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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS  
Procedural Conference  
September 19, 2017  
Jefferson City, Missouri  
Volume 1

In the Matter of the Rate Increase)  
Request of Indian Hills Utility )File No. WR-2017-0259  
Operating Company, Inc. )

DANIEL JORDAN, Presiding,  
SENIOR REGULATORY LAW JUDGE

REPORTED BY: Julie K. Kearns, CCR 993

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

2 (Whereupon, the public hearing started at 2:00  
3 P.M.)

4 JUDGE JORDAN: Let's go on the record. The  
5 Commission is calling the action in File No. WR-2017-0259.  
6 This is the action in the matter of the application for a  
7 rate increase for Indian Hills Utility Operating Company,  
8 Incorporated. I'm Daniel Jordan. I am the regulatory law  
9 judge assigned to this action. Present also from my  
10 office is Judge John Clark. We will begin with entries of  
11 appearances. Let's start with the applicant.

12 MR. COOPER: Your Honor, Dean Cooper appearing  
13 for Indian Hills Utility Operating Company, Inc. The  
14 court reporter has the address.

15 JUDGE JORDAN: Very good. And for the  
16 Commission Staff.

17 MS. MERS: Nicole Mers and Jacob Westen  
18 appearing for Commission Staff and our information has  
19 been provided to the court reporter.

20 JUDGE JORDAN: Thank you. And for the Office of  
21 Public Counsel.

22 MR. SMITH: Good afternoon, Judge. Ryan Smith  
23 for the Office of the Public Counsel. My information has  
24 been provided to the court reporter.

25 JUDGE JORDAN: Thank you. We're here for a

1 procedural conference. We're not going to take any  
2 evidence or decide anything today, but we do have,  
3 recently filed, a motion for joint and proposed procedural  
4 schedule and that's the matter that I wanted to take up  
5 today.

6 First, my thanks to the parties for arranging  
7 and filing this. I know it's not an easy thing to do.  
8 Going through it, I see a few matters that I'd like to  
9 clarify and the first thing -- well, it's really at the  
10 top of the list -- is the proposed date for local public  
11 hearing. That was the subject of a filing yesterday, I  
12 think that was.

13 MR. WESTEN: Yes, Judge.

14 JUDGE JORDAN: The parties are aware, I'm sure,  
15 that the Commission has not issued an order setting the  
16 date for a local public hearing. Time is eating away at  
17 the possibility to give notice for an October 4 local  
18 public hearing, so I think I can safely suggest to the  
19 parties that they might want to consider some backup dates  
20 on that. Anything further on that, on that matter before  
21 we get to others?

22 MR. WESTEN: Judge, just a quick clarification.

23 JUDGE JORDAN: Yes.

24 MR. WESTEN: The order that was issued at the  
25 end of July that essentially approved OPC's motion for a

1 local public hearing, not actually authorized an LPH, it  
2 just needed the setting. So I guess my question is is the  
3 authority to actually make the setting not already  
4 delegated to you to actually just direct the  
5 administrative department of the Commission to go ahead  
6 and set and schedule that?

7 JUDGE JORDAN: Fair question. Will the order  
8 issue by -- from agenda or will it issue by delegation; is  
9 that your question?

10 MR. WESTEN: Right. Well, has the authority not  
11 already been delegated based on the July order in response  
12 to OPC's motion requesting a local public hearing? That's  
13 my question.

14 JUDGE JORDAN: I didn't really read it that way.

15 MR. WESTEN: Okay. I -- just for clarification.

16 JUDGE JORDAN: Yeah.

17 MR. WESTEN: Assuming that it had been already  
18 delegated to you, then I assumed that just by notifying  
19 the date and location that the, kind of, back-end work  
20 that gets done by the Commission Staff to get it  
21 scheduled, you know, pay for the -- rent the -- all that,  
22 that would -- that would be able to just go forward with  
23 the notice that we have a date and location that we would  
24 like to do it.

25 JUDGE JORDAN: Here's what I think has happened

1 and will happen. The Commission said yes, we will have a  
2 local public hearing, hasn't set a date. As with the  
3 previous-proposed date, it will ask the parties to agree  
4 on a date and through Staff file a proposed date and a  
5 place. Obviously, it's a local public hearing, some sites  
6 in Cuba have been -- are under consideration.

7 MR. WESTEN: Yes.

8 JUDGE JORDAN: I think that's -- I think  
9 that's -- that's where we are.

10 MR. WESTEN: Okay.

11 JUDGE JORDAN: Whether that order will issue  
12 from me by delegation from the Commission or whether it  
13 will come out of agenda, who can say.

