

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

July 19, 2005

Jefferson City, Missouri  
Volume I

In the Matter of a                   )  
New Proposed                        ) Case No. AX-2005-0364  
Rule 4 CSR 240-2.071                )

COLLEEN M. DALE, Presiding,  
CHIEF REGULATORY LAW JUDGE  
JEFF DAVIS, Chairman  
CONNIE MURRAY,  
STEVE GAW,  
ROBERT M. CLAYTON,  
LINWARD "LIN" APPLING,  
COMMISSIONERS

REPORTED BY:

PAMELA FICK, RPR, CCR #447, CSR  
MIDWEST LITIGATION SERVICES

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

2 JUDGE DALE: All right. And now we're  
3 on the record. Good morning. This is Case  
4 No. AX-2005-0364, a rulemaking in the matter of the  
5 Commission's proposed expedited small complaint  
6 procedure. We will be receiving comments in this  
7 matter or testimony. All comments or testimony  
8 should be made from the podium, please.

9 My name is Cully Dale. I'll be the  
10 Regulatory Law Judge handling this proceeding, and  
11 I'll begin by taking comments in support of the rule  
12 and then asking for comments opposed to the rule. If  
13 you have mixed comments, go ahead and join the  
14 support group and we'll sort it out later. Who do I  
15 have in support of the rule?

16 MR. MILLS: (Raised hand.)

17 MR. BLANC: (Raised hand.)

18 MS. McDONALD: (Raised hand.)

19 JUDGE DALE: Okay. Why don't we start  
20 with Public Counsel. Would you like to provide  
21 testimony or comments?

22 MR. MILLS: These are simply comments.

23 JUDGE DALE: Thank you.

24 MR. MILLS: Good morning. May it please  
25 the Commission? My name is Lewis Mills. A

1 preliminary matter. I just want to disclose on the  
2 record that when I was with the Commission as a  
3 Regulatory Law Judge, this case was assigned to me,  
4 and there were two notices issued under my name. I  
5 don't believe that constitutes substantial  
6 involvement, but I do want to put that on the record.

7 I'm going to read from my written  
8 comments, and then I'm happy to take questions if the  
9 Bench has questions for me. The Office of the Public  
10 Counsel generally supports the Commission's efforts  
11 to simplify the formal complaint process for  
12 individual rate payers in this rule.

13 Although the proposals in the rule could  
14 be adopted by Order under existing complaint rules,  
15 the rule provides express notice to individual  
16 customers, and it is not necessary to travel to the  
17 Missouri Public Service Commission's Jefferson City  
18 office to pursue a complaint through a hearing.

19 Enabling the individual customer to  
20 participate in a hearing by telephone provides a more  
21 convenient way to access the Commission. The  
22 Commission should broaden the rule to also allow for  
23 evidentiary hearings to be held near the location  
24 where the complainant takes utility service.

25 This would allow the presiding officer

1 to more accurately gauge the credibility of the  
2 witness -- the witnesses, a difficult task with a  
3 telephone hearing, and still allow the complainant to  
4 avoid the burden of traveling to Jefferson City. And  
5 I have a few additional comments.

6 In the title, Public Counsel suggests  
7 that it should perhaps be changed to Expedited  
8 Complaint Procedure For Individual Customers. In  
9 Section 2A, the phrase "the name, address, telephone  
10 number and e-mail address" should be amended to read  
11 "the name, address, telephone number and e-mail  
12 address, if applicable." This amendment takes into  
13 account the fact that many people do not have e-mail  
14 addresses.

15 In 5, in order to track Section  
16 386.500.2, RSMo 2000, a request for rehearing should  
17 be made before the effective date of the judge's  
18 decision rather than within ten days or no later than  
19 ten days.

20 Furthermore, Public Counsel suggests  
21 including a provision similar to that used by the  
22 State Tax Commission in Section 138.432. The  
23 following sentence could be added to Section 5  
24 of the proposed rule to accomplish this change: The  
25 Commission shall review the rehearing motion and may

1 either affirm and adopt the judge's decision, affirm  
2 and adopt the decision with modifications, grant the  
3 rehearing and enter a new decision based upon the  
4 existing record or grant the rehearing and hold an  
5 additional evidentiary hearing to supplement the  
6 record and then issue a decision.

