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6 TRANSCRIPT OF PROCEEDINGS
7 Settlement Conference
8 July 18, 2005
9 Jefferson City, Missouri
Volume 2

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12 In the Matter of Laclede Gas)
Company's Tariff to Revise Natural) Case No. GR-2005-0284
13 Gas Rate Schedules)

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NANCY M. DIPPELL, Presiding,
16 SENIOR REGULATORY LAW JUDGE.

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

2 JUDGE DIPPELL: This is Case
3 No. GR-2005-0284, in the matter of Laclede Gas Company's
4 tariff to revise natural gas rate schedules. My name is
5 Nancy Dippell. I'm the Regulatory Law Judge assigned to
6 this case. This case had been assigned to Judge Mills,
7 and then briefly to Judge Thompson, and now I have it, in
8 case you're wondering all the changes. As far as I know,
9 it's mine for the duration.

10 Let's go ahead and do entries of
11 appearance, and let's just begin with Staff.

12 MR. MEYER: Good morning. David Meyer with
13 the Missouri Public Service Commission. I'm representing
14 the Staff of the Commission. Our address is P.O. Box 360,
15 Jefferson City, Missouri 65102.

16 JUDGE DIPPELL: And continue around the
17 table.

18 MS. VUYLSTEKE: Diana Vuylsteke of the firm
19 Bryan Cave, LLP, 211 North Broadway, Suite 3600,
20 St. Louis, Missouri 63102, appearing on behalf of the
21 Missouri Industrial Energy Consumers.

22 MS. ENGELHARDT: My name is Julia
23 Engelhardt. I'm representing PACE Local 5-6. My address
24 is 7730 Carondelet, Suite 200, St. Louis, Missouri 63105.

25 MS. LANGENECKERT: Lisa Langeneckert

1 appearing on behalf of the Missouri Energy Group, the
2 Stolar Partnership, 911 Washington, St. Louis, Missouri
3 63101.

4 MR. PENDERGAST: Good morning, your Honor.
5 Michael C. Pendergast and Rick Zucker appearing on behalf
6 of Laclede Gas Company. Our business address is 720 Olive
7 Street, St. Louis, Missouri 63101.

8 MR. MOLTENI: Ronald Molteni and Shelley
9 Woods with the Attorney General's Office here on behalf of
10 DNR Energy Center.

11 JUDGE DIPPELL: And is there anyone here
12 for Office of Public Counsel?

13 MS. MEISENHEIMER: We are here, but I don't
14 have an attorney with me.

15 JUDGE DIPPELL: No attorney representing
16 OPC.

17 MS. VUYLSTEKE: I think Mike is going to be
18 here in a minute, Mike Dandino.

19 JUDGE DIPPELL: He's not here right now,
20 but we won't let that stop them from participating in the
21 settlement conference.

22 The reason I wanted to go ahead and go on
23 the record today was because there had been some different
24 procedural things ordered in this case that hadn't
25 happened in previous cases, and I wanted to give you-all

1 the opportunity to ask any questions about that and make
2 sure we were all on the same page as far as those things.

3 And it was brought to my attention that
4 there haven't as yet been any public hearings ordered in
5 this case, and if there is going to be a request for
6 public hearings -- I'm sure those staff members from
7 Public Counsel who are here will take this back with them.
8 If there's going to be a request for public hearings, we
9 need to get those scheduled right away because we're
10 running out of time.

11 So, Mr. Pendergast, did you anticipate
12 public hearings?

13 MR. PENDERGAST: Yes. If I could address
14 that first, and I had a brief conversation with
15 Mr. Micheel about it, and I think our expectation was that
16 during this week we would go ahead and discuss the issue
17 with you, try and line something up that would be
18 acceptable. And from our perspective, we think that the
19 Commission will probably want to go ahead and conduct
20 public hearings as it had in the past.

21 I think the sense at least of talking with
22 Staff was that having them in the City of St. Louis and
23 maybe the County would be advisable, and we have a number
24 of locations that we can discuss with Public Counsel and
25 Staff and maybe make some recommendations to you.

