

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS  
Discovery Conference  
August 9, 2017  
Jefferson City, Missouri  
Volume 2

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In the Matter of Laclede Gas )  
Company's Request to Increase ) File No. GR-2017-0215  
its Revenues for Gas Service )

In the Matter of Laclede Gas )  
Company d/b/a Missouri Gas ) File No. GR-2017-0216  
Energy's Request to Increase )  
its Revenues for Gas Service )

NANCY DIPPELL, Presiding  
SENIOR REGULATORY LAW JUDGE

REPORTED BY:  
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1 P R O C E E D I N G S

2 JUDGE DIPPELL: Okay. I think we're ready  
3 then. We'll go ahead and go on the record. This is  
4 Case Nos. GR-2017-0215 and GR-2017-0216, In the Matter  
5 of Laclede Gas Company and Laclede Gas Company d/b/a  
6 Missouri Gas Energy's Request to Increase Their Revenues  
7 for Gas Service.

8 My name is Nancy Dippell, and I'm the  
9 Regulatory Law Judge assigned to this matter, and we've  
10 come here today for a discovery conference. The  
11 discovery issues mostly between Staff and Laclede were  
12 resolved. I'll let Staff say if they still have any  
13 dispute.

14 MS. PAYNE: No, we don't have any dispute.  
15 As stated in our motion, there's just been some concerns  
16 about the timing and then the quality of the answers  
17 along with the timing.

18 JUDGE DIPPELL: I guess before I get into  
19 that I probably should take entries of appearance so  
20 we're clear. Sorry. I was ready to jump right in.  
21 Let's go ahead and take entries of appearance before we  
22 get started and you can -- I don't think you have to  
23 give all of the address information. We'll have that  
24 and I'll make sure the court reporter has that. Staff?

25 MS. PAYNE: Whitney Payne and Mark Johnson

1 for Staff of the Missouri Public Service Commission.

2 JUDGE DIPPELL: Office of Public Counsel?

3 MR. POSTON: Marc Poston with the Office  
4 of Public Counsel.

5 JUDGE DIPPELL: The City of St. Joe is not  
6 going to be here. Consumers Council of Missouri?

7 (No response.)

8 JUDGE DIPPELL: I didn't hear from  
9 Mr. Coffman.

10 Environmental Defense Fund?

11 MS. KARAS: Hi, Your Honor, this is  
12 Natalie Karas on behalf of the Environmental Defense  
13 Fund.

14 JUDGE DIPPELL: Laclede Gas?

15 MR. ZUCKER: Rick Zucker and Mike  
16 Pendergast here on behalf of Laclede Gas and MGE.

17 JUDGE DIPPELL: Midwest Energy Consumers  
18 Group?

19 MR. WOODSMALL: David Woodsmall on behalf  
20 of MECG.

21 JUDGE DIPPELL: Missouri Division of  
22 Energy?

23 MR. BEAR: Brian Bear on behalf of the  
24 Division of Energy.

25 JUDGE DIPPELL: Missouri Industrial Energy

1 Consumers also said that they would not be here today.  
2 Missouri School Boards' Association?

3 MR. BROWNLEE: Richard Brownlee.

4 JUDGE DIPPELL: Missouri Gas Pipeline?

5 MR. JARRETT: Terry Jarrett on behalf of  
6 MoGas.

7 JUDGE DIPPELL: National Housing Trust?

8 MR. LINHARES: Andrew Linhares on behalf  
9 of National Housing Trust.

10 MS. BRINK: This is Annika Brink with the  
11 National Housing Trust.

12 JUDGE DIPPELL: Kansas City Power & Light  
13 and GMO?

14 (No response.)

15 JUDGE DIPPELL: And the Union told me that  
16 they would not be here.

17 Is there anyone that I missed?

18 Okay. Thank you. Then the other disputes  
19 that we had pending was a dispute that is similar to  
20 what Staff Counsel just mentioned from OPC and Laclede.  
21 Mr. Poston, did you want to elaborate on any of that?

22 MR. POSTON: Yeah. The first one we  
23 raised was a similar concern with Staff to the --

24 JUDGE DIPPELL: And can you speak up just  
25 a little?

1 MR. POSTON: Yeah. -- to the DRs coming  
2 in late, and we've got a list we're going to provide  
3 Laclede of the ones that are excessively late. And I'd  
4 like to have an opportunity to work with them on that.

