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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

POST-HEARING CONFERENCE

May 22, 2003

Jefferson City, Missouri

Volume 3

In the Matter of the Tariff) Case No. GT-2003-0032
Filing of Laclede Gas Company)

BEFORE:

LEWIS R. MILLS, JR.
DEPUTY CHIEF REGULATORY LAW JUDGE.

REPORTED BY:
TRACY L. CAVE, CSR, CCR
ASSOCIATED COURT REPORTERS

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1 JUDGE MILLS: We're on the record this morning
2 for a conference. This is actually a post-hearing
3 conference in Case No. GT-2003-0032.

4 The purpose of this conference is to go on the
5 record, hear from the parties on the impact, if any, of the
6 passage of Senate Bill 686 and House Bill 208, which both
7 have language concerning pipeline capacity costs and
8 eligible school entities. And that's why we're here today.

9 Let's begin with entries of appearance
10 starting on my left with Staff, then company, Public
11 Counsel, and then schools.

12 MR. FRANSON: Thank you, your Honor. Robert
13 Franson, senior counsel, appearing on behalf of the Staff of
14 the Public Service Commission, P.O. Box 360, Jefferson City,
15 Missouri 65102.

16 MR. ZUCKER: Rick Zucker, Z-u-c-k-e-r, Laclede
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22 MR. WENZEL: Keith Wenzel of the law firm of
23 Hendren and Andrae, appearing on behalf of Missouri School
24 Boards Association, 221 Bolivar Street, Jefferson City,
25 Missouri 65101.

1 JUDGE MILLS: Okay. Thank you.

2 And for the record I'll note that Louie Ervin

3 is attending by telephone. Are you still there, Mr. Ervin?

4 MR. ERVIN: I am, thank you.

5 JUDGE MILLS: Okay. I don't really have a set

6 agenda for this morning. I set out in the order setting

7 this conference a few sort of overview questions that I want

8 to get addressed, and there's no particular order. I don't

9 think there's going to be any advantage or disadvantage by

10 going in any particular order.

11 So I'll just go with Staff first and we'll go

12 in the same order as entries of appearance and just hear

13 your positions on the possible impacts of these two bills.

14 MR. FRANSON: Thank you, Judge. First of all,

15 need to emphasize that this is all strictly speculation,

16 because while House Bill No. 208 and Senate Bill No. 686

17 have been passed by the legislature --

18 MR. ERVIN: Is there a way that Mr. Franson

19 can get to the microphone?

20 MR. FRANSON: Not in here. None that I see.

21 JUDGE MILLS: Can you stand and speak a little

22 louder?

23 MR. FRANSON: Yeah.

24 MR. ERVIN: I couldn't hear any of it. Thank

25 you.

1 MR. FRANSON: Judge, the point is that House
2 Bill No. 208 has been truly agreed to and finally passed.
3 And it contains -- part of is the proposed revisions to
4 Section 393.310. We also have truly agreed to and passed
5 Senate Bill No. 686.

6 The very first question is, are they
7 identical. They would appear to be, but I have not compared
8 them word for word and I don't know that anyone else has
9 either.

10 However, be that as it may, it is all
11 speculation today completely from everybody because these
12 have been passed by the legislature, but the Governor has
13 not signed them. We don't know whether he will. So we have
14 to presuppose that the Governor will sign one or both of
15 these. And if he should happen to sign both, we also have
16 to hope that the statutes are exactly identical word for
17 word.

18 With that being said, the first thing -- the
19 first problem with this is they may both very well be a
20 nullity completely because it is absolutely impossible, the
21 way these are worded, for Laclede to comply.

22 The reason is, when these were written, they
23 did not go in and change certain dates. According to the
24 statute, House Bill 208 and Senate Bill No. 686, even though
25 there are changes, Laclede is still obligated to file

1 tariffs complying with that by August 1, 2002. That's
2 simply not possible.

3 We have Article 1, Section 13 of the Missouri
4 State Constitution that prohibits ex post facto laws.
5 That's a problem, a major problem. But obviously this
6 Commission cannot say a statute is unconstitutional.

