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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

PREHEARING CONFERENCE

November 28, 2001
Jefferson City, Missouri
Volume 1

In the Matter of the Joint)
Application of Union Electric)
Company and Gascosage Electric)
Cooperative for an Order Approving)
a Change in Electric Service)Case
Supplier for Certain Union Electric)No. EO-2002-178
Company Customers for Reasons in)
the Public Interest; Authorizing the)
Sale, Transfer, and Assignment of)
Certain Electric Distribution)
Facilities, Substations, and)
Easements from Union Electric Company)
to Gascosage Electric Cooperative;)
and Approving the First Amendment to)
the Union Electric Company and)
Gascosage Electric Cooperative)
Territorial Agreement.)

BEFORE:

NANCY M. DIPPELL, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:

KRISTAL R. MURPHY, CSR, RPR, CCR
ASSOCIATED COURT REPORTERS

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

2 (Written Entries of Appearance filed.)

3 JUDGE DIPPELL: This is Case

4 No. EO-2002-178, in the matter of the joint
5 application of Union Electric Company and Gascosage
6 Electric Cooperative for an order approving a change
7 in electric supplier for certain Union Electric
8 Company customers for reasons in the public interest;
9 authorizing the sale, transfer and assignment of
10 certain electric distribution facilities, substations,
11 and easements from Union Electric Company to Gascosage
12 Electric Cooperative; and approving the first
13 amendment to the existing territorial agreement
14 between Union Electric Company and Gascosage Electric
15 Cooperative.

16 My name is Nancy Dippell, and I'm the
17 Regulatory Law Judge assigned to this matter.

18 We've been convened here today for a
19 prehearing conference. And at this time I would like
20 to go ahead and ask for oral entries of appearance.
21 You don't need to -- if you've made your written
22 entries of appearance, you don't need to give me your
23 address. If you would just state who you're here
24 representing, that would be fine.

25 Let's start with Gascosage.

1 MR. SCOTT: Victor Scott for Gascosage
2 Electric Cooperative as well as the applicants
3 requesting intervention, the employees of Gascosage
4 Cooperative.

5 JUDGE DIPPELL: Union Electric?

6 MR. BOBNAR: Yes. Bill Bobnar, Ameren
7 Services Company, representing Union Electric Company,
8 doing business as AmerenUE.

9 JUDGE DIPPELL: And Staff?

10 MR. FRANSON: Robert Franson, Assistant --
11 I'm sorry -- Associate General Counsel representing
12 the Staff of the Public Service Commission.

13 JUDGE DIPPELL: Office of the Public
14 Counsel?

15 MR. COFFMAN: Let the record reflect the
16 appearance of John B. Coffman, appearing on behalf of
17 the Office of the Public Counsel and the public.

18 JUDGE DIPPELL: And then we had intervenors.

19 MS. BOND: Good morning. Jan Bond on behalf
20 of intervenors Operating Engineers Local 148 and
21 International Brotherhood of Electrical Workers Local
22 1455.

23 JUDGE DIPPELL: Okay. We have had one
24 application to intervene. As Mr. Scott mentioned,
25 there is a pending application of Carl Brandt to

1 intervene that was received on Monday, and so that one
2 has not been ruled on yet.

3 Mr. Scott, I just had a couple of questions
4 about that.

5 MR. SCOTT: Yes, ma'am.

6 JUDGE DIPPELL: First, can you explain to me
7 why it isn't a conflict of interest for you to
8 represent Mr. Brandt and the employees as well as
9 Gascosage?

10 MR. SCOTT: If there was a conflict, both
11 parties have waived it. I identify that there could
12 be a possible conflict, too, as the proceeding goes
13 on. The employees support Gascosage's request to
14 purchase these facilities and provide service, so any
15 testimony or any relevance that they have actually
16 contradicts the Union's position.

17 And one of the concerns that the employees
18 had was that if the union was the only intervenor in
19 this matter, that their perspective and any issues
20 regarding safety or their capabilities would not be
21 adequately presented unless they had their own
22 representative.

23 JUDGE DIPPELL: Okay. Now, can you explain
24 to me who Mr. Brandt is and why he should be allowed
25 to represent other employees?