5 The other issues we identified in our  
6 pleading we've worked out with them. We had a meeting  
7 this morning. And I believe that those have been  
8 resolved. They've agreed to provide follow-up answers  
9 that provide us information that we believe we were  
10 asking for.

11 And as far as the issue about how they  
12 sign the DR responses, that they are going to provide us  
13 with something that identifies the witnesses that could  
14 answer to the truthfulness and correctness of each DR by  
15 category. So really on this the only issue that kind of  
16 remains is the timing of when they're answering, and  
17 that's something, like I said, that I intend to meet  
18 with them after this and see if we can work that out.

19 JUDGE DIPPELL: Okay. I will also caution  
20 you on the signatures to the responses to the DRs. When  
21 we get to hearing, I don't like it when a witness gets  
22 up there and claims that they're not the witness and  
23 then we get the next witness up there and they say  
24 they're not the witness. So please, all of you, make  
25 sure that the other parties know whose testimony it is



1 that you're giving.

2 MR. PENDERGAST: Your Honor, it's a very  
3 good point. We certainly understand it and, you know,  
4 based on our discussions with OPC, you know, we're going  
5 to make it very clear what witnesses have what issues or  
6 what falls within the scope of their testimony. And you  
7 will not hear somebody from Laclede Gas objecting  
8 because Glenn Buck happened to sign a DR response but  
9 the witness who is covering that particular issue is the  
10 one that's answering. I mean if they're the ones on  
11 that issue, it's in the scope of their testimony, will  
12 be responsible for everything Mr. Buck signed and the  
13 contents of that. Plus, you know, we've said we'll be  
14 very specific about what the scope of each witness's  
15 testimony is on a going-forward basis and we can put  
16 both Mr. Buck and the witness that we think will be the  
17 one that would answer questions on the stand about it.  
18 So we'll do our utmost to avoid that kind of  
19 controversy.

20 JUDGE DIPPELL: Okay. And then with  
21 regard to complaints of lateness, would you like to  
22 address that, either of you?

23 MR. PENDERGAST: Well, you know, the only  
24 thing I'd point out is that, you know, this has been a  
25 pretty extraordinary case. I think officially we've

1 gotten over a thousand data requests right now, many of  
2 which have five, seven, ten discrete questions on them.  
3 I'd say if you added them all up, it would probably be  
4 somewhere between 3,000 and 5,000 questions that we need  
5 to go ahead and answer.

6 Quite frankly, we're doing the best we  
7 can. We do have one of our famous Mr. Buck we just  
8 talked about has been out of circulation for about a  
9 week and a half, two weeks due to some knee surgery, and  
10 he's been trying to do the best he can in between the  
11 pain killers to go ahead and continue working.

12 JUDGE DIPPELL: We'll look forward to his  
13 testimony.

14 MR. PENDERGAST: It's going to be  
15 interesting rebuttal. And, you know, with all that  
16 said, though, we understand we've got an obligation to  
17 try and be as responsive as we can be. I think that OPC  
18 had alerted us to some that were past due that extend  
19 the date and I think within two or three days we turned  
20 that around, got those answered and just continue to  
21 redouble our efforts to answer as quickly as we can.  
22 Rick?

23 MR. ZUCKER: I don't think I have anything  
24 to add to this.

25 JUDGE DIPPELL: Okay. And I will state to

1 OPC and Staff that, you know, we didn't have any  
2 complaints coming to me before this conference. So if  
3 you have complaints that you need to get addressed, you  
4 can, you know, file a motion, whatever.

5 MR. POSTON: May I ask --

6 JUDGE DIPPELL: Yes.

7 MR. POSTON: -- does this discovery  
8 conference satisfy motions to compel based on lateness  
9 or would we need to call another one if another issue  
10 arises?

11 JUDGE DIPPELL: Well, we have the  
12 discovery conferences preset; but if there's something  
13 like your testimony is coming up before the next  
14 conference, I believe, so obviously if there's a  
15 discovery issue between now and then that needs to be  
16 addressed, it's okay to bring a motion outside of the  
17 discovery conference for me or the Commission to  
18 address.