7 So if the Governor signs it, he's going to
8 sign it in this form. The Governor does not have the
9 ability to go in and change it. But if we look at -- if we
10 assume the Governor signs it and it applies only
11 prospectively, then we're out to August 28th, 2003 and
12 assuming we get past all those problems --

13 JUDGE MILLS: Let me take you back and have
14 you address one of those problems in more detail. Aren't we
15 in the position now that Laclede has to file new tariffs
16 anyway?

17 MR. FRANSON: Under the way the statute is
18 written, no, we are not.

19 JUDGE MILLS: No. Without the new bills being
20 passed, because the way the stipulation was worded, aren't
21 we in a position where Laclede has to file new tariffs.

22 MR. FRANSON: The way the stipulation is
23 worded, there has to be a revision in the tariffs. And
24 whatever the Commission decision would be -- if the
25 Commission says Laclede is right and -- given what the

1 current law and what we have now, then Laclede would be
2 ordered by the Commission to file tariffs in compliance.

3 JUDGE MILLS: But those tariffs would not be
4 before August of 2002 also. Is that not correct?

5 MR. FRANSON: That is also correct.

6 JUDGE MILLS: So wouldn't the same problem
7 that you're identifying with the bills --

8 MR. FRANSON: No.

9 JUDGE MILLS: -- be present in the Stipulation
10 and Agreement?

11 MR. FRANSON: No, Judge, it wouldn't. And the
12 reason is the parties proceeded with that down the line and
13 they held this out and the Commission approved it. So, no,
14 that was all in compliance with the statute. And those are
15 revisions in tariffs which can be made.

16 The problem -- and that's completely and
17 totally different than the problem we've got here. Now,
18 hypothetically we've got this new statute and it says that
19 every gas corporation in the state -- and it would only be a
20 problem for Laclede because there's a way out, the School
21 Board Association and the other school districts have agreed
22 otherwise, so this is really only applicable to Laclede.
23 And it says they have to do this by August 1, 2002.

24 The way it is worded, without regard to
25 anything else, is an ex post facto law. And that is the

1 problem I'm referring to as a violation of Article 1,
2 Section 13. And the problem is the Commission cannot
3 declare a statute to be unconstitutional. So you got to
4 deal with it.

5 The only way that it could possibly be dealt
6 with is prospectively from the effective date of the
7 statute, which would be August 28, 2003, I believe. I've
8 not checked the calendar, but I believe that is the correct
9 date. Sometime in late August of this year.

10 So that would be the first problem that has to
11 be dealt with, because there is a possibility the way this
12 is worded that it's a nullity because it's simply not
13 possible to comply.

14 Now, the other thing that this does
15 substantively is it takes the whole issue away that we were
16 litigating here and it treats in a different way. That's
17 the capacity cost. Those costs are not going to be borne by
18 the School Board Association under this statute. They're
19 out there and they're going to be borne by someone else.
20 But that's a question for another day in another proceeding,
21 presumably either a Laclede rate case or their next ACA
22 covering this period.

23 But I'm bringing this problem to your
24 attention because it is a serious matter. The way it's
25 worded it is very much an ex post facto law. And there may

1 be ways to deal with that, but that's got to be only
2 prospectively. And it's not the same thing when we were
3 modifying tariffs that were properly filed under the
4 existing statute. If it is a nullity, then the Commission
5 will need to decide the current case on the merits.

6 But also, Judge, there's another part here
7 that needs to be addressed. In the current case, if the
8 Commission issues a decision next week, the Commission will
9 either presumably rule in favor of Laclede and say, You will
10 file compliance tariffs that have these provisions in them.

11 If the Commission should decide the School
12 Boards have the better position, then Laclede will be
13 ordered to file compliance tariffs in accord with the
14 Commission's ruling.

15 So if this thing does go into effect, Judge,
16 the School Board Association tariff cannot be adopted as it
17 is here in this case. And the reason for that is two-fold.
18 One, School Boards cannot file a proposed tariff and force
19 it on Laclede except by order of the Commission.