1 JUDGE DIPPELL: I would appreciate that.

2 MR. PENDERGAST: And I guess the only other
3 wrinkle in it is, given where we are in the process and
4 where we are time-wise, we agree that they ought to be
5 sooner rather than later, but it would be a rather
6 complicated thing at this point to provide individual
7 customer notice from the standpoint of in the past we've
8 done it as an add-on to the back of the bill, and that
9 takes some time to go ahead and coordinate.

10 And what we'd like to do in this instance,
11 and this is all subject to discussions with Public Counsel
12 and Staff as well, is to provide some sort of newspaper
13 notification utilizing not only the St. Louis Post
14 Dispatch but the suburban weeklies and maybe an urban
15 newspaper or two, together with sending out press releases
16 to the radio stations and TV stations and that sort of
17 thing.

18 From our perspective, we think that would
19 be an effective way of providing customer notice, and
20 given where we are and the cost that it would take to
21 provide individual customer notice at this point, which we
22 understand is somewhere between 130 to \$150,000, that
23 providing that kind of media notice would be appropriate.

24 So once again, we'll be discussing all
25 these issues with everybody and getting back to you as

1 promptly as we can.

2 JUDGE DIPPELL: Okay. Mr. Dandino, would
3 you like to go ahead and make an entry of appearance?

4 MR. DANDINO: Yes, your Honor. Michael
5 Dandino, Office of the Public Counsel, Post Office
6 Box 2230, Jefferson City, Missouri 65102, representing the
7 Office of Public Counsel and the public.

8 JUDGE DIPPELL: Thank you. We were
9 discussing, Mr. Dandino, that public hearings hadn't been
10 set in this case as of yet, and Mr. Pendergast was saying
11 that you-all had spoken and you were going to be working
12 some things out in that regard this week.

13 MR. DANDINO: Yes. He had spoke to Doug
14 Micheel.

15 JUDGE DIPPELL: Mr. Micheel. So I will
16 expect you-all to discuss that and get those requests to
17 me and maybe some recommendations for where and when as
18 soon as you can so that we can go ahead and get those
19 scheduled and have time for notice of some sort.

20 MR. PENDERGAST: Your Honor, the only other
21 thing that I'd like to ask about is in the past we've
22 taken the notice that has been provided for the
23 evidentiary hearing, basically used those same words only
24 substituted the public hearing, and I would assume that
25 that's the procedure we would follow in this case.

1 JUDGE DIPPELL: I'll let you-all discuss
2 that and make recommendation. I know in some cases in the
3 past Public Counsel has had differences with the wording
4 of that particular notice. So if you can include that in
5 your recommendations, that would be helpful.

6 MR. PENDERGAST: We'll cover that, too.
7 Very good.

8 JUDGE DIPPELL: I'm going to go ahead and
9 ask that you file a recommendation for public hearing
10 maybe next Monday.

11 MR. PENDERGAST: Sure.

12 JUDGE DIPPELL: That will give you a chance
13 to discuss it this week.

14 MR. PENDERGAST: Great.

15 JUDGE DIPPELL: Okay. Are there any
16 questions about filing pretrial briefs? That was one of
17 the new things that was ordered in this case. It's meant
18 to take the place really of a lot of what you've done in
19 the past but to give the Commission the issues succinctly
20 and what your position is and what the testimony and the
21 case law that you're going to present, and hopefully that
22 will help the Commission see clearly those issues that
23 are -- they're going to be hearing with the testimony and
24 reading in the testimony.

25 Mr. Pendergast?

1 MR. PENDERGAST: Just a few comments on
2 that particular subject. We obviously propose that kind
3 of device be used, and we think it's appropriate to do so,
4 obviously. And our expectation would be that that
5 prehearing brief would be addressing whatever is in the
6 testimony, the prefiled testimony at the time, the law,
7 obviously, as well on each of the issues that may remain
8 unresolved.

