

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a hearing of the Public Service
Commission, held at Jefferson City,
Missouri, on the 26th day of
April, 1979.

C O N S O L I D A T E D R E C O R D

CASE NO. EA-79-166

In the matter of the application of
MISSOURI POWER & LIGHT COMPANY for
a certificate of convenience and
necessity to construct, operate and
maintain a new 69,000 volt electric
line and a new 69,000/4,160 volt
substation in the City of LaGrange,
Lewis County, Missouri.

CASE NO. EA-79-176

In the matter of the application of
MISSOURI POWER & LIGHT COMPANY for
a certificate of convenience and
necessity to construct, operate and
maintain a new 69,000 volt electric
line and a new 69,000/12,500 volt
substation in Cole County, Missouri.

BEFORE:

STANLEY A. LORING, Presiding,
HEARING EXAMINER.

REPORTED BY:
ROBERT L. STRATMAN

Missouri Public Service Commission

APPEARANCES:

NORMAN G. CURTRIGHT, General Attorney,
Missouri Power & Light Company,
P. O. Box 780,
Jefferson City, Missouri 65102,

FOR: APPLICANT,
MISSOURI POWER & LIGHT COMPANY.

GARY W. DUFFY, Assistant General Counsel,
Missouri Public Service Commission,
P. O. Box 360,
Jefferson City, Missouri 65102,

FOR: STAFF OF THE MISSOURI PUBLIC SERVICE
COMMISSION.

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1 BE IT REMEMBERED, at a hearing of the Public
2 Service Commission, held at the time and place mentioned on
3 the title page hereof, the following proceedings were had:

4 (Written Entries of Appearance filed.)

5 EXAMINER LORING: Let's go on the record in
6 consolidated cases EA-79-166 and EA-79-176; Case No. EA-79-166
7 being in the matter of the application of Missouri Power &
8 Light Company for a certificate of convenience and necessity
9 to construct, operate and maintain a new 69,000 volt electric
10 line and a new 69,000/4,160 volt substation in the City of
11 LaGrange, Lewis County, Missouri; and Case No. EA-79-176
12 being in the matter of the application of Missouri Power &
13 Light Company for a certificate of convenience and necessity
14 to construct, operate and maintain a new 69,000 volt electric
15 line and a new 69,000/12,500 volt substation in Cole County,
16 Missouri.

17 Make your entries of appearance, please.

18 MR. CURTRIGHT: Norman G. Curtright, appearing
19 on behalf of the Applicant, Missouri Power & Light Company;
20 my address is 101 Madison Street, Jefferson City, Missouri.

21 MR. DUFFY: Gary W. Duffy, Assistant General
22 Counsel, appearing for the Staff of the Public Service
23 Commission; P. O. Box 360, Jefferson City, Missouri 65102.

24 EXAMINER LORING: Does the Applicant have
25 any preliminary matters, or opening statement, or anything

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1 of that nature?

2 MR. CURTRIGHT: We have none.

3 EXAMINER LORING: How about the Staff?

4 MR. DUFFY: None.

5 EXAMINER LORING: Okay. The Applicant may
6 proceed.

7 MR. CURTRIGHT: I would like to call my
8 witness, Mr. John Bret.

9 EXAMINER LORING: Right over there (indicating)
10 if you would, please, Mr. Bret, and I will swear you in.

11 (At this time Mr. John E. Bret was duly
12 sworn.)

13 APPLICANT'S EVIDENCE:

14 J O H N E. B R E T, called as a
15 witness in behalf of the APPLICANT,
16 MISSOURI POWER & LIGHT COMPANY, being
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. CURTRIGHT (CASE NO. EA-79-166):

19 Q Please state your full name.

20 A John E. Bret.

21 Q By whom are you employed?

22 A Missouri Power & Light Company.

23 Q And what is your position with Missouri
24 Power & Light?

25 A Senior Engineer, Overhead Lines and Construc-
tion.

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1 Q Would you please state your educational
2 and professional background?

3 A I have an engineering degree from the
4 University of Missouri at Columbia. I am a Registered
5 Engineer and a Registered Land Surveyor.

6 Q Mr. Bret, what is the purpose of the Company's
7 application in Case No. EA-79-166, relating to an electric
8 line and substation in the City of LaGrange, Missouri?

9 A The purpose of the application is to
10 construct a new 69,000 volt electric line and a new 69,000
11 to 4,160 volt substation at LaGrange.

12 Q How will the construction of said line and
13 substation be financed?

14 A It will be financed with funds from the
15 treasury of the Company, and unsecured short-term bank
16 loans, and these loans will subsequently be refunded through
17 the issue and sale of stock and bonds and other forms of
18 permanent financing, subject to the approval of this
19 Commission.

20 Q Mr. Bret, I am handing you a document,
21 which has been marked as Exhibit 1, that was prefiled with
22 the application; would you please identify this?

23 A This is a drawing that shows the proposed
24 location of the line and the substation at LaGrange.

25 Q Was this drawing prepared by you or under

1 your supervision?

2 A Yes, it was.

3 MR. CURTRIGHT: I offer this into evidence.

4 EXAMINER LORING: Let's go off of the record.

5 (Discussion off of the record.)

