

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

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5
6 PREHEARING CONFERENCE

7 April 7, 2003
8 Jefferson City, Missouri
9 Volume 2
10

11 In the Matter of the Review)
12 of the Purchased Gas)
13 Adjustment Clauses in the)
14 Tariffs of Local Distribution) Case No.: GO-2002-452
Companies.)

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17 NANCY M. DIPPELL, Presiding,
18 SENIOR REGULATORY LAW JUDGE.
19

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

2 JUDGE DIPPELL: Let's go ahead and go on the
3 record. This is Case No. GO-2002-452, In the Matter of
4 the Review of the Purchased Gas Adjustment Clauses in
5 the Tariffs of Local Distribution Companies.

6 My name is Nancy Dippell, and I'm the
7 Regulatory Law Judge assigned to this case. And I've
8 called you all here today first for a prehearing
9 conference, and then for an on-the-record presentation,
10 and then back to a prehearing conference. Just kind of
11 flip-flopped here.

12 But really we're -- we're here today to
13 discuss the status of this case and how we can wrap
14 this up, get it presented to the Commission for some
15 kind of either final decision, or at least decision as
16 to what the policy going forward is gonna be. And then
17 we can finish this up and -- and move on.

18 So the reason I wanted you all to come in
19 today and -- and the reason I asked Staff to file the
20 filing on Friday was cuz I -- I think we've had some
21 communication difficulties before today.

22 But before I go into that any further, I'm
23 gonna go ahead and ask you all to make entries of
24 appearances.

25 And since you've made written entries, if you

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1 just want to state who you're here representing and
2 your name. You don't necessarily have to give your
3 address.

4 Mr. Schwarz, can we start with you?

5 MR. SCHWARZ: Tim Schwarz, attorney with the
6 Comm-- Commission Staff, representing the Staff.

7 JUDGE DIPPELL: Thank you.
8 Public Counsel?

9 MR. MICHEEL: Doug Micheel, appearing on
10 behalf of the Office of the Public Counsel.

11 JUDGE DIPPELL: Thank you.

12 And we can just go ahead and start in the
13 front and work our way back.

14 MR. DOWNEY: Edward F. Downey with Brian Cave,
15 L.L.P., appearing on behalf of the Missouri Industrial
16 Energy Consumers, MIEC.

17 MR. COOPER: Dean L. Cooper from the law firm
18 of Brydon, Swearngen and England, appearing on behalf
19 of Aquila, Inc., doing business as Aquila Networks - MPS
20 and Aquila Networks - L&P.

21 MR. HACK: Appearing for Missouri Gas Energy,
22 Robert J. Hack.

23 MR. PENDERGAST: Appearing for Laclede Gas
24 Company, Michael C. Pendergast.

25 MR. BYRNE: Thomas M. Byrne, appearing on

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1 behalf of Union Electric Company.

2 JUDGE DIPPELL: That's fine.

3 Is there anyone else present who wishes to
4 make an entry of appearance?

5 (No response.)

6 JUDGE DIPPELL: Okay. As I recall, at the
7 beginning of this case we had some issues with the
8 service list. And it came to my attention just late
9 last week that we might still have some issues with the
10 service list.

11 It appears that the orders did actually go
12 out, but that perhaps the Efus service was -- may still
13 have some problems on it. So I -- I do believe that
14 the written orders went out, and I think I faxed
15 everybody a copy on Thursday of the final order setting
16 this.

17 And as I said, I -- we started with a
18 prehearing conference, and then I -- I said I was gonna
19 change it into an on-the-record presentation so the
20 Commissioners could ask some questions.

21 As most of you are probably aware, there's a
22 pending Ameren tariff that's -- that -- that refers to
23 this case. And -- and that case is making changes to
24 the tariff in agreement or -- or pursuant to the
25 agreement that was sort of reached in this case.

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1 And so the Commissioners had an on-the-record
2 presentation in that case, and asked a lot of questions
3 and, I think, got a lot of answers. So they didn't feel
4 it was necessary to ask more questions about the
5 generic docket.

