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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Utility Rate Case Procedure

December 9, 2003
Jefferson City, Missouri
Volume 1

In the Matter of Proposed)
Promulgation of Rule 4 CSR) Case No.
240-3.440 Small Steam Heating) HX-2004-0082

RON PRIDGIN, Presiding,
Regulatory Law Judge

REPORTED BY:
Jennifer L. Leibach
ASSOCIATED COURT REPORTERS

1 PROCEEDINGS

2 JUDGE PRIDGIN: We're on the record.

3 Good morning. This is the rule-making hearing for
4 Case No. HX-2004-0082 in the matter of the Proposed
5 Promulgation of Rule 4 CSR 240-3.440, Small Steam
6 Heating Utility Rate Case Procedures.

7 I am Ron Pridgin, the Regulatory Law
8 Judge assigned to preside over this hearing that's
9 being conducted on December 9th, 2003, in the
10 Commission's Offices at the Governor Office Building
11 in Jefferson City, Missouri. The time is about 10:05
12 in the morning. If I could, at this time, I would
13 like to get entries of appearance beginning with
14 Staff, please.

15 MR. DOTTHEIM: Stephen Dottheim, Post
16 Office Box 360, Jefferson City, Missouri, 65102,
17 appearing on behalf of the Staff of the Missouri
18 Public Service Commission.

19 JUDGE PRIDGIN: Mr. Dottheim, thank
20 you. On behalf of the Office of the Public Counsel,
21 please.

22 MR. COFFMAN: John B. Coffman,
23 appearing on behalf of the Office of the Public
24 Counsel, P.O. Box 2230, Jefferson City, Missouri,
25 65102.

1 JUDGE PRIDGIN: Mr. Coffman, thank you.
2 Any other parties here wishing to enter an
3 appearance? Hearing none, we will then begin with
4 the witnesses. I will inform the parties that
5 because this is not a contested case, I will not
6 allow cross-examination of the witnesses, but we may
7 have some questions from the Bench. Let me see if we
8 have any testimony, Mr. Dottheim, from Staff.
9 MR. DOTTHEIM: Yes, the Staff would
10 offer testimony. The Staff has one witness this
11 morning, and that is Mr. Warren Wood.
12 JUDGE PRIDGIN: Mr. Wood, if you would
13 please approach the witness and be sworn, please.
14 (The witness was sworn.)
15 JUDGE PRIDGIN: Thank you very much,
16 Mr. Wood. If you would please have a seat, and Mr.
17 Dottheim, whenever you're ready, sir.
18 MR. DOTTHEIM: Thank you.
19 QUESTIONS BY MR. DOTTHEIM:
20 Q. Mr. Wood, would you state your full
21 name for the record, please?
22 A. Warren Thomas Wood.
23 Q. And would you identify your business
24 address?
25 A. P.O. Box 360, Jefferson City, Missouri,

1 65102.

2 Q. And would you identify the nature of
3 your employment at the Missouri Public Service
4 Commission?

5 A. I'm the Energy Department Manager in
6 the Utility Operations Division working on the
7 Missouri Public Service Commission Staff.

8 Q. And you are familiar with the rule --
9 the proposed rule that is in the Missouri register?

10 A. Yes, I am.

11 Q. And you have comments and testimony
12 this morning to offer respecting that proposed rule?

13 A. I have some brief testimony, yes.

14 Q. Okay. At this time, I would offer Mr.
15 Wood for comments, testimony, on the Proposed Rule 4
16 CSR 240-3.440, Small Steam Heating Utility Rate Case
17 procedure.

18 JUDGE PRIDGIN: Mr. Dottheim, thank
19 you. Mr. Wood, whenever you're ready, sir.

20 MR. WOOD: Okay. Thank you very much.
21 I would first note that there are two utilities in
22 the state of Missouri that would -- this rule would
23 apply to. One would be Tri-Gen in Kansas City, and
24 the other would be Aquila Light and Power Steam in
25 St. Joe. Both utilities serve commercial and large

1 industrial customers.

