

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

Discovery Conference

July 29, 2011

Jefferson City, Missouri

Volume 4

In the Matter of Veolia Energy       ) File No. HR-2011-0241  
Kansas City, Inc. for Authority       ) Tariff Nos.  
To File Tariffs to Increase Rates    ) YH-2011-0532 and  
Increasing Rates for Natural Gas      ) YH-2011-0533

DANIEL JORDAN, Presiding,  
SENIOR REGULATORY LAW JUDGE

REPORTED BY:

Kristy B. Bradshaw, CCR No. 1269  
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## A P P E A R A N C E S

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

JUDGE JORDAN: The Commission is calling File No. HR-2011-0241, which is the rate increase request of Veolia Energy. I'm Daniel Jordan; I'm the regulatory law judge assigned to this action.

We are here for a discovery conference and I will begin by taking entries of appearance. We'll start with the applicant.

MS. VUYLSTEKE: Diana Vuylsteke and Carole Iles of the law firm Bryan Cave, LLP, 211 North Broadway, Suite 3600, St. Louis, Missouri 63102.

JUDGE JORDAN: And does Veolia have any representatives of the company here today?

MS. VUYLSTEKE: Yes, we do. We have Dan Dennis, of the company, and we have Steve Carver, of UtiliTech, our expert.

JUDGE JORDAN: Okay. Thank you. Thank you. And next, Staff.

MS. HERNANDEZ: Good morning. Thank you. Jennifer Hernandez appearing on behalf of the Staff of the Missouri Public Service Commission. Our address is P.O. Box 360, Jefferson City, Missouri 65102. And may the record also reflect that Mr. Cary Featherstone is here for discussions.

JUDGE JORDAN: Thank you. And we have some

1 intervenors present as well. We'll start with  
2 Mr. Boudreau.

3 MR. BOUDREAU: Appearing on behalf of  
4 Southern Union Company, doing business as Missouri Gas  
5 Energy, let the record reflect the appearance of Paul  
6 Boudreau with the law firm Brydon, Swearingen & England,  
7 312 East Capitol Avenue, P.O. Box 456, Jefferson City,  
8 Missouri.

9 MR. FISCHER: And appearing on behalf of  
10 Kansas City Power and Light Company, James M. Fischer. My  
11 contact information is on the written entry of appearance.

12 JUDGE JORDAN: Okay. Thank you. Here's my  
13 understanding of where we are with discovery. MGE has a  
14 Motion to Compel pending.

15 MR. BOUDREAU: Yes.

16 JUDGE JORDAN: And a response to that is  
17 due --

18 MR. BOUDREAU: Yeah. I think their response  
19 is still -- is not yet due.

20 JUDGE JORDAN: Right.

21 MR. BOUDREAU: I'm not exactly sure of the  
22 date of the response.

23 JUDGE JORDAN: I haven't set a time for  
24 that, as I recall, so I think it's the ordinary ten days.  
25 We also have a motion -- we have two things pending as to

1 another discovery dispute: One is a Notice of Appeal to  
2 the Western District of the Missouri Court of Appeals, and  
3 also an Application for Rehearing is pending. And the  
4 response to that is due Monday, I believe, from KCPL.  
5 Okay. Is there anything else that the parties want to  
6 bring up just now?

7 MR. FISCHER: Perhaps, Judge, I should  
8 reflect that Kansas City Power & Light has been -- over the  
9 last several days, been receiving some of the data requests  
10 that have been requested, particularly those that were  
11 submitted to Staff and answered by the applicant. We're  
12 trying to sort through what we've received and what we  
13 haven't. It might be helpful if we had a list of what the  
14 applicant thinks that we have been provided.

15 But I think one of the areas that we don't  
16 seem to have are the basic work papers that support the  
17 testimony of the applicant. At least, if we have some, we  
18 don't have all. Particularly Mr. Carver's work papers, and  
19 we would request that we receive those expeditiously. And  
20 if a Motion to Compel has to be filed to get those, I  
21 hereby make that Motion to Compel.

22 JUDGE JORDAN: Okay. All right. And --

23 MS. VUYLSTEKE: Your Honor and Mr. Fischer,  
24 we understand that those were provided as our response to  
25 KCPL data request No. 2.

1 MR. FISCHER: Okay.

2 MS. VUYLSTEKE: So maybe we can talk  
3 offline, and we're glad to give you a list of the responses  
4 from our own perspective, what we've provided, if it's more  
5 convenient. But we do think we actually have provided the  
6 work papers.

7 MR. FISCHER: That's possible. We've been  
8 trying to sort through that. Would that include the cost  
9 allocation work papers?

10 MR. CARVER: Yes.

11 MR. FISCHER: Okay.

12 MR. CARVER: That information is included in  
13 the requirement model.

14 MR. FISCHER: Mr. Carver, would that have  
15 been just recently provided? I got some as late as  
16 yesterday.

17 MR. CARVER: I would have to look, but it --  
18 I thought it was on Monday.

19 MR. FISCHER: Monday? Okay.

20 MR. CARVER: In response to KCPL No. 2, it  
21 was provided.

22 MR. FISCHER: Okay. Well, we can try to  
23 sort through that, Judge.

24 JUDGE JORDAN: Okay. Do you want me to hold  
25 off on ruling on the Motion to Compel and --

1                   MR. FISCHER: If there's anymore work papers  
2 that we haven't been provided that we have to file a Motion  
3 to Compel to get, I would like to make that motion.