6 (AT THIS TIME APPLICANT'S EXHIBIT NO. 1

7 [CASE NO. EA-79-166] WAS MARKED BY THE REPORTER FOR THE
8 PURPOSE OF IDENTIFICATION.)

9 EXAMINER LORING: Exhibit No. 1 has been
10 marked for identification and offered.

11 Any objection to the receipt of Applicant's
12 Exhibit 1?

13 MR. DUFFY: None.

14 EXAMINER LORING: Received.

15 (AT THIS TIME APPLICANT'S EXHIBIT NO. 1

16 [CASE NO. EA-79-166] WAS RECEIVED IN EVIDENCE AND MADE A
17 PART OF THIS RECORD.)

18 BY MR. CURTRIGHT:

19 Q Mr. Bret, while I have this exhibit out,
20 can you tell me whether any portion of the proposed line
21 is on or very near to being exactly on a boundary of the
22 City of LaGrange?

23 A Yes. About half a mile of this line is on
24 the--is located right along the west boundary line of the
25 city limits of LaGrange.

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1 Q Is there any portion of the line which will
2 be outside of the city?

3 A A part of this, we think,--now this line has
4 not been actually staked out in the field precisely,
5 but we think that there is a possibility that some of the
6 poles may fall inside and some may fall outside of the
7 city.

8 Q Thank you. Mr. Bret, will the construction
9 of the proposed line and substation conform to all require-
10 ments of the National Electric Safety Code and the Missouri
11 Public Service Commission?

12 A Yes, it will.

13 Q Would you please explain why your proposed
14 construction is needed?

15 A The construction is needed due to the
16 increasing load, electric load that we have experienced
17 at LaGrange, which has been a rather steady increase in
18 requirements for the last, oh, about the last ten years.
19 And in addition to the increased load at the town, of the
20 town itself, one of the big customers up there is the Gardner,
21 Gardner-Denver Foundry, which is now starting a new expansion,
22 and they have advised us that they are going to, themselves,
23 add about, oh, approximately 2,025 kilowatts of additional
24 load by the year of 1982. And, they estimate they will
25 start adding load in 1979, in the amount of about 500

1 kilowatts, and will continue to add about 500 per year
2 through 1982. And, of course, that means that where our
3 present capacity there is about 3,750, why, with this
4 increased load of the factory alone, it will create a
5 demand of around 5,500 or so. So, it is imperative that
6 we do something right away to take care of this situation
7 at LaGrange. And we anticipate that the town itself
8 will continue to show some increase in electrical usage,
9 such as it has during the past years.

10 Q Mr. Bret, I am handing you a document,
11 which has been filed with the application, and it is
12 marked as Exhibit No. 2; could you please--

13 EXAMINER LORING: Let's go off of the
14 record.

15 (Discussion off of the record.)

16 (AT THIS TIME APPLICANT'S EXHIBIT NOS. 2, 3,
17 4 AND 5 [CASE NO. EA-79-166] WERE MARKED BY THE REPORTER
18 FOR IDENTIFICATION.)

19 EXAMINER LORING: Okay. Back on.

20 BY MR. CURTRIGHT:

21 Q Mr. Bret, I am handing you a copy of a
22 document which is marked for identification as Exhibit No. 2;
23 will you please identify this?

24 A It is a copy of the Order of the County
25 Court of Lewis County, which authorizes us to erect,

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1 operate and maintain power lines over, along and across
2 roads in Lewis County.

3 MR. CURTRIGHT: I offer Exhibit No. 2.

4 MR. DUFFY: No objection.

5 EXAMINER LORING: Received.

6 (AT THIS TIME APPLICANT'S EXHIBIT NO. 2
7 [CASE NO. EA-79-166] WAS RECEIVED IN EVIDENCE AND MADE A
8 PART OF THIS RECORD.)

9 BY MR. CURTRIGHT:

10 Q Mr. Bret, I am offering you now or handing to
11 you a copy of a document which is marked as Exhibit No. 3;
12 could you identify that for me, please?

13 A Exhibit 3 is a copy of an ordinance of the
14 City of LaGrange, which grants Missouri Power & Light
15 Company a franchise for serving the town, serving electricity
16 to the town.

17 MR. CURTRIGHT: I offer Exhibit No. 3,
18 Mr. Examiner.

19 EXAMINER LORING: If there is no objection
20 before it is received,--

21 MR. DUFFY: No objection.

22 EXAMINER LORING: --it will be received.

23 (AT THIS TIME APPLICANT'S EXHIBIT NO. 3
24 [CASE NO. EA-79-166] WAS RECEIVED IN EVIDENCE AND MADE A
25 PART OF THIS RECORD.)