7                   This process retains in the Commission  
8 the ultimate final decision and then allows the  
9 individual complaint process to dovetail into the  
10 statutory process per judicial review of the  
11 Commission's decision starting with the rehearing  
12 motion, Section 386.500, and then provides the  
13 judicial review right in Section 386.510 and 386.515.

14                   Public Counsel suggests a final  
15 amendment in Section 4D. In the sentence that reads,  
16 "They may conduct a neutral investigation of the  
17 matter and present the findings at the hearing"  
18 should be amended to provide for an independent  
19 investigation rather than a neutral investigation.

20                   That concludes my prepared comments.  
21 I'm happy to answer questions if there are questions.  
22 Thank you.

23                   JUDGE DALE: Are there any questions?  
24 Are there any questions from the Bench?

25                   COMMISSIONER MURRAY: I have one or two.

1 Good morning, Mr. Mills.

2 MR. MILLS: Thank you. Good morning.

3 COMMISSIONER MURRAY: It wouldn't be  
4 your intention, would it, that this rule replace the  
5 informal complaint process by which many -- in fact,  
6 it's my understanding most of the complaints are  
7 resolved.

8 MR. MILLS: Oh, absolutely not. No, I  
9 think the informal process is invaluable and that the  
10 Commission should maintain that. This is simply an  
11 alternative to the formal process.

12 COMMISSIONER MURRAY: So you would agree  
13 with, if necessary, clarifying this to make that  
14 perfectly clear that it's only available after the  
15 informal process?

16 MR. MILLS: Well, it should be available  
17 in addition to the informal process. Are you  
18 suggesting that it should perhaps be modified to  
19 be -- that the informal process be a requirement  
20 before the complainant can avail himself to this  
21 process?

22 COMMISSIONER MURRAY: Yes. Wouldn't you  
23 agree that if we removed that and people could just  
24 read this and determine that it would be really easy  
25 to just go ahead and file a complaint that we would

1 be eliminating much of that informal process whereby  
2 things are resolved more simply?

3 MR. MILLS: I think as a practical  
4 matter, most complainants would likely avail  
5 themselves of the informal process in any event. I  
6 don't know that it would be wise to make that an  
7 absolute requirement before allowing a complaint to  
8 be filed with the Commission, but it certainly -- I  
9 think it's always a good idea, and as you said, it  
10 frequently resolves the matter before it even gets to  
11 a formal complaint.

12 I think perhaps you could do a  
13 modification that would -- you know, unless there's  
14 good cause for the complainant to not go through the  
15 informal process, the informal process should be a  
16 requirement. But I don't know that you'd want to  
17 make it an absolute requirement.

18 COMMISSIONER MURRAY: Can you think of  
19 any good cause for not going through the informal  
20 process?

21 MR. MILLS: No, I really can't. I mean,  
22 I suppose, you know, if you have a complainant who  
23 has been through the informal process on a similar  
24 issue in a different time frame, that it may not be  
25 worth their while if they have a similar situation

1     arise to go through it again if they know what the  
2     outcome is likely to be. But I can't think of any  
3     real specific instances in which it would not be  
4     required or there would be good cause to avoid it.

5                   COMMISSIONER MURRAY: And your suggested  
6     language for the title, you said individual customer.  
7     Would it not be more clear if you said for  
8     residential customers?

9                   MR. MILLS: I think the body of the rule  
10    itself talks about individuals rather than  
11    residential customers, and I think -- the title as  
12    the rule was proposed in the register I think carries  
13    over the word small from an earlier version of the  
14    draft complaint that had limitations on the amount of  
15    the matter at issue. And I don't believe that this  
16    concurrent promulgated -- proposed rule has that any  
17    longer. So I think that the word small in the title  
18    is sort of an inapposite.

19                  COMMISSIONER MURRAY: Well, is it your  
20    position that a person should be able to use this  
21    procedure if they had a ten-dollar dispute with their  
22    utility?

23                  MR. MILLS: It's my reading of the rule  
24    that the complaint does not distinguish between a  
25    customer with a ten-dollar complaint or a



1 ten-million-dollar complaint.