1 MR. SCOTT: Mr. Brandt is here today. He's
2 also the operations manager, so he is a managerial
3 position in charge of all of the linemen and outside
4 employees and responsible for the entire maintenance
5 of the Gasco'sage's electrical system. He also has
6 some managerial duties regarding the inside employees
7 as well.

8 JUDGE DIPPELL: And the employees, according
9 to your Application to Intervene, are not unionized,
10 or do they have any kind of employee association?

11 MR. SCOTT: They were not unionized. They
12 do meet from employee standpoints. They did meet
13 regarding this and regarding the application, and I am
14 informed that they requested Carl be, in fact, their
15 representative to be here and speak on their behalf.

16 JUDGE DIPPELL: Well, in my view, just
17 looking at this application, I don't think it's going
18 to be adequate for -- to meet the requirements of the
19 rule without listing each of those employees who is --
20 has an interest.

21 MR. SCOTT: I would be happy to provide that
22 list, or, at the very least, the Mr. Brandt
23 application be -- for him to intervene on his own.
24 That would be fine as well.

25 JUDGE DIPPELL: And, certainly, even for

1 Mr. Brandt, there is not sufficient identifying
2 information in this application for the Commission to
3 know exactly what his position is and how that differs
4 from the other parties that are in the case. So I
5 will suggest to you that you may want to supplement
6 that application before the Commission rules on it.

7 MR. SCOTT: I will do that, your Honor.

8 JUDGE DIPPELL: And as far as your
9 negotiations today, I will leave it to the other
10 parties.

11 Are there any objections to Mr. Brandt
12 participating today in your discussions or
13 negotiations?

14 MR. FRANSON: Your Honor, I really don't
15 want to address whether Staff has any objections.
16 However I would suggest for purposes of the
17 negotiations today, since Mr. Scott has stated where
18 he expects the proposed intervenors to be, that we
19 would probably take the position that as far as any
20 deadlines, we'll need to go ahead and plan for the
21 possibility that intervention is granted. And, of
22 course, if it's not, then -- then all of the
23 possibilities are covered if they are included in
24 the -- with -- in part of our procedural schedule.

25 JUDGE DIPPELL: Ms. Bond, did you have

1 something to say?

2 MS. BOND: Judge, I haven't had an
3 opportunity to see the application, so if Mr. Scott is
4 going to supplement it, I would like an opportunity to
5 at least see it, and then if I could take a position
6 after having seen it.

7 JUDGE DIPPELL: Right.

8 MS. BOND: As to Mr. Brandt being here, I
9 would just agree with Staff that the parties need to
10 go forward today because if we need to get a schedule
11 for you on Friday, if the parties here agree, then we
12 should agree and get something filed with you.

13 JUDGE DIPPELL: Right. I guess my question
14 is just -- I don't know what kind of information
15 you'll be wanting to discuss in your negotiations. As
16 of now, Mr. Brandt is not a party. I will be giving
17 the ten days to allow for objections to that, to that
18 application, because not everyone has had an
19 opportunity to even receive it yet.

20 So if you have an objection to Mr. Brandt
21 participating in your discussions, then -- certainly
22 I'm not telling you that you necessarily have to waive
23 that right this moment, but --

24 MR. SCOTT: For the record, your Honor,
25 since some of the discussions was for the purposes of

1 some of the operational aspects, that is the main
2 reason why Mr. Brandt is here. It's not to
3 participate in the proceeding regarding the procedural
4 schedule because we, as an intervenor, are going to
5 comply with whatever dates the parties set.

6 He is mainly here to support or answer any
7 questions if there are any questions regarding actual
8 operational issues. So if there is any issue which he
9 needs to be excused because he's not a party, I don't
10 have a problem with that. He will be available to
11 answer questions is why we have brought him.

12 JUDGE DIPPELL: Okay.

13 MS. BOND: And, Judge, that's acceptable to
14 us as long as if we can politely ask Mr. Brandt to
15 leave if we have something that we feel would not be
16 appropriate for him to hear.

17 JUDGE DIPPELL: I think that's fine.

18 MR. FRANSON: Your Honor, if I understand
19 correctly, at this point in time, Mr. Brandt
20 personally has not filed a Motion to Intervene
21 representing himself; is that correct?

