

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

5 Discovery Conference

6 June 1, 2011

7 Jefferson City, Missouri

8 Volume 2  
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11 In the Matter of Veolia Energy ) File No. HR-2011-0241  
12 Kansas City, Inc. For Authority ) Tariff Nos. YH-2011-0532  
13 To File Tariffs to Increase Rates ) and YH-2011-0533  
14

15 DANIEL JORDAN, Presiding

16 SENIOR REGULATORY LAW JUDGE  
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## PROCEEDINGS

1  
2 JUDGE JORDAN: Well, good morning, everyone.  
3 The Commission will call File HR-2011-0241, which is In The  
4 Matter of the Rate Change Application of Veolia Energy,  
5 Kansas City, Incorporated.

6 We're here for a discovery conference and  
7 we'll try to get done what we can do. We'll begin with  
8 entries of appearance. Let's begin with the applicant.

9 MS. VUYLSTEKE: Diane Vuylsteke of the law  
10 firm Bryan Cave, LLP, 211 North Broadway, Suite 3600, St.  
11 Louis, Missouri 63102 appearing for Veolia Energy, Kansas  
12 City, Inc.

13 JUDGE JORDAN: Thank you, Counselor.

14 And for the Staff of the Missouri Public  
15 Service Commission?

16 MR. THOMPSON: Kevin Thompson and Jamie Ott,  
17 for the Staff of the Missouri Public Service Commission, P.O.  
18 Box 360, Jefferson City, Missouri 65102. Thank you, Judge.

19 JUDGE JORDAN: Thank you.

20 And for intervenor?

21 MR. COOPER: Dean L. Cooper of the law firm  
22 Brydon, Swearingen & England, P.C., P.O. Box 456, Jefferson  
23 City, Missouri 65102, appearing on behalf of Southern Union  
24 Company, doing business as Missouri Gas Energy.

25 JUDGE JORDAN: Thank you, Counselor.

1           I note also that we have some representatives  
2 in the room present with us. Will counsel introduce persons  
3 -- other persons who might be participating in the discovery  
4 conference?

5           MR. THOMPSON: Well, we have Tom Emhoff  
6 (phonetic) he examines rates and tariffs; and Guy Gilbert,  
7 who is a dam inspector, among other things.

8           And you, sir, what's your name?

9           MR. ROBINETT: John Robinett.

10          MR. THOMPSON: John Robinett. What do you do?

11          MR. ROBINETT: I work for Guy.

12          MR. THOMPSON: He works for Guy. Probably on  
13 depreciation rather than dam inspecting.

14          JUDGE JORDAN: Thank you. Well, I understand  
15 that we also had some representatives of a client that would  
16 have appeared by telephone had this -- had that not been made  
17 impossible by last minute scheduling changes and other  
18 difficulties.

19                 That being the case, I don't know if there's  
20 anything that I can really rule on today, since parties might  
21 be -- might be prejudiced by the absence of their  
22 representatives. And I certainly don't want to put anyone at  
23 a disadvantage. But I hope that we can get some conversation  
24 started today and maybe make some progress.

25                 I don't have any matters to raise from my

1 end -- from my side of the bench, so I'll ask the parties  
2 whether they have anything that they wish to discuss.

3 MS. VUYLSTEKE: Well, Your Honor, as you  
4 pointed out, and as I mentioned in my e-mail to the parties,  
5 we did plan on having Steve Carver and Dan Dennis available.  
6 Dan Dennis is the vice-president and general manager of  
7 Veolia Kansas City, and Steve Carver is one of our primary  
8 experts with Utilitech.

9 And our plan today was to go through the  
10 responses -- the requests and the responses to date and see  
11 if there were any issues or problems with our responses or  
12 follow-up that needed to be done. And because both of those  
13 representatives are not able to participate by phone, we  
14 would request that we could reschedule any technical  
15 discussion until they're available, whether in person, by  
16 phone, or whatever the parties preference might be, whatever  
17 your preference is.

18 JUDGE JORDAN: I'm issuing an Order that sets  
19 forth the content of the e-mail that I sent to the parties  
20 about reconvening this conference, and June 6th would be the  
21 latest date for filing such a motion. But I -- that's the  
22 kind of thing that I anticipated.