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1 BY MR. CURTRIGHT:

2 Q Mr. Bret, I am handing you a copy of what has
3 been marked as Exhibit No. 4; could you identify that, please?

4 A Exhibit 4 is a list of other utilities that
5 are affected by this proposed construction.

6 Q They are affected in what manner, Mr. Bret?

7 A They are in the vicinity, that we either
8 cross these utilities or parallel them, in our location of
9 our line.

10 Q Have you submitted your proposed plans to
11 those utilities?

12 A Yes, we have.

13 Q Have they offered any objection?

14 A No. They waived any objection to it.

15 MR. CURTRIGHT: I offer Exhibit No. 4.

16 MR. DUFFY: No objection.

17 EXAMINER LORING: Received.

18 (AT THIS TIME APPLICANT'S EXHIBIT NO. 4
19 [CASE NO. EA-79-166] WAS RECEIVED IN EVIDENCE AND MADE A
20 PART OF THIS RECORD.)

21 BY MR. CURTRIGHT:

22 Q Mr. Bret, I am handing you a copy of what
23 is marked as Exhibit No. 5; could you identify that
24 document, please?

25 A Exhibit 5 is a description of the location

1 of the proposed line, and from where it begins until it
2 enters the substation property.

3 Q Was this legal description prepared by you
4 or under your supervision?

5 A Yes, it was.

6 MR. CURTRIGHT: I offer Exhibit No. 5.

7 MR. DUFFY: No objection.

8 EXAMINER LORING: Received.

9 (AT THIS TIME APPLICANT'S EXHIBIT NO. 5
10 [CASE NO. EA-79-166] WAS RECEIVED IN EVIDENCE AND MADE A
11 PART OF THIS RECORD.)

12 MR. CURTRIGHT: Mr. Examiner, I could now
13 go on to the other case, or tender the witness for cross-
14 examination on 79-166.

15 EXAMINER LORING: Do you desire to cross?

16 MR. DUFFY: I would rather cross right now
17 if it is okay with you.

18 EXAMINER LORING: Very well.

19 CROSS-EXAMINATION BY MR. DUFFY (CASE NO. EA-79-166):

20 Q Mr. Bret, I believe you testified that this
21 line may be in and out of the city limits,--

22 A Yes.

23 Q --is that correct?

24 A Yes.

25 Q It will still be in LaGrange County--or it

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1 will still be in Lewis County, though?

2 A Yes.

3 Q I notice on Exhibit 3, which is the ordinance
4 of the City of LaGrange, giving you permission to do certain
5 things, that it is dated March, 1960, and that it is a
6 20-year franchise, which would mean that it would expire
7 in March, 1980. Do you have any idea at this point whether
8 the City will grant an extension of your franchise; have
9 you had any indications from them?

10 A Well, all of the indications that we have
11 had is that we should not have any unusual difficulty in
12 getting a new franchise. Our relationships have been very
13 good, and we anticipate we will be able to get a new
14 franchise.

15 Q Well, you said no "unusual difficulty."
16 Do you expect some normal difficulties, or--

17 A I haven't heard of any difficulties of any
18 kind, you know, with our relationships there.

19 Q Can LaGrange secure power from any other
20 source, other than Missouri Power & Light; is there a tie-in
21 with some other company?

22 A I don't know of any real close by.

23 Q How close is "real close?"

24 A You mean like another power company, or
25 another--

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1 Q Well, if they should decide that they don't
2 want to honor this franchise in 1980, do they have the
3 practical option of going somewhere else; is there another
4 power company somewhere near there where they can get power
5 from?

6 A Oh, yes. There is another--there are other
7 companies in the vicinity up there, within, I don't know
8 exactly, I know there are several lines up there, within
9 like five miles, or ten, or something like that, that it
10 certainly would be possible to secure some power if they
11 just couldn't deal with us.

12 Q And it would be engineeringly feasible for
13 them to connect?

14 A I think it would be engineeringly feasible.
15 Economically, it would have to be worked out, I am sure
16 of that.

17 Q Okay. Is the right-of-way for this line
18 already purchased?

19 A Yes. The right-of-way we need, which wasn't
20 a great deal, has been.

21 Q So, there will be no condemnation?

22 A Right. There will be no condemnation.

23 Q All right. Who does the Company plan to
24 have build these lines; the Company crews or outside
25 contractors?

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1 A Well, this project here, the substation and
2 the lines, we plan to send out for bids to private electrical
3 contractors, to let the bids.

4 Q I notice that or you have supplied the Staff
5 with some cost estimates. I am wondering how you arrived
6 at those estimates, when you haven't bid the project yet?

7 A Well, these costs, of course, we have built
8 considerable similar facilities in the past, similar to
9 these, so these costs are based on past projects of a
10 similar nature, with the experience that we have had in
11 labor costs, in relationship to contractors, but it basically
12 is based on past experience.

13 Q Do you feel confident that those past
14 experiences will be accurate in estimating current labor
15 costs, or do you have some idea of what current labor
16 costs are?

17 A Yes. Well, we have a good idea of all of the
18 current costs, and I think these figures will be pretty
19 close, pretty close to what we would likely encounter.

20 Q Will you take the lowest bid that you receive?

21 A Yes. We practically always take the lowest
22 bid. I think maybe in an unusual situation we might go to
23 another bid, if the low bid couldn't perform in some function
24 or another. But, I can't remember a case where we haven't
25 taken the low bid.

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1 Q How many bids do you expect to receive?

