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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Pre-Hearing

November 27, 2001
Jefferson City, Missouri
Volume I

In the Matter of the Application of) Case No.
Citizens Electric Corporation for) ER-2002-217
Approval of Interim Rates, Subject) Tariff No.
To Refund and for a Permanent Rate) 200200335
Increase.)

NANCY DIPPELL, Presiding,
Regulatory Law Judge.

REPORTED BY:
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A P P E A R A N C E S

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

2 JUDGE DIPPELL: This is Case
3 No. ER-2002-217 217 in the Matter of the
4 Application of Citizens Electric Corporation for
5 Approval of Interim Rates, Subject to Refund, and
6 for Permanent Rate Increase. My name is name Nancy
7 Dippell, and I'm the Missouri Law Judge assigned to
8 this matter.

9 I've called you-all here today for a
10 pre-hearing conference. Normally our pre-hearing
11 conferences are more directed towards settlement of
12 issues. Staff had indicated that their witnesses
13 had -- or there're Staff members that needed to be
14 involved in this those negotiations would be
15 unavailable today, but I asked counsel to go ahead
16 and come today so that I could ask some questions
17 and get a little more information about what was
18 going on in this case.

19 And I wanted to start by asking -- well, I
20 guess I should start by letting you-all make your
21 entries of appearance. Mr. Scott, would you like
22 to give an oral entry of appearance?

23 MR. SCOTT: Thank you.

24 Victor Scott with the law firm of
25 Andereck, Evans, Milne, Peace and Johnson, 1438 --

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1 Post Office Box 1438, Jefferson City, Missouri
2 65102, representing Citizens Electric Corporation.

3 JUDGE DIPPELL: Staff?

4 MR. BATES: Bruce Bates and David Meyer
5 for the Staff of the Missouri Public Service
6 Commission, Post -- Post Office Box 360, Jefferson
7 City, Missouri, 65102, and I might add Steven
8 Dottheim is the lead attorney on this case.

9 JUDGE DIPPELL: Thank you.

10 Office of Public Counsel?

11 MR. COFFMAN: Let the record reflect the
12 appearance of John B. Coffman on behalf of the
13 Office of the Public Counsel, P.O. Box 7800,
14 Jefferson City, Missouri 65102.

15 JUDGE DIPPELL: Okay. My first question
16 was for the Company, and that was procedurally
17 having to do with the tariff effective dates. Is
18 the Company actually wanting the tariff to be
19 effective on December 1st or --

20 MR. SCOTT: We can live with January 1st.
21 When we spoke with Staff, because of the uniqueness
22 of Citizens and the problem we had with our
23 wholesale par contract, we worked with Staff to try
24 to come up with a date that would not only trigger
25 the 30 days, but would allow an additional period

1 of time for the Commission to rule on the interim
2 part of the case.

3 So when it was discussed with them, we --
4 it was suggested that we file -- go ahead and file
5 for December 1st, which rolls the 30-day clock,
6 which would make the Commission put some Order in.

7 JUDGE DIPPELL: Right.

8 MR. SCOTT: So that's why we issued it for
9 December 1st. But because of the way the contract
10 did not become effective January 1, we can easily
11 live with the January 1 effective date for the
12 interim dates.

13 JUDGE DIPPELL: So when the Company filed
14 this, it was more or less filing the December 1st
15 date -- I mean, that was the date that you
16 preferred?

17 MR. SCOTT: That's the date that we
18 preferred, knowing, especially with the -- you
19 know, having discussions with Staff and OPC about
20 this issue, that we pretty much knew that the rates
21 would be suspended because Citizens has not been in
22 front of the Commission for a rate increase for
23 close to 20 years. So we knew that we would have
24 to have our books on the entire process.

25 JUDGE DIPPELL: Okay. So going forward

1 from here, how does the Company picture the
2 procedure working in this case? What would be the
3 Company's time line?

4 MR. SCOTT: The ideal situation, and
5 unfortunately the ideal situation has passed
6 because of the time it took to get on the wholesale
7 power contract -- but what we would like and what
8 we think is financially prudent upon the operation
9 of our company and to the benefit of our members
10 is, if we had an effective date of January 1 for
11 the entire filing that we requested, which is 11.--
12 11. some-odd percent increase because of the
13 wholesale power contract and about a 2.5 percent
14 increase on the distribution side, effective
15 January 1, subject to refund, or that they go ahead
16 and be any excess profits that we gain, since we
17 are a member-owned company, those profits are
18 returned as capital credits. So either way, the
19 additional money goes back to our members.

20 Based on the conversations I've had with
21 the general manager and the accountant, we start
22 lose -- we -- not losing money, but we start coming
23 to a point where our revenues do not meet what we
24 have, what we call a tier under our US mortgages.
25 And about June or July if we don't have this

1 interim rate relief, then come December, we may
2 have not made enough mortgages, i.e., the profit
3 that we returned to our members, so satisfy our
4 loan requirements.

5 So we're quite concerned without this
6 interim rate relief, if the case is extended beyond
7 the 120 days, that our rates, we would not have
8 sufficient -- sufficient margins, the part over our
9 cost to save our loan requirements for the bank.