19 MR. POSTON: Would we have another  
20 discovery conference that was not scheduled before we  
21 file that motion?

22 JUDGE DIPPELL: Not before. The  
23 requirement to contact me with regard to a telephone  
24 conference has already been waived in the order and  
25 unless there was a need to call everybody in, you know.

1 MR. POSTON: Well, I just didn't want to  
2 have to wait until the next discovery conference if we  
3 had a discovery issue.

4 JUDGE DIPPELL: No, that's what I'm  
5 saying. I'm saying if you need something addressed  
6 before a discovery conference, you may file a motion to  
7 do so and I will address it in whatever is the  
8 appropriate manner. If that's to get everybody on the  
9 phone for a conference call, discovery conference or  
10 another one or just to rule on it based on the motions  
11 --

12 MR. POSTON: Thank you.

13 JUDGE DIPPELL: -- and responses, then I  
14 would do that.

15 THE COURT REPORTER: Excuse me. Could you  
16 give me your name again?

17 MR. POSTON: Marc Poston.

18 THE COURT REPORTER: Thank you.

19 JUDGE DIPPELL: Okay. So are Staff and  
20 OPC then satisfied with the discussions and what you're  
21 going to discuss later with regard to the filings that  
22 you've made?

23 MS. PAYNE: Yes.

24 JUDGE DIPPELL: Okay. All right. Then --

25 MR. ZUCKER: Your Honor, let me just add

1 that obviously there isn't anything specific that we're  
2 talking about today with Laclede Gas; but when the time  
3 comes to talk about specific questions, or if the time  
4 comes, hopefully it won't, we'll be responding to the  
5 quality of the question also. We've gotten a lot of  
6 good questions. And where they're targeted and we  
7 understand what they're looking for and can get to the  
8 answer, we have no problem with that. But a lot of  
9 questions are very broad, they're very deep. They are  
10 not targeted at all to a Laclede Gas and MGE rate case  
11 and it uses a lot of our resources. And so I would ask  
12 that the questioners think a little more about the  
13 question they're asking and what it might require from  
14 us. We only have so many resources and so much time.  
15 We understand people need their evidence and their  
16 answers and we want to provide them in a timely manner.

17 JUDGE DIPPELL: And I would expect as well  
18 for you all to raise those issues if it comes to that.  
19 You've said your peace here. So hopefully that will  
20 take care of it.

21 MR. ZUCKER: We have raised these issues  
22 with the parties. We haven't come to you to complain  
23 about it.

24 JUDGE DIPPELL: Well, I appreciate you  
25 all, you know, staying out of my office; but at the same

1 time, if that's what it takes to get the case to move  
2 along and get everyone the information that they need  
3 within the constraints of the resources available, then  
4 the whole case will move smoothly and we'll get -- the  
5 Commission will get the information that it needs in the  
6 end to make an appropriate decision.

7 MR. ZUCKER: Understood. Thank you,  
8 Judge.

9 MS. PAYNE: Judge, in response I will say  
10 that one of the things that Staff has made a commitment  
11 to is that the company is welcome to reach out to us at  
12 any time to discuss informally, you know, any problems  
13 and that that they're having with DRs. You know, we've  
14 said communication is key several times in the course of  
15 this.

16 MR. JOHNSON: And in the same vein, just  
17 as OPC has done, we will be sending a list of the DRs  
18 that we would prefer to be answered quicker than maybe  
19 some others.

20 MR. ZUCKER: We appreciate that.

21 JUDGE DIPPELL: Okay. Good. Okay. So  
22 then I believe we're just down to Division of Energy's  
23 objection or complaint, motion, whatever, with regard to  
24 Staff. And would you like to go -- would Division of  
25 Energy like to go ahead and kind of tee that up a little

1 bit?

2 MR. BEAR: Sure. Your Honor, the Division  
3 of Energy served two DRs that are basically identical to  
4 each other. One is just directed to Laclede. The other  
5 is directed to MGE. What we had specifically sought  
6 were copies of complaints received by Staff from  
7 customers regarding the current effective rate design  
8 from two dates. And those dates were not just picked  
9 out of the air. Those were the dates of the last  
10 effective rate case when they went into effect.