2 How many will you ask for, let me ask you that first?

3 A Oh, we will probably ask for four or five
4 at least, four or five contractors.

5 Q And you expect to receive bids from all of
6 those?

7 A Right.

8 Q Have any of those contractors in the past
9 refused to give you a bid after you had asked for one?

10 A No.

11 Q Have you purchased the property for the
12 substation itself?

13 A Yes, we have.

14 Q Do you know the distance approximately between
15 the substation and the nearest residence?

16 A Oh, I would say approximately 600 feet, maybe.

17 Q These substations make some noise, do they
18 not?

19 A There usually is a humming noise at the
20 transformer.

21 Q With 600 feet in distance, do you anticipate
22 any complaints from noise from that residence, or how many
23 residences are there?

24 A Well, our experience has been that after--
25 in this size of transformer, after you are a hundred feet or

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1 so away from it, the noise generally isn't noticeable or
2 audible. It just happens, in this particular instance,
3 the nearest residence to the substation is the person
4 we bought the site from, but we don't anticipate any
5 noise situation there, that far away.

6 Q What is the geographics of this area where
7 you are putting the substation? It looks like from the
8 map that it is close to residential developments, with
9 streets apparently in close to it. What I am getting at is,
10 is there a possibility of residences building up around
11 this thing in the near future?

12 A Well, the way it is situated there, there
13 aren't any there close now. And the nature of the terrain,
14 the way the land lays and all, it is quite low and a
15 little bit out of the way, it is doubtful. We usually
16 try to select an area where it is not likely that residential
17 buildup will develop.

18 Q Is this a pasture, or a farm, or--

19 A It is a pasture area now; yes.

20 Q I can't quite figure it out. This is outside
21 of the city limits of LaGrange, isn't it, or is it inside
22 of the city limits?

23 A The station is inside, yeah.

24 Q I notice on this map, which is Exhibit 1,--

25 EXAMINER LORING: Yes.

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1 BY MR. DUFFY:

2 Q --that it is in the corner of a large
3 blank area, showing no development in it, with the exception
4 of a cemetery. Is that all pasture land, to your knowledge,
5 in there, or what is it?

6 A It is pretty well all--yeah, that is all
7 pasture around there; yes, uh-huh; yeah.

8 Q Do you know of any plans for the development
9 of that pasture area?

10 A I don't know of any. The person we bought
11 that from owns a pretty good sized tract, you know, that
12 is just a small piece out of this large area that this
13 particular landowner owns, and we haven't heard of any
14 development. He didn't discuss any. So, I guess right
15 at this point there probably isn't any, there isn't any
16 plans.

17 Q Did you tell him about the possibility
18 of noise from the substation?

19 A I did not personally talk with the landowner.
20 Our right-of-way people did. It is usually discussed.
21 Now, whether it was in this case, I do not know. But,
22 since there wasn't any house in very close proximity,
23 it would not be considered a problem, so, whether it was
24 discussed or not.

25 Q On some documentation which you have supplied

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1 the Staff of the Commission, which I can introduce as an
2 exhibit, if necessary, but I don't see any need to right
3 now, you have given the Staff an estimated breakdown of the
4 cost. And referring to the transformer, a 500 KVA transformer,
5 you note that it is on hand. I assume that means that you
6 have that in stock at this time, is that correct?

7 A Yes, we have it on our property now.

8 Q How long have you had this?

9 A We have had it several years. It was
10 previously used for a short time and then replaced with
11 another transformer, and right now it has been held as a
12 spare.

13 Q Where was it used, and for what period of
14 time?

15 A It was used here in Jefferson City, for,
16 I think, two or three years.

17 Q And do you remember when you purchased it?

18 A I don't remember the date on it. It was,
19 I am thinking it was four or five years ago.

20 Q So, it would have set idle for two or three
21 of those four or five years?

22 A It set idle at least a year or so now, yeah.

23 Q Well, you said that it had been used in
24 Jefferson City for two years, or three years, and that you
25 bought it four or five years ago?

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1 A Right.

2 Q I am trying to--

3 A Well, it was bought four or five years ago
4 and used a few years. And I don't have the exact times,
5 but it has been idle for a year or two; yes.

6 Q Is \$38,000 the original cost of it?

7 A That is not the original cost. That is the
8 cost that the property accountants have on the books.

9 Q The depreciated?

10 A Right; at the present time, yes.

11 Q I notice \$4,500 for easements and land rights.
12 And I think you have told me that all of the land has already
13 been purchased. Is that the exact amount that was paid
14 for the land and the easements?

15 A Yes. And that also includes the expenses
16 of a title search, and right-of-way agents' salaries
17 and transportation is also in there. It was rounded off,
18 I think it was slightly more than that, a few dollars,
19 but roughly it is 4,500.

20 Q What is the 5 KV switch gear; can you explain
21 that in terms that I, as a layman, might understand?

22 A Well, it is the apparatus necessary to get
23 the low voltage side of this transformation out of the
24 substation and into the town, over to the factory and into
25 the town circuitry. The voltage that--of course, the line

1 that is coming into the station is 69,000 volts, and the
2 transformer transforms it down to the low voltage of 4,160,
3 and the switch gear is the controlling mechanism, the
4 protective mechanism, where we can switch these circuits
5 on and off and control them.

