
9 Laclede has similar concerns -- because of the nature
10 of these new allegations, the fact that there's been
11 no formal pleading of them and the witnesses may or
12 may not be prepared to address these issues -- and let
13 me just ask this before I make this ruling.

14 Ms. Shemwell, is your witness that you have here
15 today prepared to address all 13 of these new issues?

16 MS. SHEMWELL: As much as we would like to
17 proceed on this complaint because it's been going on a
18 long time, Ms. Doerhoff has not had the opportunity to
19 review all these.

20 Just in visiting with her, we believe it's likely
21 that some additional discovery would be necessary
22 before we can respond in a knowledgeable way and an
23 accurate way to those new allegations.

24 JUDGE LANE: And the same thing for you,
25 Mr. Zucker, would your witness be prepared to address

1 these additional allegations?

2 MR. ZUCKER: No, sir.

3 JUDGE LANE: All right. And Mr. Poston,
4 how about you, do you feel you could intelligently
5 address these issues for the first time?

6 MR. POSTON: I honestly have not been able
7 to read through this, and I would concur with giving
8 the parties more time to digest this and respond.

9 JUDGE LANE: All right. In that case,
10 then, my ruling is going to be to grant the request to
11 amend the complaint, to grant Mr. Harrold's request to
12 file his list of issues out of time.

13 But I'm going to deny that portion of his pleading
14 where he seeks to continue with the hearing as
15 scheduled, which is today, to continue with the
16 hearing today, since not only are none of the parties
17 prepared -- well, none of the parties are prepared to
18 proceed. Mr. Harrold isn't prepared, as he indicated
19 earlier, Staff is not prepared, Laclede is not
20 prepared and neither is Office of Public Counsel.

21 So, what I am going to do is, I'm going to cancel
22 the prior procedural schedule. I'm going to issue an
23 order having the parties file a new procedural
24 schedule that may require additional discovery, may
25 require additional Staff report, and so forth.

1 And I realize this is going to cause this case to
2 drag on -- if you want to put it that way. Its been
3 pending since, what, February? Yes, since February.

4 But, Mr. Harrold, you are certainly free to, you
5 know, you are the master of your own complaint, and if
6 you want to amend it, and the parties don't have any
7 problems with that, we certainly want to give you a
8 full hearing if settlement is not going to be
9 possible.

10 It's my understanding, based on the pleadings in
11 this case and what you said here today, that this case
12 just isn't going to settle despite the best efforts of
13 everybody involved. That's what it sounds like to me.

14 MR. HARROLD: What I would like the case to
15 become is a precedent setting case, because a lot of
16 difficulty that I had in resolving this is the lack of
17 information from Laclede. And you will find that in
18 what you are reading there.

19 Basically, if they had online account information
20 that the customer could actually review his account
21 and be able to argue intelligently rather than, as
22 what I did, just make some type of an argument to
23 elicit some type of a response with information. So,
24 that's a major issue in my complaint.

25 I'm really not prepared. Although I have put a

1 lot of numbers on the document that I sent so I could
2 explain myself. I didn't get a final chance to
3 prepare for that. And I agree with everyone else that
4 there needs to be time to review the information
5 before actually debating it.

6 JUDGE LANE: Yes, sir.

7 MR. ZUCKER: Your Honor, this is Rick
8 Zucker. Could I be heard?

9 JUDGE LANE: Yes.

10 MR. ZUCKER: I have two issues. First of
11 all, I'm not clear what you mean when you grant the
12 filing of the list of issues out of time. I don't
13 think that this pleading stands for a list of issues.

14 If what you are saying is you granted this as a
15 motion to amend the complaint, then I think I
16 understand it better.

17 MR. HARROLD: Like I said before, every
18 issue here has been referred to in prior
19 correspondence. There's nothing new that --

20 MR. ZUCKER: I wasn't addressing you,
21 Mr. Harrold, I was addressing the Judge.

22 MR. HARROLD: I'm sorry.

23 JUDGE LANE: Yes, Mr. Zucker, thanks for
24 pointing that out.

25 To be clear, as I tried to explain, I am

1 considering this to be a request to amend the
2 complaint so that these issues are before the
3 Commission.