6 But the reason that I wanted to bring you all
7 in here was we -- we started off and I asked you all,
8 do you -- do you think this should be a contested case
9 or should this have just been an investigation case and
10 we just figure out what's going on.

11 And -- and you all came back and said, no, we
12 think it should -- you're right. We think it
13 shouldn't -- shouldn't have been a contested case.

14 At that point probably would have help-- been
15 helpful if I had clarified and said -- said yes or no
16 to that, but I didn't. Instead what I did was said,
17 well, you -- you told me you agree to some things and
18 you're not gonna agree to other things. And those need
19 to be spun off in other cases.

20 So it -- it still appears to be a contested
21 case, because you're -- you're saying you're
22 disagreeing about things.

23 So what I said was to file reports. Let me
24 know how it's going. And if you reach an agreement, to
25 file that agreement in lieu of the report. But instead

1 we just got reports.

2 So that's where the little communication, I
3 think, snafu happened. And then you all reached an
4 agreement off the record and -- or, I mean, you -- you
5 told me what -- what you had come to in agreement. But
6 you -- and then the companies are proceeding onward
7 with revising their tariffs, is the way I understand
8 it.

9 And without the Commission having had a chance
10 to bless that or to say, yes, that's the way the
11 Commission wants the policy to work out or that's not
12 the way the Commission wants the policy to work out.
13 So that's the reason I directed Staff to file the
14 pleading that it filed and sort of codify your
15 agreement.

16 And if the parties are not comfortable with
17 signing something and saying, yes, this is our
18 agreement. Commission, would you approve this
19 agreement? Then it would be my suggestion that we at
20 least have a final report from the parties saying, this
21 is how we think this should be handled. Would you,
22 Commission, agree with us or disagree with us, so we
23 know how the Commission wants to move forward?

24 Now, I'm doing all the talking. And so I'm
25 gonna give you all a chance to respond to what I've

1 said and ask you if -- if my recap has been accurate.

2 Mr. Schwarz, you have --

3 MR. SCHWARZ: Well, I -- I don't think this is
4 a contested case. The -- that is, the outcome is not
5 going to determine the rights or -- or procedures
6 available to any of the parties.

7 I think probably the -- the way to -- to look
8 at this docket is that it's a more formal way of
9 proceeding than the last time the PGA was reviewed,
10 which was in 1997.

11 In 1997 there were individual cases filed for
12 each of -- of the LDCs. And what you had was, with the
13 exception of United Cities Gas, pretty much every
14 LDC doing the same thing, as a result of conversations
15 that were held separately.

16 So this docket has -- has -- has taken the
17 place of those behind-the-scenes discussions.
18 There has -- has been indicated in -- in the prior
19 reports, which I would point out, all of the parties
20 agreed to. I know that Laclede made a couple of
21 comments to the -- to the December report, but those
22 were mostly clarifying, as opposed to anything else.

23 So the actual changes -- the import of this
24 docket will be seen in the separate tariff filings of
25 which Ameren's was the first. And there -- there

1 really isn't anything further that -- that can or
2 should -- should be done in -- in this docket.

3 The -- the -- the items on which the parties
4 didn't agree are probably things that -- that we would
5 consider more the policy issues, which are going to
6 need a different form and a different setting to
7 resolve. We don't have any particular timetable for
8 those.

9 I mean, everybody's seems to have lots of
10 different things going on at this stage. It's
11 something that's probably not on the back burner, but
12 it's not on the front burner either.

13 And the changes that we have agreed to -- to
14 make are ones that -- that I think Ameren properly
15 characterized as streamlining changes; that is, changes
16 to the administration of -- of the PGA clause and the
17 ACA reviews, as opposed to a major change in the
18 underlying policies of the PGA/ACA process.

19 So I -- I think that basically this docket
20 has -- has served its purpose and -- and just -- just
21 needs to be closed. And the -- the Commission will see
22 seriatim the tariff filings of the PGAs to indicate
23 to -- to adopt to their own individual circumstances
24 the agreements that have -- have been reflected.