6 Q I notice that it is priced at \$48,000;
7 is that the original cost; is this new equipment?

8 A Yes. The switch gear is new, and that is
9 the anticipated cost of the new equipment.

10 Q So, if you were installing a new transformer,
11 the cost of the new transformer would be more than the
12 switch gear, wouldn't it?

13 A Yes; it should be some more, yes; generally.

14 MR. DUFFY: That is all I have.

15 EXAMINER LORING: Okay. If there is nothing
16 further to come, then, in Case No. - let me check my
17 number here - 166, then let's go right on with the other one.

18 MR. DUFFY: Well, I will have a motion at
19 the end of both of them, that will relate to this one, but
20 since they are consolidated, I am going to save it until
21 the very end.

22 EXAMINER LORING: All right. Okeydoke.

23 DIRECT EXAMINATION BY MR. CURTRIGHT (EA-79-176):

24 Q Mr. Bret, please turn your attention to
25 Case No. EA-79-176; can you state what the purpose of the

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1 application in that case is?

2 A The purpose of this application is the
3 need to construct, operate and maintain a new 69,000 volt
4 electric line, and a new 69,000 to 12,500 volt substation
5 in Cole County, Missouri, west of Jefferson City.

6 Q This is not a rebuilding of any existing
7 facilities, is it?

8 A No. These are all new facilities.

9 Q How will the construction of said line and
10 substation be financed?

11 A It will be financed from the funds from the
12 treasury of the Company, and unsecured short-term bank loans,
13 and these bank loans will be funded through the--subsequently
14 funded through the issue and sale of stock, bonds, or other
15 types of permanent financing, subject to the approval of
16 this Commission.

17 MR. CURTRIGHT: May we go off of the record
18 for a moment?

19 EXAMINER LORING: Off.

20 (Discussion off of the record.)

21 (AT THIS TIME APPLICANT'S EXHIBIT NOS. 6, 7
22 AND 8 [CASE NO. EA-79-176] WERE MARKED BY THE REPORTER FOR
23 THE PURPOSE OF IDENTIFICATION.)

24 EXAMINER LORING: Back on.
25

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1 BY MR. CURTRIGHT:

2 Q Mr. Bret, I am handing you what has been
3 marked for identification as Exhibit No. 6; could you identify
4 that document, please.

5 A It is a drawing, it shows the proposed location
6 of this transmission line and substation.

7 Q Was this prepared by you or under your
8 supervision?

9 A Yes, it was.

10 MR. CURTRIGHT: I offer Exhibit No. 6.

11 MR. DUFFY: No objection.

12 EXAMINER LORING: Received.

13 (AT THIS TIME APPLICANT'S EXHIBIT NO. 6 [CASE
14 NO. EA-79-176] WAS RECEIVED IN EVIDENCE AND MADE A PART OF
15 THIS RECORD.)

16
17 BY MR. CURTRIGHT:

18 Q Will the construction of the proposed line
19 and substation conform to all of the requirements of the
20 National Electric Safety Code and of the Missouri Public
21 Service Commission?

22 A Yes, it will.

23 Q Would you please state why the proposed
24 construction is needed.

25 A It is needed to provide additional electrical

1 power in the area west and south of Jefferson City, due
2 to the heavy buildup in electric demand in that area.

3 Q Could you state any major new customers
4 which you expect in the area?

5 A The present substation that is in that area,
6 that serves all of that, was constructed in 1972, with a
7 transformer capacity of 14,400 KVA, which we, at that time,
8 anticipated would be good for at least a ten-year period.
9 But, we did not anticipate that a development, such as the
10 Capital Mall would be located out in that area and we have
11 to serve that, and all of the additional load that built
12 up as a result of that. So, we have had a very rapid increase
13 in demand out there, and at the present time, or in 1978,
14 we had a peak load of 13,920 KVA, as compared with a
15 capacity of 14,400. So, it is obvious that we have to
16 provide additional capacity. Not only is the Mall, Capital
17 Mall expanding, and they anticipate an additional 1,500 KVA
18 in the next year or so, but there is a new Farm Bureau
19 building to be constructed in that area, with an anticipated
20 load of about 1,500. There is a lot of subdivision activity
21 out there, which is mostly electrical heat, and there is a
22 new subdivision planned, which they have requested that we
23 serve, which is supposed to have, I think, 56 three- or
24 four-acre lots, with large homes. So, the reason for this
25 construction is simply to take care of a very considerable

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1 load buildup in that area.

2 Q I am handing you what is marked as Exhibit
3 No. 2; could you identify the document, please?

4 EXAMINER LORING: Exhibit No. 7.

5 BY MR. CURTRIGHT:

6 Q I am sorry. No. 7.

7 A Exhibit No. 7 is an Order of the County
8 Court of Cole County, which authorizes the Company to
9 erect, operate and maintain power lines over, along, and
10 across county roads of Cole County.