2 COMMISSIONER MURRAY: And your reading  
3 of that, there have been suggestions that it be  
4 changed to clarify that this cannot be used for just  
5 very, very small complaints -- I'm sorry. I'm  
6 backwards here. I'm not -- I must not be quite awake  
7 today. What I mean is that there be an upper limit.

8 MR. MILLS: Yeah. And I certainly don't  
9 have any objection if there's an upper limit and it's  
10 reasonable. I think you'd want to make it several  
11 thousand dollars.

12 COMMISSIONER MURRAY: All right. But  
13 you've not really thought about an amount for that;  
14 is that correct?

15 MR. MILLS: No, I have not. 3,000,  
16 5,000, somewhere in there I think would be certainly  
17 adequate to cover this. The fact that it's  
18 restricted to individual customers, I think almost by  
19 necessity limits it somewhat. It's unlikely that a  
20 customer taking service as an individual -- there  
21 would be very few of those that would have complaints  
22 in excess of several thousand dollars.

23 COMMISSIONER MURRAY: Do you -- is there  
24 an interpretation or a definition somewhere of  
25 individual --

1                   MR. MILLS: Not to my knowledge, not in  
2 the Commission's rules.

3                   COMMISSIONER MURRAY: So if we change  
4 the reference to individual throughout to  
5 residential, would that not make it more clear?

6                   MR. MILLS: Uh-huh, it would. Although,  
7 that would limit it to residential customers as  
8 opposed to someone with a small shop, for example,  
9 who was taking service in their own name.

10                  COMMISSIONER MURRAY: All right. Thank  
11 you. Thank you, Judge.

12                  MR. MILLS: Thank you.

13                  JUDGE DALE: Commissioner Gaw?

14                  COMMISSIONER GAW: Judge, are you aware  
15 whether or not a consumer today has to go through the  
16 informal complaint process before they can file a  
17 formal complaint with the Commission?

18                  MR. MILLS: I don't believe under the  
19 current rules that it's an absolute prerequisite.

20                  COMMISSIONER GAW: So if we place that  
21 in this rule, we would be creating an additional  
22 barrier to get to the Commission for a hearing?

23                  MR. MILLS: Yes.

24                  COMMISSIONER GAW: Okay. That's all I  
25 have. Thank you.

1 JUDGE DALE: Thank you.

2 MR. MILLS: Thank you.

3 JUDGE DALE: Sir, if you could state  
4 your name and spell it for the court reporter,  
5 please?

6 MR. BLANC: Curtis Blanc, C-u-r-t-i-s,  
7 B-l-a-n-c, here on behalf of Kansas City Power and  
8 Light Company.

9 JUDGE DALE: Do you have testimony or do  
10 you wish to provide comments?

11 MR. BLANC: Comments would be fine,  
12 thank you. We're here today basically to support the  
13 comments submitted by the Missouri Development  
14 Association on behalf of the Missouri Energy  
15 Utilities. We believe that these new procedures  
16 shouldn't replace the current informal and formal  
17 complaint process and that they shouldn't replace the  
18 informal process as the initial forum for dispute  
19 resolution.

20 We also support the need for  
21 clarification that any resolution reached through  
22 these new procedures won't constitute a Commission  
23 Order or Decision.

24 And then an additional point we would  
25 like to make is we think the term expedited should

1 mean something, that that term should be given some  
2 teeth. And so our suggestion would be that the rule  
3 be amended to reflect that a hearing should be held  
4 within 30 days of the complaint being submitted, and  
5 that the decision from the judge should come within  
6 ten days of the conclusion of the hearing. And those  
7 are all of my comments. I'm open to questions.

8 JUDGE DALE: Do you have any questions?

9 COMMISSIONER MURRAY: Yes. In terms of  
10 this not replacing the informal complaint process,  
11 although the current rule may not specifically  
12 require that an individual go through the informal  
13 complaint process before filing a complaint, is it --  
14 would you agree that that process was established to  
15 give residential customers or individuals an option  
16 from having to go through something that might be  
17 intimidating like the informal complaint process as  
18 it currently exists?

