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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

January 5, 2004
Jefferson City, Missouri
Volume 19

In the Matter of Missouri-American)
Water Company's Tariff to Revise) Case No. WR-2003-0500
Water and Sewer Rate Schedules.)

KEVIN A. THOMPSON, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

CONNIE MURRAY,
BRYAN FORBIS,
ROBERT M. CLAYTON, III,
COMMISSIONERS.

REPORTED BY:

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

2 JUDGE THOMPSON: We're here for the resumption
3 of the hearing in Case WR-2003-0500, in the matter of
4 Missouri-American Water Company, the general rate case.

5 In order to have an idea of who is here this
6 morning, why don't we do oral entries of appearance. Don't
7 bother to tell me what your mailing address is. Just tell
8 me who you are and who you represent. We'll start with
9 Mr. Coffman and work our way through the room.

10 MR. COFFMAN: John B. Coffman on behalf of the
11 Office of the Public Counsel.

12 JUDGE THOMPSON: Thank you.

13 MR. KEEVIL: Jeffrey A. Keevil and Charles
14 Brent Stewart on behalf of the Empire District Electric
15 Company.

16 JUDGE THOMPSON: Thank you.

17 MR. FISCHER: James M. Fischer representing
18 Public Water Supply Districts 1 and 2 of Andrew County and
19 Public Water Supply District No. 1 of DeKalb County.

20 JUDGE THOMPSON: Thank you.

21 MR. FINNEGAN: Jeremiah Finnegan on behalf of
22 the City of Riverside.

23 JUDGE THOMPSON: Thank you.

24 MR. CONRAD: Stu Conrad on behalf of
25 AG Processing, Inc., a cooperative.

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1 JUDGE THOMPSON: Thank you.

2 MR. ENGLAND: Trip England on behalf of the

3 company.

4 JUDGE THOMPSON: Thank you.

5 MS. LANGENECKERT: Lisa Langeneckert on behalf

6 of the Missouri Energy Group.

7 JUDGE THOMPSON: Thank you.

8 MR. ELLINGER: Marc Ellinger and Jim Deutsch

9 on behalf of the City of Joplin.

10 JUDGE THOMPSON: Thank you.

11 MR. KRUEGER: Keith R. Krueger for the Staff

12 of the Missouri Public Service Commission.

13 JUDGE THOMPSON: Thank you.

14 MR. ZOBRIST: Carl Zobrist on behalf of the

15 St. Joseph Water Rate Coalition.

16 JUDGE THOMPSON: Thank you.

17 MR. CURTIS: Leland Curtis on behalf of the

18 City of Warrensburg.

19 JUDGE THOMPSON: Thank you.

20 MR. COMLEY: Mark Comley on behalf of the City

21 of Jefferson.

22 MS. VUYLSTEKE: Diana Vuylsteke on behalf of

23 Missouri Industrial Energy Consumers.

24 JUDGE THOMPSON: Thank you.

25 Okay. We are scheduled to begin opening

1 statements on rate design this morning, but I understand
2 that a motion is going to be made. Mr. Conrad, would you
3 like to step to the podium, sir?

4 MR. CONRAD: Sure, since there's not a
5 microphone back here and we certainly want the ships at sea
6 to hear.

7 JUDGE THOMPSON: I think our viewers in
8 Germany would appreciate it.

9 MR. CONRAD: Judge, there are a number of
10 things that have changed in this case since this group was
11 last together, not among the least of which are changes on
12 the Commission panel in the tragic situation, but also in a
13 tragic situation on the company witness who was an integral
14 part of this issue, as you know.

15 During the interim period and, in fact, while
16 the other processes were going on, a number of the parties
17 have continued to have meetings and discussions with respect
18 to the solution or a possible solution that would be
19 acceptable to all for what would be an otherwise very
20 complicated and very difficult issue to decide, namely that
21 of the rate design for now, I believe, either eight or nine
22 separate districts.

23 Over the last holiday, several parties
24 exchanged e-mail and suggested, particularly after the
25 disclosure of the tragic loss of Company Witness Herbert's

1 wife that has prevented his attendance and the necessity to
2 reconfigure the schedule, several parties seemed to think
3 that it would be useful for the group to sit down on a
4 face-to-face basis, since the holidays have prevented people
5 from being able to consult in some instances with their own
6 expert because of people's schedules, but in any event with
7 each other in a possible attempt to see if there was a way
8 to resolve this.

9 The result of the discussions heretofore has
10 brought parties somewhat closer together, I think in some
11 instances particularly close, if not at a posture that
12 things have almost been resolved on a number of the
13 districts. There are a couple that are outstanding.

14 Given the circumstances, your Honor, with the
15 schedule and with the availability of the witnesses today,
16 and given the fact that it is now 10:36, at least by my
17 watch, it seemed to us, a number of us, to make some sense
18 to suggest to you that we would recess this process until,
19 say, at your discretion, 1:30 or 2 o'clock, at which point
20 we would reassemble here and report to you whether there had
21 been progress.

22 I think others will indicate, as will I, that
23 there has been progress. We offer no solution here at this
24 point, but we think that further discussion might be
25 fruitful. If that's necessary to make in the form of a

1 motion, I would do that.

