

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

3 TRANSCRIPT OF PROCEEDINGS
4

5 Prehearing Conference
6

7 November 16, 2009
8 Jefferson City, Missouri
9 Volume 6

10 In the Matter of the Empire)
11 District Gas Company of Joplin,)Case No. GR-2009-0434
12 Missouri for Authority to File)
13 Tariffs Increasing Rates for Gas)
14 Service Provided to Customers in)
15 The Missouri Service Area of the)
16 Company)

17
18
19
20 NANCY DIPPELL, Presiding
21 DEPUTY REGULATORY LAW JUDGE
22
23
24
25

20 REPORTED BY: Monnie S. Mealy, CCR, CSR, RPR
21 Midwest Litigation Services
22 3432 W. Truman Boulevard, Suite 207
23 Jefferson City, MO 65109
24 (573) 636-7551
25

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

2 For Staff of the Missouri Public Service Commission:

3 Ms. Sarah Kliethermis
4 Mr. Eric Dearmont
5 Public Service Commission
6 200 Madison Street
7 P.O. Box 360
8 Jefferson City, MO 65102
9 (573) 751-6726

7 For Office of Public Counsel and the Public:

8 Mr. Marc Poston
9 Office of Public Counsel
10 200 Madison Street
11 P.O. Box 2230
12 Jefferson City, MO 65102
13 (573) 751-5558

12 For Pittsburgh-Corning, Inc.:

13 Mr. Stuart W. Conrad
14 Finnegan, Conrad & Peterson
15 1209 Penntower
16 3100 Broadway
17 Kansas City, MO 64111
18 (816) 753-1122

17 For Constellation New Energy - Gas Division, LLC:

18 Mr. William D. Steinmeier
19 William D. Steinmeier, PC
20 2031 Tower Drive
21 Jefferson City, MO 65110
22 (573) 659-8672

22 For Missouri Department of Natural Resources:

23 Ms. Sarah Mangelsdorf
24 Office of the Attorney General
25 P.O. Box 899
Jefferson City, MO 65102
(573) 751-0052

1 For Empire District Gas Company:

2 Mr. Dean L. Cooper
3 and Ms. Diana C. Carter
4 Brydon, Swearngen & England
5 312 E. Capitol
6 P.O. Box 456
7 Jefferson City, MO 65102
8 (573) 635-7166
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

2 JUDGE DIPPELL: We can go ahead and go on the
3 record. Good morning. This is Case No. GR-2009-0434 in
4 the matter of the Empire District Gas Company of Joplin,
5 Missouri, for authority to file tariffs increasing rates
6 for gas service provided to customers in the Missouri
7 service area of the company.

8 I am Ms. Nancy Dippell. I'm the Regulatory Law
9 Judge assigned to this matter. And we've come here today
10 for a second prehearing conference. And you all are going
11 to, I believe, continue settlement discussions the rest of
12 the week.

13 I'll begin with entries of appearance. Can we
14 have the company?

15 MR. COOPER: Yes, your Honor. Dean L. Cooper
16 and Diana C. Carter from the law firm of Brydon,
17 Swearngen & England, PC, P.O. Box 456, Jefferson City,
18 Missouri, 65102, appearing on behalf of the Empire
19 District Gas Company.

20 JUDGE DIPPELL: Thank you. Staff?

21 MS. KLIETHERMES: Thank you, Judge. Appearing
22 for Staff, Sarah Kliethermes, Kevin Thompson, Robert
23 Berlin, Eric Dearmont, Jaime Ott, Jennifer Hernandez and
24 Samuel Ritchie of the Staff Counsel's office, 200 Madison
25 Street, Jefferson City, Missouri, 65102. Thank you.

1 JUDGE DIPPELL: Office of Public Counsel?

2 MR. POSTON: Thank you. Mark Poston appearing
3 for the Office of Public Counsel and the public.

4 JUDGE DIPPELL: Missouri DNR?

5 MS. MANGELSDORF: Sarah Mangelsdorf, appearing
6 for the Department of Natural Resources, Supreme Court
7 Building, P.O. Box 899, Jefferson City, Missouri.

8 JUDGE DIPPELL: Constellation New Energy Gas
9 Division?

10 MR. STEINMEIER: Thank, your Honor. Please let
11 the record reflect the appearance of William D. Steinmeier
12 and Mary Ann (Garr) Young of William D. Steinmeier, PC,
13 Jefferson City, Missouri, on behalf of Constellation New
14 Energy Gas Division, LLC.

15 JUDGE DIPPELL: Thank you. And Pittsburgh
16 Corning?

17 MR. CONRAD: Thank you, Judge. On behalf of
18 Pittsburgh Corning, Stuart W. Conrad and David Woodsmall
19 of the firm Finnegan, Conrad & Peterson. Our Kansas City
20 office address is 3100 Broadway, Suite 1209, KC, MO,
21 64111.

22 JUDGE DIPPELL: Thank you. Did I miss anyone?
23 All right, then. Well, I asked you all to come here today
24 and go ahead and go on the record because we've had a few
25 things happen since we met last, the first of which, of

1 course, is that we ended up canceling the Marysville local
2 public hearing at the last minute.

