

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

February 23, 2012

Jefferson City, Missouri

Volume 23

In The Matter of Missouri-American)
 Water Company's Request For) File No.
 Authority To Implement A General) WR-2011-0337
 Rate Increase For Water And Sewer) and SR-2011-0338
 Service Provided In Missouri Service)
 Areas)

HAROLD STEARLEY, Presiding
 SENIOR REGULATORY LAW JUDGE

KEVIN D. GUNN, Chairman

TERRY M. JARRETT

ROBERT S. KENNEY,

COMMISSIONERS

REPORTED BY:
 Jennifer Leibach, CCR Number 1108
 TIGER COURT REPORTING, LLC

A P P E A R A N C E S

1
2 W.R. (TRIP) ENGLAND, Attorney at Law

DEAN L. COOPER, Attorney at Law

3 PAUL A. BOUDREAU, Attorney at Law

Brydon, Swearngen & England

4 312 East Capitol Avenue

Jefferson City, Missouri 65102

5 573.635.7166

trip@brydon.law.com

6 FOR: Missouri-American Water Company

7
8 JOHN REICHART, Attorney at Law

Missouri-American Water Company

727 Craig Road

9 St. Louis, Missouri 63141

314.996.2287

10 john.reichart@amwater.com

FOR: Missouri-American Water Company

11
12 STUART CONRAD, Attorney at Law

JEREMIAH FINNEGAN, Attorney at Law

13 Finnegan, Conrad & Peterson

3100 Broadway, Suite 1209

14 Kansas City, Missouri 641111

573.635.2700

15 FOR: Ag Processing, Incorporated

16
17 THOMAS R. SCHWARZ, JR., Attorney at Law

MARC ELLINGER, Attorney at Law

Blitz, Bardgett & Deutsch

18 308 East High Street

Jefferson City, Missouri 65109

19 573.634.2500

For: City of Joplin

20
21 MARK W. COMLEY, Attorney at Law

Newman, Comley & Ruth, PC

22 601 Monroe Street, Suite 301

Jefferson City, Missouri 65101

23 573.634.2266

FOR: City of Jefferson City, Missouri

24

25

1 LARRY DORITY, Attorney at Law
Fischer & DORITY, P.C.
2 101 Madison Street, Suite 400
Jefferson City, MO 65101
3 573.636.6758
FOR: Public Water Supply District Number 1 of Andrew County
4 Public Water Supply District Number 2 of Andrew County
City of Brunswick, Missouri

5
6 WILLIAM STEINMEIER, Attorney at Law
William D. Steinmeier, P.C.
7 P.O. Box 104595
Jefferson City, Missouri 65110-4595
8 573.659.8672
FOR: The City of St. Joseph, Missouri

9
10 DIANA VUYLSTEKE, Attorney at Law
Bryan Cave, LLP
11 211 North Broadway, Suite 3600
St. Louis, Missouri 63102
12 913.338.7700
dmvuyksteke@bryancave.com
13 FOR: Missouri Industrial Energy Consumers
14

CRAIG S. JOHNSON, Attorney at Law
15 304 East High Street
Jefferson City, Missouri 65102
16 cj@cjaslaw.com
FOR: The Empire District Electric Company

17
18 J. KENT LOWRY, Attorney at Law
Armstrong Teasdale
19 3405 West Truman Boulevard
Jefferson City, Missouri 65109
20 573.636.8394
klowry@armstrongteasdale.com
21 FOR: Metropolitan Sewer District
22
23
24
25

1 LISA C. LANGENECKERT, Attorney at Law
Sandberg Phoenix von Gontard, P.C.
2 600 Washington, 15th Floor
St. Louis, Missouri 63101
3 314.446.4238
llangeneckert@sandbergphoenix.com

