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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Pre-hearing Conference

April 11, 2007
Jefferson City, Missouri
Volume 1

In the Matter of Laclede)
Gas Company's Purchased)
Gas Adjustment (PGA) to Be) Case No. GR-2005-0203
Audited in Its 2004-2005)
Actual Cost Adjustment

KENNARD L. JONES, Presiding,
SENIOR REGULATORY LAW JUDGE

REPORTED BY:
MINDY VISLAY, CCR
MIDWEST LITIGATION SERVICES

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

2 JUDGE JONES: We'll go on the record with
3 Case No. GR-2005-0203, the matter of Laclede Gas
4 Company's Purchased Gas Adjustment; PGA, to be audited
5 in its 2004-2005 actual cost adjustment. This is a
6 pre-hearing conference. My name is Kennard Jones, and
7 I'm presiding over the matter.

8 Okay. It's obvious you all disagree on something,
9 so we need to have a hearing; right?

10 MS. SHEMWELL: Do you want to do
11 appearances?

12 JUDGE JONES: I'm sorry. We'll get entries
13 of appearance from staff.

14 MS. SHEMWELL: Lera Shemwell representing
15 the staff of the Missouri Public Service Commission.
16 Post Office Box 360, Jefferson City, Missouri 65102.

17 JUDGE JONES: Mr. Pendergast?

18 MR. PENDERGAST: Michael C. Pendergast
19 appearing on behalf of the Laclede Gas Company. My
20 business address is 720 Olive Street, St. Louis,
21 Missouri 63101.

22 JUDGE JONES: Mr. Poston?

23 MR. POSTON: I'm Marc Poston appearing for
24 the Office of Public Counsel, P.O. Box 2230, Jefferson
25 City, Missouri 65102.

1 JUDGE JONES: Thank you. Of the things
2 you all disagree with, it seems there's one that's
3 tied to a case that's already pending?

4 MR. PENDERGAST: Yes, and I believe staff,
5 and their recommendation, talked in terms of holding
6 that particular issue at bay pending the outcome of
7 the determination in that case, and I think one of the
8 items we wanted to go ahead and discuss today was
9 just -- kind of the procedural considerations
10 associated with tying those two together and see if,
11 you know, there's a way to go ahead and reach some
12 kind of recommendation to you on how we think that
13 ought to be addressed. I don't know if we can, but
14 that's one thing we're going to talk about.

15 MS. SHEMWELL: We're going to discuss
16 whether or not we can agree to be bound by that
17 decision, and that's what we will discuss today.

18 JUDGE JONES: Is the issue exactly the
19 same?

20 MR. PENDERGAST: There are a few factual
21 differences, but from our perspective, there are
22 common legal considerations that, in our view, dictate
23 the same result. It may not be the same result that
24 the staff would suggest it should be, but I think
25 there are definitely similarities that it merits

1 considering whether to make a recommendation along
2 those lines.

3 JUDGE JONES: Have you had a chance to look
4 at this?

5 MR. POSTON: Not in any detail.

6 JUDGE JONES: And I would assume -- since
7 you haven't had a chance -- to know whether or not the
8 issue is exactly the same.

9 MS. SHEMWELL: I think we would not agree
10 that it's exactly the same but that it is extremely
11 similar, to the point that it is possible that the
12 parties can agree to be bound, and if the parties
13 agree to be bound by the decision in the prior case,
14 than I think that is the recommendation that we can
15 make to you.

16 JUDGE JONES: Is the issue similar enough
17 to where, if the Commission decides one way in one
18 case and differently in this case, that they wouldn't
19 look like they were contradicting with one another?

20 MS. SHEMWELL: I believe that is the case.

21 MR. PENDERGAST: I think that's a real
22 possibility, depending on what the Commission said in
23 one order versus the other and what they use. But
24 that's a real possibility.

25 I want to re-emphasize; we want to talk about that

1 today. We haven't reached a final conclusion yet
2 ourselves whether that's the route we want to go, but
3 it's a possibility.

4 JUDGE JONES: Okay. And on the other
5 issues, any chance you all get along on those issues?

6 MR. PENDERGAST: The other main issue is
7 having to do with purchases that Laclede made from
8 LER. We would be willing to sit down and talk about
9 the potential settlement of that. I think maybe
10 there's some additional information that might be
11 helpful in reaching an accommodation on that, but I
12 think we really haven't had much in the way of
13 discussions on that issue, and it would be helpful for
14 us to pursue that. I don't see that it would be
15 irreconcilable, but I don't think I'll know for sure
16 until we talk about it.