20 If the Commission thinks that tariff needs to
21 be filed and there's a proceeding, then the Commission will
22 order Laclede to file a tariff in compliance therewith. And
23 that's how it would come about.

24 However, the way this would work is if this
25 law is considered prospective only, then Laclede will have

1 to file a tariff in compliance with it. Nobody across the
2 board, none of the parties when this case was being
3 litigated, were considering these bills the way they have
4 come out of the legislature.

5 There are, in fact, some similarities between
6 the School Board position and these -- and this law, but
7 they are not identical. This issue was not before the
8 Commission.

9 The only way to do it, if this law goes into
10 effect, is essentially probably not even decide anything in
11 this case and say this law has superseded it, assuming it's
12 not ex post facto. And you say, Okay, Laclede, there's a
13 new statute, file tariffs in compliance with it. That's the
14 only way it could work.

15 And then if there's litigation over those
16 tariffs, then there's litigation over those tariffs. But
17 that's the proper proceeding, a compliance filing under this
18 new statute, if it should come about. So that's how Staff
19 looks at the first question of how the landscape has
20 changed.

21 First of all, right now it hasn't changed at
22 all. But assuming that Governor Holden signs one or both of
23 these bills, and also assuming they're identical and you get
24 past the ex post facto problem, then you've got a new
25 statute changing the substance of this and Laclede would

1 have to file compliance tariffs.

2 Before I go on, that's pretty much my answer
3 to A. Do you have any other questions on that, Judge?

4 JUDGE MILLS: Well, you're probably going to
5 get to them, but I mean, if you assume that the Governor
6 does sign them and they do become law, then you would
7 concede, I guess, that the landscape has changed.

8 MR. FRANSON: Yes. Absolutely.

9 JUDGE MILLS: You're saying that it hasn't
10 changed yet, although it looks as though it may. That's
11 what you're saying?

12 MR. FRANSON: Judge, what I'm suggesting is
13 the Commission's concern is what happens if these pass. And
14 because we've got a case before the Commission that directly
15 is affected --

16 JUDGE MILLS: Right.

17 MR. FRANSON: -- by proposed legislation, but
18 that only becomes an issue if Governor Holden signs it, but
19 then it only becomes an issue if it goes into effect. But
20 that's a separate issue than what we have now, but it
21 would -- it would, in effect --

22 JUDGE MILLS: Well, I mean, the mere
23 possibility that those things may happen changes the
24 landscape. You don't agree?

25 MR. FRANSON: Not necessarily, Judge, because

1 it's all speculation. I mean, the legislature could
2 change -- could abolish this program in January 2004. The
3 federal government could do something to change it. There's
4 all kinds of possibilities of things that -- you can't live
5 and think, well, these things could happen.

6 It may make sense for the Commission to say,
7 Well, we need to wait and see what happens, because there's
8 a fair possibility Governor Holden will sign one or both of
9 these. But at the present time that is still speculation.

10 So one option for the Commission would be to
11 go ahead and decide the thing on the merits now and then if
12 Governor Holden signs these -- one or both of these bills,
13 bring them back and at that time order Laclede to file a
14 tariff in compliance.

15 The other possibility, which Staff would
16 certainly not object to, is to hold this, just not decide it
17 for a certain amount of time. Staff really doesn't see a
18 problem with not deciding this by June 1, an effective date.
19 Certainly the Commission is not obligated to do that.

20 The parties have asked the Commission to do
21 that and these proposed laws do have some bearing on that.
22 However, there's a couple things. Number one, right now
23 nobody's signed up for this program. I have not heard
24 anything to the contrary from Laclede and the School Boards,
25 and that was the evidence at hearing.

1 It would seem that if no one signs up in
2 June -- or if the Commission holds this off and no school
3 district signs up, there's not a problem. But when you get
4 out to July, August, if the Governor signs this or if the
5 Commission needs to issue a decision, the problem is you
6 start getting into the School Boards' ability and Laclede's
7 ability to prepare for the next heating season.