4 FOR: BJC Healthcare
5

JOSEPH BEDNAR, Attorney at Law
6 ERIC STEINLE, Attorney at Law
KEITH WENZEL, Attorney at Law
7 Spencer Fane
308 East High Street, Suite 222
8 Jefferson City, Missouri 65109
573.634.8115
9 jbednar@spencerfane.com

FOR: City of Riverside

10

11 KEVIN THOMPSON, Chief Staff Counsel
RACHEL M. LEWIS, Legal Counsel
12 Public Service Commission
200 Madison Street
13 P.O. Box 360
Jefferson City, Missouri 65102
14 573.751.6514

FOR: The Staff of the Missouri Public Service Commission

15

16 CHRISTINA BAKER, Attorney at Law
Office of Public Counsel
17 200 Madison Street
P.O. Box 2230
18 Jefferson City, Missouri 65102
573.751.5565
19 christina.baker@ded.mo.gov

FOR: Office of Public Counsel and the Public

20

21

22

23

24

25

PROCEEDINGS

1
2 JUDGE STEARLEY: All right. Good morning. We
3 are back on the record in Missouri-American Water Company's
4 rate case, File Number WR-2011-0337.

5 Just to make note, we have counsel present in
6 the room for Missouri-American, Staff, the Office of the
7 Public Counsel, city of St. Joseph, city of Brunswick, Public
8 Water Supply Districts 1 and 2 of Andrew County, Ag
9 Processing, city of Riverside, and Mr. Johnson's here for
10 Empire. Did I miss anyone here in the room?

11 All right. And who do we have appearing by
12 phone today?

13 MR. CURTIS: Leland Curtis on behalf of the
14 city of Warrensburg.

15 MS. GILBREATH: Lisa Gilbreath on behalf of
16 Triumph Foods.

17 JUDGE STEARLEY: All right. Have I missed
18 anyone? All right. As the parties know, we've been in
19 recess the last couple days. They've been negotiating for a
20 possible settlement agreement, so I will inquire of counsel,
21 where are we at this morning?

22 MS. LEWIS: Your Honor, we are very close. We
23 have a final document for non-unanimous stipulation and
24 agreement. We are ready to sign, but we are still tweaking
25 some numbers. Doesn't substantially change anything but we

1 are not prepared to file it at this time. We would be able
2 to file it hopefully later this morning, for sure by the end
3 of the day today.

4 JUDGE STEARLEY: Okay. Very well.

5 MS. LEWIS: And for those not present, we have
6 permission to sign on their behalf.

7 JUDGE STEARLEY: Okay. And you know it is
8 going to be non-unanimous?

9 MS. LEWIS: Yes.

10 JUDGE STEARLEY: Do you know who the parties
11 are that do not intend to be signatories?

12 MS. LEWIS: I do. I know that the only party
13 that won't be mentioned in that document that plans to file
14 separately is the city of Jefferson and the Union, neither of
15 which are requesting a hearing, but they will file something
16 separately than this agreement.

17 JUDGE STEARLEY: All right. Very good. And I
18 did set a deadline -- a scheduling deadline for noon today,
19 so I wanted to hear from the parties to be sure no one needed
20 a hearing date set for some particular issue, so that all
21 sounds very good.

22 Can you tell me does the agreement contemplate
23 a specific date for a tariff to become effective for new
24 rates to go into effect?

25 MS. LEWIS: Yes, April 1st of this year.

1 JUDGE STEARLEY: Okay.

2 MS. LEWIS: Or as soon thereafter as
3 reasonably practical.

4 JUDGE STEARLEY: And we do have a couple of
5 exhibits that have been received into the record from the
6 testimony we had on Tuesday. Did the parties build in the
7 agreement, you know on some of the stips, they agree to have
8 all the pre-filed testimony?

9 MS. LEWIS: No, we did not.

10 JUDGE STEARLEY: You have not. Do you intend
11 to add that?

12 MS. LEWIS: We haven't discussed it, but we
13 certainly can.

14 JUDGE STEARLEY: Okay. I just wanted to know
15 if there will be any objections to admitting that testimony.
16 If it's built into the agreement, that answers that question.