19 MR. BLANC: I guess there was a lot of  
20 internal debate at the company about how this  
21 procedure would fit or how it was intended to fit  
22 with the informal complaint process. Just reading  
23 the proposed rule as written, it wasn't clear to us  
24 if it was meant to be a replacement for an option  
25 instead of a less intimidating option, so we weren't

1 sure what the rule was intended to do.

2 But to answer your question, I think it  
3 would potentially give that opportunity. The way  
4 it's written now, you could interpret it as being an  
5 alternative to the informal complaint process.

6 COMMISSIONER MURRAY: And my concern  
7 would be that by making the formal process for small  
8 disputes as simple as we're making it with this  
9 change, if we do not establish that the person must  
10 go through the informal complaint process first,  
11 we're pretty much gonna be giving them an incentive  
12 not to do so.

13 MR. BLANC: I know we have had a lot of  
14 success with the informal complaint procedure and  
15 that it has resolved a lot of issues about involving  
16 I guess what we would describe as undue Commission  
17 resources.

18 So we -- I'm not sure how best to answer  
19 your question other than we support the use of the  
20 informal complaint procedure that exists, and we  
21 think it's been very successful.

22 COMMISSIONER MURRAY: Do you have  
23 knowledge offhand as to what percentage of disputes  
24 are resolved that way?

25 MR. BLANC: I do not but I might be able

1 to get that information.

2 Lori, do you have an idea?

3 UNIDENTIFIED SPEAKER: I'd say 98  
4 percent of our complaints are solved informally.

5 MR. BLANC: So a vast majority, maybe as  
6 high as 98 percent.

7 COMMISSIONER GAW: Judge, we just had  
8 some comment from someone who's not an attorney, and  
9 I don't remember at these proceedings whether they  
10 have to be sworn in or not. They may not have to be.  
11 I just can't recall in dealing with another kind of  
12 hearing if they would.

13 MR. BLANC: For the benefit of the  
14 proceedings, we can treat it as I will make comments  
15 to that effect, that they're coming from me. Just  
16 utilizing a resource for the information, but  
17 whatever the Commission would like.

18 COMMISSIONER GAW: Yeah, just so the  
19 record is clean.

20 JUDGE DALE: I'm sorry. If we have  
21 further more detailed comments, then it will probably  
22 be better that that person come up and be sworn.

23 MR. BLANC: Okay.

24 COMMISSIONER MURRAY: Another question:  
25 Did you take a position that there should be a limit

1 on the -- what is considered a claim that could be  
2 pursued through this process?

3 MR. BLANC: As far as a dollar limit,  
4 no, we haven't taken a position with respect to that.

5 COMMISSIONER MURRAY: So does that mean  
6 you don't think there should be one or you just  
7 haven't --

8 MR. BLANC: It wasn't discussed, but it  
9 would be a useful means of differentiating it from  
10 the other two types of dispute resolution procedures.  
11 It would be a potential way to clarify how it's meant  
12 to be used.

13 COMMISSIONER MURRAY: Now, if the  
14 definition of -- or if the word individual is used  
15 throughout rather than residential customer, do you  
16 see that as a problem?

17 MR. BLANC: Well, MTAA suggested  
18 clarifying that that's to refer to residential  
19 customers, and we support that.

20 COMMISSIONER MURRAY: Now, if it just  
21 were left as reading individual, what potential  
22 customers could be included in that from your  
23 perspective?

24 MR. BLANC: As you suggested, I don't  
25 believe individual is defined in the regulations, so

1 I think that's somewhat open-ended. It's unclear to  
2 me who would constitute individual. One could argue  
3 it's meant to be just a residential owner, but as Mr.  
4 Mills suggested, maybe that also means a small  
5 company that's taking service under the proprietor's  
6 name as opposed to a separate legal entity.