8 And even though there may be changes in
9 capacity, the actual process of how it's done won't change
10 much. And it may be more attractive to schools to sign up
11 if it's one way or not.

12 So, in other words, Judge, Staff does not see
13 a major problem with holding off a little bit as long as
14 nobody signs up for this program. But if some schools come
15 in and sign up during the month of June, it's kind of in
16 limbo. There's some provisions that aren't accounted for in
17 the tariffs. That's the capacity issue and the cost
18 assigned thereto. And that would be the harm if the school
19 signed up. But since no one has, that would apparently
20 would not be a problem.

21 How long that Laclede and the School Boards
22 think they can hold off, I'll leave to them. But from
23 Staff's viewpoint, it may not be a problem unless someone
24 signs up or it gets into the ability of Laclede and the
25 School Boards to prepare for the next heating season.

1 The third option -- third question was if the
2 Commission adopts Laclede's proposal and approves the tariff
3 substantially similar to that proposed by Laclede, what
4 would be the effect on that tariff if House Bill 208 became
5 effective.

6 The answer, Judge, that would be a nullity.
7 That Laclede would have to file a new tariff in compliance
8 with the new law. So what you'd have is a time frame where
9 they had one tariff, then they have to file a new tariff
10 changing the landscape of everything.

11 So that may not be desirable. And perhaps the
12 best idea would be to hold this off as long as possible, but
13 it may not be possible to wait until August 28th. But some
14 time in the first or second week of July -- and hopefully
15 sooner -- we'll know what Governor Holden decides on this
16 matter.

17 So Staff's answer, Judge, would be there are
18 problems with the law as it's written, which we've talked
19 about, but as long as nobody signs up and Laclede and the
20 School Boards can prepare for the next heating season, there
21 may be a window open, and I'll leave it to them to tell us
22 how much, that hopefully Governor Holden would act within
23 that time frame.

24 JUDGE MILLS: Okay. Thank you, Mr. Franson.

25 Mr. Zucker.

1 MR. ZUCKER: Thank you, Judge. I agree with
2 most of what Mr. Franson said. Definitely the substance of
3 it.

4 I think, first off, the law -- currently, as
5 we stand here today, the law is as it has been. We've
6 argued a case based on that law. And certainly the easiest
7 and cleanest way is to make a decision hopefully by the
8 May 31 deadline based on that law and the arguments that
9 we've presented.

10 The issue that the Commission is facing is
11 that they see on the potentially very near-term horizon a
12 change in the law. And the effect of that is no different
13 than any change in the law that occurs.

14 For example, a year ago there were no school
15 aggregation tariffs. A law was passed that said we're going
16 to have school aggregation programs and everyone filed
17 tariffs. So now this year there's another change. There's
18 a change to that law and we would react appropriately by
19 filing in tariffs.

20 So obviously the first option is to go ahead
21 and make a decision now. To the extent that this law --
22 this bill, House Bill 208, becomes law, we, Laclede Gas,
23 would then file new tariffs conforming to that law.

24 JUDGE MILLS: Okay. Pragmatically speaking,
25 if we do that, it's my impression and I think it's fairly

1 clear from the testimony at the hearing, you won't have
2 anybody sign up if you file tariffs as you've proposed.

3 And if you don't -- and if that doesn't happen
4 and then we come around to August 28th and you have to file
5 new tariffs, what would be the point of having had those
6 tariffs in place that nobody's going to take advantage of?

7 Why would the Commission want to bother going
8 through those steps, make you go through those steps to have
9 tariffs in place that nobody would use and that we would
10 be -- at least by July 31 when the Governor either signs or
11 doesn't sign all the bills, we would know whether or not the
12 landscape is going to change? Why would we bother doing
13 that?

14 MR. ZUCKER: That's true. Well, I guess,
15 one -- the answer to that is that, first of all, I would say
16 that it's probable that no one will sign up for the first
17 year. For the second year, I don't know. You know, we've
18 made a different offer in the proposal we've made here that
19 has a lesser requirement than the capacity that was in the
20 original tariff.