17 MS. SHEMWELL: I think there's an issue
18 that I'd like to mention at this point, and we need
19 possibly to do some more discovery, or I need to do
20 some more legal research on the issue of whether or
21 not a transaction with an affiliate has any
22 presumption of prudence. And my position would be
23 that a transaction with an affiliate does not invoke
24 the same presumption of prudence than a transaction
25 with a third party in an arm's length transaction. So

1 that staff will probably require some additional
2 information and -- on that, but we can certainly
3 discuss settlement.

4 But I think that the Supreme Court made clear that
5 the very reason for the affiliate transactions rules
6 are that utilities can't benefit their unregulated
7 affiliates and harm customers, and I have the case in
8 front of me if you'd like to see it, Judge.

9 JUDGE JONES: Not if I don't have to.

10 But it's not necessarily true that a benefit to
11 unregulated affiliates does harm to the customer.
12 That's not --

13 MS. SHEMWELL: That is true. There may not
14 be any harm to the customer. Our concern is that, in
15 fact, LER is benefiting by actually making money off
16 the sale of gas to consumers and that is not the
17 traditional method of regulation of a utility; keeping
18 a profit to make money on the sale of gas to its
19 customers.

20 We need to look and see if this particular
21 arrangement in fact permits Laclede to make money on
22 the sale of gas to its customers, and if so, is that
23 something that the Commission should be aware of
24 considering that the Commission itself, from the
25 Chairman; Warren Wood to Kevin Kelly, to you,

1 yourself -- on the NRG case, at the bottom of page
2 five -- say that a utility does not benefit from the
3 sale of gas to its customers, and I believe your words
4 were that it needs to find another way to assign
5 profit.

6 JUDGE JONES: I didn't say that, the
7 Commissioner said that.

8 MS. SHEMWELL: Our question is, does the
9 Commission, when it tells the public that the
10 regulated utilities do not make money on the sale of
11 gas to its customers, is that now false because of the
12 relationship with LER? That's a topic that staff --

13 JUDGE JONES: You don't all dispute that
14 LER is an affiliate?

15 MR. PENDERGAST: No, we do not dispute that
16 LER is an affiliate, and if somebody originally
17 opposed the transaction rules -- I am actually
18 comforted by the fact we have some, because that sets
19 out the framework for how you price an allocated cost,
20 and fortunately we have a situation here where Laclede
21 and LER have conducted the transactions in strict
22 compliance with that specific transaction rules.

23 So, regardless of whatever prudence considerations
24 there may be, or anything else, those transactions
25 have been done in the way that the Commission has gone

1 ahead and described in its rules. And we'll be happy
2 to provide the staff with additional information on
3 that to go ahead and make sure they're aware of why we
4 reached that conclusion.

5 JUDGE JONES: Sounds like you all need to
6 talk about that. I don't suspect you all are going to
7 come up the procedural schedule today?

8 MR. PENDERGAST: I doubt it.

9 MS. SHEMWELL: Probably not.

10 JUDGE JONES: Well, just discuss what you
11 want to discuss. If I don't hear anything from you by
12 the time I get back around to this case, I'll probably
13 issue an order for you to tell me where you are. Is
14 that okay with you all?

15 MS. SHEMWELL: Certainly.

16 MR. PENDERGAST: Fine.

17 JUDGE JONES: Anything else on the record?

18 MS. SHEMWELL: I don't think so.

19 MR. PENDERGAST: Thank you.

20 JUDGE JONES: Thank you. Off the record.

21 (WHEREUPON, the recorded portion of the
22 pre-hearing conference was concluded.)

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1 CERTIFICATE OF REPORTER

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4 I, Mindy Vislay, Certified Court Reporter with the
5 firm of Midwest Litigation Services, and Notary Public
6 within and for the State of Missouri, do hereby
7 certify that I was personally present at the
8 proceedings had in the above-entitled cause at the
9 time and place previously described; that I then and
10 there took down in Stenotype the proceedings had; and
11 that the foregoing is a full, true and correct
12 transcript of such Stenotype notes so made at such
13 time and place.

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18 Mindy Vislay, CCR

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Notary Public (County of Cole)

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My commission expires March 19, 2011

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