11 Why we need them and why we think they're  
12 relevant to this case is pretty simple. Rate  
13 stabilization is a factor that was put into that rate  
14 design case way back when. The reasoning behind that  
15 rate stabilization, as we understand as a division, is  
16 to encourage in part energy efficiency, and so customer  
17 reaction to the rate design that has that component of  
18 rate stabilization I think hits right within the strike  
19 zone of what DED can offer its expertise on.

20 As far as the objections, I think that we  
21 do have a pure question of law as to the confidentiality  
22 concerns raised by Staff. You know, I understand that  
23 the personally identifiable information is protected. I  
24 think that we have met that as a governmental entity in  
25 two ways. First, you know, as counsel to Division of

1 Energy, it's my responsibility to monitor the use of  
2 information that's highly confidential to ensure that  
3 those protections are in place. And like I have  
4 responsibility for my paralegals and my staff, I have  
5 responsibility for everyone in the Division of Energy as  
6 well. So there's an oversight that's going to be  
7 expected of counsel in every case to maintain  
8 confidentiality of protected information.

9                   Specific to the division, however, the  
10 individual staff people are compelled under 620 --  
11 640.155.1 to maintain the confidentiality of  
12 confidential information. It's punishable as a crime as  
13 a Class A misdemeanor. So we do have protections in  
14 place legally and oversight.

15                   You know, in full disclosure, Your Honor,  
16 if it comes down to it, you know, we can have our folks  
17 sign confidentiality agreements on this, but it really  
18 is unnecessary especially when it's a governmental  
19 entity with these types of statutory protections in  
20 place. But you know, we will leave that up to your  
21 discretion.

22                   I think if we resolve that question of law  
23 in the affirmative, I think the issues that the Staff is  
24 articulating as to burden, which isn't exactly  
25 quantified in terms of dollars or staff hours, which I



1 think is a problem if you're trying to stand on an undue  
2 burden argument, but I do think if we resolve the  
3 confidentiality issue the division can offer some  
4 accommodations to relieve burden that may be there.  
5 We're willing if they just want to put the MGE and  
6 Laclede complaints on a DVD from those dates, we'll go  
7 through them and look for responsiveness. We're willing  
8 to take on that burden. We said that in the motion.  
9 We're willing to meet there, but I think probably the  
10 roadblock is that pure question of law about  
11 confidentiality.

12 JUDGE DIPPELL: Okay. Let me state first that  
13 I will grant Staff's motion for leave to object out of  
14 time, first of all.

15 MS. PAYNE: Thank you.

16 JUDGE DIPPELL: And then would you all like to  
17 respond?

18 MS. PAYNE: We filed our response yesterday.  
19 I can see you have that there. I think the concern is  
20 is that we are bound by statute to protect the  
21 confidentiality of the information that we receive; and  
22 while I respect that the Division of Energy is a  
23 governmental entity, as Mr. Bear points out, there is  
24 still a certain concern. If we allowed every  
25 governmental entity access to our information, I'm

1 pretty sure that that would not necessarily meet the  
2 statutory obligation that we are under.

3 As far as burden, I did not realize that I  
4 needed to quantify hours and dollars to satisfy that.  
5 However, I think it's pretty obvious that we receive a  
6 lot of complaints, and I would say it would be common  
7 knowledge that the average customer of any utility is  
8 not happy with their rates.

9 So when the Division of Energy requests  
10 complaints relating to rate design, the average customer  
11 does not say I'm unhappy with the design of my rates.  
12 They generally say I'm unhappy with the quantity of my  
13 rates. So this specific category of complaints would  
14 amount to a large number of complaints overall and it  
15 would ultimately come down to our staff having to go  
16 through each complaint individually to determine which  
17 ones specifically refer to rate design.

18 So beyond the confidentiality concerns of  
19 the fact that these complaints generally come from  
20 individual customers who have no intention of making  
21 their personal information public, we also amount to the  
22 fact that they would have to be gone through  
23 individually. So when the Division of Energy says that  
24 they will make accommodations and come and look at these  
25 complaints, we've now escalated this to not just looking

1 at the specific complaints that are in their category  
2 but all of the complaints and all of those customers'  
3 personal information.