22 JUDGE DIPPELL: That's correct.

23 MR. FRANSON: There was a reference made to
24 that, and I wanted to be sure there was no oral motion
25 to that effect that was being entertained.

1 MR. SCOTT: No, no.

2 JUDGE DIPPELL: Are there any questions
3 about that? Have I made that understandable?

4 Okay. Well, the purpose of having this
5 prehearing today was so that you-all could discuss the
6 procedural schedule, discuss settlement of any issues
7 you might have. Because there was a territorial
8 agreement as part of this case, there is -- the
9 Commission is obligated under the statute to rule
10 within 120 days unless it should extend that for good
11 cause. There is a second issue in this, and that is
12 that of the change of supplier, and that's what makes
13 this one a little different than our standard
14 territorial agreement.

15 So I've asked you-all to put together a
16 procedural schedule and file that with me by November
17 30th. I would prefer that you file that -- reach some
18 agreement on that and file that jointly. If you
19 cannot, you may file separate suggestive procedural
20 schedules. And I will just tell you that the
21 Commission's calendar is very booked up, and I had
22 intended to bring you a calendar, but I left it
23 upstairs.

24 So I will just tell you and you might make a
25 note that some good hearing dates, if it can be

1 scheduled within the 120-day time frame are -- well,
2 originally, I said to schedule it before January 8th.
3 Some good dates are -- good-on-the-calendar dates are
4 December 27th, 28th, January 2nd. It's possible that
5 January 3rd may be open, and the 8th of January, and I
6 am willing to extend that and go on into the rest of
7 that week. January the 10th and 11th were both good
8 dates.

9 If this should go to hearing on the change-
10 of-supplier issue, I'm not sure if this will be the
11 standard territorial agreement hearing which usually
12 doesn't last very long. It certainly doesn't take a
13 whole day. If you think you're going to need more
14 than one day, you'll need to let me know that.

15 Bad dates for the judge, which will not
16 show up on the Commission's hearing calendar, are
17 December 24th, December 26th, and January 4th. I am
18 not available. I would appreciate you taking that
19 into consideration when you make some discussions.

20 There are some hearings that are scheduled
21 on the Commission's calendar that are expected to come
22 off of the Commission's calendar in the next few
23 weeks, so if you have a preferred date, you might
24 mention that to me, and it's possible that that could
25 be scheduled if those hearings go away, so --

1 Mr. Scott, has -- has there -- or
2 Mr. Bobnar, has there been any customer notice with
3 regard to the customers whose suppliers are going to
4 be changed if this is approved?

5 MR. BOBNAR: Yes, your Honor. AmerenUE has
6 notified the customers twice. The first customer
7 notice was before we filed the application, inviting
8 them to a meeting, and then at the request of the
9 Office of the Public Counsel and working with the
10 Office of the Public Counsel -- and excuse me. My
11 voice is a little weak today.

12 JUDGE DIPPELL: That's fine.

13 MR. BOBNAR: Working with the Office of
14 the Public Counsel and the Staff, we sent out a
15 second letter on or about October -- excuse me --
16 November 9th, basically outlining the nature of these
17 proceedings and giving contacts within both Office of
18 the Public Counsel and the Staff for those people to
19 call.

20 JUDGE DIPPELL: And are copies of those
21 notices part of this record at this point?

22 MR. BOBNAR: I just filed this week copies
23 of everything and served on the parties today copies
24 of those.

25 JUDGE DIPPELL: All right. And you

1 mentioned that you had a meeting and that was
2 mentioned in the pleadings on November 20th, I
3 believe?

4 MR. BOBNAR: Yes. October 20th.

5 JUDGE DIPPELL: October 20th. Did Staff
6 participate in that? There was some mention.

7 Mr. Franson?

8 MR. FRANSON: No, Staff did not --

9 I stand corrected, Judge. Staff did
10 participate in that.

11 JUDGE DIPPELL: All right. How was that
12 attended, Mr. Bobnar? Was there any participation
13 from the customers?

14 MR. BOBNAR: Yes, we had a number of people
15 attend. I think it was 20. Is that about right?

16 Twelve people actually attended. We had
17 other people that called by phone who -- who also made
18 their opinions known.