3 I know that some Empire folks had volunteered or
4 were volunteered to stay there that evening to see if
5 anyone came by. Any word on that, Ms. Carter?

6 MS. CARTER: No one appeared at the door.

7 JUDGE DIPPELL: Okay.

8 MS. CARTER: An Empire person was there. And it
9 does not appear that any customers showed up to testify.

10 JUDGE DIPPELL: So perhaps they got the message
11 that things had been canceled. So one of the things I
12 wanted to talk about today was to find out if Public
13 Counsel thought we should try to reschedule that?

14 MR. POSTON: I think it would be nice to be able
15 to hold that hearing. But I think given the -- it appears
16 nobody showed up. I don't know how notice might have gone
17 out to people up in the area.

18 JUDGE DIPPELL: Our -- our press people did
19 contact the local newspapers. I'm not sure about the rate
20 -- if they got a hold of any of the radio stations or if
21 anybody made any on-the-air announcements like that. So
22 -- other than word of mouth, I'm not sure how someone
23 might have gotten that message as well.

24 MR. POSTON: I'm not going to push for a
25 rescheduling of that, just given the timing and how notice

1 could go out again and all those issues. So --

2 JUDGE DIPPELL: And, Mr. Conrad, did you have
3 some input? You look like you --

4 MR. CONRAD: Well, we really don't have a dog in
5 that fight. I would observe, I think, for the benefit of
6 your Honor, I'm sure you've been following it on the 8th
7 floor, that there is an ongoing controversy about the
8 comment cards. And I don't know if they use comment cards
9 here or not.

10 JUDGE DIPPELL: No. No, we did not.

11 MR. CONRAD: Well, so that's kind of moot. One
12 of the arguments there was that that could be public
13 hearings. But if that's not been done here, that's --
14 it's immaterial.

15 JUDGE DIPPELL: I do know that a lot of the
16 newspaper articles that came out immediately after the
17 cancellation -- there were a couple of articles that did
18 come out the next day in the -- in the northwest Missouri
19 area.

20 And I know that those did mention that the
21 public could file comments. But, no, these billing
22 inserts did not contain a comment card similar to those in
23 the MGE case.

24 So -- okay. Well, if -- if there should be a
25 request to reschedule that hearing, I would ask you all to

1 make it quickly. And I will discuss with the
2 Commissioners as to whether they want to reschedule it.
3 But I will let them know. And did anyone else have any
4 comments about that subject?

5 All right. I think when we left it last, there
6 had not been a request for a true-up hearing as such. And
7 I'm wondering with what the status of that is. Do you
8 know at this point whether a true-up seems likely or an
9 argument about a true-up seems likely?

10 MR. COOPER: I -- the company is not pursuing a
11 true-up in this case.

12 JUDGE DIPPELL: Okay.

13 MR. COOPER: So I would hope there would not be
14 an argument about true-up.

15 JUDGE DIPPELL: And is anyone else interested in
16 requesting a true-up? Okay. I will remind you all again
17 that these hearing dates are a bit unusual in that I
18 scheduled this hearing to begin on a Thursday.

19 And part of that is because of the -- the
20 holidays, and part of that is because that was the dates
21 that you all suggested after I had done that earlier in
22 December.

23 And because this -- these hearing dates have
24 already been pushed back, I will also remind you that
25 settlement discussions -- this is a great time for those.

1 The day of the hearing, not as good. The weekend after
2 the Thursday, Friday of the hearing, okay. But that --
3 that's just my reminder to please --

4 MR. CONRAD: I can't -- I cannot remember who
5 originally said it, but there is certain truth in the old
6 statement that the prospect of eminent execution has a
7 marvelous ability to focus one's attention.

8 JUDGE DIPPELL: Yes. I -- I tot -- totally
9 understand that. And Judge Jordan tells me that was
10 Samuel Johnson.

11 JUDGE JORDAN: Yes, your Honor.

12 MR. CONRAD: Wasn't Boswell, then. It was
13 Johnson.

14 JUDGE DIPPELL: I -- I understand that, of
15 course, as an attorney, that the deadline is the best
16 motivator. But just -- we've got the holidays coming up
17 and then the hearing. And please try to focus as early as
18 you can.

19 I think that's all the issues that I had to
20 address with you all. Is there anything else that -- to
21 be put on the record at this point? All right, then. I
22 will leave you to your discussions. Appreciate it. Thank
23 you. We can go off the record.

24 MR. CONRAD: Thank you.

25 MR. COOPER: Thank you, your Honor.

1 (The proceedings were concluded at 10:08
2 a.m. on November 16, 2009.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI)
)ss.
4 COUNTY OF OSAGE)

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,
7 Certified Court Reporter #0538, and Registered
8 Professional Reporter, and Notary Public, within and for
9 the State of Missouri, do hereby certify that I was
10 personally present at the proceedings as set forth in the
11 caption sheet hereof; that I then and there took down in
12 stenotype the proceedings had at said time and was
13 thereafter transcribed by me, and is fully and accurately
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal on November 23, 2009.

18

19

20

21 _____
Monnie S. Mealy, CSR, CCR #0539
22 Registered Professional Reporter

23

24

25