17 MS. LEWIS: I'm sorry. It apparently is in
18 there, so it's taken care of, Your Honor.

19 JUDGE STEARLEY: All right. Very well. I
20 assume you've been working very hard on this agreement and we
21 appreciate all your efforts.

22 In terms of scheduling, we will need to let
23 the response period run for the non-signatories, just to be
24 sure they don't want to file any type of response to the
25 final draft of the stip, and I'm looking at tentatively

1 reserving Tuesday, March 6th, 10 a.m., for a stipulation
2 hearing, should the Commissioners, after reviewing it, wish
3 to direct questions to the parties regarding the agreement.
4 Does that date look like it would work for the parties?

5 MR. ENGLAND: Your Honor, I know I'm going to
6 be out of town that date, but it may still not be an
7 impediment.

8 JUDGE STEARLEY: And I don't know for sure if
9 they're going to require one. I thought I'd go ahead and
10 reserve a day today so we'd give a notice. It would be
11 tentatively 10 a.m. that day.

12 MR. CONRAD: Judge, in fumbling through my
13 handy-dandy electronic thing here, which I confess is
14 actually not on, but I'm nonetheless imagining where I would
15 be, I did note that the 5th was set in some prior order for a
16 true-up hearing.

17 JUDGE STEARLEY: I believe that's -- I believe
18 that may be right.

19 MR. CONRAD: And the 6th presents no problem
20 to me. I'm just -- I'm just noting that that date was
21 already set and to whatever notice I guess had gone out, if
22 you wanted to take advantage of that.

23 JUDGE STEARLEY: Of March 5th?

24 MR. CONRAD: Yes, sir.

25 MS. LEWIS: Judge, I don't -- I don't have my

1 calendar in front of me, but I don't believe the true-up was
2 set for March 5th, but I will also note that there is a local
3 public hearing in a separate water case that evening, so I
4 don't think that that would be a good date for the Staff for
5 the stipulation hearing, if necessary.

6 JUDGE STEARLEY: All right. Well, I will have
7 to go back and look at the prior scheduling order.

8 MR. CONRAD: I could be wrong. I was wrong --
9 as I told my colleague here, I was wrong one other time, I
10 thought I was wrong about something, but this -- somewhere I
11 got that date. I didn't just pull it out of the air.

12 JUDGE STEARLEY: Would the 6th work for you,
13 Mr. Conrad?

14 MR. CONRAD: The 6th would work for us, yes.

15 JUDGE STEARLEY: So let's go ahead and
16 tentatively plan on that, and I will confer with the
17 Commissioners. And if they decide they want to have the
18 hearing, we'll shoot for that date; if not, we'll get out a
19 notice cancelling.

20 Is there any other matter we need to take up
21 this morning?

22 MS. LEWIS: Not that I'm aware of.

23 JUDGE STEARLEY: Well, hearing none, we'll go
24 ahead and conclude. I will go ahead, then, if -- I will wait
25 until noon, just to be sure, but if no party makes a filing

1 requesting a day for hearing, I will suspend the rest of the
2 procedural schedule for the evidentiary hearing. And we
3 certainly appreciate all your efforts on this. I look
4 forward to seeing the agreement you're going to file.

5 MR. STEINMEYER: So do we, Your Honor.

6 MS. LEWIS: You look forward to reading the
7 whole thing.

8 JUDGE STEARLEY: Thank you very much and we
9 stand adjourned.

10 (End of Proceedings.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF MISSOURI)

) ss:

COUNTY OF GASCONADE)

I, JENNIFER L. LEIBACH, Registered Professional Reporter, Certified Court Reporter, CCR #1108, and Certified Realtime Reporter, the officer before whom the foregoing matter was taken, do hereby certify that the witness/es whose testimony appears in the foregoing matter was duly sworn; that the testimony of said witness/es was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Court Reporter