19 JUDGE DIPPELL: And, Mr. Franson, I believe
20 Staff is aware that there were some -- there have been
21 some letters filed regarding this issue.

22 MR. FRANSON: Yes, your Honor. Mr. Ketter,
23 who is in the room, has received some letters. We
24 have put those -- filed those with Records. They are
25 in, I believe, a correspondence file, which is part of

1 the public record, and we will be this week serving
2 those on the other parties in the case, and we will
3 certainly keep everyone updated. Plus everyone here
4 is on notice that those are in the record there.

5 I believe traditionally those are kept in
6 the public file, but they are just in a little
7 separate folder and certainly are accessible to anyone
8 who would care to review those. And we will certainly
9 serve those. What we've got so far, I believe we've
10 gotten two letters, and then any others we might get.

11 JUDGE DIPPELL: Okay. Ms. Bond, does the
12 Union at this point plan to be filing testimony or
13 presenting witnesses?

14 MS. BOND: Possibly, Judge. At this point I
15 have DRs out. I have not received responses to those.
16 And, obviously, the Union, like everybody else, is
17 certainly willing to engage in serious settlement
18 discussions. We don't want to litigate this for the
19 sake of litigating it. If we can't settle, then I
20 would expect that we would.

21 JUDGE DIPPELL: All right. And, Mr. Scott,
22 if the employees of GascoSage are allowed to
23 intervene, would you expect that they would -- and
24 this isn't settled today, would you expect that they
25 would be filing some sort of testimony?

1 MR. SCOTT: Very brief testimony. And it
2 would be -- at this time it would probably be
3 regarding their ability to provide service to the area
4 to be transferred.

5 JUDGE DIPPELL: Okay. Okay. Well, again,
6 this -- this involves a substantial number of
7 customers whose service would be -- would change, so
8 I'm concerned about the possible necessity for public
9 notice and public hearings and that sort of thing.

10 Mr. Coffman, you had a --

11 MR. COFFMAN: Yes, I could probably give an
12 update on that.

13 Let me say that in these type of cases where
14 there is a transfer of customers, the Public Counsel's
15 first focus is on ensuring that there is adequate
16 notice and an opportunity for everyone who is affected
17 to make their comment known.

18 We did work well with the joint applicants
19 in drafting a notice that -- the second notice
20 Mr. Bobnar referred to, to make sure it was clear to
21 those customers that are proposed for a switch that
22 this was not a done deal, that this is a matter that
23 the Commission will decide.

24 Sometimes notices in the past didn't seem
25 quite complete in other cases, leaving perhaps the

1 impression that the switch was going to occur already,
2 and, you know, our concern was that maybe customers
3 were discouraged from providing comment, feeling it
4 wouldn't do any good. It was already inevitable.

5 But we think that adequate notice was
6 drafted, and if I understand correctly, and I hope
7 that I'll be corrected by applicants if I'm wrong,
8 that adequate notice went out to every customer that
9 is proposed to be switched at some point prior to
10 November 13.

11 MR. BOBNAR: Yeah. November 9th was
12 approximately the mailing date.

13 MR. COFFMAN: And it is our general
14 practice to wait until every customer has received
15 notice and their opportunity to comment to the Public
16 Service Commission or to our office, wait
17 approximately 20 days or so to make sure we get enough
18 opportunity for feedback.

19 At this point we've not received
20 overwhelming comment. Approximately eight -- eight
21 customers of those have contacted us and said that
22 they are opposed to the switch for one reason or
23 another. That doesn't -- if we don't receive a great
24 deal more or some large petition, I don't anticipate
25 that our office would ask for a local public hearing.

1 We look for kind of a general indication
2 that there would be kind of a threshold of interest in
3 the area before we would ever request a local public
4 hearing. Not that we would be opposed to one if the
5 Commission wanted to have one, but that it doesn't
6 seem at this point to have enough indication for one.

7 I suppose I would ask that I have perhaps
8 another week or so to gauge opinions and see if we
9 don't receive an overwhelming interest in such hearing
10 before we make a decision whether we're going to ask
11 for one or not, but we don't plan to at this point.

12 And just on that matter, in -- I'll remind
13 the Commission that in some past territorial
14 agreements the Commission has extended the schedule
15 beyond the statutory 120 days, and, in my memory, that
16 has been because of the need to have a public hearing
17 to extend the schedule.

