

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Procedural Conference  
October 3, 2018  
Jefferson City, Missouri  
Volume 1

Locustwood Associates,            )  
  )  
                                  Complai nant,        )  
  )  
                                  vs.                    ) File No. GC-2018-0267  
  )  
Spi re Missouri , Inc. d/b/a        )  
Spi re,                                    )  
  )  
                                  Respondent.        )

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JOHN T. CLARK, Presi ding  
REGULATORY LAW JUDGE

REPORTED BY:  
Shelley L. Mayer, CCR  
TIGER COURT REPORTING, LLC

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PROCEEDINGS

THE COURT: We will go on the record now. Today's date is October the 3rd, 2018. The current time is 10:01 a.m. We are in Room 305 of the Governor Office Building.

The Commission has set aside this time for a procedural conference in the case captioned as LocustWood Associates, Complainant versus Spi re Missouri , Incorporated doing business as Spi re, Respondent. This is File No. GC-2018-0267.

My name is John Clark. I'm the regulatory law judge assigned to this matter.

I'm going to begin my asking the attorneys to enter their appearance starting with LocustWood Associates.

MR. WHITE: Christopher White on behalf of LocustWood Associates.

JUDGE CLARK: Thank you, Mr. White. Spi re Missouri .

MR. ZUCKER: Rick Zucker, Z-u-c-k-e-r, here on behalf of Spi re Missouri , Inc.

JUDGE CLARK: Thank you, Mr. Zucker. On behalf of the Commission Staff?

MS. ASLIN: Casi Aslin for Commission Staff and my information has been provided to the

1 court reporter.

2 JUDGE CLARK: And I've also noticed that  
3 staff attorney Jeff Keevil is here, but I assume is  
4 not going to be on the record unless necessary.

5 MR. KEEVIL: That's correct.

6 JUDGE CLARK: Nobody appears from the  
7 Office of the Public Counsel. Is there anybody I  
8 missed? Seeing no one I'm going to ask at this time,  
9 are there any preliminary matters or pending motions  
10 that I need to take up at this time? If I don't hear  
11 any, I've got a few, so. Starting with Staff.

12 MS. ASLIN: Nothing from Staff.

13 JUDGE CLARK: Could you say that a little  
14 louder, please.

15 MS. ASLIN: Nothing from Staff.

16 JUDGE CLARK: Mr. White.

17 MR. WHITE: There's no new one other than  
18 the motion for summary determination that was filed  
19 previously and responded to.

20 JUDGE CLARK: Yes. And I've got a couple  
21 questions regarding that I'll get to in a minute.  
22 Mr. Zucker.

23 MR. ZUCKER: Yes. Just that motion that  
24 Mr. White identified.

25 JUDGE CLARK: Okay. Well, then I'll get

1 to my questions. As is indicated a motion was filed  
2 by Spire Missouri along with their answer for summary  
3 determination. There was a timely response to that  
4 received from LocustWood Associates. It left me  
5 with a few questions.

6 Mr. White, I was looking through this  
7 motion and I'm going to refer you to paragraph 20 --  
8 enumerated paragraph 27.

9 MR. WHITE: Is that in the legal  
10 memorandum?

11 JUDGE CLARK: That is. And it says,  
12 LocustWood submits that Staff's report filed on  
13 September 7th, 2018, in the conclusion therein are  
14 misplaced and incomplete. Staff's report fails to  
15 address facts, that there are numerous material facts  
16 in dispute. Those facts affect any analysis of  
17 whether there are violations of applicable statutes  
18 and rules of the Commission.

19 And it goes on for a little bit. But  
20 what I'm confused as to, I've had an opportunity to  
21 read the answer now. I've read the preceding up to  
22 this, if that's -- those are the facts you're  
23 referring to, but can you tell me with some  
24 particularity what facts that you believe are in  
25 dispute?

1 MR. WHITE: If you'll just hold on one  
2 second, I'm going to open up the document. You know,  
3 we submitted an affidavit identifying all the  
4 material facts in dispute.

