

1 STATE OF MISSOURI
2
3 PUBLIC SERVICE COMMISSION
4 -----
5 TRANSCRIPT OF PROCEEDINGS
6 Prehearing Conference
7 April 20, 1999
8 Jefferson City, Missouri
9 Volume 3

10 -----
11 In the Matter of the Monitoring)
12 of the Experimental Alternative) Case No.
13 Regulation Plan of Union Electric) EO-96-14
14 Company.)

15 In the Matter of the Application of)
16 Union Electric Company for an Order)
17 Authorizing: (1) Certain Merger)
18 Transactions Involving Union Electric) Case No.
19 Company; (2) The Transfer of Certain) EM-96-149
20 Assets, Real Estate, Leased Property,)
21 Easements and Contractual Agreements)
22 to Central Illinois Public Service)
23 Company; and (3) In Connection)
24 Therewith, Certain Other Related)
25 Transactions,)

26 -----
27 SHELLY A. REGISTER, Presiding,
28 REGULATORY LAW JUDGE.
29 -----

30 REPORTED BY:
31
32 MELINDA ADOLPHSON, CSR
33 ASSOCIATED COURT REPORTERS, INC.

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(573)442-3600 COLUMBIA, MO 65201

1 APPEARANCES:
2 JAMES J. COOK, Attorney at Law
P.O. Box 66149
3 St. Louis, Missouri 66149
4 FOR: Union Electric Company.
5 ROBERT C. JOHNSON, Attorney at Law
Peper, Martin, Jensen, Maichel & Hetlage
6 720 Olive Street
St. Louis, Missouri 63101
7
8 FOR: Missouri Energy Group, Emerson
Electric Company, et al.
9 DEAN L. COOPER, Attorney at Law
Brydon, Swearengen & England, P.C.
10 P.O. Box 456
Jefferson City, Missouri 65102
11
12 FOR: UtiliCorp United, Inc. d/b/a
Missouri Public Service.
13 STEVEN DOTTHEIM, Chief Deputy General Counsel
CLIFFORD E. SNODGRASS, Senior General Counsel
14 P.O. Box 360
Jefferson City, Missouri 65102
15
16 FOR: Staff of the Missouri Public
Service Commission.
17 JOHN B. COFFMAN, Deputy Public Counsel
P.O. Box 7800
18 Jefferson City, Missouri
19 FOR: Office of the Public Counsel and
the Public.
20
21
22
23
24
25

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

2

3 JUDGE REGISTER: We're here this morning

4 for the prehearing conference in two cases being

5 heard concurrently. First one is Case Number

6 EO-96-14 in the matter of the monitoring of the

7 experimental alternative regulation plan of Union

8 Electric Company, and it is being heard

9 concurrently with Case No. EM-96-149 in the matter

10 of the Application of Union Electric Company for an

11 order authorizing No. 1, certain merger

12 transactions involving Union Electric Company, 2,

13 the transfer of certain assets, real estate, leased

14 property, easements and contractual agreements to

15 Central Illinois Public Service Company and 3, in

16 connection therewith certain other related

17 transactions.

18 Do you want to take entries of

19 appearance?

20 Would you like to start?

21 MR. COOK: Yes, I would. Thank you.

22 James J. Cook, Post Office Box 66149, St. Louis,

23 Missouri 63166, appearing on behalf of Union

24 Electric Company. Also with me today are

25 Mr. Robert Cynkar and Mr. Craig Lerner of the firm

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1 of Cooper and Carvin in Washington D.C. I might
2 mention now or later that I have filed motions, a
3 request for leave to appear in affidavits of good
4 standing for those two gentlemen, as well as one
5 other in the 96-14 case previously, and this
6 morning I filed similar documents of pleadings in
7 the 96-149 case. At the appropriate time I would
8 ask that they be ruled upon.

9 JUDGE REGISTER: Thank you. I do have
10 that motion for the request for leave to appear.

11 MR. COOK: Thank you.

12 MR. DOTTHEIM: Steven Dottheim and
13 Clifford Snodgrass, appearing on behalf of the
14 Staff of the Missouri Public Service Commission,
15 Post Office Box 360, Jefferson City, Missouri
16 65102.