4 JUDGE DIPPELL: Okay. Let me start with  
5 so when you're asking for current effective residential  
6 rate design, what are you asking for?

7 MR. BEAR: Specifically we're looking at  
8 consumer complaints about my rate is too high, that  
9 there are issues with how I'm being charged. It is a  
10 comprehensive request, but it's one that doesn't require  
11 -- I think Staff's concern that they would have to  
12 review each individual case for responsiveness, that's  
13 not what we're asking for.

14 I think if there are tagged categories that we  
15 can come to an agreement with we're fine with receiving  
16 those. The division is not going to raise any complaint  
17 about a volume that's received that is nonresponsive or  
18 is less than useful, it doesn't hit the exact strike  
19 zone. We're just trying to think of a way in order to  
20 gather those complaints in a manner that's going to hit  
21 what we're looking for and to allow us to go through  
22 those and effectively present that testimony to the  
23 Commission which we think is very valuable.

24 MR. PENDERGAST: Your Honor, you know, I  
25 don't mean to interject here but I guess I will, you

1 know, just on the release of the information, you know,  
2 we've become increasingly cautious about making  
3 individual customer information available. We have  
4 stripped out the names of customers when it comes to  
5 providing various kinds of account information and that  
6 sort of thing and that's because, you know,  
7 notwithstanding what I'm sure would be the earnest  
8 efforts of the Division of Energy and others to protect  
9 that information, in this day and age we've seen too  
10 many computers hacked.

11 We've seen too many unintentional releases  
12 of information and, you know, from our perspective great  
13 caution has to be taken in distributing information that  
14 individual customers have provided to the staff and  
15 provided to anybody else because nobody today can say I  
16 can guarantee that nobody is going to hack that  
17 information and take it.

18 And I guess the second concern we would  
19 have is let's say they have the information and now  
20 we're going to have testimony talking about we had this  
21 many customers that maybe made some general complaint  
22 about, you know, the rate design, what's the probative  
23 value of that, you know, why are we going to have to  
24 respond to that not having the opportunity to  
25 cross-examine those customers and what does that say

1 about the process we have including public hearings,  
2 ability to comment to the Commission and that sort of  
3 thing they're supposed to get at those very issues. So,  
4 you know, from our perspective given the desire to  
5 protect that information and customer confidentiality  
6 and the probative value, you know, the question is why  
7 is this information really appropriate.

8 JUDGE DIPPELL: Well, the problem is that it's  
9 a discovery issue and while, yes, we all need to be  
10 careful with security, and so forth, of confidential  
11 information, if it is the type of information that  
12 should be disclosed because it is genuinely calculated  
13 to possibly lead to admissible evidence, then it needs  
14 to be discovered. So those are good reasons for not  
15 doing it but they're not really the legal brunt of it.  
16 So what we need to get at is if this is the appropriate  
17 information to be discovered and if it is able to be  
18 discovered.

19 MR. POSTON: Can I weigh in here real  
20 quick?

21 JUDGE DIPPELL: Certainly, Mr. Poston.

22 MR. POSTON: One thing I'll point out is  
23 that the way the Staff organizes their complaints is by  
24 categories and there is a rate category. I don't think  
25 it would be very difficult and will require any real

1 detailed analysis of each complaint to just provide all  
2 of the ones that are about rates. You can even inquire  
3 a date range. So it would take a few minutes really to  
4 be able to pull all those up.

5 And I think the reason the customers are  
6 calling is they want something to be done about their  
7 complaint and DE's offering to do something. I don't  
8 know if their position is going to be contrary to our  
9 position on rates. It could be. But as far as them  
10 seeing information, we have no concerns that they will  
11 release this information and make it public. Giving it  
12 to DE does not make it public. It would be public if  
13 it's released to the public. I don't see them asserting  
14 that that's what they're going to do. I don't recall  
15 any instances where HC information --

16 THE COURT REPORTER: I'm sorry. I don't  
17 recall?

18 MR. POSTON: -- where highly confidential  
19 information has been released. I don't think that's a  
20 real concern with any of these agencies.