10 So that's the ideal situation is an
11 effective date for the entire requested relief, but
12 subject to refund, and then we understand that, you
13 know, in allowing that ten-month period to go
14 forward, any additional rates or any additional
15 profits that we shouldn't recover on our rates we
16 would be more than happy to return to our members
17 either in a rate refund in December or the capital
18 credits, because that's what we do already.

19 JUDGE DIPPELL: And then Staff has filed a
20 Motion to Suspend. Does Staff counsel have what it
21 envisioned as the procedure, the idea of procedure
22 from this point forward in this case?

23 MR. BATES: Excuse us, just a moment.

24 MR. MEYER: Your Honor, as we understand
25 it, our concern was -- our immediate concern was

1 the December 1st effective date, and I believe that
2 that can be addressed by what Mr. Scott just
3 represented.

4 And also that we understood the
5 pre-hearing to be for our technical people to
6 discuss with the Company a way of working out a
7 schedule that is mutually agreeable.

8 JUDGE DIPPELL: Does Public Counsel have
9 any comments about how this should proceed?

10 MR. COFFMAN: Let me first just state that
11 although I would anticipate my office taking --
12 having some participation in this case, we view
13 Citizens Electric differently than we do
14 shareholder-owned regulated utilities. The
15 customers are in some sense an owner of the
16 company, and not -- most co-ops in Missouri are not
17 regulated.

18 We think the Commission review of the
19 rates in this case is appropriate, but we don't
20 view our -- our representation of the public the
21 same as another -- in other cases. So our
22 participation will likely be limited compared to
23 other rate cases.

24 As far as the procedure in an interim
25 case, though, I would comment that interim relief

1 is something that I believe under the law is
2 appropriate only under -- by agreement or under
3 some sort of emergency standard, and I think Staff
4 has done a good job in their suspension Motion in
5 outlining the conditions by which the Courts and
6 the Commission have allowed that in the past.

7 Generally there is some sort of suspension
8 and review of the interim request, request for
9 interim relief, and I think that it would be
10 appropriate for the Commission to apply its
11 emergency standard as it has so many times before.
12 So far not seeing what appears to me to be
13 emergency -- a case for an emergency at this time,
14 but we simply hope that the Commission would review
15 the need for an interim relief closely and that
16 they would consider all relevant factors before
17 they granted such.

18 Beyond that, Public Counsel wouldn't make
19 any particular demands or requests as far as the
20 procedure as we go forward, but that we do think
21 that emergency -- emergency interim relief is a
22 pretty extraordinary relief, and we hope the
23 Commission would scrutinize that closely.

24 JUDGE DIPPELL: And does -- does the
25 Company and -- well, all of the parties, for that

1 matter, do you-all see the possibility, then, that
2 there will be an agreement reached before -- in
3 time for the Commission to make this tariff
4 effective by January 1st, or do you envision that
5 the Commission will need to have a hearing on this
6 matter? Mr. Scott?

7 MR. SCOTT: I believe that if the
8 Commission ordered a suspension of the tariff date
9 for December 1 -- and, again, this was part of the
10 discussion --

11 JUDGE DIPPELL: Right.

12 MR. SCOTT: -- we assumed that they would
13 suspended December 1st deadline, and that would
14 give us two to three weeks to come up with some
15 time of an agreement between the parties to say how
16 much of the interim rate are we -- you know, do we
17 get it all? Do we get part of it? Yes.

18 So I did believe that from December 1st
19 until the end of December, the parties were going
20 to be able to work out some type of -- you know,
21 some type of working so that, you know, we would
22 have time to show them that, yes, 2.5 percent on
23 the distribution side was appropriate, that we did,
24 in fact, meet the standards of the emergency and
25 why all of that was necessary.

1 So the way that we envision it was that
2 the Commission would issue an Order suspending the
3 effective date of December 1st. That would give
4 the parties two to three weeks to work out and
5 present some type of stipulation on the interim
6 rate relief that we've requested.

7 JUDGE DIPPELL: Staff, did you have
8 comments.

9 MR. BATES: Your Honor, I do believe that
10 Staff is of the opinion that there may need to be
11 some sort of hearing simply for the Commission to
12 consider all of the relevant factors at some point.

13 MR. SCOTT: And if that's what the Staff
14 needs to do to support an Order for the emergency,
15 that would be fine with us.

16 JUDGE DIPPELL: Mr. Coffman, did you have
17 any further comments?

18 MR. COFFMAN: No, I don't think so.
19 Thanks.

20 JUDGE DIPPELL: Okay. Mr. Scott, has
21 there been any customer notice at all about this?

22 MR. SCOTT: Yes, in the form of we sent to
23 our members a publication called the Rural
24 Missouri. It's published by our association. It
25 goes to every active account holder, and part that

1 publication we are given two pages wherein October
2 and even -- I don't remember if it's October or
3 November, but we did put an article in there
4 overall that the rates were being effective for two
5 reasons; the wholesale power cost and the
6 distribution side.

