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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

PREHEARING CONFERENCE

September 13, 2001  
Jefferson City, Missouri  
Volume 1

THE CONLON GROUP, INC.,            )  
  )  
          Complainant,                )  
  )  
      vs.                                ) Case No. EC-2001-443  
  )  
AMERENUE,                            )  
  )  
          Respondent.                 )

BEFORE:  
  
      BILL HOPKINS, Presiding,  
          SENIOR REGULATORY LAW JUDGE.

REPORTED BY:  
  
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FOR: AmerenUE.

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FOR: Union Electric Company d/b/a AmerenUE.

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FOR: Staff of the Missouri Public Service  
16 Commission.

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P R O C E E D I N G S

(Written Entries of Appearance filed.)

JUDGE HOPKINS: This is September 13th, 2001.

It is 10 a.m. We are in Jefferson City, Missouri,  
Governor's Office Building, and this is  
Case No. EC-2001-443, Conlon Group versus AmerenUE.

I'm Bill Hopkins, the judge, and if we could  
start over here to my right, would you please give me  
your oral entries of appearance.

MR. VITALE: Michael Vitale for Respondent,  
AmerenUE.

MR. COOK: James J. Cook and I'm for AmerenUE.

MS. SHEMWELL: Good morning, Your Honor. Lera  
Shemwell representing the Staff of the Missouri Public  
Service Commission, Post Office Box 360, Jefferson  
City, Missouri 65102.

MR. GARDNER: Paul H. Gardner representing the  
Conlon Group from the law firm of Goller, Gardner and  
Feather, 131 East High Street, Jefferson City,  
Missouri.

JUDGE HOPKINS: Thank you.

I don't believe there are any unrulled motions  
here. The main reason for the prehearing conference is  
to determine whether there are any actual issues in  
controversy and whether the controversy can be resolved

1 or settled.

2           The prehearing order, which was issued on  
3 12 June 2001 states that an early prehearing conference  
4 should be scheduled to afford the parties the  
5 opportunity to discuss, define and possibly resolve the  
6 issues presented in this case, or at least to agree on  
7 a procedural schedule.

8           Are you all prepared to comply with the  
9 Commission's orders?

10           MR. COOK: Yes, sir, we are.

11           MR. GARDNER: Yes, Your Honor.

12           JUDGE HOPKINS: Everyone says yes. Thank you.

13           I expect each of you to briefly give me your  
14 position, whether you're applicant, intervenor -- well,  
15 actually what -- what would be here Complainant,  
16 Respondent or other, and tell me your issues or  
17 concerns, what you're asking for here or what you  
18 object to here, what you're concerned about, et cetera  
19 briefly.

20           I'll start here with AmerenUE. One or both of  
21 you-all tell me.

22           MR. COOK: Could I suggest that since they  
23 brought the complaint that they might want to go first?

24           JUDGE HOPKINS: All right. I'll let them go  
25 first, since they brought the complaint.

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1           MR. GARDNER: Well, I guess the principle  
2 issues are that -- that we maintain are set forth in  
3 the complaint, and I -- rather than just repeat what's  
4 in the complaint, I would say generally that it's the  
5 position of Conlon Group that Union Electric has  
6 incorrectly billed them over a number of years for  
7 electric service. And that they during that period  
8 also attempted to disconnect and discontinue service in  
9 violation of their -- of their tariffs without the  
10 proper notice in the course of this dispute taking  
11 place.

12           You know, there's some issues that we -- we --  
13 we don't know why the incorrect billing occurred. We  
14 think it may have had to do with faulty metering. It  
15 may have had to do with some internal problem they  
16 have. We expect that will be developed further in  
17 discovery.

18           But I would say that's the sum and substance  
19 of our position, Your Honor. It's just basically a  
20 billing dispute and a disconnection dispute. And there  
21 are, you know, a number of more detailed aspects of  
22 that issue.

23           JUDGE HOPKINS: All right.

24           General counsel.

25           MS. SHEMWELL: Thank you, Your Honor. At this

1 point Staff has not taken any position on the  
2 complaint.

3 JUDGE HOPKINS: Okay.

4 MS. SHEMWELL: We will investigate.

5 JUDGE HOPKINS: Okay.

6 Now AmerenUE.

7 MR. COOK: We would agree that -- certainly  
8 that to a certain extent this is a billing dispute. It  
9 is our position that the Complainants owe the company  
10 probably close to \$100,000 in unpaid bills, and that  
11 the company did not improperly or in violation of  
12 tariffs or rules disconnect them.

13 They were disconnected in accordance with the  
14 rules and the tariffs, that the bills were correct,  
15 that the rate was correct and that -- well, our defense  
16 gets more interesting than that and it gets unpleasant.  
17 So I think that's the gist of it. We deny their  
18 complaints.

19 JUDGE HOPKINS: All right, sir.

20 I need a procedural schedule for the 27th of  
21 September of 2001, and I'd like to strongly encourage  
22 you -- we do not require it at this time, but I  
23 strongly encourage you to submit suggested findings of  
24 fact and conclusions of law with me along -- after your  
25 statement of position is filed.

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1           And these should be submitted in both paper  
2 form and electronically, which means you can either  
3 email me or send me a disk with the documents on it.  
4 And somewhere down the road we're gonna be asking for a  
5 list of issues.