7 COMMISSIONER MURRAY: When doing a rule  
8 making, it's certainly important to be clear on the  
9 meaning, is it not?

10 MR. BLANC: It's helpful.

11 COMMISSIONER MURRAY: Thank you.

12 MR. BLANC: Thank you.

13 JUDGE DALE: Chairman, do you have any  
14 questions?

15 CHAIRMAN DAVIS: Yes. Just give me just  
16 a second here.

17 MR. BLANC: All the time you need.

18 CHAIRMAN DAVIS: When this rule was  
19 actually conceived, it was my impression that it was  
20 meant to parallel sort of what would constitute a  
21 small claims proceedings in Circuit Court. In small  
22 claims proceedings, are you aware, do parties have  
23 the opportunity for discovery.

24 MR. BLANC: I don't believe they do, but  
25 I'm not sure of that.



1                   CHAIRMAN DAVIS: They don't have --  
2 necessarily have the opportunity for direct, cross  
3 and redirect examination?

4                   MR. BLANC: No. That's my  
5 understanding.

6                   CHAIRMAN DAVIS: But there is a dollar  
7 limit?

8                   MR. BLANC: Correct.

9                   CHAIRMAN DAVIS: And I'm assuming that  
10 there is some opportunity for voluntary or  
11 involuntary dismissal by the parties?

12                  MR. BLANC: I think plaintiffs in a  
13 small claims dispute could certainly voluntarily  
14 withdraw their claim, but I'm not aware if there is a  
15 formal involuntary dismissal procedure.

16                  CHAIRMAN DAVIS: Do you think OPC is  
17 capable of conducting a neutral investigation?

18                  MR. BLANC: I think if they're charged  
19 with representing the public, that is their duty, and  
20 one could conceivably argue that they have a client  
21 to represent, and in that regard they may not be a  
22 neutral party.

23                  CHAIRMAN DAVIS: I don't have any  
24 further questions at this time.

25                  JUDGE DALE: Commissioner Gaw?

1 COMMISSIONER GAW: No questions.

2 JUDGE DALE: Commissioner Appling?

3 COMMISSIONER APPLING: No questions.

4 JUDGE DALE: Thank you.

5 MR. BLANC: Thank you.

6 JUDGE DALE: Who's next? You can be

7 next, Mimi.

8 MS. MacDONALD: Good morning.

9 JUDGE DALE: Good morning. Will you be

10 making comments or testifying?

11 MS. MacDONALD: Why don't I call it

12 testifying.

13 JUDGE DALE: In that case...

14 (THE WITNESS WAS SWORN.)

15 JUDGE DALE: Thank you.

16 MS. MacDONALD: Good morning. As

17 reflected in SBC Missouri's comments, while SBC

18 Missouri believes the current complaint process set

19 forth in 4 CSR 242.070 is sufficient and flexible

20 enough to achieve expedited complaint resolutions,

21 SBC is not opposed to the Commission's efforts to

22 provide an expedited alternative for certain

23 customers.

24 However, as reflected not only in SBC

25 Missouri's comments, but also in every other parties'

1 pleading that filed written comments that I was able  
2 to find, SBC Missouri believes the rule should be  
3 limited to residential customers and should require  
4 informal resolution pursuant to 4 CSR 242.070 to be  
5 pursued in the first instance.

6 SBC offers the following additional  
7 comments: First, as written, 4 CSR 240-2.070 may  
8 apply to all complaints by any customer, including  
9 utilities purchasing service from another utility.  
10 Moreover, business customers are typically more  
11 sophisticated and do not require the expedited  
12 process proposed here.

13 For these reasons, SBC Missouri proposes  
14 changes to the title and the purpose of the rule  
15 which are set forth in our comments on page 2. And  
16 this would limit the rule to residential customers.

17 Second, as every entity that filed  
18 written comments recognizes the informal complaint  
19 process works well to resolve customer complaints,  
20 and for SBC Missouri, it resolves virtually all of  
21 the concerns customers have with SBC.

22 Thus, SBC Missouri believes that  
23 complainants should be required to comply with  
24 4 CSR 240-2.070, subsection 2, before the complainant  
25 may proceed with the procedure outline in this rule.

1                   SBC Missouri proposes specific language  
2   to incorporate this change on page 2 of its comments.  
3   We do not believe that that would be any type of  
4   barrier to the Commission because if the customer  
5   is -- does not want to go through the informal  
6   complaint proceeding, they will always still retain  
7   the right to file a formal complaint with the  
8   Commission.