11 MR. CURTRIGHT: I offer Exhibit No. 7.

12 MR. DUFFY: No objection.

13 EXAMINER LORING: Received.

14 (AT THIS TIME APPLICANT'S EXHIBIT NO. 7
15 [CASE NO. EA-79-176] WAS RECEIVED IN EVIDENCE AND MADE A
16 PART OF THIS RECORD.)

17 BY MR. CURTRIGHT:

18 Q I am handing you a copy of what is marked
19 as Exhibit No. 8; could you identify the document, please?

20 A This exhibit is a description of the location
21 of the proposed construction.

22 Q Was this description prepared by you?

23 A Yes, it was.

24 MR. CURTRIGHT: I offer Exhibit No. 8.

25 MR. DUFFY: No objection.

1 EXAMINER LORING: Received.

2 (AT THIS TIME APPLICANT'S EXHIBIT NO. 8 [CASE
3 NO. EA-79-176] WAS RECEIVED IN EVIDENCE AND MADE A PART OF
4 THIS RECORD.)

5 BY MR. CURTRIGHT:

6 Q Are there any other utility or communication
7 facilities which will be affected by the proposed construction?

8 A No; there are none.

9 Q Have you had to obtain any easements for the
10 proposed construction, or do you anticipate getting any in
11 the future?

12 A No. We don't anticipate we will need any.

13 Q Are the lines on public right-of-way?

14 A Right; correct.

15 Q You have purchased the land for the substation,
16 is that correct?

17 A Yes; we have purchased the land.

18 MR. CURTRIGHT: I tender the witness for
19 cross.

20 CROSS-EXAMINATION BY MR. DUFFY (EA-79-176):

21 Q Mr. Bret, again, are you going to build,
22 "you" meaning the "Company," going to build the line and
23 substation, or will you let bids on them?

24 A We will let bids on this.

25 Q And I assume your answers to my earlier questions

1 regarding the contractors and the lowest bids would apply
2 in this situation also?

3 A They would be the very same; yes.

4 Q About four or five contractors?

5 A Yes.

6 Q How far is the nearest residence from the
7 proposed substation?

8 A It is about three hundred feet.

9 Q That would be on the Leandra Lane, according
10 to my map?

11 A Yes. Well, let's see, I guess I don't
12 have that exhibit. It is, well, actually, it fronts on
13 this Festival Road, there is a house right here (indicating).

14 Q Okay. So the record would reflect, the
15 house fronts on Festival Road, but it is located just past
16 the bend where it becomes Leandra Lane?

17 A Yes; un-huh.

18 Q All right. And that would be on the
19 south side of Leandra Lane?

20 A Yes; uh-huh; right.

21 Q Okay. And you say that is about 300 feet
22 from the substation?

23 A Yes; approximately; right.

24 Q This substation is the same type and character
25 as the one that we talked about for LaGrange?

1 A Very much so; yes.

2 Q The same amount of noise?

3 A About the same, yes.

4 Q Do you anticipate any problems from that
5 residence regarding the noise?

6 A No, we don't. The person who lives in that
7 house owned all of this land, and we actually bought the
8 substation site from him. And we did discuss, I did personally
9 discuss the noise or he discussed with me the noise situation,
10 and we don't anticipate or we think his house is plenty far
11 away that he will not hear any noise.

12 Q Now what about future development plans around
13 the substation; what will be the closest house that could
14 conceivably be built to it?

15 A Well, I doubt if any houses will be built
16 any closer than this particular one we have discussed.
17 I understand the public school--or the School Board has
18 either purchased or has an option to purchase some land in
19 that vicinity. But, as far as residences, I doubt if there
20 will be any any closer than this existing house.

21 Q Again, in some information supplied to the
22 Staff, you indicate that this transformer is currently on
23 hand also. Can you give me some data as to when you
24 purchased it, and how long it has been in use, and where
25 it has been in use?

1 A This one, I understand, has not been in
2 use, but was purchased for some purpose, that did not
3 materialize for some reason or another, I am not exactly
4 sure what it was, but--

5 Q Can you shed any light on that?

6 A I am trying to--this one is at--yes, this
7 one is up at Moberly, and we--the intention was to use it
8 on one of the projects in our--that is in our construction
9 budget, but due to, I think, a change in the budget money,
10 or something or other, that that particular project was
11 delayed a year or so, and instead of ordering a new one,
12 this one had not been used, they decided to use this
13 one out here. So,--

14 Q I am sorry. When did you say it was purchased?

15 A It has been on hand about a year, a year or
16 a year and a half, approximately.

17 Q And the \$50,000 as contained in this estimate,
18 is that the original price, or is that depreciated off?

19 A It has been depreciated a small amount.

20 Q How many other transformers do you have on
21 hand similar to these?

22 A As far as I know, these are the only power
23 transformers, the only transformers in the power transformer
24 class that we have that are not in use.

25 Q You don't keep a spare; you have been using

1 these two as spares?

2 A Well, of this class, these are the only
3 ones that I know of that is just available for use, you
4 know, for new construction.