6           We have a new proposed rule that requires a  
7 list of issues to be done in a certain format. You are  
8 not restricted to the number of issues that you give  
9 us, but each one of them should be done in this format  
10 and I'm gonna hand this proposed rule to you.

11           I haven't put that in an order yet, but it  
12 will be in an order and it's an order not to surprise  
13 you. I'm gonna let you have this today so that you can  
14 be thinking about that.

15           MR. GARDNER: Judge, on the -- on the  
16 suggested findings of fact, I -- I'm assuming that's  
17 after the hearing and -- and the record is developed  
18 that you want those?

19           JUDGE HOPKINS: Oh, yes.

20           MR. GARDNER: Okay.

21           JUDGE HOPKINS: That would be -- generally  
22 everybody likes to have those after the initial  
23 briefs --

24           MR. GARDNER: Okay.

25           JUDGE HOPKINS: -- after the hearing.

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1 And -- or the -- you know, after the hearing rather.  
2 And when we do that, what we generally like to have is  
3 if you make a finding of fact and conclusion of law to  
4 support that by reference to the transcript or to the  
5 case or authority.

6 MR. GARDNER: Oh, okay. Another question, I  
7 know typically in Commission proceedings the parties  
8 prefile testimony.

9 JUDGE HOPKINS: Yes, sir.

10 MR. GARDNER: And this being a -- a complaint  
11 case between, you know, essentially a company that's  
12 not a utility and not accustomed to doing that, is --  
13 is there -- is there any possibility that we can do the  
14 hearing live as opposed to prefile, or is that  
15 something the parties can discuss or what's your --

16 JUDGE HOPKINS: I don't know of any reason why  
17 we should vary our procedure.

18 MR. GARDNER: Okay.

19 MR. COOK: Company would certainly object to  
20 that.

21 JUDGE HOPKINS: Sir.

22 MR. GARDNER: Okay.

23 MR. COOK: I said the company would certainly  
24 object to that in this case to any variation.

25 MR. GARDNER: That's fine.

1 JUDGE HOPKINS: Anything else?

2 MS. SHEMWELL: Staff may or may not  
3 participate in this, and -- and if we do not, I think  
4 that we may very well ask to be excused from the  
5 proposed findings of fact and conclusions of law.  
6 We'll certainly file something.

7 JUDGE HOPKINS: Okay. If you decide to  
8 participate, like I said, we're not requiring these  
9 now.

10 MS. SHEMWELL: Okay.

11 JUDGE HOPKINS: But we just strongly encourage  
12 them. But if -- if you do not participate, I'm not  
13 sure that I -- I would want to see your proposed  
14 findings of fact.

15 MS. SHEMWELL: Thank you, Judge.

16 JUDGE HOPKINS: So we'll answer that question  
17 when it comes up.

18 MS. SHEMWELL: Thank you.

19 JUDGE HOPKINS: I will be around today. I'll  
20 either be in an agenda meeting or in the computer lab.  
21 If you-all need me, somebody can track me down.

22 MR. GARDNER: Now, Judge, should we -- since  
23 we're talking about setting a procedural schedule, you  
24 would -- you would want that to include a proposed  
25 hearing date also?

1 JUDGE HOPKINS: Yes, sir.

2 MR. GARDNER: Okay. Should we check with you  
3 beforehand on available hearing dates?

4 JUDGE HOPKINS: You just give me a proposed  
5 schedule and I'll tell you whether it's okay or not.

6 MR. GARDNER: Okay.

7 JUDGE HOPKINS: These people here are -- are  
8 well versed in what to do, so --

9 MR. GARDNER: Good enough.

10 JUDGE HOPKINS: They can handle that quite  
11 easily for you. This would seem to me to be something  
12 that could be settled, but if it can't be, I'll be here  
13 to have a full-blown evidentiary hearing.

14 MR. COOK: Your Honor, if -- if I may, maybe  
15 one of the reasons why I'm not so optimistic about  
16 settling it -- and I just want to put on the record  
17 that one of the issues that we are here prepared to  
18 discuss today is the total, complete and unlawful  
19 refusal of the Complainant to allow the company to get  
20 into their premises to change out the meters that need  
21 to be changed out pursuant to a system-wide change of  
22 our meters to automatic meter reading.

23 And they have refused endlessly to be -- to  
24 allow us to do that. Now, we have agreed that we would  
25 discuss that matter today. There may be some concern

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1 about the -- the meters being protected from tampering  
2 with by the company allegedly and that sort of thing.  
3 And we're certainly willing to discuss that with  
4 the -- with the Complainant.

5 But I would -- I did want to put on the record  
6 that we have had that problem and we hope to resolve  
7 that today, but that is just a bit of the type of  
8 evidence that we're dealing with today.

9 JUDGE HOPKINS: Like I said, we're not  
10 limiting anybody on the number of issues. I just ask  
11 that you put all of the issues in the format that I'm  
12 gonna give you so that we'll know what the issues are.

13 MR. COOK: Okay.

14 JUDGE HOPKINS: Thank you very much.

15 We're off the record.

16 WHEREUPON, the on-the-record portion of the  
17 prehearing conference was concluded.

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