17 MR. COFFMAN: John B. Coffman, appearing
18 on behalf of the Office of Public Counsel and the
19 ratepayers, P.O. Box 7800, Jefferson City, Missouri
20 65102.

21 MR. COOPER: Dean L. Cooper of the law
22 firm of Brydon, Swearngen and England, P.O. Box
23 456, Jefferson City, Missouri 65102, appearing on
24 behalf of UtiliCorp United, Inc., doing business as
25 Missouri Public Service.

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1 JUDGE REGISTER: Other interveners?
2 Okay. I did receive a telephone call from Robin
3 Fulton, who indicated he had a conflict
4 representing the Doe Run Company, and that he would
5 not be able to be present, but he indicated that he
6 had been in contact with counsel here; is that
7 accurate?

8 MR. COOK: Yes.

9 MR. DOTTHEIM: Yes. And Mr. Fulton had
10 also told me that also.

11 JUDGE REGISTER: Thank you, gentlemen.
12 Okay.

13 We have a number of pending matters this
14 morning. The first which I just confirmed the
15 hearing, the date of the hearing needs to be
16 changed, and I understood at some time that there
17 might be a filing opposing the change of dates that
18 was agreeable from the parties, but I have not
19 received anything to date.

20 MR. DOTTHEIM: It's my understanding and
21 Mr. Johnson, Robert C. Johnson, who has industrial
22 clients is not here at the moment, and I was under
23 the impression that he would be here this morning,
24 but it was my understanding based on a conversation
25 with Mr. Johnson, that he was going to be filing a

1 pleading to the Commission seeking to move the
2 hearing dates and the hearing memorandum date to
3 later dates because of a conflict with his
4 schedule.

5 It was my understanding he was going to
6 seek to have the hearing dates moved from May 17,
7 18 and 19 to June 1, 2 and 3, and he was going to
8 seek to have the date for the filing of the hearing
9 memorandum moved from May 11 to May 20.

10 It's also my understanding that he has not
11 filed a pleading yet because there is a conflict
12 with one of those dates in a proceeding that he is
13 scheduled to appear at before the Kansas
14 Corporation Commission. So I was under the
15 impression that once that item was addressed, he
16 would be filing a pleading with the Commission. I
17 hope I haven't misstated anything that he advised
18 me of.

19 JUDGE REGISTER: On its own motion, the
20 Commission is likely to move the date of this
21 hearing to June 1, 2 and 3 because there is another
22 matter requiring us to move the hearing from
23 May 17, 18 and 19. I'm glad to hear the dates that
24 Mr. Johnson was hitting for were the same dates
25 that we have selected out. Mostly because there

1 were some of the few days that there isn't
2 something else already scheduled, so I don't know
3 if we -- if somebody talks to Mr. Johnson later
4 today, you might let him know that I will probably
5 be issuing the date rescheduling the hearing to
6 June 1, 2 and 3 on the Commission's own motion.

7 On the hearing memorandum do you want to
8 reschedule that also for the later date then, or do
9 you want to leave it where it's at?

10 MR. DOTTHEIM: The Staff would prefer to
11 move the hearing date to the later date to provide
12 a further opportunity to get to the Commission an
13 adequate hearing memorandum. I can't speak on
14 behalf of the other parties, though.

15 MR. COOK: That would be the Company's
16 preference, I think particularly in light of the
17 fact that the way the schedule turned out up to
18 this point we've just received the most recent
19 filing of the testimony last night, and our
20 witnesses will be seeing it today for the first
21 time. I think it would result in a pretty short
22 time under the current schedule and would not get
23 as good a product if we have some more time to work
24 on. We will still do it at the last minute, of
25 course, but . . .

1 JUDGE REGISTER: That's the best product.

2 Mr. Coffman, is that acceptable?

3 MR. COFFMAN: Yes, I agree.

4 JUDGE REGISTER: So May 20th is the date
5 that I should reschedule for the hearing memorandum
6 and that will be filed. And I will include that in
7 the same memo. Okay.

8 The other matters that I have pending, I
9 have an application to intervene filed by
10 Ms. Schmidt, and she's not here, adding some of her
11 industrial clients, I believe that they are
12 considered to be part of Missouri Industrial Energy
13 Consumers and that will be ruled on. I also have
14 Union Electric's motion to strike portions of
15 testimony, Staff's response and Union Electric's
16 reply.