9                   Third, SBC Missouri echoes the concerns  
10   of MCI and MTAA that this proposed rule should only  
11   apply to regulated services provided by companies  
12   regulated by the Missouri Public Service Commission,  
13   and that complaints under a threshold amount of a  
14   thousand dollars or less.

15                   Additionally, if the Commission decides  
16   not to limit the rule to residential customers,  
17   corporations should be required to be represented by  
18   an officer or authorized employee just as they are in  
19   small claims court. SBC Missouri proposes specific  
20   language to address these concerns on page 3 of its  
21   comments.

22                   Four: 4 CSR 242.071, subsection 4  
23   should be clarified to allow a company to file a  
24   Motion to Dismiss or any other responsive pleading  
25   that is permitted by the Missouri Rules of Civil

1 Procedure or the Missouri Code of State Regulations.  
2 The judge should be permitted judicial discretion to  
3 dismiss complaints.

4 While SBC Missouri has no objection to  
5 providing information that the judge may reasonably  
6 require, the word "need" should be replaced by  
7 "reasonable request" so that the parties need not  
8 anticipate what the regulatory law judge may need.

9 Moreover, the parties should be  
10 permitted to submit documents and information that  
11 the party believes is relevant and appropriate for  
12 the proper resolution of the case. There's no  
13 need for a neutral investigation as set forth in  
14 4 CSR 240-2.071, subsection D, and the Office of  
15 Public Counsel designated by statute as a consumer  
16 advocate is not a neutral party.

17 Finally, parties should be permitted to  
18 conduct discovery and cross-examination. SBC  
19 Missouri proposes changes to this subsection, and  
20 those are set forth on page 5 of its written  
21 comments. SBC believes this rule should be clarified  
22 to reflect that any proposed rehearing would be  
23 before the Missouri Public Service Commission. SBC  
24 proposes changes to 4 CSR 240-2.071, subsection 5, on  
25 page 6 of its comments to reflect these changes.

1                   And those are all the comments that I  
2     have at this time, but I'd be happy to answer any  
3     questions.

4                   JUDGE DALE:   Do you have any questions,  
5     Jeff?

6                   CHAIRMAN DAVIS:  If we were to put in  
7     place the thousand-dollar cap that you are  
8     requesting, what would be the harm in letting the  
9     proposed rule apply to more than residential  
10    customers?

11                  MS. MacDONALD:  Well, in general, we  
12    believe that the informal complaint rule should be a  
13    prerequisite whether it applies to business customers  
14    or residential customers, because most of our  
15    processes are resolved there.  And the thousand  
16    dollars isn't like to us an absolute amount.  I  
17    recognize that in the statutes 382.305, the amount --  
18    the real small claims court is \$3,000.  \$3,000  
19    wouldn't be that big of a deal to us either.

20                  Our -- our basic belief is that it  
21    should be limited to residential customers, and if  
22    it's not, then it should at least require the parties  
23    to go through the informal complaint process.  But if  
24    it's an amount in excess of a small amount, whatever  
25    "small" is, then it probably should proceed from

1 informal to formal because it would likely involve  
2 complex issues if you're going to be disputing that  
3 much.

4 CHAIRMAN DAVIS: Okay. What are the  
5 rules in small claims court regarding Motions to  
6 Dismiss?

7 MS. MacDONALD: Well, I'm not so sure  
8 you need to file a Motion to Dismiss in small claims  
9 court, because if you don't answer in small claims  
10 court under 3 -- no, I'm sorry, under 482.355, the  
11 allegations of the complaint are considered denied,  
12 and any defense may be proved as if it were  
13 specifically pleaded. So this procedure is different  
14 than what's going on in the real small claims court.

15 CHAIRMAN DAVIS: Okay.

16 MS. MacDONALD: But I think that a  
17 Motion to Dismiss would be very important from a  
18 company's perspective because there may be situations  
19 where a complainant, through no fault of their own,  
20 may file a complaint that has nothing to do with  
21 regulated telecommunications service that's regulated  
22 by this Commission.

23 For example, if they believed they were  
24 coming here for DSL or wireless or --

25 CHAIRMAN DAVIS: Right. So it should

1     only apply to those services that we regulate?