25 JUDGE DIPPELL: So you don't think that there

1 is any affirmative action necessary from the Commission
2 to say this is the direction that -- that we want to
3 go? That those should just be addressed in the
4 individual tariffs as they come before the Commission?

5 MR. SCHWARZ: Yes.

6 JUDGE DIPPELL: Do you --

7 MR. SCHWARZ: And I -- and I think that's what
8 happened last Wednesday or Thursday, whenever it was,
9 with -- with Ameren.

10 JUDGE DIPPELL: All right.

11 Mr. Hack, you look like you want to make a
12 comment.

13 MR. HACK: Well, just from -- from my
14 perspective, if -- if the Commission has a desire to
15 know the agreements that have been reached in some
16 comprehensive docket or -- or document in -- in this
17 case, we don't have a problem with that.

18 And I -- and I don't think that -- that the
19 changes are that significant but, of course, the
20 Commission hasn't seen them, so -- so it doesn't really
21 know.

22 And I don't think it should take a whole lot
23 of time to -- to put a document like that together.

24 JUDGE DIPPELL: Well, I guess that would be
25 my -- my next question to you all. Are there

1 other -- there are other agreements, then, besides
2 what's been reported or -- or does the status report
3 reflect -- and -- and what Mr. Schwarz filed on Friday
4 reflect what's been done thus far in this case?

5 Is there more that the Commission isn't aware
6 of?

7 MR. PENDERGAST: If I could, I -- I thought
8 Staff's prior established reports pretty well reflected
9 the areas of agreement that had been reached, as
10 Mr. Schwarz indicated.

11 We -- we filed something just stating a few
12 clarifications, but I -- and I'm at the disadvantage of
13 not having had a chance to review what Staff filed
14 on -- on Friday. But I'm sure if it's consistent with
15 prior reports, that'll -- that'll accurately reflect
16 where we're at.

17 And, you know, if there's some way of making
18 that more specific or -- you know, we could certainly
19 work at doing that. But I think that the road map has
20 been pretty well laid out, not only in general form,
21 but apparently in very specific form with what Ameren
22 went ahead and filed.

23 And, you know, from the standpoint of policy,
24 I -- I -- our perspective is these are pretty
25 incremental steps. It's not any major restructuring or

1 any major policy change. And I guess if the Commission
2 approves the AmerenUE tariffs, that'll be a pretty good
3 indication that they think that we're generally heading
4 in the right direction.

5 JUDGE DIPPELL: Okay.

6 Do you have a comment?

7 MR. BYRNE: Yeah. I guess I -- you know,
8 maybe part of the confusion is, we did talk about things
9 in the generic docket that could have risen to the
10 level of a significant policy change.

11 But in the end what we agreed -- and I -- I
12 think they are good things that we agreed to, but
13 they're -- but they're all in the nature of
14 streamlining the calculation. They -- they really
15 don't involve major policy shifts.

16 And I -- I would -- I agree with the other
17 people. I think it should be relatively easy for the
18 Commission to -- especially after the hearing that we
19 had last week to understand them and either agree with
20 them or not.

21 JUDGE DIPPELL: Okay. Well, I -- I think,
22 then, what I will ask you to do is to pre-- to present
23 it. And I -- well, I guess I'll just ask if I should
24 just present it to the Commission as it is, then, or --
25 or if you want an opportunity to --

1 MR. SCHWARZ: Well, I think the parties should
2 definitely have an opportunity to review the document
3 before --

4 JUDGE DIPPELL: Well, right.

5 MR. SCHWARZ: -- anything else is done.

6 JUDGE DIPPELL: Right.

7 MR. SCHWARZ: And -- and, I mean, it's largely
8 taken from prior status reports, but there is some --
9 they need -- they need to look at. I -- I would be
10 more comfortable if -- if they looked at it first.