5 JUDGE CLARK: I understand. It's just a  
6 little bit broad and I just am not sure what you and  
7 Spire are disagreeing on in regards to the underlying  
8 facts as to who moved out when, when things were  
9 transferred. On those basic underlying issues it  
10 doesn't appear that there's any dispute.

11 MR. WHITE: Okay. I just heard from my  
12 partner. I'm going to give him the phone number if  
13 you could bear with me.

14 JUDGE CLARK: Absolutely.

15 UNIDENTIFIED SPEAKER: I have the number  
16 in front of me; I'll dial in.

17 MR. WHITE: All right. Thank you. Sorry  
18 for that interruption, your Honor.

19 JUDGE CLARK: No problem. Okay. Who is  
20 joining us?

21 MR. SINCLAIR: Paul Sinclair.

22 JUDGE CLARK: Mr. Sinclair, you're also  
23 on behalf of LocustWood Associates?

24 MR. SINCLAIR: Correct, I'm a partner.

25 JUDGE CLARK: It sounded like, if I'm

1 wrong, that you had a response to the question that  
2 was put forth.

3 MR. WHITE: Okay. I'm reading it now.

4 MR. SINCLAIR: Could you repeat the  
5 question?

6 JUDGE CLARK: I'm just wondering, of the  
7 underlying facts upon which this complaint is  
8 premised, what are the points in which you and Spi re  
9 Missouri disagree?

10 MR. SINCLAIR: We think the material fact  
11 in dispute --

12 COURT REPORTER: Who is speaking?

13 JUDGE CLARK: That's Paul Sinclair.

14 MR. SINCLAIR: -- that the paragraph 27  
15 refers to was my response to Staff's report and in  
16 that specifically, they did not appreciate that there  
17 were material facts in dispute.

18 They also did not address issue 393.140.5  
19 of the RSMo. That section requires a hearing. And  
20 the material fact in dispute -- if you want me to go  
21 through them --

22 JUDGE CLARK: Please.

23 MR. SINCLAIR: Is this hearing,  
24 prehearing conference to address the summary judgment  
25 or to set a hearing schedule? I guess I'm a little

1 confused.

2 JUDGE CLARK: It's primarily -- I'm going  
3 to ask to set a procedural schedule, but I had a few  
4 questions before I presented the motion in the  
5 responsive pleading to the Commission for  
6 determination. I just wanted to try and clear those  
7 up. But if you just want to rely on the pleading as  
8 put forth, you're welcome to do so.

9 MR. SINCLAIR: Well, I'm going to provide  
10 more information, but essentially, I think the  
11 revert-to-owner agreement has ambiguity that has to  
12 be construed against Spi re.

13 JUDGE CLARK: What's the ambiguity?

14 MR. SINCLAIR: The thing -- the language  
15 that we set forth said it won't automatically revert.  
16 It doesn't say that it won't revert. What it does  
17 say is they don't have to give us prior notice of the  
18 disconnect. And I address all those issues in my  
19 legal memorandum with our response to that.

20 There's also an issue, some outstanding  
21 discovery that still has not been responded to fully.  
22 And specifically I asked for copies of agreements  
23 from Missouri Gas Energy, and the only agreements  
24 that I got were from Spi re.

25 JUDGE CLARK: And if you'll hold on a

1 second, I do have discovery issues on my list of  
2 things I want to get to. Okay. So ambiguity in the  
3 reverts-to-landlord contract?

4 MR. SINCLAIR: Right.

5 JUDGE CLARK: All right. And in regard  
6 to that, I actually had a question. Mr. Zucker, my  
7 question for you in regards to the competing motions  
8 or the motion and the response that were filed are  
9 these what appears to be kind of a boilerplate revert  
10 to landlord contract. Is that the kind of contract  
11 over which the Commission would have to exercise  
12 approval?