17 Have I missed anything, and -- I'm
18 sorry -- of course, the request for leave to appear
19 is in my stack of pending matters.

20 MR. DOTTHEIM: If I might ask, that when
21 Union Electric Company's reply was filed, that
22 hasn't caught up with me.

23 MR. COOK: I'm sorry. Probably --

24 JUDGE REGISTER: It's stamped April 16th.

25 MR. COOK: Steve, I apologize if you have

1 not received that and would indicate that immediate
2 ruling on that would not be necessary pending Steve
3 being able to read our reply.

4 MR. DOTTHEIM: Thank you.

5 JUDGE REGISTER: The purpose of the
6 prehearing conference as I see it is to determine
7 if we still have issues in controversy and whether
8 those controversies can be resolved or settled.

9 MR. DOTTHEIM: Judge Register, I think --
10 not to interrupt you -- but Mr. Johnson arrived. I
11 don't know if you want to take his entry of
12 appearance.

13 JUDGE REGISTER: Thank you very much,
14 Mr. Dottheim. I appreciate you calling it to my
15 attention.

16 Good morning, Mr. Johnson.

17 MR. JOHNSON: I apologize for being late.
18 I was testifying before a legislative committee
19 this morning. I just got loose.

20 JUDGE REGISTER: No problem. We
21 understand. Would you like to enter your
22 appearance at this time?

23 MR. JOHNSON: Yes. I'd like to enter an
24 appearance for the Missouri Energy Group, and that
25 includes Barnes-Jewish, the Emerson Electric

1 Company, River Cement or R C Cement Company, the
2 two additional hospital systems, Unity Healthcare
3 and SSM Healthcare, and I believe that's it.

4 JUDGE REGISTER: Are you going to be
5 filing that as an association then?

6 MR. JOHNSON: Yes.

7 JUDGE REGISTER: You will be following
8 that up then?

9 MR. JOHNSON: Right.

10 JUDGE REGISTER: Mr. Johnson, I just
11 wanted to let you know, we just discussed the
12 hearing dates, and it was my understanding that you
13 were working on getting the parties' agreement on
14 June 1, 2 and 3?

15 MR. JOHNSON: Yes, ma'am.

16 JUDGE REGISTER: And I'm just letting
17 everyone know that June 1, 2 and 3 is the only
18 dates that I understand on the calendar available
19 to us, so I'm going to go ahead and issue that as
20 the Commission's own motion -- on the Commission's
21 own motion an order rescheduling that hearing for
22 June 1, 2 and 3.

23 MR. JOHNSON: Thank you very much. I
24 appreciate that.

25 JUDGE REGISTER: No problem. And then

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1 we've also indicated that we'll be rescheduling the
2 hearing memorandum to May 20.

3 MR. JOHNSON: Thank you. I brought a
4 pleading with me to file that provides for that.
5 Should I proceed to file that or --

6 JUDGE REGISTER: If you would like to but
7 it's not necessary.

8 MR. JOHNSON: It's not necessary now?

9 JUDGE REGISTER: It's not necessary.

10 MR. JOHNSON: Thank you very much. That
11 will preserve my marriage amongst other things.

12 JUDGE REGISTER: The issues raised in this
13 case that have been raised by the Staff and OPC
14 pursuant to the final report filed by UE in the
15 third year; is that correct?

16 MR. DOTTHEIM: That is correct.

17 JUDGE REGISTER: Mr. Dottheim, can you
18 tell us where the Staff stands on their positions?

19 MR. DOTTHEIM: The Staff stands as
20 previously indicated in its prior filings and as
21 indicated in its surrebuttal filing yesterday. The
22 issues previously identified by the Staff are still
23 at issue, and I don't at the moment have any
24 anticipation of resolution. Now, if there's
25 something that I'm unaware of, of course, the Staff

1 is always willing to open discussions again, but at
2 the moment I don't see that there will be a
3 resolution short of going to hearing.