2 I think that will be -- my sense is that will
3 be generally supported and not opposed by most all, but I am
4 advised that one party will probably oppose this, being the
5 party that hasn't participated actively in the discussions
6 heretofore and also seems to not really have a constituency.
7 Most of the parties, indeed all of those that have actual
8 constituencies are, I think, in support of this motion.

9 Your Honor, I'll leave it at that point.

10 JUDGE THOMPSON: Thank you, Mr. Conrad.

11 Do I hear any objections to the motion that we
12 recess in order to permit an opportunity for settlement
13 discussions?

14 MR. KRUEGER: Yes, your Honor.

15 JUDGE THOMPSON: Mr. Krueger, why don't you
16 come to the podium and tell us all about your objection?

17 MR. KRUEGER: Mr. Conrad correctly predicted
18 that the Staff opposes this continuance. The case is
19 already far behind schedule, and we've known about the time
20 at which rate design was supposed to begin for quite some
21 time, a matter of months, and we believe that it's important
22 to proceed with this case and to move along so that it can
23 be finally submitted to the Commission.

24 The Staff, of course, is very saddened by the
25 death of Mr. Herbert's wife, and we're willing to make

1 accommodation for that by postponing his testimony 'til a
2 later time that's convenient for him and for the company.
3 But we think that we need to proceed with the presentation
4 of evidence today.

5 JUDGE THOMPSON: Okay. Thank you,
6 Mr. Krueger.

7 I'm going to call a roll call of the parties,
8 and I'd like you to just advise me as to whether you support
9 the motion or object to the motion.

10 Mr. Coffman?

11 MR. COFFMAN: Yes, I'm very much in favor of
12 Mr. Conrad's motion to allow a wee bit more time to consider
13 the settlement discussions that have been ongoing for, at
14 least seriously for over a month.

15 JUDGE THOMPSON: Thank you. Mr. Keevil?

16 MR. KEEVIL: I have no objection to the
17 motion, your Honor.

18 JUDGE THOMPSON: Mr. Fischer?

19 MR. FISCHER: Your Honor, I very much support
20 the opportunity to settle this if we can do so and save
21 three days.

22 JUDGE THOMPSON: Mr. Finnegan?

23 MR. FINNEGAN: I support it wholeheartedly,
24 your Honor, and point out also that since Mr. Herbert is
25 unavailable at this time, we are not going to lose that time

1 that we would have spent doing his cross-examination. It
2 may take a long time.

3 JUDGE THOMPSON: Thank you. Mr. England?

4 MR. ENGLAND: We support the motion.

5 JUDGE THOMPSON: Ms. Langeneckert?

6 MS. LANGENECKERT: The MEG supports the
7 motion.

8 JUDGE THOMPSON: Thank you. Mr. Deutsch?

9 MR. ELLINGER: The City of Joplin supports the
10 motion and would like to see if we can conclude this with a
11 settlement on rate design.

12 JUDGE THOMPSON: Thank you, Mr. Ellinger. I
13 apologize for not calling you.

14 MR. ELLINGER: That's okay.

15 JUDGE THOMPSON: Mr. Zobrist?

16 MR. ZOBRIST: The St. Joseph Water Rate
17 Coalition supports the motion.

18 JUDGE THOMPSON: Mr. Curtis?

19 MR. CURTIS: City of Warrensburg fully
20 supports the motion.

21 JUDGE THOMPSON: Mr. Comley?

22 MR. COMLEY: No objection.

23 JUDGE THOMPSON: Ms. Vuylsteke?

24 MS. VUYLSTEKE: We fully support the motion.

25 JUDGE THOMPSON: And I apologize for garbling

1 your name if I did.

2 Mr. Krueger, does Staff have a witness who has
3 traveled from out of town for this presentation today?

4 MR. KRUEGER: No, your Honor, we do not.

5 JUDGE THOMPSON: So your witnesses are in the
6 building and they're not going to be seriously
7 inconvenienced if the recess is granted?

8 MR. KRUEGER: That's correct, your Honor.

9 JUDGE THOMPSON: Very well. The hearing will
10 recess in order to permit an opportunity for further
11 settlement discussions by all of the parties, and this room
12 will be available for your use. You may be able to find
13 other space in the building. I can't guarantee that, of
14 course.

15 The question then arises of what time to
16 reconvene. Mr. Conrad suggested one or two. Is that
17 sufficient time? Would you rather reconvene at three?
18 Would you rather come back tomorrow morning at nine? If
19 we're going to try to settle part of this case, then I want
20 you to have ample opportunity to settle part of this case.

21 MR. COFFMAN: Your Honor, I would suggest
22 that, given the complexity of the matter, that I would
23 prefer having the day to work it out, and perhaps if
24 something were to be worked out, to try to reduce it into
25 some comprehensible form by morning.

1 JUDGE THOMPSON: Okay. That's certainly my
2 inclination is to recess until tomorrow morning, with just
3 one further question to ask, which is whether there are
4 attorneys here who came down today to give an opening
5 statement that intended then to leave rather than remain for
6 the other proceedings and would be seriously inconvenienced.
7 Is there anyone who would put themselves in that category?

8 (No response.)

9 JUDGE THOMPSON: Evidently there is not.
10 Okay. We will recess this hearing until tomorrow morning at
11 nine o'clock. Thank you.

12 WHEREUPON, the hearing of this case was
13 recessed until January 6, 2004.

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