13 MR. ZUCKER: The answer is no. I think  
14 that the rules provide that we can have that, we can  
15 have that in the contract. I don't -- I do not think  
16 that the contract has to approved.

17 MR. WHITE: Your Honor --

18 JUDGE CLARK: Hold on just a second.  
19 What rule is it that you believe covers that?

20 COURT REPORTER: Would you have them  
21 identify themselves?

22 JUDGE CLARK: I'm sorry?

23 COURT REPORTER: I'm sorry. This is the  
24 court reporter. Would you please identify yourself  
25 before you speak, on the phone?

1 JUDGE CLARK: The court reporter is  
2 having difficulty telling who is talking when, so  
3 before you speak, if you could identify who is  
4 talking.

5 But I -- my question was for Mr. Zucker.  
6 Mr. Zucker, you said you believe that the rules cover  
7 this?

8 MR. ZUCKER: Yes. This is Rick Zucker.  
9 Let me have a minute to review the rules and see if I  
10 can find where it -- where it mentions this. I think  
11 it's in chapter 13. I thought it might be under  
12 Buildings, which is --- this is Zucker again.

13 JUDGE CLARK: But you believe it's in  
14 chapter 13?

15 MR. ZUCKER: I thought it was, but I was  
16 not prepared to answer that question.

17 MR. WHITE: If you look at 393.140 --

18 JUDGE CLARK: Whom is speaking?

19 MR. WHITE: Chris White speaking. I'll  
20 announce when I'm speaking so it's better for the  
21 court reporter.

22 393.140, para-- subparagraph 11 talks  
23 about contracts.

24 JUDGE CLARK: Okay. Those are all the  
25 questions that I had at this time in regard to the

1 motions. It's my intent to put them before the  
2 Commission for the Commission to make a decision in  
3 regards to the motion for summary determination and  
4 the response thereto.

5 MR. WHITE: And I do have one other  
6 question I'd like to raise.

7 JUDGE CLARK: Whom is speaking?

8 MR. WHITE: Chris White. I'm sorry, your  
9 Honor.

10 I never received the discovery responses  
11 to Staff's questions to Spire.

12 JUDGE CLARK: Okay. And that brings me  
13 to my next subject which is discovery issues. On  
14 August the 10th it appears that LocustWood filed a  
15 motion to compel discovery to which a response was  
16 issued basically indicating that that's not the way  
17 the Commission handles those, that first the parties  
18 need to attempt to work it out between themselves  
19 before -- before then reverting to a phone call and  
20 then finally, I believe, filing a motion. I don't  
21 remember the exact order off the top of my head.

22 Mr. White, what attempts have you made to  
23 resolve the issue directly with Spire?

24 MR. WHITE: Well, shortly after that  
25 order was issued I actually got a call from Rick and

1 he said he was going to provide me responses and he  
2 did provide me some responses. There's an issue with  
3 respect to the completeness of the response regarding  
4 Missouri Gas Energy, and I attached those responses  
5 in the questions in the attachments to my motion in  
6 opposition to the summary determination.

7 JUDGE CLARK: And I saw that you attached  
8 the email as well as the responses.

9 MR. WHITE: Right.

10 JUDGE CLARK: You need to be aware that  
11 for the most part, a lot of this information would  
12 normally be considered confidential, but since  
13 it's -- some of it's your information to reveal, when  
14 you do so, it ceases to be so.

15 MR. WHITE: All right.

16 JUDGE CLARK: But in regard to that, what  
17 specifically have you not received from Spire that  
18 you requested? You referenced an MGE --

19 MR. WHITE: I request--

20 JUDGE CLARK: -- an MGE  
21 revert-to-landlord contract.

22 MR. WHITE: Right. From 2010 to the  
23 present. And the only agreements that I got were the  
24 ones currently used by Spire, and there were two of  
25 them which I attached.