4 JUDGE REGISTER: And the issues, I believe
5 you identified in your early pleadings --

6 MR. DOTTHEIM: Yes.

7 JUDGE REGISTER: -- are the ones that are
8 remaining?

9 MR. DOTTHEIM: Yes. And one of those
10 being whether normalization, which is in particular
11 in Case No. EM-96-149. It might be argued that all
12 the other issues are in EM -- excuse me --
13 EO-96-14, but in that they all relate to the
14 calculation of a third-year sharing credit, which
15 in part determines the rate production for which
16 the weather normalization is at issue. It might be
17 argued that those issues have some relation to
18 EM-96-149.

19 JUDGE REGISTER: So if I understand that
20 correctly then, the figures that will be used in
21 96-149 in the weather normalization are dependent
22 upon those figures in 96-14 --

23 MR. DOTTHEIM: Yes.

24 JUDGE REGISTER: -- and therefore there
25 may not be a disagreement once the figures in 96-14

1 are determined.

2 MR. DOTTHEIM: But the Commission will
3 still have to decide the weather normalization
4 issue.

5 JUDGE REGISTER: Right. And in your
6 pleading, I think it was your -- I've got it
7 here -- your motion for setting an expedited early
8 prehearing conference. I have listed the items
9 that were addressed in the Staff memorandum year
10 2000 Y2K cost?

11 MR. DOTTHEIM: Yes.

12 JUDGE REGISTER: Other computer costs,
13 merger transaction costs, injury and damage
14 expense, advertising, territorial agreements, deed
15 commissioning trust fund deposits and deferred
16 taxes?

17 MR. DOTTHEIM: I believe and, again, those
18 are the issues with weather normalization, but
19 there may be one that is no longer at issue. If
20 you could give me a moment?

21 JUDGE REGISTER: Certainly.

22 MR. DOTTHEIM: Based on testimony that was
23 filed by Union Electric Company, advertising may
24 not be an issue any longer. There is one other
25 issue that you mentioned that -- well, you didn't

1 mention that is an issue. It's the AFUDC
2 calculation relating to income taxes but all of the
3 other issues remain.

4 JUDGE REGISTER: Okay. Mr. Coffman, the
5 Public Counsel's objections, would you like to
6 outline those for us at this point?

7 MR. COFFMAN: Yes. I believe the -- maybe
8 all but one of the issues that we noticed up
9 pursuant to the plan stipulation and agreement
10 include computer costs and that's including the
11 Y2K, as well as the other computer costs, merger
12 costs, lobbying expenses, plat held for future use
13 and deed commissioning costs.

14 We also are addressing some of the
15 confusion about the EARP in itself but those are
16 our only issues, and I believe that they all would
17 relate to the E0-96-14 docket, but out of -- that
18 there is some reference to matters in the
19 stipulation of the other case. And out of
20 abundance of caution we filed our testimony in both
21 cases, that is we have not filed any testimony in
22 the weather normalization issues, which is the only
23 issue that's -- only in EM-96-149.

24 JUDGE REGISTER: So your filings in 149 is
25 the same testimony filed in 96-14; is that

1 correct?

2 MR. COFFMAN: That's correct.

3 JUDGE REGISTER: But they don't relate to

4 weather normalization directly?

5 MR. COFFMAN: No. We have not addressed

6 that issue.

7 JUDGE REGISTER: Your notice filed

8 November 24 in both cases, Mr. Coffman, has

9 software, that's what we refer to as computer

10 costs?

11 MR. COFFMAN: That's correct.

12 JUDGE REGISTER: And consulting costs?

13 MR. COFFMAN: Yes. That's also related,

14 computer related.

15 JUDGE REGISTER: That's also part of

16 computer cost?

17 MR. COFFMAN: Right.

18 JUDGE REGISTER: The dues and donations,

19 is that part of the computer costs as well?

20 MR. COFFMAN: No.

21 JUDGE REGISTER: That's part of the

22 lobbying and legislative costs?

23 MR. COFFMAN: I guess I'd like to leave

24 open the opportunity to address that. The reason

25 that we've not filed testimony on that is that we

1 have not yet obtained the information that we feel
2 necessary to make testimony that I'm not -- I don't
3 believe that we'll be making that issue, but I'd
4 like to preserve the ability to address it, if I
5 could later.

6 JUDGE REGISTER: Okay. The advertising
7 costs, is that part of the --

8 MR. COFFMAN: I think we're in the same
9 situation regarding advertising. We have not filed
10 testimony on it, but to the extent that we might be
11 in a position to develop a position, I'd like to
12 reserve the right to do that but that doesn't
13 appear likely at this point.