9 I suppose maybe the only additional
10 consideration would be that since that prefiled testimony
11 hasn't been entered into the record yet, there probably
12 ought to be some opportunity at some point after the
13 evidentiary hearing is over, perhaps as part of the
14 post-hearing brief, for anybody that wants to submit any
15 motions to strike or says this was evidence you cited in
16 your brief but it wasn't admitted into evidence, that that
17 opportunity would go ahead and be afforded. It seems to
18 me to make it work, that probably needs to be there.

19 And the second thing is, I think we had a
20 limitation of ten pages on the post-hearing brief, which
21 to me implies that you ought to be as extensive as you can
22 in your pretrial brief since you're not going to have a
23 whole lot of room to elaborate in the post-hearing
24 brief. But since this is kind of the first time that
25 we're trying this, I think everybody would kind of want to

1 reserve the right that if it looks like there was enough
2 produced at the evidentiary hearing to warrant some sort
3 of expansion in that, that we'd be free to at least
4 request of the Commission.

5 JUDGE DIPPELL: I'll entertain motions to
6 allow that to be expanded. However, I will let you know
7 that I believe it was the Commission that decided on the
8 ten-page limit on the post-hearing brief. So whether
9 they'll be open to that or not, but I will -- obviously
10 you can make motions if you feel that something's come up
11 that is going to require more than that.

12 I'll also tell you less is more, if you
13 can -- you're going to make your point better if you can
14 actually get it to the Commission in 10 pages rather than
15 30 pages. They're going to be able to understand it and
16 read it easier.

17 But in that regard, with the pretrial
18 briefs, you're right, Mr. Pendergast. Make those like you
19 would your post-trial briefs normally. Cite everything
20 that you intend to prove and attack the others' arguments.
21 Obviously, like you say, it hasn't been admitted into
22 evidence, so there will have to be an opportunity to point
23 out to the Commission if something gets excluded, you
24 know, in your post-trial brief or whatever.

25 MR. PENDERGAST: To assist us in doing

1 that, just for the clarity of the record and the brief,
2 will there be an effort made to pre-identify all of the
3 prefiled testimony and exhibits prior to when the brief is
4 due? That way we're all citing to the same exhibits and
5 it's just one -- one way of maybe putting us all on the
6 same page.

7 JUDGE DIPPELL: That's a good suggestion.
8 I could premark the prefiled testimony. It looks like
9 it's due to come in on September 16th, the last round, and
10 the briefs aren't due until the 28th. So if you-all think
11 that would aid you, I could maybe premark those exhibits,
12 give them a number and issue a schedule of those exhibits
13 before your briefs are due.

14 Are there any other questions about that?
15 Yes.

16 MS. LANGENECKERT: Under your less is more
17 theory, taking it a little further, we don't plan on
18 filing any testimony. So do you anticipate that you'll
19 still want a prehearing brief from us on any position we
20 may be taking on other people's testimony?

21 JUDGE DIPPELL: If you intend to
22 participate --

23 MS. LANGENECKERT: In the hearing itself.

24 JUDGE DIPPELL: Yeah, then I would suggest
25 you say what your position is on each of those pending

1 issues.

2 I have been toying with the idea of
3 ordering Proposed Findings of Fact and Conclusions of Law,
4 but I'm going to reserve that right after I see your
5 pretrial briefs and the testimony and everything, see what
6 the issues are. I'll just warn you that I may come up
7 with that also.

8 MR. MOLTENI: Judge, just to clarify, on a
9 post evidentiary hearing basis?

10 JUDGE DIPPELL: Yes. Yes. Yeah. I won't
11 make you make those before you hear what the evidence is
12 for sure.

13 And I am planning to order expedited
14 hearing transcripts because I believe the time for filing
15 briefs and everything is also going to be limited. I
16 don't think that was set just yet, but -- and then I'll
17 remind you -- maybe I should ask first if there are going
18 to be any contested issues with regard to test year and
19 true-up. Are you expecting any? I don't see any.