5 Q Is the normal practice to keep these, to
6 keep one of these or several of these on as spares?

7 A Not necessarily. We occasionally wind up
8 with one, due to plans that are changed, or changes that
9 we have to make. But, it is not necessary to have them,
10 necessarily, because we keep mobile transformer units
11 available for emergencies, and where we have to make
12 changes, where we can't take customers out or something,
13 why, we have mobile units that we send around to take
14 care of that. So, the spare transformer situation just
15 occasionally develops and, of course, when it does, why,
16 we try to utilize them, if we can, in projects.

17 Q You indicate on this sheet of paper that
18 I have that the switch gear for this installation will cost
19 \$57,000, which is about - what? - \$9,000 more than the
20 one for LaGrange; why the discrepancy?

21 A Well, this switching equipment is a little
22 bit heavier. It has to withstand a little bit more current,
23 and some of the integral parts of it are just a little bit
24 bigger and insulated a little stronger, so the cost is
25 somewhat greater.

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1 Q That is the difference between a 5 KV rating
2 on the LaGrange one and the 15 KV rating on this one?

3 A Yes; un-huh.

4 MR. DUFFY: I don't have any further questions.

5 That is all of the cross-examination I have.

6 EXAMINER LORING: Okay.

7 Any redirect?

8 MR. CURTRIGHT: No redirect.

9 EXAMINER LORING: Okay. Thank you, Mr. Bret.

10 (Witness excused.)

11
12 —
13 MR. DUFFY: Do you have anything further,

14 Norm?

15 MR. CURTRIGHT: No.

16 MR. DUFFY: At this time the Staff moves to
17 dismiss both of these cases. For the grounds of dismissal,
18 I cite State ex rel. Harline v. Public Service Commission,
19 Kansas City Court of Appeals, 1960, 343 SW 2d 177.

20 Paraphrasing that case, it is my impression that the case
21 holds that where a public utility already has the authority
22 to operate in an area, the Public Service Commission is
23 held not to have jurisdiction over additional grants of
24 authority, particularly to build certain lines in those
25 areas.

I would refer, in these two cases which we

1 have talked about today, to Exhibit Nos. 2 and--Exhibit No. 2,
2 which is a franchise from the County Court of Lewis County,
3 and Exhibit No. 3, which is a city ordinance of the City
4 of LaGrange, both of which purport to give power or give
5 authority, rather, to Missouri Power & Light Company,
6 as the successor in interest, to operate in those areas.

7 And I would also refer, in the other case,
8 to Exhibit No. 7, which is a grant of authority from the
9 County Court of Cole County, along the same lines.

10 I believe the Harline case says, and I
11 will quote briefly from Page 181, headnote (3), where it
12 says, "The certificate of convenience and necessity granted
13 no new powers. It simply permitted the Company to exercise the
14 rights and privileges already conferred upon it by state
15 charter and municipal consent."

16 I believe the exhibits that I cited do
17 evidence the fact that the Company already has consent of
18 the municipal and county authorities to build these
19 facilities. And, as Harline says, the Public Service
20 Commission is a body of limited jurisdiction and we have
21 only those powers that are expressly conferred upon us
22 by statute. And this case, I believe, stands for the
23 proposition that if a power company has municipal consent
24 or corporate powers inherent from its corporate status to
25 build these facilities, that once an original certificate

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1 of public convenience and necessity is granted to the
2 Company to do business in the State, then the authority of
3 the Public Service Commission to pass upon incremental
4 additions to the electric plant of that company ceases to
5 exist, there is no jurisdiction in the Commission to do
6 that.

7 So, I am doing an oral brief here, but I
8 think I have stated all of the reasons that I have,
9 and I am relying very heavily on Harline in my motion to
10 dismiss both of these cases, on the grounds that the
11 Commission lacks the jurisdiction to give the Company any
12 relief in this.

13 MR. CURTRIGHT: Mr. Examiner, how strange
14 it is when one finds himself arguing that the Commission
15 should take jurisdiction, and the Commission is saying,
16 "We do not have jurisdiction." The cases make strange
17 results.

18 I think, first of all, we should go to the
19 results of this, if the Commission should assume juris-
20 diction. The Applicant has asked for approval, has
21 submitted the case, so, certainly, the Applicant is not
22 going to be miffed if the Company takes the case. And I
23 can foresee no harm to the Commission, which I realize
24 that Staff Counsel eloquently regards; however, I see
25 no danger in this, of the Commission assuming jurisdiction.

1 There is a danger for the Company if the Commission
2 should not grant its approval. For example, as the
3 testimony related, there will be eventually long-term
4 financing to pay for these facilities. These facilities,
5 therefore, must be certified to our bond indenture. One
6 of the requirements for such certification is a showing
7 of the approval of all regulatory authorities.

8 It might become important in future rate
9 cases. If the Staff, on the other hand, should come in
10 and say, "You built a line without authority," I am
11 afraid that the Company could get whipsawed. If we come
12 in for a certificate, and the Staff refuses to give a
13 certificate, come in to a rate case and they say we refuse
14 to certify this to the rate base because you didn't have
15 authority to begin with.