14 MR. WESTEN: Okay. Thanks, Judge.

15 JUDGE JORDAN: Yes, Counselor.

16 MS. MERS: For alternative dates, would the  
17 Commission -- with Missouri American and Laclede with the  
18 local public hearings scheduled in those cases, is the  
19 Commission -- do you have an opinion on if they'd be  
20 willing to have a local public hearing that would overlap  
21 a local public hearing for another case?

22 JUDGE JORDAN: That is basically -- that's  
23 pretty much what we have proposed now. That's pretty much  
24 what we have proposed now because the local public  
25 hearings in the Laclede case bracket the proposed date for

1 this case.

2 MR. WESTEN: Okay.

3 MS. MERS: Okay.

4 JUDGE JORDAN: And as you doubtless note,  
5 commissioners take local public hearings pretty seriously.  
6 They like to attend when they can.

7 MS. MERS: Right.

8 JUDGE JORDAN: I think all five would attend if  
9 they could, but generally, given their schedules, one or  
10 two is usually what we get. That's a consideration in  
11 setting the date for a local public hearing.

12 MS. MERS: Okay.

13 JUDGE JORDAN: Yes, it's a busy schedule. I  
14 mean not only is this schedule compressed for this case,  
15 but the Commission's schedule for the autumn is also very  
16 full. It's a very full calendar. So I understand this is  
17 a challenge.

18 MR. SMITH: Judge, would it be appropriate for  
19 the parties to prepare a filing with several suggested  
20 backup dates for a different local public hearing setting?

21 JUDGE JORDAN: I think that would be helpful. I  
22 think that would be very helpful to the Commission. Okay.  
23 Anything on that matter before we move on?

24 MR. SMITH: No.

25 JUDGE JORDAN: Okay, good. I see it looks like

1 the parties are proposing a couple of alternatives here  
2 for the dates for the evidentiary hearing and the dates  
3 for briefing. First thing, it looks like we have -- the  
4 parties think that they will need three days of  
5 evidentiary hearing; am I reading that correctly?

6 MR. COOPER: No, Your Honor. I guess I'm  
7 jumping in on Staff here, but because of various witness  
8 availability dates, the 27th and 28th are really the  
9 primary dates that the parties are proposing. Hope  
10 springs eternal that really only one of those would be  
11 needed, but we have a Staff witness that's not available  
12 until the 30th and so really what we're indicating 27, 28  
13 for -- as needed for the hearing with one witness on the  
14 30th.

15 JUDGE JORDAN: Okay. So the 30th is kind of a  
16 stand-alone date, it sounds like?

17 MR. COOPER: It is.

18 JUDGE JORDAN: Okay. Otherwise, a couple of  
19 days for evidentiary hearing; is that correct?

20 MR. SMITH: Yes. We think it will take no more  
21 than two days in total.

22 JUDGE JORDAN: Okay. Okay. Yeah, I wanted to  
23 clarify that because that was not -- because it was not  
24 clear to me. Okay. Well, that's less than the two weeks  
25 that I had reserved, if my math is correct. And that



1 suggests to me that -- I mean, looking at OPC's filing, it  
2 looked like there were some -- there were many issues,  
3 issues that are subject to complicated presentations of  
4 evidence, but I'm reading -- I think I'm reading some  
5 optimism in the settlement of many of those issues.

6 MS. MERS: I think, too, the amount of witnesses  
7 will help. In a traditional rate case, there's dozens and  
8 in this case we probably would have, at the max, six, I  
9 think.

10 MR. SMITH: And also, no intervening parties  
11 would also be helpful and we have built into the schedule  
12 two settlement conferences to help with that, to help  
13 narrow the issues.

14 JUDGE JORDAN: I see that, I see that. Okay.  
15 Here's a question for you, something that jumped out to  
16 me. The -- and this -- and the parties have cited the  
17 regulation, which is Section 24 of the small utility  
18 regulation. The nine-month date of January 4 in 2018.  
19 Under one of your alternatives, it's also the day of the  
20 last brief. So I gather from that that the parties are  
21 reading the date described in that section as the date of  
22 the last brief?

23 MR. WESTEN: Yeah. The -- so the sub 24 of  
24 240-3.050 says that the proposed full resolution of the  
25 small utility rate case must be finally presented to the

1 Commission no later than nine months. And so either  
2 parties, if we're still at odds at how it should be  
3 resolved, the final filing of a brief would be that final  
4 presentation of what we think should be the full  
5 resolution of the case. And so we read as that's the date  
6 that -- pursuant to these regulations, that we would need  
7 to make that presentation and that still leaves the extra  
8 60 days up till the 11-month deadline for operation for  
9 the Commission to deliberate, ask further questions,  
10 etcetera, if it needs to.

