

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

July 28, 2011

Jefferson City, Missouri

Volume 1

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

HAROLD STEARLEY, Presiding
SENIOR REGULATORY LAW JUDGE

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1 JUDGE STEARLEY: Let's go on the record.
2 Can everyone on the phone hear me all right?

3 MR. CURTIS: Yes.

4 MR. EVANS: Yes.

5 JUDGE STEARLEY: Good morning. It's
6 Thursday, July 28th, 2011. The Commission has set
7 this time for a prehearing conference in File
8 No. WR-2011-0337 and File No. SR-2011-0338. It is
9 captioned as In the Matter of Missouri-American Water
10 Company's Request for Authority to Implement a
11 General Rate Increase for Water and Sewer Service
12 Provided in Missouri Service Areas.

13 My name's Harold Stearley; I'm presiding
14 officer over this matter.

15 We're going to begin with taking entries
16 of appearance. The City of Jefferson counsel, Mark
17 Comley, contacted me by email yesterday and asked to
18 be excused from this conference, which I granted for
19 him, so he will not be here today.

20 With that being said, we'll take entries
21 starting with Utility Workers Union of American,
22 Local 335, AFL-CIO.

23 MR. EVANS: Michael Evans on behalf of
24 the Utility Workers, with Hammond and Shinners, PC.,
25 H-a-m-m-o-n-d and Shinners, S-h-i-n-n-e-r-s, at 7730

1 Carondelet, C-a-r-o-n-d-e-l-e-t, Suite 200, St. Louis
2 Missouri, 63105.

3 JUDGE STEARLEY: Thank you, Mr. Evans.
4 And if there's anyone on the phone, Counsel, who's
5 sitting in on today's hearing, if they could please
6 disclose themselves.

7 MR. CURTIS: Leland B. Curtis, law firm
8 of Curtis, Heinz, Garrett & O'Keefe, 130 South
9 Bemiston Avenue, Suite 200, St. Louis, Missouri 63105
10 appearing on behalf of the City of Warrensburg.

11 JUDGE STEARLEY: All right. Thank you,
12 Mr. Curtis.

13 Just for clarity, I wanted to make
14 sure --

15 MS. GILBREATH: One more, sorry, Judge.

16 JUDGE STEARLEY: Hold on just a moment,
17 Ms. Gilbreath.

18 MS. GILBREATH: Okay.

19 JUDGE STEARLEY: I just wanted to make
20 sure there wasn't any other person sitting in with
21 counsel for their respective parties, so we had it on
22 the record who all was in attendance.

23 But you go ahead and enter your
24 appearance too, Ms. Gilbreath, at this point.

25 MS. GILBREATH: Lisa Gilbreath, the law

1 firm of SNR Denton, U.S. LLP, 4520 Main Street, Suite
2 1100, Kansas City, Missouri 64111, appearing on
3 behalf of Triumph Foods.

4 JUDGE STEARLEY: All right. Thank you,
5 Ms. Gilbreath.

6 I'm assuming since the line's quiet, we
7 only have counsel on the other end of the line.

8 We'll continue entries with the City of
9 St. Joseph.

10 MS. STEINMEIER: Thank your, your Honor.
11 Please let the record reflect the appearance of
12 William D. Steinmeier, William D. Steinmeier, P.C.,
13 of Jefferson City, Missouri, on behalf of the City of
14 St. Joseph, Missouri.

15 JUDGE STEARLEY: Thank you,
16 Mr. Steinmeier.

17 For Ag Processing, Incorporated?

18 MR. CONRAD: Stuart Conrad, law firm of
19 Finnegan, Conrad & Peterson, 3100 Broadway, Suite
20 1209, Kansas City, Missouri 64111. Also,
21 Mr. Jeremiah D. Finnegan of the same law firm and
22 address, and also David Woodsmall of the local
23 address here.