21 So I don't know what the position of the
22 schools will be for the second year of the program.
23 Although I agree it's unlikely that there will be any
24 sign-up between now and the end of the first year, which is
25 October.

1 Obviously if the schools -- if the Commission
2 makes a decision now and the bill does not become law, then
3 that decision can continue undisturbed.

4 To the extent that the new bill does become
5 law, a tariff will -- a new tariff will need to be filed.
6 And, you're right, that decision will have -- the decision
7 that a Commission would make now would be short term. So I
8 guess there are some pros and cons to it.

9 If we wait and if we way, Okay -- and I think
10 that that's an appropriate option also to the extent that we
11 can maintain the status quo. In other words, right now the
12 tariff says May 31st, everything stays in place until
13 May 31st. To the extent that we can maintain the status quo
14 until, let's say, August 1st, that would give the Commission
15 a chance to see if the law does pass.

16 And then if the law does pass, basically that
17 moots our current case. You won't have to issue any orders,
18 because now we're talking about a different statute. And
19 there's plenty of case law that talks about how cases get
20 mooted by changes in law.

21 And our reaction, just like I mentioned a few
22 moments ago, would be to file new tariffs that conform with
23 the new law.

24 I think one thing that's important to note is
25 that neither of the tariff proposals before you now comply

1 with the law as revised if that law passes. So I don't
2 think that you can take the arguments made under the current
3 law and say one of those is appropriate under the new law.
4 I think neither of them are. And I think that Laclede would
5 need to have the opportunity to file a tariff that does
6 conform. I can give you an example of changes, if you'd
7 like.

8 JUDGE MILLS: For the purpose of what we're
9 doing today, I don't think we need to get into the details
10 of the tariff language.

11 MR. ZUCKER: The reason I raised it is because
12 a filing was made by MSBA yesterday that says that, in
13 effect, you could rule in favor on their tariff should the
14 new law pass. And for the record, we disagree with that.

15 JUDGE MILLS: Okay.

16 MR. ZUCKER: So I guess one of the -- let me
17 address one of the other MSBA concerns, and that is that
18 they want to make sure they're ready to go for the second
19 year.

20 The new law, if it is enacted, is effective
21 August 28th. If it is to be signed by the Governor, it will
22 need to be signed by about July 14th. So we should know by
23 the middle of July if this is going to be a new law.

24 And Laclede is willing to commit to get a new
25 tariff proposed and on file with an effective date that's

1 around the August 28th date so that the schools can go
2 forward there. I think the schools -- I think that would be
3 acceptable to the schools, but we had not got that nailed
4 down before this meeting.

5 Let me think if there are any other issues I
6 need to address.

7 JUDGE MILLS: I can't think of any
8 specifically right now.

9 MR. ZUCKER: Okay. One last point is I agree
10 with Mr. Franson that to the extent that there is no sign-up
11 on the program here in the intervening months while this is
12 being kind of -- and, in effect, if the status quo is
13 extended and there's no sign-up, I don't think there will be
14 any harm done to extending the status quo until, let's say,
15 August 1st.

16 JUDGE MILLS: Thank you.

17 Mr. Micheel.

18 MR. MICHEEL: Thank you, your Honor. I'm just
19 going to go down and answer the A, B, C questions.

20 I would say that I would echo what both
21 Mr. Franson and Mr. Zucker have said with respect to House
22 Bill 208. It's not been passed into law yet, so -- and we
23 don't know whether it's going to be passed into law yet.
24 And so standing here today you've got 393, Section 200, the
25 case that we talked about and that's the way the Commission

1 should decide the issue.

2 I view it as like looking at a bunch of storm
3 clouds on the horizon. You know the storm is coming and it
4 may or may not rain. And until it starts to rain, you can't
5 say it's raining. And that means, you know, he's got to
6 sign the law.