4 This is not, you know, the actual issues list that
5 has been determined by the Commission or finally
6 submitted by the parties, because that's going to take
7 a while.

8 It used to be the issue was pretty cut and dry,
9 that is; what was the CCF? Now the complaint has been
10 amended to address a lot of other broader issues.

11 And Mr. Harrold, when you mentioned that you would
12 like this to be a precedent setting case, I just want
13 to -- you just need to be aware that that's a
14 substantial undertaking, and it's going to be quite a
15 bit of work on you and the other parties. So, I hope
16 you are up to that.

17 MR. HARROLD: Right. Well, that's exactly
18 what I have been feeling the whole time. It's been
19 over a year, and my property is being held hostage for
20 this discussion over a \$800 bill. And we'll probably
21 spend more than \$800 in this conversation. My whole
22 point is that it's really gotten too expensive.

23 To briefly say what I intended to say today,
24 basically, was that --

25 MS. SHEMWELL: Mr. Harrold, this is Lera.

1 I'm sorry, I'm having difficulty hearing you.

2 But let me also suggest at the same time that if
3 the Judge is going to continue the hearing it would be
4 appropriate to stop at this point and not proceed with
5 the hearing.

6 JUDGE LANE: Right.

7 MR. ZUCKER: Your Honor, I'd like to
8 continue with the first of my two points.

9 JUDGE LANE: Yes.

10 MR. ZUCKER: Am I then to believe that this
11 document that Mr. Harrold sent in yesterday is the
12 amended complaint itself, or is he going to re-form it
13 into an allegation of facts?

14 JUDGE LANE: I am considering it as a
15 request to amend the complaint, to take the original
16 complaint and supplement its factual allegations with
17 the 13 factual allegations listed on the first two
18 pages of his November 5th pleading.

19 MR. ZUCKER: Well, some of those are
20 factual allegations and some of those are legal
21 conclusions.

22 JUDGE LANE: Well, yeah. Some of them are
23 strictly factual allegations, some of them are mixed
24 conclusions.

25 MR. ZUCKER: So, are you taking this as

1 request to amend the complaint, and then some time
2 later he will actually file an amended complaint or
3 new complaint, or is this the actual new complaint?

4 I guess it's not really in complaint form, but I'm
5 just asking.

6 JUDGE LANE: Well, I am considering this as
7 a request to amend the complaint, and at a minimum
8 have these 13 issues before the Commission when this
9 case proceeds to hearing, whenever that is.

10 MR. ZUCKER: Well, then I guess I'll move
11 onto my second point. Because if I am to have -- if
12 either this is the complaint or there's something else
13 to come that's the complaint, I need to know what the
14 complaint is because I need time to file an answer to
15 all of these issues.

16 And I think that's where the scheduling needs to
17 go. We're back to complaint and answer and then
18 discovery and procedural schedules and pre-hearing,
19 and then we can then get to the ultimate hearing.

20 JUDGE LANE: I think that's fair enough.
21 What do you think, Mr. Harrold? Do you have a
22 problem with --

23 MR. HARROLD: No, I agree with him. I
24 agree. If I had known that the information -- the
25 correspondence that we had prior to now -- wasn't

1 admissible in a hearing, then of course I would have
2 taken steps to file an amendment.

3 But if I look at my original complaint, everything
4 mentioned here is also referenced in that. It was
5 just that the PSC Staff determined that all the other
6 issues were just others and there was no defining
7 conclusion on those as far as the Staff's position. I
8 did not agree with the Staff's final report.