16 As to the Harline case and its applicability
17 here, you won't find in the evidence any reference to an
18 area certificate of convenience and necessity. I do not
19 think that one exists for either of these areas. We do
20 have county franchises for each case, and a municipal
21 franchise for each case. But, I think that a close reading
22 of the Harline case will show to you that in that instance
23 the Missouri Public Service Company had county franchises
24 and local franchises, which were certified to the Commission
25 for an area certificate. We have not taken that step, to

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1 get an area certificate. We have local approvals, we do
2 not have Commission approval accepting those local approvals.

3 I think the Harline case is a good decision,
4 and I wouldn't hesitate to rely upon it if we had an area
5 certificate. But, that is not the instance here.

6 Now, perhaps, Your Honor, the best solution
7 could be a finding that the Commission does not have
8 jurisdiction, then we could, if any subsequent questions
9 arose, simply show the Order which clearly states that the
10 Commission did not have jurisdiction, then I think our
11 skirts would be clean; however, I don't think it is going
12 to cause any problem with anybody if the Commission went
13 ahead in this case and assumed jurisdiction.

14 EXAMINER LORING: Okay.

15 MR. DUFFY: I will respond, very briefly.

16 I, too, join in Counsel's suggestion that,
17 perhaps, a finding that the Commission does not have
18 jurisdiction would be an adequate resolution to the case.

19 As to the other points, I think each point
20 that the Counsel raised has merit, but I am very hesitant
21 to recommend to the Commission that it assume jurisdiction
22 in an area where the Appellate Courts have said that the
23 Commission does not have jurisdiction, and would not, as
24 Counsel suggests, recommend that the Commission act ultra
25 vires in this situation.

1 So, the merits of Counsel for the Company
2 argument notwithstanding, if the Commission does not have
3 jurisdiction, it does not have jurisdiction, whether there
4 would be any harm or not, if it assumed jurisdiction.

5 That is all I have.

6 EXAMINER LORING: Okay.

7 MR. CURTRIGHT: If I did not make it clear
8 in my argument as to the merits of the applicability of
9 Harline to this instance, is that in the Harline case
10 there clearly was an area certificate, and there is not
11 in this instance; therefore, I think it is a close question
12 as to jurisdiction.

13 EXAMINER LORING: Well, I think this motion
14 should be taken with the case, and ruled on in the Report
15 and Order, or some type of order.

16 Does the Staff have any witness today?

17 MR. DUFFY: No.

18 EXAMINER LORING: Okay. What about the
19 possibility of a memorandum to go along with this transcript,
20 or brief?

21 MR. DUFFY: Well, I would be satisfied if
22 the Hearing Examiner would just read the Harline case,
23 that is, all of my arguments are contained in there. I
24 don't think I could add anything more than what I have
25 already read or have already stated.

1 EXAMINER LORING: And you have stated the
2 Company's position very clearly.

3 MR. CURTRIGHT: Yes.

4 EXAMINER LORING: And it is all in the
5 transcript, which is relatively brief.

6 Okay. So, therefore, there will be no
7 briefing or oral argument.

8 And I presume that no one will be waiving the
9 reading of the transcript, or will you be?

10 MR. DUFFY: I have already executed the
11 waiver.

12 EXAMINER LORING: You have already executed
13 the waiver. Okay.

14 Would the Company do that?

15 MR. CURTRIGHT: I have executed it also,
16 and I might want to renege.

17 EXAMINER LORING: Well, I guess it is not
18 too late, the hearing hasn't been adjourned yet.

19 MR. CURTRIGHT: I will waive it. But if I
20 could suggest the possible responses, as I see them,
21 are findings that there is no jurisdiction, which is the
22 document we can take and run with, or approval of the
23 application.

24 MR. DUFFY: I join in those sentiments.

25 EXAMINER LORING: Okay. I think that is

1 pretty clear.

2 If there is nothing further to come before
3 the Commission in this case, the case will be submitted
4 upon the record and the hearing is adjourned.

5 WHEREUPON, the hearing of these cases was
6 concluded.

I N D E X

APPLICANT'S EVIDENCE:

PAGE

JOHN E. BRET

(CASE NO. EA-79-166)

Direct Examination by Mr. Curtright

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Cross-Examination by Mr. Duffy

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(CASE NO. EA-79-176)

Direct Examination by Mr. Curtright

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Cross-Examination by Mr. Duffy

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E X H I B I T S

APPLICANT'S EXHIBITS:

MARKED

RECEIVED

CASE NO. EA-79-166

Exhibit No. 1

Map of Proposed 69 KV Line and
Substation at LaGrange, Missouri

6

6

Exhibit No. 2

Order of County Court of Lewis
County

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Exhibit No. 3

Ordinance of the City of
LaGrange, Missouri

8

9

Exhibit No. 4

Utility Facilities Affected by
Proposed Construction

8

10

Exhibit No. 5

Description of Location of
Proposed Line

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11

CASE NO. EA-79-176

Exhibit No. 6

Map of Proposed 69 KV Line and
Substation West of Jefferson
City, Missouri

21

22

Exhibit No. 7

Order of County Court of Cole
County

21

24

Exhibit No. 8

Description of Location of
Proposed Construction

21

25