1 JUDGE CLARK: Okay. Mr. Zucker, is there  
2 any reason that that can't be provided?

3 MR. ZUCKER: Well, he has the one that  
4 was -- the one, the form that was signed at the time  
5 they signed it. And I got him the current ones that  
6 were being used by both Spire East and Spire West. I  
7 don't know if I'll be able to find other ones, if  
8 there are other versions. But I know from -- from  
9 having been here that there are no versions which say  
10 that we will provide notice to a landlord when we  
11 disconnect service to the tenants.

12 JUDGE CLARK: Okay. I guess my question  
13 in regard to that and in regard to discovery issues  
14 is this: Are you indicating that the version that  
15 was signed by them originally is the 2010 or  
16 thereabouts MGE version of that contract?

17 MR. ZUCKER: Yes, that is the MGE version  
18 of that contract. And that was the MGE, that  
19 version, before we bought them.

20 MR. WHITE: Okay. And my question was a  
21 little bit broader than that, whether there were any  
22 other types of revert-to-owner agreements --

23 JUDGE CLARK: That's Mr. White again.

24 MR. WHITE: -- being used by MGE.

25 And that's the thing that's not answered.

1 And the question is broader than just the prior  
2 notice. They're admitting it to the prior notice  
3 issue, but the issue, that's the discontinuance of  
4 service, that doesn't address the issue about what  
5 other provisions may exist.

6 JUDGE CLARK: I guess I'm going to go to  
7 the broader question still of, Mr. Zucker, you  
8 indicated that you're not aware of any other revert-  
9 to-owner contracts out there between 2010 and now  
10 from MGE.

11 MR. ZUCKER: Correct.

12 JUDGE CLARK: Have you --

13 MR. WHITE: Your Honor --

14 JUDGE CLARK: Hold on.

15 MR. WHITE: I think it --

16 JUDGE CLARK: Hold on. I'm talking,  
17 Mr. White.

18 MR. WHITE: I'm sorry. Go ahead, your  
19 Honor.

20 JUDGE CLARK: Now, Mr. Zucker, what  
21 efforts have been made to locate any other revert-to-  
22 owner contracts?

23 MR. ZUCKER: I have asked the people who  
24 work in that department to locate any, and I do not  
25 think that MGE had a different one other than what I

1 provided already that Mr. White already had until we  
2 have -- until we bought them and have made the change  
3 that they currently have.

4 JUDGE CLARK: Okay. And what I'm going  
5 to ask then is that you provide essentially whoever  
6 the person is that indicated to you that there is no  
7 other contract, if you provide the name of that  
8 person to Mr. White. I'd rather not do that during  
9 this procedural conference. Somebody that can  
10 essentially say that --

11 MR. ZUCKER: Okay.

12 JUDGE CLARK: -- to the best of their  
13 knowledge, there are no other revert-to-landlord  
14 contracts.

15 MR. ZUCKER: I got it. I understand.

16 JUDGE CLARK: Okay.

17 MR. ZUCKER: I will send that to him.

18 MR. WHITE: All right. Thank you, Rick.

19 MR. ZUCKER: Sure.

20 JUDGE CLARK: Mr. White, does that  
21 address your discovery issues, or are there other  
22 discovery issues?

23 MR. WHITE: No. That's the main one at  
24 this point, your Honor.

25 JUDGE CLARK: Okay. Are there any other

1 preliminary matters that need to be addressed at this  
2 time? Mr. Zucker?

3 MR. ZUCKER: I do not have any.

4 JUDGE CLARK: Mr. White?

5 MR. WHITE: I have none other than  
6 wanting to set a hearing date for this matter.

7 JUDGE CLARK: I think that's very  
8 appropriate, and I want to get on that as soon as  
9 possible myself. Staff?

10 MS. ASLIN: No, Judge.

11 JUDGE CLARK: Okay. A complaint, answer,  
12 staff report have been filed. Unless there's  
13 anything else of a procedural nature to take up,  
14 which it doesn't sound like there is, I'm going to  
15 ask the parties to come up with a proposed  
16 procedural schedule and I'm going to ask Staff to  
17 file that proposed procedural schedule. I want it to  
18 include all the usual case events. It should also  
19 include any stipulation of nondisputed material  
20 facts.