24 JUDGE STEARLEY: All right. Thank you,
25 Mr. Conrad.

1 For the City of Joplin?

2 Okay. We'll let the record reflect we do
3 not have an appearance for the City of Joplin.

4 For the Empire District Electric
5 Company?

6 And again, we'll let the record reflect
7 no one has appeared for Empire.

8 Metropolitan St. Louis Sewer District?

9 MR. LOWRY: Your Honor, thank you. Kent
10 Lowry from the Jefferson City office and Byron
11 Francis from the St. Louis office of Armstrong
12 Teasdale LLP on behalf of the MSD, Metropolitan Sewer
13 District.

14 JUDGE STEARLEY: All right. Thank you.

15 And for Public Water Supply Districts 1
16 and 2 of Andrew County and the City of Brunswick.

17 MR. DORITY: Thank you, Judge. Larry
18 Dority and James Fischer, Fischer & Dority, P.C., 101
19 Madison Street, Suite 400, Jefferson City 65101,
20 appearing on behalf of Public Water Supply Districts
21 Nos. 1 and 2 of Andrew County and City of Brunswick,
22 Missouri.

23 JUDGE STEARLEY: Thank you.

24 For BJC Healthcare?

25 MS. LANGENECKERT: Lisa Langeneckert of

1 the law firm of Sandberg, Phoenix & von Gontard, 600
2 Washington Avenue, Suite 1500, St. Louis, Missouri
3 63101, appearing on behalf of BJC Healthcare.

4 JUDGE STEARLEY: Thank you. And for the
5 City of Riverside, Missouri?

6 Again, we'll let the record reflect
7 there's no appearance for the City of Riverside.

8 For the Missouri Industrial Energy
9 Consumers?

10 And again, no appearance from MIEC.

11 For the Office of Public Counsel?

12 MS. BAKER: Thank you. Christina Baker
13 of Jefferson City, Missouri, appearing on behalf of
14 the Office of the Public Counsel and rate payers.

15 JUDGE STEARLEY: Thank you, Ms. Baker.

16 For the Commission Staff?

17 MR. THOMPSON: Kevin Thompson and Rachel
18 Lewis for the Staff of the Missouri Public Service
19 Commission, Post Office Box 360, Jefferson City,
20 Missouri 65102.

21 JUDGE STEARLEY: Thank you, Mr. Thompson.

22 Are there any preliminary matters I need
23 to take up? I have a couple things I wanted to
24 address with the parties.

25 MS. LANGENECKERT: Is there an American

1 Water Entry?

2 JUDGE STEARLEY: Well, that would be
3 good, wouldn't it?

4 MR. ENGLAND: Only if you plan on keeping
5 the tariff suspended.

6 JUDGE STEARLEY: I suppose I ought to let
7 the petitioner enter their appearance.

8 MR. ENGLAND: Thank you, Judge. Let the
9 record reflect the appearance of W.R. England of the
10 law firm Brydon, Swearngen & England, P.C., as well
11 as John Reichart, corporate counsel for American
12 Water Company. Our contact information is on the
13 written entries of appearance that we've already
14 supplied to the Commission. Thank you.

15 JUDGE STEARLEY: Did I miss anyone else?

16 All right. Any preliminary matters?

17 MR. CONRAD: I have one at least. I
18 noticed in the order that was entered July 5 that
19 there are procedural dates that are entered through
20 March 30 of 2012. Now, it's possible that either in
21 that or the discovery order or in some other order
22 that I have missed in the avalanche of filings that
23 have been made, I have failed to see an order
24 suspending the tariffs past July 30, 2011.

25 JUDGE STEARLEY: Well, yes. There has

1 been, Mr. Conrad.

2 MR. CONRAD: Good. And as Mr. England
3 made reference to such, I just would like to be sure
4 that that has been done.

5 JUDGE STEARLEY: That went out on July
6 13th, and the operation of law date, if I've
7 calculated correctly, is May 27th. If I have not,
8 I'm sure someone will call my attention to it.