11 JUDGE JORDAN: I gathered that was the parties'  
12 reading and that's why this schedule is what it is. The  
13 thing I note about Section 24 is it doesn't really have a  
14 subject. It says, "Shall be finally presented," but it  
15 doesn't say who will do that final presentation of the  
16 proposed full resolution.

17 Now, when I first read this, my thought was that  
18 the proposed full resolution meant the order that I draft  
19 for the Commission on their agenda, which would make  
20 January 4, and I don't think January 4 is an agenda day.  
21 If I remember correctly, it's January 3. It's the  
22 Wednesday, the last Wednesday. So my reading of that was  
23 that my draft must be on agenda no later than the 4th, in  
24 this case the 3rd, which means I would have to communicate  
25 it, practically speaking, to the Commission well before

1 that, okay?

2 I don't know whether the Commission has ever set  
3 forth a schedule that accords with the parties' reading of  
4 that regulation. And this is why: Because I've never had  
5 a small rate case go to hearing like this, okay? The  
6 regulation assumes that it will not and that's why we end  
7 up with this very compressed schedule that the parties  
8 have to deal with.

9 MR. WESTEN: Right.

10 MR. SMITH: Is it possible that Hillcrest might  
11 answer that question?

12 MR. WESTEN: Yeah. I think Hillcrest, the full  
13 amount of nine months.

14 MR. COOPER: Yeah, but I don't know whether  
15 there was -- I don't know whether there was any specific  
16 ruling or finding on this particular issue.

17 MR. WESTEN: I don't think there was.

18 MR. COOPER: If I've been involved in one where  
19 there's been that sort of resolution, I don't -- it's not  
20 coming to my mind right now, one way or the other. I just  
21 don't remember it coming up as a --

22 JUDGE JORDAN: Right. Under your reading, your  
23 work is done on the 4th. Under my reading, my work is  
24 done on the 4th, but your work must be done considerably  
25 earlier than that. It was under my reading that I

1 reserved the dates that I have reserved, currently  
2 reserved, which I think are rapidly becoming obsolete.

3 MR. WESTEN: Right. Judge, the only -- because  
4 I don't have access to it, the Hillcrest case, which  
5 involved the same parties -- well, similar parties.

6 JUDGE JORDAN: Right. Related, related, related  
7 entities.

8 MR. WESTEN: Related. Its schedule might  
9 provide some clarification. I don't think there was a  
10 ruling as to this particular issue, but I can give you the  
11 case number if that would provide some kind of guidance.

12 JUDGE JORDAN: Sure. Let's take a look at that.  
13 Was that Judge Burton's case this summer?

14 MR. WESTEN: I want to say Judge Burton's case,  
15 I want to say about a year ago.

16 MR. COOPER: It's been a while because we got  
17 final appellate decision earlier this year.

18 JUDGE JORDAN: Why don't you give that to me and  
19 I will take a look at it later.

20 MR. WESTEN: WR-2015 or is it 2016-0064.

21 JUDGE JORDAN: Okay.

22 MR. COOPER: Just for your consideration, Judge.

23 JUDGE JORDAN: Yes.

24 MR. COOPER: And this doesn't answer the  
25 question, but I guess in reading the rule again --

1 JUDGE JORDAN: Yeah.

2 MR. COOPER: -- I certainly agree with the  
3 interpretation that Staff has put forth. Presented to the  
4 Commission, I would think presented to you because you are  
5 a part of the office of the Commission that's defined in  
6 other contexts. To me, that's the way I would read that,  
7 that once the case goes to you, it has been presented to  
8 the Commission. But as I said, I have no citation for  
9 that, unfortunately.

10 JUDGE JORDAN: I don't know that this Commission  
11 has ever spoken on it. So we are plodding new ground  
12 here.

13 MS. MERS: Always exciting.

14 MR. WESTEN: Judge, it's WR-2016-0064.

15 JUDGE JORDAN: 2016-0064. And I'll take a look  
16 at that and see what the -- the Commission's practice may  
17 constitute a practical interpretation of its regulation,  
18 so that's helpful as to what the Commission thinks. In  
19 that regard, this is part of chapter three. Chapter three  
20 has a provision for waiver of any rule in chapter three,  
21 does it not?

22 MR. SMITH: It does.

23 JUDGE JORDAN: Right around .015. Okay. All  
24 right. Well, I think that's the most important point that  
25 I had to make because that -- that ready date and whose it

1 is really determines the rest of the calendar going  
2 backwards.

3 MR. WESTEN: Agreed.

4 JUDGE JORDAN: That's probably how the parties  
5 looked at it as well. Okay. That date of November 30,  
6 that's the only date a certain witness is available for  
7 examination; is that correct? Did I hear that correctly?