14 JUDGE REGISTER: Is there anything else
15 then that you wanted to add then at this point,
16 Mr. Coffman?

17 MR. COFFMAN: No. No, your Honor.

18 JUDGE REGISTER: Thank you. Do any of the
19 interveners have any objections or positions on the
20 final court file that they would like to relate at
21 this time?

22 MR. JOHNSON: None for us, your Honor.

23 MR. COOPER: None for MPS, your Honor.

24 JUDGE REGISTER: Thank you.

25 Mr. Cook, did you have a response at this

1 point in terms of the issues that you think are
2 going to be present in this action?

3 MR. COOK: Yes. I think it's very
4 important that, and shouldn't be a surprising one,
5 but having read our pleadings and our testimony
6 that the threshold issue really will be the nature
7 of the contract, which was all entered into several
8 years ago, and whether or not there's a legally
9 binding agreement in that stipulation and what the
10 obligations of the various parties are pursuant to
11 the terms of that contract.

12 So that I believe will be the threshold
13 question and depending on the answer to that
14 question, many of those other issues may not even
15 need to be addressed. I think for slight
16 clarification purposes if maybe it will clarify, I
17 think we are in agreement on advertising. I
18 believe the company has indicated that that was an
19 error, and we may still need to fine tooth whether
20 we are all using the same numbers or not, but as
21 far as an issue goes, that should not be -- and
22 also I think there was an issue on taxes on
23 property held for future use. That was also an
24 error that we agreed was handled in error.

25 And, again, I'm not sure if we're in

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1 agreement on the numbers yet, but that should not
2 be an issue.

3 JUDGE REGISTER: That's something that
4 you-all can get resolved today you think?

5 MR. COOK: Certainly before the hearing
6 memorandum is done.

7 JUDGE REGISTER: I'd appreciate that.
8 Okay.

9 MR. COOK: If I may address briefly,
10 Mr. Dottheim's discussion of settlement. I would
11 agree that we have had attempts to, we've had
12 discussions, and we have had some discussions in
13 connection with this case as well as the rate
14 design case, which as you know is also pending. I
15 believe progress is being made on the rate design
16 case. Progress does not seem to be being made
17 here. And I don't think Steve said anything
18 inflammatory, so I will try not to do that either.

19 It's clear that we are at logger heads on
20 the very basic and important issue to the company
21 and obviously to the Staff as well, and we've not
22 made very much progress on that threshold issue
23 that we've talked about.

24 JUDGE REGISTER: Okay. Your hearing
25 memorandum will have the number of witnesses in the

1 required hearing, and your list of witnesses and
2 the order of witnesses that you want the order in
3 and order of cross also. We're rescheduling for
4 June 1, 2 and 3. Does it look like we still will
5 need all three days?

6 MR. COOK: I believe so.

7 MR. DOTTHEIM: Yes.

8 JUDGE REGISTER: Okay. Unless there is
9 anything else that either of the parties would like
10 to discuss at this point --

11 MR. DOTTHEIM: Yes. Just so it's not
12 forgotten, I think with one of the Company's
13 witnesses, Mr. Baxter, put in his rebuttal
14 testimony on the tax issue that he was waiting on
15 some information from the Staff. And as a
16 consequence was not submitting any testimony on
17 taxes at that time. The Staff believes that it's
18 provided the information. We're not aware -- that
19 is, Staff's not aware of when Mr. Baxter might file
20 some testimony. And as a consequence the Staff
21 certainly will want to reserve the right to
22 surrebuttal that testimony.

23 Also too, the Company served upon the
24 Staff some data requests prior to its filing of its
25 rebuttal testimony. The Staff was not able to

1 respond in time prior to the Company's filing of
2 its rebuttal testimony. I don't know whether the
3 Company in particular is in the weather issue,
4 weather normalization. I don't know if the Company
5 will believe that once it has that information,
6 whether it needs to respond.

7 It's reflected in the Staff's surrebuttal
8 testimony that was filed yesterday that the Staff
9 had submitted data request to the Company regarding
10 the Company's rebuttal testimony, and Staff had not
11 received responses, but upon receiving responses
12 the Staff may believe there is a necessity of
13 filing some supplemental surrebuttal.