11 I think that it's -- it's a reasonable take
12 on -- on what we did. And, yeah, then I think the
13 Commission -- my view is that the -- you know, the
14 Commission gives the parties the opportunity to
15 comment. And if -- if certainly we get any comments,
16 we can refile the document.

17 I don't know that -- you know, getting the
18 individual signatures of this many folks can be
19 problematic. And certainly I think that -- that when
20 the Commission has any comments from the parties, that
21 they can take those into account. I think they can
22 just then close this docket.

23 JUDGE DIPPELL: Okay. Well, why don't we do
24 some -- and you all -- you all take the chance -- since
25 you haven't had a chance to look at it, you all take a

1 chance to look at what Mr. Schwarz filed and make any
2 comments within, what -- whatever 10 days from Friday
3 was.

4 Make any comments you have, or if you want to
5 sign that document and present either that document or
6 something titled a final report -- if you would --
7 would file that as a -- as a group, and then I can say
8 that we have some final conclusion to this case and we
9 can -- can close it out.

10 If -- you know, if -- if I need somehow that
11 finality to -- to bring it to the Commission and say,
12 this is done. And I think the issues will be worked
13 out in the individual tariffs.

14 And I'm sure that the Commission will be
15 making a decision at least on that one relatively
16 quickly.

17 Mr. -- Mr. Pendergast?

18 MR. PENDERGAST: Yeah. And just not to leave
19 a misimpression, you know. While I think certainly
20 agreements have been reached on the issues -- we did
21 reach agreement on, there were just a few
22 implementation issues, which I don't think there's
23 really any disagreement on.

24 But -- but I didn't want to give the
25 impression that it's gonna be a complete cookie-cutter

1 approach, where everybody would do the same thing
2 exactly.

3 JUDGE DIPPELL: Right.

4 MR. SCHWARZ: I think that -- I think that's
5 been reflected in the filings of the pleadings.

6 JUDGE DIPPELL: I think so, too.

7 MR. PENDERGAST: Yeah. And --

8 JUDGE DIPPELL: And -- and I think it's
9 perfectly okay to say we agree to disagree on this --
10 this issue or --

11 MR. PENDERGAST: Well, and --

12 JUDGE DIPPELL: -- or we didn't completely
13 figure out how it's gonna work for everybody on this
14 issue.

15 MR. PENDERGAST: Yeah. And I -- and I think
16 we probably will. But -- but -- but there were just a
17 few incomplete things. And the other thing, of course,
18 is that there were some issues that we didn't reach
19 agreement on as that's been referenced.

20 And, you know, I don't think anybody is
21 purporting to say that because we have reached
22 agreement on these issues, that anybody is precluded in
23 the future from pursuing other issue that -- that we
24 didn't reach agreement on.

25 So, just for the record, there you have it.

1 Thank you.

2 JUDGE DIPPELL: Okay.

3 And, Mr. Fischer, were you here for Laclede or
4 did you want to make an entry?

5 MR. FISCHER: I -- no, Your Honor. On behalf
6 of Fidelity Natural Gas and Southern Missouri Gas
7 Company and Atmos Energy I'd like to enter my
8 appearance today. And I apologize for my delay in
9 arriving.

10 JUDGE DIPPELL: All right. Well, I think
11 we've talked about everything before you got here, so
12 I'll let the others fill you in on what was said.

13 MR. FISCHER: I appreciate that.

14 JUDGE DIPPELL: And unless anybody else has
15 anything -- I appreciate you coming all the way in.
16 I'm sorry about the confusion that perhaps has led up
17 to this and in the -- the changing character in the
18 sessions several times. But I appreciate you all
19 coming in to -- to help he get straightened out.

20 Is there anything else from anyone?

21 (No response.)

22 JUDGE DIPPELL: Then I'll go ahead and adjourn
23 this part of the prehearing conference. If you all
24 still have things to discuss, you're welcome to stay in
25 this room. I'd appreciate it if you take your

1 belongings and cups and things to the appropriate place
2 as you leave.

3 Thank you. We can go off the record.

4 WHEREUPON, the on-the-record portion of the
5 prehearing conference was concluded.

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