7 And once he does sign the law, I would agree
8 with everyone the landscape has changed. However, I would
9 say how that landscape has changed, we don't know. I think,
10 first of all, Laclede would have to file a tariff to comply
11 with that law.

12 And, of course, I've been around long enough
13 to know that perhaps Laclede's view of what the law says
14 versus what the School Boards' view of what the law says it
15 means and the Staff's view and Public Counsel's view of what
16 appropriate tariff language should be to reflect that law
17 may be somewhat different, your Honor.

18 And I would agree with both Mr. Franson and
19 Mr. Zucker that the case that we tried was about the current
20 law. And I don't think that it would be appropriate to say,
21 Well, we know what the new law is and so this evidence in
22 this case conforms with that law. I mean, I think that
23 would be a wholly inappropriate procedure. I think the
24 proper procedure, if the law is to change and become
25 effective, for Laclede to file a tariff complying with that

1 law.

2 The B question, what harm will occur if the
3 Commission does not approve a revised program, I'm unaware
4 of any specific harm that would occur. I recognize that I
5 was a signator to that Stipulation and Agreement that put
6 the May 31st deadline for decision.

7 The Office of Public Counsel would be more
8 than willing to extend that until we get more clarity into
9 this issue. And so make that offer today on the record if
10 that suits the Commission.

11 JUDGE MILLS: And just so the record's clear,
12 it wasn't actually a deadline. It was a request that the
13 Commission issue a decision.

14 MR. MICHEEL: Yes. I'm sorry. It was a
15 request. I'm willing to extend that request or it won't
16 trouble the Office of the Public Counsel.

17 On C, if Commission adopted Laclede's proposal
18 and obviously House Bill 208 is law, we'd be back at square
19 one and we'd have to see how that tariff is at odds with
20 what is now the law and remedy that situation.

21 And I recognize that it would be a short-term
22 thing, but sometimes that's just the way it has to be. And
23 I think, unfortunately, there's no emergency clause in this
24 law and we don't know whether it's going to pass.

25 I mean, I think the Commission, quite frankly,

1 should just decide this case on its merits. It's teed up,
2 ready to go. Make the decision and then if the law changes,
3 Laclede is going to have a duty to follow the law. They're
4 going to have to file the tariffs, the School Boards are
5 going to have their view, we'll have our view, the Staff
6 will have their view and the Commission can decide whose
7 competing tariff provisions comply with the new law.

8 JUDGE MILLS: Thank you.

9 And for the school.

10 MR. WENZEL: Your Honor, if I might defer to
11 Mr. Ervin.

12 MR. ERVIN: Okay. I think the schools agree
13 with all of the comments in terms of not having a problem,
14 in fact, savoring delaying the decision until we know
15 whether the Governor's going to sign this.

16 And, again, in the tariff it is a request for
17 the Commission to make a decision by June 1st. There's
18 certainly no requirement that they make that decision by
19 June 1st. And given the circumstances, we think it best
20 that they make that decision as soon as possible after the
21 Governor has either signed or not signed the new laws.

22 So that having been said, we believe that we
23 can deal with, manage the processes if the Commission were
24 to approve a tariff on or about August 1st to be effective
25 September 1st. As long as we know that there's going to be

1 a tariff effective September 1st, we can put the wheels in
2 motion around the 1st of August and believe -- excuse me --
3 and believe that we can go through the processes and at
4 least get a preliminary list of schools that would
5 participate to Laclede by September 1st.

6 There's a provision in their tariff that
7 during the first year we have some leeway as to when we get
8 the enrollments to them, but the second and the third year
9 is very specific. We have to give them initial list of
10 schools by September 1st and then we can adjust that by up
11 to 20 percent. I'm not sure -- either by October or
12 November.

13 So it's not going to be comfortable to
14 compress it in more than that, but we'll do whatever we can
15 to make the program work within that time line. We really
16 don't see any reason to make a decision by June 1st in this
17 case. Keith?

18 MR. WENZEL: I agree.

19 JUDGE MILLS: Okay. With that, all of this
20 gives me a lot more information to take back to the
21 Commission and discuss this again.