9 Any other issues before I address a
10 couple of things that I have?

11 With regard to interventions, I did issue
12 a notice, and from what I have seen so far, no one
13 had formerly filed a request to intervene in the
14 sewer portion, which has still not been consolidated
15 with this case. And I don't know if we're going to
16 have a motion to consolidate, but I'm going to assume
17 if no one other than Staff and Public Counsel are
18 automatic parties to this action, no other party is
19 asking to intervene and the sewer portion of this,
20 that those parties would not be addressing any
21 potential sewer issues in the case.

22 There may be some issues that are
23 intermingled that I understand would need to be
24 addressed, but I just wanted to clarify that. I'm
25 making sure there was no oversight there.

1 Also MIEC did not make an appearance here
2 today, but I wanted to clarify based on their
3 application and grant to intervene, the Commission
4 has in the past with different industrial
5 associations or groups made clear that the granting
6 of intervention is not for an unincorporated
7 association, but is for the individual members of
8 those groups. And I think there has been some issues
9 in the past with some discovery that was directed at
10 individual groups and there were objections to that.
11 Those are individual entities and discovery requests
12 properly served on those individual entities will
13 need to be answered.

14 MS. LANGENECKERT: I though MIEC was
15 incorporated, but I may be incorrect.

16 JUDGE STEARLEY: They did not put that in
17 their application. I had planned on clarifying that
18 with counsel this morning, but since they haven't --
19 had they showed up. So unless they clarify that they
20 are in fact, this group of four entities is an
21 incorporated group, at this point, the application
22 states that they're individual members, so.

23 There is also a motion pending on test
24 year and true-up which was filed on the 26th.
25 Responses would be due August 5th. And the reason I

1 bring that up is based upon the dates that Missouri
2 American has bought up for the true-up may create the
3 need to modify the current procedural schedule. And
4 there is a deadline for filing schedule modification
5 requests of August 2nd.

6 We can certainly be flexible with the
7 schedule that's been set up to a certain degree. I
8 tried to map this out based upon other cases and
9 basically looking at the profile of the dates that
10 different things have been filed.

11 However, I have pushed the hearing dates
12 back pretty well to the end of the schedule. So if
13 there's going to be some reorganization on the true-
14 up testimony or the true-up hearing, I just want to
15 let you all know ahead of time, we're not going to be
16 going beyond March 5th and 6th for final hearing
17 dates.

18 So the parties are certainly free to
19 juggle things around in between there, but we're not
20 going to be going beyond those final dates in order
21 for the Commission to have enough time to make its
22 decision about the briefing and for the Commission to
23 make its decision.

24 Other than that, I just wanted to advise
25 the parties that I have a few conflict dates coming

1 up in the next few months where I will not be
2 available. And those dates are September 1st,
3 September 22nd, October 6th, and November 17th.

4 I have brought down some copies of the
5 Commission's adjudication schedule as well if that
6 will help you all with your conference this morning.

7 Is there -- are there any other matters I
8 need to address on the record?

9 Well, hearing none, we'll conclude the
10 on-the-record portion of this and I'll leave you all
11 to your discussions. And thank you all very much.

12 (Off the record.)

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CERTIFICATE

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2 I, Shelley L. Mayer, a Certified Court Reporter,
3 CCR No. 679, the officer before whom the foregoing
4 hearing was taken, do hereby certify that the
5 testimony which appears in the foregoing hearing was
6 taken by me to the best of my ability and thereafter
7 reduced to typewriting under my direction; that I am
8 neither counsel for, related to, nor employed by any
9 of the parties to the action in which this hearing
10 was taken, and further, that I am not a relative or
11 employee of any attorney or counsel employed by the
12 parties thereto, nor financially or otherwise
13 interested in the outcome of the action.

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17 Shelley L. Mayer, CCR
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