21 In order to facilitate the parties being  
22 able to do this, I'm going to leave a copy of the  
23 adjudication calendar through February, which I think  
24 is further than I'd like to go on this by a long  
25 shot, but at the same time I want to allow all the

1 parties sufficient time to have an opportunity to  
2 file their testimony, direct, rebuttal, and  
3 surrebuttal as such.

4 MR. WHITE: Your Honor, this is Chris  
5 White. I have a question. Considering the nature of  
6 this procedure and the amount at issue, wouldn't we  
7 just present testimony at the -- at the live hearing?

8 JUDGE CLARK: There is -- is this below  
9 the amount in dispute for a small --

10 MR. WHITE: Yes, your Honor, it is.

11 JUDGE CLARK: Then there's the -- I  
12 hadn't planned on doing so, but generally in a small  
13 complaint, there is a provision that allows the  
14 regulatory judge to waive the prefiled testimony  
15 requirement, which is what I assume you're talking  
16 about.

17 MR. WHITE: Yes, your Honor.

18 JUDGE CLARK: And it sounds like you're  
19 expressing a preference toward not doing prefiled  
20 testimony?

21 MR. WHITE: That's right, your Honor,  
22 because I think the issues have been fully fleshed  
23 out in the initial formal complaint, their answer,  
24 and this motion for summary determination which has  
25 set forth all the issues.

1 JUDGE CLARK: Okay. Mr. Zucker, what's  
2 Spi re's position in regard to prefilled testimony?

3 MR. ZUCKER: Well, I guess if, you know,  
4 from what Mr. White just said -- this is Mr. Zucker  
5 by the way -- from what Mr. White just said, it  
6 sounds like, you know, possibly this could just be  
7 decided on the pleadings on -- on summary  
8 determi nation.

9 However, if we are going to have a  
10 hearing, we would definitely want to do a, you know,  
11 the nondisputed material -- nondisputed material  
12 facts. And if we had done that and there's no --  
13 nothing else to be said, then at that point I don't  
14 think we need to again have a hearing; it can be  
15 decided on the -- on the facts.

16 If there are more facts that need to be  
17 done, I would prefer to at least have one round where  
18 we can state whatever facts we think are needed  
19 and -- and I can see what facts that LocustWood  
20 believes should be in the record. And that will  
21 certainly help us both prepare for the hearing.

22 JUDGE CLARK: Okay.

23 MR. ZUCKER: I guess I would like to know  
24 if the Commission thinks that they can rule on the  
25 summary determination one way or the other.

1 JUDGE CLARK: Well, I would expect  
2 certainly within the next few weeks to see the  
3 Commission rule on the summary determination motion.  
4 But I'd like to set that aside for a second as though  
5 that's not an issue and kind of look forward to the  
6 procedural schedule in the event that the Commission  
7 were to not grant the summary determination motion.

8 So it sounds like what you're saying,  
9 Mr. Zucker, is that there's some belief on your part  
10 that the two parties and Staff could agree to  
11 potentially have the Commission decide the issue  
12 based upon pleadings instead of having a hearing and  
13 testimony. And I think that's fine if both parties  
14 agree to do that. If both parties can't agree to do  
15 that and either party wants a hearing, I'd like to go  
16 ahead and set that hearing date now with the  
17 assumption that if at any point between now and then  
18 the parties decide to have it determined upon  
19 pleadings, that they, at that point, indicate to do  
20 so.

21 In regard to the prefiled testimony,  
22 assuming there is going to be a hearing, you haven't  
23 answered my question yet. I generally only agree to  
24 waive prefiled testimony if both parties agree to  
25 waive prefiled testimony. It sounds like Mr. White

1 indicates that his preference is not to do prefiled  
2 testimony, so I'm going to ask my original question  
3 one more time. Assuming that there is going to be a  
4 hearing, what's Spire's position in regards to  
5 submitting prefiled testimony or just having the  
6 parties testify on the record at the evidentiary  
7 hearing?