2                   MS. MacDONALD:   That's correct.

3                   CHAIRMAN DAVIS:   What if it's in a  
4     bundle?

5                   MS. MacDONALD:   Then I think you would  
6     have jurisdiction over the portion of the bundle that  
7     is regulated.   And hopefully if the rule goes that  
8     it's resolved through the informal complaint process  
9     first, it would never get here.

10                  CHAIRMAN DAVIS:   I'll pass for right  
11     now.

12                  JUDGE DALE:   Commissioner Murray?

13                  COMMISSIONER MURRAY:   Do you know what  
14     is the average amount of your average residential  
15     dispute?

16                  MS. McDONALD:   I do not know that, but  
17     it's not gonna be a thousand dollars.

18                  COMMISSIONER MURRAY:   In your language  
19     that is proposed on page 3 --

20                  MS. MacDONALD:   Uh-huh.

21                  COMMISSIONER MURRAY:   -- the last  
22     sentence there, "Corporations or unincorporated  
23     associations shall be represented by an officer,  
24     authorized employee or attorney."

25                  Now, I assume you put that in because



1 the company would be represented by an attorney. Was  
2 it to clarify that the utility could be represented  
3 by an attorney?

4 MS. MacDONALD: Well, I think the  
5 utility, in my experience, would always be  
6 represented by an attorney. But let's -- the reason  
7 why we inserted that language was in the event that  
8 the Commission determined that it wasn't only going  
9 to apply to residential customers so that the  
10 customer was actually a corporation or an  
11 unincorporated association, and we wanted to make it  
12 clear that if they're going to come before the  
13 Commission, then they need to be represented by an  
14 authorized employee, officer or attorney, and that is  
15 the same as it is in the real small claims court  
16 pursuant to 482.310, because that's not considered  
17 the unauthorized practice of law in small claims  
18 court, and that's the purpose of the rule -- I mean  
19 the purpose of the language.

20 COMMISSIONER MURRAY: Okay. But if we  
21 clarified that this would only apply to residential  
22 customers, then --

23 MS. MacDONALD: Then we don't need that  
24 sentence.

25 COMMISSIONER MURRAY: Okay. Do you

1 have -- and you may have said it. I apologize if you  
2 did and I didn't hear you, but do you know how --  
3 what percentage of the disputes with residential  
4 customers are resolved through the informal complaint  
5 process?

6 MS. MacDONALD: In SBC Missouri  
7 virtually all of our complaints are resolved through  
8 the informal complaint process. And while I don't  
9 have any records to indicate percentages, I'm gonna  
10 go with above 95 percent.

11 COMMISSIONER MURRAY: So would it be  
12 reasonable to assume that you don't see any need for  
13 this rule?

14 MS. MacDONALD: Well, this one we're  
15 sort of supporting. I don't know that we necessarily  
16 believe that there is a need, but to the extent that  
17 the Commission feels that complainants need a quicker  
18 process, we don't object to this so long as they go  
19 through the informal complaint process first.

20 In reality, I think the formal complaint  
21 process could move just as quickly as the expedited  
22 process if the Commission so chose.

23 COMMISSIONER MURRAY: So those -- those  
24 companies who are not objecting to this, I would  
25 assume -- and I'll have to ask each one individually

1     because I can't just assume, but my guess would be  
2     that none of these actually see the need, that the  
3     customers are being well served by the informal  
4     complaint process as we have it, there are very few  
5     that go to the formal complaint, and when they do,  
6     they could be resolved as quickly if the Commission  
7     chose to do so?

8                     MS. MacDONALD: I think that that's  
9     correct, at least from our perspective. I mean, like  
10    I said, the vast majority are resolved through the  
11    informal complaint process. It ties up not only the  
12    customer's time and frustrates the customer to have  
13    to come to the Commission, but it ties up our time  
14    too. So, I mean, we would hope to resolve our  
15    difference in the informal complaint process.