4                   JUDGE JORDAN: Okay. Well, here's what  
5 we'll do then, since such a motion is entitled to response  
6 time of ten days, I think we'll have -- that should be time  
7 enough to sort through it.

8                   MR. FISCHER: Well, I would suggest, Judge,  
9 that -- I think the Direct Testimony is due on August  
10 the 6th or 8th, and this is the kind of thing that  
11 should've been provided under typical cases within two days  
12 of filing. So, you know, I just -- I think this is being  
13 drug out and I don't understand why this is the case.

14                  JUDGE JORDAN: Well, two things on that:  
15 Number one, I'm -- and you can correct me if I'm wrong, but  
16 I recall that either by regulation or by order requires the  
17 filing of work papers with testimony. Am I correct about  
18 that?

19                  MR. FISCHER: That's the way it's typically  
20 done, yes.

21                  JUDGE JORDAN: Right.

22                  MS. VUYLSTEKE: We provided -- we did  
23 provide the work papers.

24                  JUDGE JORDAN: Okay.

25                  MS. VUYLSTEKE: And I believe -- I do

1 believe we have provided them to KCPL. So I really am not  
2 sure if the Motion to Compel -- I believe it's premature.

3 MR. FISCHER: It's your understanding you've  
4 provided all the work papers to us now?

5 MS. VUYLSTEKE: Yeah. I believe that we  
6 have, and I also -- you know, that's subject to check, but  
7 it's readily resolved by sitting down and going through the  
8 responses. So I would suggest that -- Jim, that you and I  
9 talk offline and promptly get that addressed.

10 JUDGE JORDAN: Okay. If the parties --

11 MS. VUYLSTEKE: And then we'll report back  
12 in to you, your Honor.

13 JUDGE JORDAN: Yes. If the parties will  
14 keep me posted on that, I'd be grateful, so I don't have to  
15 be --

16 MR. FISCHER: We can do that.

17 JUDGE JORDAN: -- drafting something that  
18 I'm not going to issue. Second, as far as scheduling goes,  
19 we can certainly discuss adjusting the schedule if delays  
20 in discovery threaten prejudice to a party's case.

21 MS. HERNANDEZ: I think in that vein, Judge,  
22 I would like to just get on the record, even though the  
23 company has spoken with me this morning about some  
24 outstanding responses to a data request No. 102.

25 We may get that resolved today, but in terms



1 of having our case prejudiced, we haven't been able to  
2 review that information. And if we do get what we need  
3 today, we'll have a week before the filing of Direct  
4 Testimony to analyze that data and to put it into the  
5 record.

6 So it might be proper to just put out there  
7 right now that we might want to file a supplemental, if  
8 that's allowed, or just have that option out there.

9 JUDGE JORDAN: Well, I appreciate you  
10 raising that now. This is the kind of thing that regular  
11 discoveries are meant to vent and to air. I appreciate you  
12 making me aware of that. Does Veolia have anything to say  
13 about that?

14 MS. VUYLSTEKE: Not at this point.

15 JUDGE JORDAN: Okay. Well, like I say, if  
16 you -- if a party feels that their presentation is being  
17 threatened, we can discuss an adjustment to the schedule.

18 I'm going to go ahead -- since it's  
19 12 minutes after 10:00, I don't think anyone's going to  
20 join us by telephone, so I'm going to go ahead and hang up  
21 this line.

22 What else would we like to discuss today  
23 while we're all together and present? Not hearing anything  
24 from the parties. Yes, Ms. Vuylseke?

25 MS. VUYLSTEKE: I have nothing, your Honor.

1 JUDGE JORDAN: Okay.

2 MR. FISCHER: Judge, perhaps I could ask:  
3 There was a discussion of a Notice of Appeal having been  
4 filed. Is there anything further that's happened at the  
5 Court of Appeals on that?

6 JUDGE JORDAN: Let me think about that. I  
7 don't know that anything's been filed at the Court of  
8 Appeals --

9 MR. FISCHER: Okay.

10 JUDGE JORDAN: -- from the Commission. I  
11 don't that anything has been filed yet.

12 MR. FISCHER: Thank you.

13 JUDGE JORDAN: Oh, you're quite welcome.  
14 Anything else? Well, we have this room for -- as far as I  
15 know, for all day. So I hope the parties will take  
16 advantage of this time to sort out their discovery issues,  
17 and other issues.

18 Is there anything else that I can do for the  
19 parties while we're on the record and while I'm here in the  
20 room? Not seeing anything. All right. Well, thank you  
21 very much. We'll adjourn this discovery conference, and  
22 we'll go off the record.

23 (Off the record.)

24

25

## 1 CERTIFICATE OF REPORTER

2  
3 I, Kristy Bradshaw, CCR No. 1269, within the State  
4 of Missouri, do hereby certify that the testimony  
5 appearing in the foregoing matter was taken by me to the  
6 best of my ability and thereafter reduced to typewriting  
7 under my direction; that I am neither counsel for, related  
8 to, nor employed by any of the parties to the action in  
9 which this hearing was taken, and further, that I am not a  
10 relative or employee of any attorney or counsel employed  
11 by the parties thereto, nor financially or otherwise  
12 interested in the outcome of the action.

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16 Kristy Bradshaw, CCR  
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