22 Is there anything further the parties want to
23 say on the record?

24 Okay. Let me ask this -- and I certainly
25 don't want to try to put anybody down and you all may very

1 well not know it, but do any of the parties have any
2 indication whether or not the Governor is likely to sign
3 either or both of these bills?

4 MR. FRANSON: Staff certainly doesn't have any
5 insight into that, Judge. And even if someone had a
6 preliminary indication, it still would be more speculation.
7 Nobody knows until the Governor acts on these, whichever way
8 he decides to go.

9 JUDGE MILLS: That's absolutely correct, but,
10 you know --

11 MR. FRANSON: We don't have any inside
12 knowledge, Judge.

13 JUDGE MILLS: The Commission's going to want
14 to act based on the best information available, even though
15 some of it is, of necessity, speculation. Okay. So nobody
16 seems to have any information on that question.

17 MR. ERVIN: Is Melissa Randall there, attorney
18 for Missouri School Boards Association, staff attorney?

19 JUDGE MILLS: No, she's not.

20 MR. ERVIN: She may have some feel for that,
21 but --

22 JUDGE MILLS: Okay.

23 MR. ERVIN: -- she had told me that she
24 thought that it was really high probability he would sign,
25 but I'm taking that secondhand.

1 MR. FRANSON: Judge, I might address one other
2 thing. Of course, I don't know which one Mr. Ervin thought
3 his information was on, but there's certainly two
4 possibilities.

5 But there's also, in both of these, an
6 emergency clause. But I don't believe that that -- the way
7 it's worded, it applies to other provisions in the bills,
8 not to this provision. So I don't think that it applies
9 to -- the emergency clause does not apply to either one of
10 these is the way I read it.

11 JUDGE MILLS: That's my reading too.

12 MR. MICHEEL: I agree.

13 MR. ERVIN: I don't -- I don't know the legal
14 interpretation of that.

15 JUDGE MILLS: Okay. And, you know, my last
16 question was primarily directed at Senate Bill 686. The
17 Commission has been following HB 208 throughout. And the
18 Commissioners probably have as much insight as anyone in the
19 world on the probability of it being signed.

20 But I don't know that any of us here in public
21 utility regulation land even really had 686 on our radar
22 screen. It's my understanding that we weren't tracking it
23 at all and so have no knowledge of its support from the
24 Governor's office. So I was hoping that maybe you all had
25 some information on that. But --

1 MR. ERVIN: With regard to the emergency
2 provision, I'm not an attorney so I really don't offer any
3 legal view on that, but seems to me like if the original
4 bill had a sense of urgency to get these programs started
5 and we're now a year later, from a practical point of view,
6 that sense of urgency is at least as great today in that we
7 should move forward as quickly as reasonable. I don't think
8 it's reasonable to move forward before we know if the
9 Governor signs.

10 JUDGE MILLS: Okay. Thank you. Anything
11 else?

12 Mr. Franson.

13 MR. FRANSON: Judge, what do you anticipate
14 next? Will this be on agenda another time, or do you know?

15 JUDGE MILLS: I do know that, although it's
16 possible that the Commissioners may decide to withdraw it.
17 It's my plan to -- and I'm going to put the court reporter
18 on the spot a little bit -- to get a transcript on
19 relatively quick turnaround. And because of the three-day
20 weekend, I won't put it on next Tuesday's agenda, but I will
21 put it on next Thursday's agenda.

22 Given what I understood the parties to say,
23 which is that the schools say don't act now, none of the
24 other parties say that there's a burning need to act now, it
25 would be my guess that the Commission will hold off at least

1 for a time to see whether the Governor is going to sign
2 either or both of these bills into law.

3 But the only part that I can say for sure is
4 that I will put it on agenda for discussion next Thursday.
5 It's very possible that there may be a more definitive
6 answer from the Commission after that discussion.

7 Anything further? Okay. Let's go off the
8 record.

9 WHEREUPON, THE POST-HEARING CONFERENCE WAS
10 ADJOURNED.

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