16                    COMMISSIONER MURRAY: And things that  
17    tie up time drive up costs eventually, do they not?

18                    MS. MacDONALD: That's correct.

19                    COMMISSIONER MURRAY: All right. That's  
20    all I can think of right now. Thank you.

21                    JUDGE DALE: Commissioner Gaw?

22                    COMMISSIONER GAW: I could but I won't.

23                    MS. MacDONALD: Wow.

24                    JUDGE DALE: Commissioner Appling?

25                    COMMISSIONER APPLING: Good morning.

1 MS. MacDONALD: Good morning. How are  
2 you?

3 COMMISSIONER APPLING: We won't let you  
4 off quite that easy. Who do you see getting hurt out  
5 of this process? Anybody getting hurt?

6 MS. MacDONALD: If there is a change  
7 with my language? Well, I just -- I think from our  
8 perspective, we just believe that we're driving up  
9 costs if it's not limited to people who have gone  
10 through the informal complaint process, since  
11 virtually all of our complaints are resolved in that  
12 process.

13 Now, if they incorporate the informal  
14 complaint process, then we would be really happy with  
15 that. And at least from our perspective, especially  
16 if there's going to be a time limit, as I heard this  
17 morning proposed, if it involves a business customer  
18 or this rule isn't limited to either residential or  
19 business customers as written, I mean, it could apply  
20 to an IXP, for example, bringing a complaint, that  
21 would be so complex that it's just not really suited  
22 for an expedited small complaint process, and that's  
23 why we proposed the changes that we did.

24 COMMISSIONER APPLING: Would you care to  
25 comment just briefly on your history or your past on

1     satisfying or working with people in complaints?

2                   MS. MacDONALD:  Me personally?

3                   COMMISSIONER APPLING:  Yeah.  How do you  
4     rate -- not you personally.

5                   MS. MacDONALD:  Okay.

6                   COMMISSIONER APPLING:  But on SBC, what  
7     is your percentage of taking care of those things  
8     pretty quickly?

9                   MS. MacDONALD:  I would say that we try  
10    to resolve all customer complaints as quickly as  
11    possible.  I mean, some of them are easy to resolve.  
12    You look at the customer's records, you can give them  
13    an answer immediately.  But even to the extent that  
14    it's not that easy, I would say we resolve our  
15    complaints quickly, and we resolve virtually all of  
16    them through the informal complaint process.

17                   And I've taken plenty of calls from  
18    customers in the legal department, and we do try to  
19    resolve the customer's complaints to the extent that  
20    it's legitimate.

21                   COMMISSIONER APPLING:  Thank you.

22                   CHAIRMAN DAVIS:  No further questions.

23                   JUDGE DALE:  Thank you.

24                   MS. MacDONALD:  Thank you.

25                   JUDGE DALE:  Do we have any other

1 commenters in support of the rule?

2 (NO RESPONSE.)

3 JUDGE DALE: Do we have any commenters  
4 in opposition to the rule?

5 (NO RESPONSE.)

6 COMMISSIONER MURRAY: Judge, may I ask a  
7 question of those who testified -- or who spoke?

8 JUDGE DALE: Certainly.

9 COMMISSIONER MURRAY: I would just like  
10 to know from the various commenters, because I did  
11 ask SBC, but I didn't ask the others, whether  
12 you've -- and I believe Mr. Mills for OPC did testify  
13 that -- or did state that -- I know he stated they  
14 were in favor of the rule, but let me ask you first,  
15 Mr. Mills. Do you think there is a need for this  
16 rule?

17 MR. MILLS: I think any of the practices  
18 that are set out in this rule could be done under the  
19 Commission's current rules. I don't think there's  
20 anything in here that requires a rule to make these  
21 different procedures work. So to that extent, I  
22 don't believe there's a necessity for a rule.

23 I think some of the changes that are  
24 embodied in this rule are good changes, but I don't  
25 think you need a rule to make them work.

1                   COMMISSIONER MURRAY: Thank you. Is  
2   there anyone else in the room who believes that there  
3   is a need for this rule?

4                   (NO RESPONSE.)

5                   COMMISSIONER MURRAY: Thank you, Judge.

6                   JUDGE DALE: Thanks. If there's nothing  
7   further, then we're adjourned. Thank you. And off  
8   the record.

9                   (WHEREUPON, the public hearing was  
10  concluded.)

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