2 Regarding the development of this rule,
3 I would note that House Bill 208 was passed by the
4 92nd General Assembly and was signed into law by
5 Governor Holden making House Bill 208 effective on
6 August 28th, 2003. House Bill 208, Section 393.291,
7 Missouri Revised Statutes Supplement 2003, describes
8 procedures whereby small steam heating utilities may
9 request increases in their annual operating revenues
10 without the necessity of meeting the filing
11 requirements for a general rate increase as set forth
12 in 4 CSR 240-3.030.

13 Section 393.291 states in part, a steam
14 heating company having fewer than 100 customers in
15 this state may file under a small company rate
16 procedure promulgated by the Commission which shall
17 be consistent with 4 CSR 240-3.240 by giving notice
18 to the Secretary of the Commission, the Public
19 Counsel, each customer, and each gas corporation or
20 electric corporation providing utility service in the
21 area.

22 The Proposed Rule 4 CSR 240-3.440
23 titled small steam heating utility rate case
24 procedure was drafted to be consistent with 4 CSR
25 240-3.240 titled gas utility small company rate

1 increase procedure as required by Section 393.291.

2 Staff has not no suggested changes to

3 the proposed rule as published in the Missouri

4 Register on November 3rd, and does not believe that

5 any suggested changes were received by the Commission

6 during the public comment period on this Rule, which

7 ended on December 4th, 2003.

8 JUDGE PRIDGIN: All right, Mr. Wood.

9 Thank you. I believe you touched on this, but I just

10 want to clarify. Is it your testimony that neither

11 Aquila nor Tri-Gen filed any comments on this rule?

12 MR. WOOD: I do not believe that any

13 comments were received.

14 JUDGE PRIDGIN: All right, Mr. Wood,

15 thank you. I don't believe I have anymore questions.

16 May this witness be excused? Seeing no questions,

17 Mr. Wood, thank you very much for your testimony.

18 You may step down. Mr. Dottheim, do you have any

19 further witnesses?

20 MR. DOTTHEIM: No, the Staff has no

21 further witnesses this morning.

22 JUDGE PRIDGIN: Thank you, Mr.

23 Dottheim. Mr. Coffman, any witnesses or any comments

24 yourself?

25 MR. COFFMAN: I have no witnesses, I

1 could make a couple of brief comments, though.

2 JUDGE PRIDGIN: If you would like to,
3 please approach the witness stand and be sworn.

4 (The witness was sworn.)

5 MR. COFFMAN: The Office of the Public
6 Counsel is in support of the Proposed Rule for small
7 steam heating utilities. Traditionally, my office
8 has not actively participated in steam matters and
9 the rationale for not allocating our limited
10 resources in that area were based on the fact that
11 the steam -- primarily on the fact that the two steam
12 heating utilities that are regulated by the
13 Commission have customers that consist, I believe,
14 entirely of large and sophisticated customers and I
15 think in many instances would have the flexibility to
16 switch to electric or other fuel sources and our
17 resources, I believe, are better focused on utilities
18 that serve small customers that are, in a sense, more
19 captive and unable to fend for themselves, if you
20 will.

21 Occasionally, I've heard from the steam
22 company, although there have not been rate cases in
23 my memory or at least the time I've been handling
24 this electric and steam cases. I have heard about
25 the concern that rate case expense would be for a

1 small steam utility, if it took the typical 11-month
2 time period to process a generate case. Often, this
3 was used as a justification to argue at the State
4 Legislature for some form of deregulation.

5 My response to that argument has always
6 been that deregulation of steam utilities would not
7 be in the public interest but that something less
8 than a typical full-blown generate case is probably
9 appropriate, and references have been made by me and
10 others to the small company rate procedure that has
11 worked fairly well for small water and sewer
12 utilities.