18 So I don't see a need at this point to ask
19 for an extension, but if unforeseen events develop, we
20 might ask that the Commission consider some short
21 extension of that deadline to make sure that due
22 process is allowed and adequate opportunity for
23 comment.

24 JUDGE DIPPELL: I certainly think that that
25 would be one reason that would be allowed under the

1 statute if we need to make arrangements for a local
2 public hearing, so I would ask that when you're
3 looking at your procedural schedule that perhaps you
4 pick a day which -- or might be good for a local
5 public hearing to sort of have as a tentative date on
6 the schedule.

7 MR. COFFMAN: Is there any indication that
8 the Commission is interested in having one?

9 JUDGE DIPPELL: I have not discussed it with
10 the Commission, so I do not know if they would want to
11 go ahead and do one on their own or wait until one is
12 requested. I certainly will bring that up with the
13 Commission.

14 MR. COFFMAN: I will commit that if we, that
15 is, the Office of Public Counsel requests a local
16 public hearing, a request will be filed within a week
17 of today.

18 JUDGE DIPPELL: All right. Thank you.

19 Mr. Franson, did you have something?

20 MR. FRANSON: No. I think Mr. Coffman just
21 answered my question.

22 He also asked -- my other thought was
23 whether the Commission was interested. And so, no, I
24 don't have anything else right now, your Honor.

25 JUDGE DIPPELL: Mr. Bobnar, do you have

1 anything else?

2 MR. BOBNAR: No. Actually, I want to give
3 John plenty of time to make sure he makes the right
4 decision. Ameren will, of course, support any
5 necessary extension to accommodate a public hearing if
6 the Office of the Public Counsel feels that it's
7 necessary.

8 JUDGE DIPPELL: Did you have anything
9 further, Mr. Scott?

10 MR. SCOTT: No further comments, your Honor.

11 JUDGE DIPPELL: Ms. Bond, did you have any
12 further comment?

13 MS. BOND: Judge, I just have a question.
14 You said that January 8th was a possible hearing date.
15 Is January the 7th perhaps one of those dates that
16 might fall off the Commission's calendar at this
17 point?

18 JUDGE DIPPELL: I believe so, but I would
19 have to look at the calendar again. I don't have a
20 calendar in front of me. Is that a Tuesday?

21 MS. BOND: Judge, the 7th is a Monday and
22 the 8th is a Tuesday.

23 JUDGE DIPPELL: I didn't write that one down
24 on my list, so I'm not 100 percent positive right now,
25 but there were some Laclede hearings on the Judges' --

1 or on the Commission's calendar, and there's been some
2 settlements in that particular case, so I'm suspecting
3 that those hearing dates will almost likely come off
4 the Commission's calendar.

5 MR. FRANSON: We should know something more
6 definitive tomorrow since I believe that is on the
7 Commission's agenda tomorrow.

8 JUDGE DIPPELL: Right.

9 MS. BOND: And, Judge, I'm involved in that
10 case, which is why I was asking.

11 JUDGE DIPPELL: Okay. I'm not 100 percent
12 sure. And Mr. Franson might go up and look on the
13 Judges' calendar on the 9th floor. We have an
14 internal policy of penciling in in yellow dates which
15 other judges are wanting to reserve, so that one may
16 have already been spoken for by someone else.

17 Is there anything further that needs to be
18 on the record?

19 MR. FRANSON: Not from Staff's viewpoint,
20 your Honor, that we're aware of.

21 JUDGE DIPPELL: All right. I have to be out
22 of the office the rest of the day. I'm leaving
23 immediately after this ends, so if you have any
24 questions or anything that needs to be addressed
25 today, you can contact Kevin Thompson, Judge Thompson,

1 and he will try to answer any questions or anything
2 like that that you have.

3 If there is nothing further, I appreciate
4 you-all coming, and I hope you have productive
5 negotiations and a safe trip home.

6 Mr. Franson.

7 MR. FRANSON: We have the use of this room
8 for the balance of the day?

9 JUDGE DIPPELL: You may use this room.

10 That will convene -- end the rest of the
11 on-the-record portion of the prehearing conference.

12 Thank you-all very much.

13 Off the record.

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

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