14 So because of the compression of the -- of
15 the dates for the filing of rebuttal and
16 surrebuttal, that created some problems in
17 turnaround time even certain instances not
18 necessarily there even being 20 days for the
19 submission of data request to another party
20 receiving responses.

21 So there may be some additional testimony
22 that either the Staff or I assume the Company may
23 want to file in the future.

24 MR. COOK: If could respond?

25 JUDGE REGISTER: Certainly. Go right

1 ahead.

2 MR. COOK: I would hope that the testimony
3 that Mr. Dottheim referred to pertained to tax
4 issue will be filed this week. I believe it's
5 about ready to be filed. From the Company's
6 standpoint, I believe -- I know that the Company
7 and I believe that Staff have been dealing in good
8 faith throughout and attempting to answer data
9 request in a timely manner and as a full manner as
10 possible. But sometimes when we each get the
11 responses, I think we sometimes probably question
12 that, but I believe both sides are doing that. And
13 I suspected that before the -- before the hearing,
14 both the Staff and the Company are going to
15 probably be asking to file some supplemental
16 testimony.

17 My suspicion that the sooner that
18 testimony is filed, the less likely the other side
19 will have cause to object. The later and more
20 radical testimony turns out to be, the more likely
21 we are to object. And I just wanted to put on the
22 record that we will cooperate with Staff to get
23 that done as quickly as possible and hopefully can
24 do it so that all of the parties will have time to
25 have read that new testimony, and we won't have the

1 procedural hassles over it.

2 JUDGE REGISTER: Since it's going to be
3 filed as supplemental testimony, do we need to
4 establish another date deadline for filing or will
5 it be --

6 MR. DOTTHEIM: I think that would be --

7 JUDGE REGISTER: -- a significant amount
8 enough that it won't be a problem?

9 MR. DOTTHEIM: Well, hopefully it won't be
10 any significant amount. Establishing another date
11 may be a little difficult at this point. The
12 Company has a number of data requests outstanding
13 to the Staff on the weather normalization issue the
14 Staff is hoping to be able to respond to in the
15 next couple of days. Mr. Cook has previously
16 indicated that, if I may take leave to mention,
17 that the Company should have responses to some of
18 the Staff's data request in the near future.

19 We certainly appreciate the Company's
20 offer of cooperation, and we also have been
21 attempting and will continue to attempt to
22 cooperate and turn around data requests and
23 providing information. But unfortunately, I don't
24 know that it would serve much purpose trying to set
25 another date for filing a supplemental testimony.

1 Some of the other parties may have a different view
2 on that.

3 MR. COOK: I would agree that it would be
4 very difficult to tell, because I say it may just
5 be a question of how late and how significant the
6 testimony is as to whether anyone is going to
7 object to it. Unfortunately, it will have to be
8 your call, I guess.

9 JUDGE REGISTER: Well, I just ask the
10 parties to keep in mind that if you expect the
11 Commission to be able to read that before the
12 cross-examination, you need to be able to get it to
13 them at least three days before so that they'll
14 have a good opportunity to read through that.

15 MR. COOK: Right.

16 JUDGE REGISTER: That's generally what
17 they ask us for is at least three days to review
18 orders and such. So obviously if something needs
19 to be filed later than that, then we'll read it,
20 you know, before the decision is made, but it may
21 not give them as much time to read it before the
22 hearing.

23 MR. COOK: Thank you.

24 JUDGE REGISTER: I also wanted to remind
25 the parties that the hearing memorandum, everyone's

1 position is supposed to be to Staff at least two
2 days prior to the filing deadline. This may be one
3 of the last times that we do things this way. We
4 are in the process of changing the hearing
5 memorandum format. And so that will be coming out
6 in future procedural schedules, but it causes Staff
7 some efforts at trying to beat that deadline if
8 you're late with those.

9 So if you could work very hard, please, to
10 get those in time to Staff and that will help with
11 the hearing memorandum.

12 Anything else? Mr. Coffman?

13 MR. COFFMAN: Yeah. I'd just like to get
14 one thing on the record. We've been working on
15 discovery in this matter and it's been a little bit
16 frustrating, but we've been working thus far
17 without having to, I guess, bring anything to the
18 Commission's attention. If I understand, I guess
19 primarily we are still interested in discovery
20 regarding logging expenses and maybe a couple of
21 other minor points.