23 MS. VUYLSTEKE: Well, we'd be glad to be the  
24 movant on scheduling a later conference. I assume that would  
25 be useful to the Staff to go through the responses together.

1 Unless the only way I think that might not make sense is if  
2 there was nothing to discuss or the Staff was satisfied with  
3 the responses that we had or we could, you know, get an  
4 opinion on that today.

5 But it would be hard to have, I think, a  
6 productive discussion on that without the experts there,  
7 unless there's just no issue.

8 MS. OTT: I guess Staff would just like to  
9 note I don't think we've had any issue with the responses,  
10 but in terms of raising everything and being open up front,  
11 Staff has noted that Veolia has objected to every single DR  
12 in some capacity. So while we're still evaluating the  
13 responses, we're not quite sure if we're going to have to  
14 challenge any of the objections if any of the information was  
15 withheld pursuant to that.

16 MR. THOMPSON: It's my understanding that at  
17 this point we've pretty much gotten what we've asked for.  
18 Objections have been raised, and then the information  
19 requested has been provided, so we haven't seen any point in  
20 wasting your time or ours in fighting those objections when,  
21 in fact, they've had no practical effect. If that changes  
22 and there is a practical effect, then, of course, we would  
23 follow the procedures and raise it in front of you, Your  
24 Honor.

25 JUDGE JORDAN: So what Ms. Ott is referring to

1 is responses to discovery that raised an objection and then  
2 say such objection notwithstanding, here is the answer

3 MR. THOMPSON: Exactly. Subject to the  
4 objection, here is the stuff you're asking for.

5 MS. VUYLSTEKE: And Your Honor, the objections  
6 weren't meant to harass or cause, you know, any  
7 time-consuming disputes. There are some jurisdictional and  
8 legal issues that we think are unique to Veolia and we  
9 thought it was important, given that we have ten days to  
10 object or we've waived our objections, to go ahead and raise  
11 legal objections but to also alert the Staff to completeness  
12 so that they don't have a feeling that there's anything out  
13 there and they're not sure if they're going to get answers.

14 And so we've been not only providing  
15 responses, but also noting that notwithstanding an objection,  
16 this response is complete. Just to make it less of a burden  
17 to the Staff that we've had to provide these objections.

18 And so I think things are working relatively  
19 smoothly and we'll continue to stand dialogue with the Staff  
20 on that.

21 JUDGE JORDAN: Okay. I appreciate that  
22 practice. Anything from the intervenor?

23 MR. COOPER: No, Your Honor.

24 JUDGE JORDAN: Okay. Well, while I'm here, is  
25 there any other matter that you'd like to raise that with me

1 while I'm here? Otherwise, we may certainly continue your  
2 conversation in this room all day, if you'd like. I don't  
3 think there's anything else that's schedule for this time and  
4 place.

5 MR. THOMPSON: I sure don't think we have that  
6 much to say, Judge, but we appreciate the availability of the  
7 facility.

8 JUDGE JORDAN: Well, it is early, and I  
9 appreciate the parties getting us on the record. Anything  
10 more from the applicant?

11 MS. VUYLSTEKE: We don't have anything  
12 further. Thank you.

13 JUDGE JORDAN: Anything more from the  
14 intervenor?

15 MR. COOPER: No, Judge.

16 JUDGE JORDAN: Well, I thank you for being  
17 here. Sorry for these last minute difficulties, and  
18 certainly feel free to file a Motion to Reconvene, if you  
19 think it would be helpful; otherwise, I encourage the parties  
20 to continue their discussions without my presence, outside my  
21 presence. And with that, unless there's anything else, we'll  
22 go off the record.

23 MR. THOMPSON: Thank you, Judge.

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CERTIFICATE OF REPORTER

STATE OF MISSOURI )

) ss:

COUNTY OF GASCONADE )

I, JENNIFER L. LEIBACH, Registered Professional Reporter, Certified Court Reporter, CCR #1108, and Certified Realtime Reporter, the officer before whom the foregoing matter was taken, do hereby certify that the witness/es whose testimony appears in the foregoing matter was duly sworn; that the testimony of said witness/es 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 matter 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.

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