8 MS. MERS: We're running into an issue where one  
9 of our witnesses is only available beginning November 30  
10 and then one of Indian Hills' witnesses is only available  
11 before November 29, so --

12 MR. COOPER: Yeah, that's the trade-off, Your  
13 Honor, and I should have mentioned that. But that's the  
14 tension and the reason why we didn't just pick two days  
15 later in the week, so --

16 JUDGE JORDAN: Okay. Okay. So Staff's witness  
17 is not available until the 30th.

18 MS. MERS: Correct.

19 JUDGE JORDAN: And the applicant's witness is  
20 not available after the 28th; is that correct?

21 MR. COOPER: That's correct. That week, yes.

22 JUDGE JORDAN: That week, okay. Yeah. All  
23 right. Of course, all this comes down to what the  
24 Commission decides. I mean, I draft something for them  
25 and it may not be what eventually gets issued, I'll just

1 put it that way.

2 MS. MERS: We understand.

3 JUDGE JORDAN: Okay.

4 MR. SMITH: And, Judge, also, that footnote  
5 relating to December 19 and 20, I think from OPC's  
6 perspective could also relate to November 27, 28 and 30.  
7 If there were to be some sort of full or partial  
8 settlement of issues, I think OPC would also be willing to  
9 push it later if that would help the Commission.

10 JUDGE JORDAN: Well, that's the kind of  
11 clarification that we're here to do. So I appreciate  
12 that. Obviously -- I think it's pretty obvious to me from  
13 my experience that the parties prefer a later hearing date  
14 and I understand there are reasons for that and it's got  
15 very little to do with procrastination. It's got mostly  
16 to do with the opportunity to discuss issues and reach  
17 settlement on those as much as they can and am I correct  
18 in that?

19 MR. SMITH: Yes.

20 MS. MERS: Yes.

21 JUDGE JORDAN: I figured. All right. Okay.  
22 And I will surmise that the settlement conferences that  
23 are referenced here, will those require my presence or are  
24 they more like technical conferences where the parties get  
25 their people together in the same room? I can go on the

1 record to convene a settlement conference and then leave  
2 the room, but it seems a little bit wasteful.

3 MR. COOPER: I don't see any need for that.

4 MR. WESTEN: Yeah.

5 JUDGE JORDAN: So for those dates, for the  
6 settlement conference dates, whatever they turn out to be,  
7 you'll just need the reservation of some space in the  
8 Governor's Office Building?

9 MS. MERS: That's correct.

10 JUDGE JORDAN: Okay. Good. Well, I think those  
11 are all the issues that I had and this will assist me in  
12 drafting a proposed order. So this time has been helpful.  
13 I appreciate that. What else would the parties like to  
14 discuss before I go off the record and leave the room?

15 MR. SMITH: How quickly would you want us to  
16 submit the alternatives for local public hearing and would  
17 you like those in a separate filing or would you like them  
18 via e-mail or how would -- how quickly and what's your  
19 preferred format for --

20 JUDGE JORDAN: My preferred format is a filing,  
21 a filing in EFIS. How soon you file them, that I can't  
22 tell you because that's -- that's as -- that's got a lot  
23 to do with the parties, which I can't control. What I  
24 will say is the longer you wait, the fewer dates there  
25 will be.



1 MR. SMITH: All right.

2 JUDGE JORDAN: And I will also, in reference to  
3 counsel's suggestion, refer you to the Commission's  
4 calendar, which is on the internet. Maybe you can find  
5 some open dates where there are not already local public  
6 hearings or even evidentiary hearings because we've got  
7 plenty of those this autumn, also. That will be a guide  
8 to you, probably not a convenience. What else can I do  
9 for the parties while I'm in the room and we're all here?

10 MS. MERS: Nothing Staff needs.

11 JUDGE JORDAN: Nothing else that anyone feels  
12 need to discuss because I can talk about this stuff all  
13 day.

14 MR. COOPER: I don't have anything, Your Honor.

15 MR. SMITH: Nothing further.

16 MR. WESTEN: Nothing from Staff. Thank you.

17 JUDGE JORDAN: Very good. Well, thank you for  
18 being here and, with that, we will adjourn this conference  
19 and go off the record.

20 (Proceedings concluded at 2:20 P.M.)

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1	INDEX OF EXHIBITS	
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CERTIFICATE OF REPORTER

I, Julie K. Kearns, Certified Court Reporter (MO), Certified Shorthand Reporter (IL), Registered Professional Reporter and Certified Realtime Reporter within and for the State of Missouri, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a true and correct transcript of such Stenotype notes so made at such time and place.



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Julie K. Kearns, CCR #993, CSR, RPR, CRP

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