22 But we understand, I guess that the
23 Company is going to allow our witness to, I guess
24 go in-house and look at information this Thursday.
25 And so hopefully this will get us the information

1 we need and get us to the point where we're ready
2 to go to hearing. I just wanted to make you aware
3 that we have been kind of struggling with discovery
4 up to this point.

5 JUDGE REGISTER: Mr. Cook, that's
6 arranged?

7 MR. COOK: That is arranged. And just to
8 the extent that any suggestion sort of snuck out of
9 that comment from Mr. Coffman that it was involved
10 with the Company, the Company suggests that it's an
11 equal problem with the requestor, and we'll leave
12 it at that. If --

13 JUDGE REGISTER: Everybody's busy, huh?

14 MR. COOK: Yes. If you care to leave it
15 at that, Mr. Coffman.

16 MR. COFFMAN: I'll agree to leave it at
17 that for now.

18 MR. COOK: Thank you. I appreciate it.

19 Could I ask one other question, I guess,
20 if it's appropriate. The one matter that you've
21 mentioned that is pending, and I think I mentioned
22 previously is our request for leave for Mr. Cynkar
23 and Mr. Lerner and Mr. Kurt to appear. And I guess
24 I would request a ruling on that before the day of
25 the hearing so we know whether to --

1 JUDGE REGISTER: Certainly. In fact, I'll
2 probably be working on these today. I have not
3 received any objections to that request for leave
4 to appear, and so I'll hopefully get something out
5 this week.

6 MR. COOK: That's fine. Thank you.

7 JUDGE REGISTER: Then if hearing no
8 further business --

9 MR. DOTTHEIM: Just one --

10 JUDGE REGISTER: Mr. Dottheim?

11 MR. DOTTHEIM: Yes. One other thing we
12 discovered definitively this morning, out of
13 caution the Staff filed testimony in both dockets
14 except for the weather normalization testimony,
15 which was filed only in the Case No. EM-96-149
16 docket. We have a set of schedules to certain
17 testimony that we were alerted this morning by the
18 print shop that's in the building that they still
19 had. The printing machine evidently broke, and
20 they had the documents down there and didn't alert
21 us, and we didn't discover it until frankly we were
22 putting together our packages to serve upon the
23 other parties. And we have thought that we had
24 enough copies filed but not enough to mail.

25 And so what we did -- it's identical.

1 It's schedules to the surrebuttal testimony of
2 Arlene Westerfield. It's the highly confidential
3 version. And it's the version that's filed in Case
4 No. EM-96-149 that didn't get filed yesterday.
5 There's an identical set of documents that was
6 filed yesterday in Case No. E0-96-14. And we
7 thought that we had just not run enough copies, we
8 put into the packages on the parties in the Case
9 No. EM-96-149 case, a copy of the highly
10 confidential packet of schedules that bore the
11 title E0-96-14.

12 So I will be filing a pleading to late
13 file today the schedules, the highly confidential
14 version of Staff's witness, Arlene Westerfield in
15 Case No. EM-96-149. But identical schedules were
16 filed yesterday in the complimentary docket,
17 E0-96-14. So I apologize for the inconvenience.

18 JUDGE REGISTER: No problem. I'm not sure
19 that -- I'll take a look at records and see how
20 they recorded it. They may not have recorded
21 them -- they did record them?

22 MR. DOTTHEIM: As best as we understand,
23 it is not a records problem. It is our problem.
24 And maybe I misunderstood what you were saying,
25 but . . .

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1 JUDGE REGISTER: I didn't know whether
2 they would have recorded both of the filings if
3 they were duplicates, and so --

4 MR. DOTTHEIM: I think they likely would
5 or that was their plan, because we have not shown
6 both case numbers on the testimony or the
7 schedules. We have shown one or the other case and
8 separately filed it in the two cases except for the
9 weather normalization testimony.

10 JUDGE REGISTER: Okay. Anything else?
11 Hearing no further business, then we will conclude
12 this prehearing conference. If you-all of course
13 have other business, please feel free to remain and
14 do whatever you need to do. Thank you.

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