13 Now, this small company rate procedure
14 that is already part of the Commission's rule, I
15 believe in Chapter 10.200, or maybe it's a different
16 reference now, but it was the one the House Bill 208,
17 which is now law, references, I guess, the old
18 number, but the intent was clear that something very
19 similar to the water and sewer rule be enacted.
20 Now that rule isn't perfect and we have some concerns
21 about it, but it has been used for many, many years
22 and has actually produced good results for most
23 everyone involved, and I believe that, for the most
24 part, rates for water and sewer companies that are
25 very small have been fair based on audits by

1 Commission Staff personnel primarily do most of the
2 work and the fact that rate case expense, which would
3 be rather large, given the small size of the company,
4 would have an impact on the consumers is then not
5 included in that.

6 The rule and the proposed rule here
7 repeats the same participation that our office would
8 have, and that is we have the right to request a
9 hearing, we have the right to participate in the
10 negotiations, and so forth, and if the process for
11 negotiation does not reach a successful conclusion,
12 the utility then has the option of initiating a
13 standard rate case, and presumably, if it reached an
14 impasse, which has been very rare with the small
15 water and sewer companies, if an impasse is reached
16 and a formal case then has to be initiated, the
17 presumption is that that process would then not need
18 the full suspension in 11-month period because so
19 much groundwork had been done previously, but it
20 gives an opportunity for everyone on a formal basis
21 and a much cheaper basis reach result that everyone
22 thinks is fair, so we're in support of the rule and
23 that concludes my comments.

24 JUDGE PRIDGIN: Mr. Coffman, just a
25 quick clarifying question. Was it not your testimony

1 that most, if not all, of these customers of Aquila
2 and Tri-Gen are fairly large and sophisticated
3 customers?

4 MR. COFFMAN: That is my belief and
5 assumption.

6 JUDGE PRIDGIN: And perhaps it's
7 implied on your testimony, would these customers not
8 also likely be able to have their own counsel and to,
9 perhaps, intervene in a rate case whereas perhaps a
10 residential rate payer would not have the ability,
11 the legal or financial ability to do so, and that's
12 the reason your office has traditionally not been
13 involved in these cases?

14 MR. COFFMAN: Well, clearly it would
15 not be possible for most residential consumers to
16 represent themselves for the -- as far as their rates
17 go or small business, you know, businesses that are
18 small or medium size as well.

19 I can't really speak to whether the
20 particular customers of Tri-Gen and St. Joe would
21 avail themselves of representation or not. We really
22 have not had a steam case in my time with the Office
23 of Public Counsel, so I don't really know to what
24 degree, although I would expect that there would be
25 at least -- well, I guess we do have a steam case

1 pending currently, and there is at least one large
2 industrial customer that has participated in this
3 ongoing rate case that's currently pending, so yes, I
4 would expect that some would, but I don't know to the
5 extent of how many would.

6 JUDGE PRIDGIN: I believe that's all
7 the questions I have, Mr. Coffman. Thank you for
8 your testimony, sir. I appreciate it. And Mr.
9 Coffman, any further evidence on behalf of Public
10 Counsel?

11 MR. COFFMAN: No, sir.

12 JUDGE PRIDGIN: Okay. Thank you very
13 much. Anyone else wish to comment in support of this
14 Proposed Rule? Seeing no volunteers, anyone who
15 wishes to testify in opposition to the rule? Seeing
16 no one, I don't believe I have any further need for
17 any evidence. Let me go around and see, Mr.
18 Dottheim, is there anything else you need to bring to
19 my attention?

20 MR. DOTTHEIM: I'm not aware of
21 anything else that I would need to raise at this
22 time.

23 JUDGE PRIDGIN: Mr. Dottheim, thank
24 you. Mr. Coffman, anything else?

25 MR. COFFMAN: No, we conclude any

1 comments we have.

2 JUDGE PRIDGIN: All right. In that
3 case, I will adjourn this hearing. This hearing --
4 rule making hearing in HX-2004-0082 is now adjourned
5 and we are off-the-record. Thank you.

6 WHEREUPON, the recorded portion of the
7 rule making hearing was concluded.

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