21 MR. KEEVIL: Judge, I wasn't planning to  
22 say anything. That's why I'm sitting in the back of the  
23 room.

24 JUDGE DIPPELL: Mr. Keevil. You better  
25 enter your appearance.

1 MR. KEEVIL: I have to jump in on this  
2 because I want to correct something Mr. Poston said.  
3 Staff does not, and this is based on my communication  
4 with the consumer services department directly, Staff's  
5 identifiers do not include rate design. That was what  
6 the question was about. Mr. Poston's comment something  
7 about rates, that's an entirely different broader, like  
8 I say, different category identifier than what the data  
9 request itself is about. I think that may have been  
10 somewhat misleading to the Judge and to the Commission.  
11 There is no identifier in there for rate design.

12 Secondly, what we're talking about here is  
13 not these typical highly confidential information that  
14 is addressed in a rate case. What we're talking about  
15 here is something falling clearly within the purview of  
16 Section 386.480, RSMo, which in my estimation changes  
17 the evaluation because as I recall 386.480 requires an  
18 order or decision of the Commission, which I assume you  
19 would be standing in the Commission's stead, but  
20 requires an order to disclose such information. So this  
21 is not your typical HC information. So just those two  
22 points of correction here so we don't get off track.

23 There is no identifier in the consumer  
24 complaint database for rate design, and we're talking  
25 about 386.480 information rather than your typical HC

1 rate case type stuff.

2 MR. POSTON: I would concur. If I said  
3 differently, then I was in error, but it does just  
4 categorize rates and what I understand what DE was  
5 saying today is that they want all of the complaints  
6 about rates, not specifically just rate design.

7 MS. PAYNE: Okay. To follow up with that,  
8 my understanding is is that there are several  
9 identifying categories that refer to rates either  
10 generally or indirectly. So it would, in fact, be a lot  
11 and it would require attention to it. And as I cited  
12 the one Commission rule that, in fact, we are bound to  
13 contact and ask the disclosers of confidential  
14 information to us if they are okay with that information  
15 being disclosed which would mean contacting every  
16 individual consumer complainant who has filed a  
17 complaint in the course of the test year.

18 MR. BEAR: Your Honor, if I could have  
19 just a chance to respond since it is my motion.

20 JUDGE DIPPELL: Okay. That's fine.

21 MR. BEAR: I'll take this in reverse order  
22 here. First, the Division of Energy is part of DED,  
23 which the PSC is also part of DED as well. As part of  
24 the concerns raised by MGE and Laclede about  
25 confidential information, beyond the fact that it's a



1 crime, you know, we routinely handle sensitive data,  
2 including social security numbers, employment data,  
3 trade secrets, things that are handled in very elaborate  
4 manners and things that are incredibly confidential, and  
5 the procedures that we have in place ITSD works for all  
6 entities here and so the data security programs that we  
7 have, you know, for DED generally play to both DE and  
8 throughout state government. So if the government is  
9 trusted to protect this information from one subdivision  
10 of DED, I think another subdivision is just as equally  
11 able to protect it using those same protocols.

12 As to the issue about the different tags  
13 or the different identifiers, I think that that's a  
14 conversation that we can have with Staff if it's just  
15 selecting certain identifiers to have. The question  
16 about responsiveness and, you know, and also whether or  
17 not this is going to be valuable, why do we get these  
18 complaints in the first place and categorize them if  
19 they're not going to be used during a rate case in order  
20 to prove a point or to potentially lead to discoverable  
21 information or have an expert testify.

22 If it's not going to be used when the  
23 Commission is making a decision in this regard, then why  
24 do we have it in the first place? And I think that the  
25 reason we have it is that so OPC's staff, the Division

1 of Energy and others can do analysis and provide the  
2 Commission with the most probative information possible,  
3 and I think that it's very difficult for us to sit here  
4 and say that consumer input on a rate design that has  
5 been in effect for these years is irrelevant to the  
6 Commission's determination of what the proper rate  
7 design should be going forward. So I think that it's  
8 relevant. I think that we can -- I think that the  
9 burden is perhaps overstated because we're just asking  
10 for raw complaints with tagged categories. Those should  
11 be easily able to be produced.