9 JUDGE LANE: Okay, Mr. Harrold, very well.
10 Mr. Zucker, thanks for bringing up that point.

11 Mr. Harrold, you have 30 days to file an amended
12 complaint.

13 MR. HARROLD: Okay. Can I get the proper
14 forms in the mail as how I am supposed to proceed?

15 JUDGE LANE: Yes. I am sure Staff can
16 provide you with the forms that you need to file that
17 amended complaint.

18 MS. SHEMWELL: Yes, we will.

19 JUDGE LANE: And I'd like that complaint to
20 be as comprehensive as possible to include all the
21 allegations you wish to make. And if you want to
22 attach exhibits -- documentary exhibits -- and so
23 forth.

24 But I'd like you to file a new complaint so that
25 Laclede and Staff and OPC are not having to try to hit

1 a moving target and they know what issues you are
2 asserting and what issues they need to defend on. All
3 right?

4 MR. HARROLD: All right.

5 MS. SHEMWELL: Just to be clear, Judge. It
6 will be an amended complaint in this case as opposed
7 to a new case?

8 JUDGE LANE: Correct. It will be an
9 amended complaint in this case not a new case.

10 MS. SHEMWELL: Thank you.

11 JUDGE LANE: So, you have 30 days to do
12 that.

13 MR. HARROLD: Okay. Sir, I have one
14 request. I have had a lot of difficulty in what you
15 call discovery. It's hard for me to provide factual
16 evidence when the evidence that is needed is in the
17 possession of Laclede Gas Company.

18 I requested phone conversations that they have
19 used to imply that certain agreements were made that
20 weren't made. The phone conversations would also
21 indicate that we were distraught when we tried to
22 fight to keep the services on. They erased all that
23 now.

24 JUDGE LANE: Mr. Harrold, this is not a
25 discovery conference. All I'm doing is dealing with

1 the pending motions before the Commission in what was
2 supposed to be a evidentiary hearing.

3 If you are having problems with discovery --

4 MR. HARROLD: Right.

5 JUDGE LANE: -- the Commission's rules
6 provide mechanisms by which you can get the Commission
7 to review any problems that you might be having in
8 getting the documents you have requested.

9 MR. HARROLD: Okay.

10 JUDGE LANE: So, I don't want to get into
11 any of that today.

12 MS. SHEMWELL: Staff would be happy to
13 discuss that with Mr. Harrold, if necessary, after
14 this hearing.

15 MR. ZUCKER: I didn't hear what Lera said.

16 MS. SHEMWELL: Staff would be happy to
17 discuss that with Mr. Harrold, in necessary, after the
18 hearing concludes today.

19 MR. ZUCKER: Okay. Under the
20 circumstances, Your Honor, I think Laclede will
21 withdraw its motion to cancel hearing and dismiss
22 complaint as satisfied.

23 JUDGE LANE: All right. I was wondering
24 about that. I was going to get back to that.

25 MR. ZUCKER: I think that would be a

1 foregone conclusion.

2 JUDGE LANE: I think so. Staff, do you
3 wish to withdraw?

4 MS. SHEMWELL: Staff will withdraw.

5 JUDGE LANE: All right. I guess we are
6 starting from square one. I hate to say that after
7 all this time and all this effort has gone into an
8 attempt to work out these issues, but it looks like
9 that is where we are.

10 So, the next pleading that will need to be filed
11 in this case will be from you, Mr. Harrold, and that's
12 an amended complaint. And then I believe we'll just
13 go from there. How about that?

14 MR. HARROLD: Fine with me.

15 MS. SHEMWELL: Thank you, Judge.

16 JUDGE LANE: Are there any other matters
17 that we need to take up? I think that takes care of
18 the pending motions that were before the Commission
19 today.

20 If not, I'm going to take us off the record. I
21 want to thank you all for being here today. And
22 thanks to our court reporter for the on again/off
23 again nature and being here this morning.

24 Again, thank you, and we are off the record.

25 MR. ZUCKER: Thank you, Judge Lane.

1 MS. SHEMWELL: Thank you, Judge Lane.
2 (WHEREIN, the recorded portion of the pre-hearing
3 conference was concluded.)
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1 CERTIFICATE OF REPORTER

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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.

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Mindy Vislay, CCR

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Notary Public (County of Cole)

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My commission expires March 19, 2011

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