8 MR. ZUCKER: This is Mr. Zucker again,  
9 and I'm sorry, your Honor, I thought I did answer  
10 that question in that I said that I would prefer to  
11 have one round of prefiled written testimony so I --  
12 I know what -- I guess direct testimony. We can come  
13 to the Commission and do a rebuttal and  
14 cross-examination, but I would like to see one round  
15 of -- of direct if we're going to do live -- if we're  
16 going to do testimony.

17 JUDGE CLARK: Okay. That's not my policy  
18 to generally do one round, so what'll happen is I'm  
19 going to go ahead and, as I previously said, I want  
20 Staff to file on behalf of the parties a proposed  
21 procedural schedule. I want it to have dates of the  
22 usual stuff, any stipulation of nondisputed facts. I  
23 want it to have dates for direct, rebuttal, and  
24 surrebuttal testimony to be filed and a time for any  
25 final exhibits to be due, although those will not be

1 filed with EFIS; those instead will go directly to  
2 the presiding officer, as well as a date for an  
3 evidentiary hearing and potential dates for both  
4 briefs and reply briefs.

5 MR. ZUCKER: This is Rick Zucker again.  
6 I guess I -- what I'm saying is I don't know that  
7 we need to have a rebuttal and surrebuttal written  
8 testimony.

9 JUDGE CLARK: It's my preference to allow  
10 each party an opportunity to respond. So if there's  
11 direct, there's going to be a rebuttal and a  
12 surrebuttal. That doesn't require the -- that does  
13 not require the parties to avail themselves of it;  
14 it's just a deadline for submitting it if, in fact,  
15 those occur.

16 MR. ZUCKER: This is Mr. Zucker again. I  
17 see. I understand what you're saying, your Honor. I  
18 didn't get it at first.

19 JUDGE CLARK: Okay. And if at any point  
20 during -- during this procedural process the parties  
21 decide that they just want to submit pleadings and  
22 have the -- have a decision rendered on the  
23 pleadings, they can do so. But again, all parties,  
24 including Staff, have to be in agreement for me to do  
25 that.

1 MR. KEEVIL: Judge -- this is Jeff  
2 Keevil, by the way. Based on what you just said, it  
3 raises something that always concerns me in these  
4 small complaint cases. And that's part of the rule  
5 in the small complaint rule provides that Staff --

6 JUDGE CLARK: Is not a party.

7 MR. KEEVIL: -- shall not advocate a  
8 position.

9 JUDGE CLARK: Yeah. It's not.

10 MR. KEEVIL: But we're a party, but we're  
11 not to advocate a position. And so --

12 JUDGE CLARK: Well, why don't we leave  
13 that out of it. So if the two competing parties  
14 decide that they want to have it resolved on the  
15 pleading, I'm going to not defer to Staff in any  
16 regard.

17 MR. KEEVIL: Okay.

18 JUDGE CLARK: You're right. Thank you  
19 for reminding me of that, Mr. Keevil.

20 MR. KEEVIL: Yeah. I mean, that also  
21 comes up like in briefing and everything else. I  
22 mean, it's hard to -- to me it seems pointless to  
23 write a brief if you aren't going to be advocating  
24 for it.

25 JUDGE CLARK: No. And I will keep that

1 in mind. Essentially a brief would be a reiteration  
2 of Staff's report with any new information that might  
3 have come about since then.