12 If staff feels that they need to review  
13 each individual complaint in order to do that, I just  
14 don't see that as a real need when we can achieve some  
15 type of agreement, you know, whether that's a bulk dump  
16 to DE with us having to go through it for responsiveness  
17 or perhaps doing a word search of certain terms or only  
18 doing certain types of tagged categories we can get  
19 there, but I think that direction is absolutely proper  
20 if we allow it to happen.

21 JUDGE DIPPELL: Okay. Here's my first  
22 thing. I think your request is a little either too  
23 broad or not broad enough as the case may be because I  
24 think you're asking for something different in your  
25 request --

1 MR. BEAR: Okay.

2 JUDGE DIPPELL: -- than what you really  
3 want. It sounds to me like you basically want consumer  
4 complaints about rates, and I'm not sure that given the  
5 term rate design as it is usually used in this context  
6 that what you're asking for is what you really want.

7 MR. BEAR: Okay.

8 JUDGE DIPPELL: So I think you need to  
9 revise your request. But getting to the meat of the  
10 issue, which would be is there anything Staff could give  
11 you in response to what you want, we keep saying there's  
12 a lot of comments or complaints, but what's a lot? I  
13 mean --

14 MS. PAYNE: I don't have the specific  
15 number. I mean this is strictly from talking to our  
16 director of consumer --

17 JUDGE DIPPELL: Because when I did -- when  
18 I went into EFIS, which is also something Division of  
19 Energy might try, and searched for consumer comments for  
20 Laclede in that time period, I got eight. Now --

21 MR. KEEVIL: Judge, I don't think you were  
22 searching in the consumer services informal complaint  
23 database.

24 JUDGE DIPPELL: well, that is true.

25 MR. KEEVIL: That's where most of these

1 things are going to show up. I can tell you I don't  
2 know how it breaks down company specific. I just  
3 overall we're talking thousands of complaints per year  
4 received by the consumer services. I don't know how  
5 many of those would be, like I say, specific to MGE and  
6 Laclede. I know overall with all of the regulated  
7 utilities consumer services handles thousands of calls  
8 per year.

9 JUDGE DIPPELL: Okay. But they do, in  
10 fact, categorize them according to company and general  
11 subject matter; is that your understanding? Is that  
12 your understanding?

13 MS. PAYNE: They do categorize them.

14 JUDGE DIPPELL: Okay.

15 MR. BEAR: Judge, is this something that  
16 maybe we just meet and confer what are the categories  
17 and maybe we reissue the DR for specific categories?  
18 would that be acceptable to staff?

19 JUDGE DIPPELL: I think staff is still  
20 going to have the same objection with regard to the  
21 confidentiality.

22 MR. BEAR: Absolutely.

23 JUDGE DIPPELL: So I'd like to work  
24 through this and figure that out and then you can go  
25 forward with what you think you can get. And you might

1 consider, I don't know how burdensome this would be, but  
2 you cited Ms. Fred's testimony in some other rate cases  
3 and those appeared to be very general statements and so  
4 I don't know if a general summary of, you know, we  
5 received a thousand complaints about I don't like my  
6 rates or whatever. I don't know if that's the kind of  
7 thing that would be adequate for your purposes. That's  
8 something you might discuss.

9           with regard to the actual confidentiality,  
10 it's my reading of 386.480 that again the Commission can  
11 order that information to be released. It's also my  
12 reading of the discovery rule Section 8 with regard to  
13 that's where it comes in that Staff is supposed to  
14 notify the person that provided the information before  
15 releasing it. However, there's also a provision in this  
16 rule for a waiver of specific provisions. So it might  
17 be that information cannot be immediately released but  
18 if someone were to request for a waiver of this  
19 provision where you had to notify everyone that might be  
20 an option.

21           And then I get back to the part about I  
22 take it then that there's something different available  
23 with regard to what's available in EFIS. So just as an  
24 aside, those comments are public when consumers put  
25 those comments in EFIS. The attachments to those are

1 not. And that has more to do with virus prohibiting or  
2 nefarious use of our system than it does with the  
3 confidentiality of the information.