7 But the exact numbers of the residential
8 portion was this much and resid-- and the general
9 commercial was X amount and direct notice of those
10 class customers know. But, yes, a notice -- and I
11 think it was more broad in general that there would
12 be an approximate 16 percent rate increase versus
13 each class was slightly different.

14 JUDGE DIPPELL: Okay. Was there -- did
15 you-all have something further?

16 MR. MEYER: Just to note --

17 JUDGE DIPPELL: I cut you off.

18 MR. MEYER: -- for what it's worth that
19 Staff has a little bit of concern with the
20 January 1 time frame, just given the fact that
21 discussions still need to take place, that that's
22 possibly not something that can happen in the next
23 four weeks and be completed.

24 JUDGE DIPPELL: Okay. It's the
25 Commission -- if the Commission -- this item is on

1 the Commission's agenda today for discussion and as
2 to whether the Commission thinks this tariff should
3 be suspended or not, if the Commission does suspend
4 this tariff, I suspect that I'll Order you-all to
5 file procedural schedules -- proposed procedural
6 schedules immediately.

7 So you should be thinking about that,
8 thinking the possibility of whether a hearing will
9 be needed or whether public hearings will be
10 needed, whether some form of customer notice will
11 be needed. And because this is a slightly
12 different -- I mean, granted we've had some interim
13 rate cases before the Commission before, but this
14 being a little bit different utility structure,
15 this case may -- may be a little bit different. I
16 think Staff pointed that out in their Motion as
17 well.

18 So I'm asking for your thoughts and
19 guidance as to what direction the procedure should
20 take when you file those.

21 MR. SCOTT: If I were filing a proposed
22 Order, I would probably word in in the manner
23 that the tariff sheets are suspended -- the
24 December 1st date is suspended, that the parties
25 are directed to discuss possible stipulation or a

1 hearing date regarding the interim rate
2 requested -- relief requested for further
3 consideration by the Commission between
4 December 1st and some other date in December.

5 JUDGE DIPPELL: Right.

6 MR. SCOTT: That's the way that I would
7 probably propose an Order.

8 JUDGE DIPPELL: And I would certainly
9 encourage you-all, because I don't want this to
10 come down to a January 1st deadline, for the
11 Company, if there is something the Commission can
12 do, taking that into consideration.

13 Is there anything further? Anyone have
14 any questions for me?

15 MR. SCOTT: There's only one other --

16 JUDGE DIPPELL: Mr. Scott.

17 MR. SCOTT: Yes. There's only one other
18 item.

19 Our concern is that after reviewing
20 Staff's Motion, if they -- if it comes to the part
21 and the point that this -- they do not believe that
22 we're entitled to interim rate relief on an
23 emergency basis as to the distribution side, then
24 we're quite concerned that this six-month extension
25 that they've asked for isn't reasonable at this

1 time, because they haven't done anything to show
2 that since Citizens is different, that they can't
3 complete this rate case within the 120 days.

4 And, again, that is important to us, and
5 so part of the consideration when we filed this was
6 the discussion that we had that we knew that they
7 were going to take the entire ten-month period. If
8 it comes down to where we can't agree as to the
9 distribution side, I think there have been initial
10 discussions that clearly the wholesale side would
11 be an emergency.

12 But if the distribution side isn't, then I
13 would at least like to keep the procedural schedule
14 within the first 120 days, allow the parties to try
15 to go forward, and if during that period of time
16 it's discovered that the information is -- we have
17 too much information because it has been 20 years
18 or something else comes up where it does kick over
19 into that six-month -- additional six-month period,
20 then I think it would be appropriate for the
21 parties to file at that point in time.

22 But we are quite concerned that by filing
23 November 1 that we should, you know, have
24 sufficient time to get this case heard on the
25 distribution side so we don't run up against a wall

1 of not meeting our financial obligations, i.e., our
2 tier with the US Government mortgage that we have.

3 JUDGE DIPPELL: Anything further from
4 Staff? Public Counsel?

5 MR. COFFMAN: I guess it's my
6 understanding that the parties were planning on
7 meeting on the 30th.

8 MR. SCOTT: Yes.

9 MR. COFFMAN: -- Friday. Technical
10 witnesses will be --

11 MR. SCOTT: Yes.

12 JUDGE DIPPELL: All right. Thank you-all
13 very much for coming in today, and I hope you have
14 productive discussions on Friday then.

15 MR. SCOTT: Will you be here Friday?

16 JUDGE DIPPELL: I'm will not -- I mean, I
17 will be in the office, but I will not be convening
18 you-all in any formal manner, and for that matter,
19 you may need to have a staff meeting to secure a
20 conference room for you-all to -- but we won't need
21 to go back on the record on Friday.

22 MR. SCOTT: Great.

23 JUDGE DIPPELL: If you have questions or
24 issues or whatever, you should be able to reach me
25 in my office on Friday.

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1 This concludes the on-the-record portion
2 of the pre-hearing conference then, and we can go
3 off the record. Thank you.

4 (THE HEARING WAS ADJOURNED.)

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