4 MR. KEEVIL: Okay. Thank you.

5 JUDGE CLARK: Okay. Is there anything  
6 else from any party?

7 MS. ASLIN: Judge, when would you like  
8 that procedural schedule filed?

9 JUDGE CLARK: Thank you. How long do you  
10 think that it will take Staff to do so?

11 MS. ASLIN: I think a week would be  
12 sufficient.

13 COURT REPORTER: I'm sorry?

14 MS. ASLIN: I think a week would be  
15 sufficient.

16 MR. WHITE: Could you speak up; I didn't  
17 hear that.

18 MS. ASLIN: I believe that a week would  
19 be sufficient unless any other party thinks it would  
20 take longer than that to agree on dates.

21 MR. KEEVIL: Remember, Monday's a  
22 holiday.

23 JUDGE CLARK: Well, I'm also going to  
24 take into account that I still have to submit the --  
25 I still have to submit the motion for summary

1           determination to the Commission, so there's a little  
2           extra time in there given that anyway. So I don't  
3           think I'll make a procedural schedule due until  
4           the 12th.

5                       MS. ASLIN: Okay.

6                       MR. WHITE: Your Honor, this is Chris  
7           White again. I think more time would be probably  
8           beneficial to -- to work out the details of the -- of  
9           a schedule with all parties.

10                      JUDGE CLARK: If that -- if the parties  
11           are unable to resolve the issue by the 12th, Staff  
12           can file a motion for an extension of that time. But  
13           I'd still like the parties to try and work out a  
14           procedural schedule so that at least we're all on the  
15           same page and running the same direction towards an  
16           evidentiary hearing.

17                      MR. WHITE: All right, your Honor. This  
18           is Chris White again.

19                      JUDGE CLARK: Okay. As I indicated  
20           before, I'm going to leave a copy of the adjudication  
21           calendar here with Staff. The phone bridge I believe  
22           is open until 11:15 today if the parties wish to talk  
23           among themselves, at least initially regarding  
24           procedural schedule.

25                      Are there any other issues or matters

1 that need to be addressed by the Commission at this  
2 time? Staff?

3 MS. ASLIN: No.

4 JUDGE CLARK: Mr. White?

5 MR. WHITE: No, your Honor.

6 JUDGE CLARK: Mr. Zucker?

7 MR. ZUCKER: Yes, your Honor. I do have  
8 an answer to the question that you asked earlier  
9 about the revert-to-owner agreement, and that is -- I  
10 was mistaken. That's not in the rules. It is in our  
11 tariff. So on sheet R, the letter R, dash, 26 of  
12 both Spi re Missouri East and West tariff, there's a  
13 Rule 32 which says that we will charge customers for  
14 the initiation of gas service at the rate set forth  
15 in the rate schedules, but such charge shall not  
16 apply to owners of rental property where the owner  
17 agrees through written application to the company to  
18 establish service in his or her name during periods  
19 of vacancy of rental units.

20 JUDGE CLARK: Okay. Thank you for  
21 informing me of that.

22 MR. WHITE: Your Honor, this is Chris  
23 white. May I address that issue?

24 JUDGE CLARK: Go ahead.

25 MR. WHITE: The problem with that is the

1 agreement is what was in MGE tariffs, not their  
2 tariff. This agreement was executed with Missouri  
3 Gas Energy, and those are the applicable tariffs.  
4 And again, I don't believe that overrides the section  
5 that I cited that requires review and approval of  
6 these contractual agreements because there's no  
7 limitation in the statute and I don't think tariffs  
8 can override statutes.

9 JUDGE CLARK: Thank you, Mr. White.

10 MR. ZUCKER: Your Honor, this is Rick  
11 Zucker again. That's all I had.

12 JUDGE CLARK: Okay. Thank you,  
13 Mr. Zucker. Having not heard anything else from any  
14 other parties, I will adjourn this hearing at this  
15 time and we will go off the record.

16 (Off the record.)  
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CERTIFICATE

I, Shelley L. Mayer, a Certified Court Reporter, CCR No. 679, the officer before whom the foregoing transcript of proceedings was taken, do hereby certify that the testimony was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this transcript of proceedings was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

*Shelley L. Mayer*

Shelley L. Mayer, CCR



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