4 So I guess my ruling is that your data  
5 request is not specific enough to be answered at this  
6 time. However, I think any objections to future  
7 requests will need to be with a little more specificity  
8 with regard to like, you know, what's a lot of comments,  
9 what burden is going to -- is this going to cause Staff  
10 in responding to.

11 MS. PAYNE: Absolutely.

12 JUDGE DIPPELL: And again I think there's  
13 a way around the releasing of public information.

14 MR. KEEVIL: Judge, I think -- I don't  
15 disagree with that last statement, but I think that  
16 would have to come from you or the Commission.

17 JUDGE DIPPELL: I agree, I agree.

18 MR. KEEVIL: I don't think we can simply  
19 agree oh, yeah, we'll waive that.

20 JUDGE DIPPELL: I agree.

21 MR. KEEVIL: I don't think we can do that.  
22 I think it will have to come from you.

23 JUDGE DIPPELL: And you can certainly  
24 include that in your objections as to an extra burden  
25 provided, but I do think that there is a way around the

1 confidentiality, and part of that is because what we  
2 were just talking about I think when consumers make  
3 complaints to the PSC, they're making the complaint to  
4 be heard. Certainly we want to protect, you know,  
5 personal information, phone numbers, account numbers --

6 MS. PAYNE: Addresses.

7 JUDGE DIPPELL: -- all of those things,  
8 but I think that consumers are not expecting that their  
9 complaints are going to be held by the PSC never to be  
10 talked about by anybody.

11 MS. PAYNE: It's not the complaints that  
12 we're concerned about. It is the personal information.

13 JUDGE DIPPELL: Right.

14 MS. PAYNE: It's things like phone numbers  
15 and addresses, and occasionally parties provide those  
16 things when they are unlisted in any other place at  
17 least to their knowledge.

18 JUDGE DIPPELL: I agree. I would like to  
19 see provisions for the protection of that kind of  
20 information; but as far as the meat of the issue why  
21 they're complaining, that seems like information that  
22 could be useful and could provide evidence. I'm curious  
23 as to whether it's available in any other context but  
24 perhaps not. If consumer services has its own database,  
25 then perhaps that's the only place, but again maybe some

1 summary of that information is appropriate. I'm  
2 throwing out options for you. My ruling is that the  
3 request is not specific enough, and so I will sustain  
4 your objection to those DR requests and allow you to  
5 make a new one.

6 MR. BEAR: Thank you, Your Honor.

7 JUDGE DIPPELL: Is there any other issues?

8 MR. JOHNSON: I would just say going  
9 forward with the related request from DE we'd appreciate  
10 it if you would include both attorneys on all requests  
11 for either case.

12 MR. BEAR: Okay. Did I miss one? who did  
13 I miss?

14 MS. PAYNE: Well, you sent specifically  
15 the MGE data request to me and you sent the Laclede one  
16 specifically to him. Even though we are technically  
17 leads on these cases separately, we also have been  
18 handling everything in duality and we've actually --  
19 Staff and OPC have been filing their DRs in both cases  
20 identically to keep the numbers the same. It's just a  
21 practice we've been doing because as the company pointed  
22 out this is a big case. This has included a lot of  
23 discovery.

24 MR. BEAR: No problem.

25 JUDGE DIPPELL: It's a little confusing



1 because we haven't consolidated the cases because  
2 everything is being kept separate. Right now we've only  
3 consolidated it for hearing and procedural purposes. So  
4 keep that in mind when you're filing back and forth.

5 Is there anything else discovery related  
6 or? Okay. I will say the order says to get your  
7 discovery disputes in not less than two business days  
8 before each discovery conference. I guess you could  
9 consider Monday one of those business days before  
10 Wednesday conference, but I'd sure like to see it by  
11 10:00, at least have 48 hours, especially if it's  
12 something that's been ongoing. If it's something that  
13 just came up, obviously go ahead and get it in so we can  
14 get it taken care of. And I won't set up a conference  
15 line myself unless I'm asked; but if somebody needs one  
16 or wants one, feel free to ask. And I think that's all  
17 I have. Is there anything else?

18 All right. Then hopefully you all can  
19 continue to your discussions. As I said before we went  
20 on the record, settlement is my favorite word. So I  
21 will see you all next time. We can go off the record.

22 (Off the record.)  
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