20 Okay. I will remind you that there was --
21 in the suspension order it said that true-up and test year
22 objections and so forth were to be filed at the same time
23 as direct testimony as a separate document. So that was a
24 little different, so I just wanted to point it out.

25 We've already talked about local public

1 hearings. Are there any other pending motions or anything
2 that I need to be aware of?

3 All right. I brought a copy of the current
4 hearing calendar, at least as it was on Friday. I don't
5 know if anything's been added to it today, and just in
6 case there was to be a true-up or for your scheduling
7 local public hearings, if you want to take a look at it.
8 I did put a couple of Xs on here that are just bad days
9 for the judge.

10 And if there's nothing further, then I
11 will --

12 MR. PENDERGAST: Just by way of
13 clarification, once we finish this settlement conference,
14 we may have an overall settlement, we may have a partial
15 settlement with some issues that are going to be contested
16 and need to be decided by the Commission. And the
17 procedural schedule in the case was sort of silent between
18 what happens between when the settlement conference is
19 over and when testimony begins to be filed.

20 I know as part of the rate case efficiency
21 round table there's kind of a generic proposal out there
22 that fleshes that period out a little bit. And my
23 expectation at least would be that after this settlement
24 conference is over, you will receive a Stipulation &
25 Agreement of some sort because I'm sure we'll resolve at

1 least one issue that we have. David's not quite so sure,
2 but I'll be surprised if we don't.

3 And it would be my expectation that you
4 would get a Stipulation & Agreement that would advise the
5 Commission of what revenue requirement the parties have
6 been able to go ahead and reach agreement on, what issues
7 remain unresolved, perhaps what the value of those
8 particular issues are.

9 And I think it would also be helpful at
10 that point in time to have a statement of position by the
11 various parties on each of the issues that have not been
12 resolved. That will kind of provide a road map for the
13 subsequent testimony filings that are going to be made so
14 that you know where the case is and you know what to
15 expect as far as subsequent testimony is concerned rather
16 than just getting a bunch of testimony in and not having
17 that road map available.

18 So is that acceptable to everybody? Does
19 that seem like a reasonable approach to take?

20 JUDGE DIPPELL: I feel that it's a
21 reasonable approach, Mr. Pendergast, but I'm going to let
22 you-all -- since that hasn't been ordered at this point,
23 I'm not going to add it. It sounds -- the hearing road
24 map idea sounds like it would aid me in this process, and
25 I think it would aid the Commission. Certainly if you

1 reach a settlement agreement, the sooner you can get that
2 to the Commission, and maybe even they may want to be
3 prepared to take action on that part of it before the
4 hearing even. I don't know that they would.

5 MR. PENDERGAST: Would it be helpful to you
6 when we make our public hearing recommendations on Monday
7 maybe to address that procedural issue and say this is
8 what we would recommend the parties be directed to file --

9 JUDGE DIPPELL: Certainly.

10 MR. PENDERGAST: -- and that way we can
11 flesh it out among ourselves and make a recommendation?

12 JUDGE DIPPELL: Certainly, if you want to
13 do that. And since this procedure is a little bit new and
14 different, I think any time you can say that this worked
15 or didn't work or this would be better, then feel free to
16 make those recommendations as well.

17 Is there anything else? All right. Then
18 you-all have this room today, it is available for your
19 use, and on Thursday and Friday, but tomorrow and I
20 believe Wednesday morning there's something in here also.
21 So I think Mr. Meyer has made arrangements for other rooms
22 for your use as well.

23 So if you have any questions or need to
24 talk calendar dates or procedural items, I should be in my
25 office. If I'm unavailable, Judge Woodruff and Judge

1 Jones have both been assigned kind of as backup for me on
2 this case. If I'm unavailable, you may be able to discuss
3 any issues you have with one of them.

4 MR. PENDERGAST: Great. Thank you.

5 JUDGE DIPPELL: Thank you. We can go off
6 the record.

7 WHEREUPON, the recorded portion of the
8 prehearing conference was concluded.

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