

1 BEFORE THE PUBLIC SERVICE

2 COMMISSION

3 STATE OF MISSOURI

4 _____
5 TRANSCRIPT OF PROCEEDINGS

6 Prehearing Conference

7 September 8, 2011

8 Jefferson City, Missouri

9 Volume 1

10 _____
11
12 Eddie Shepherd,)

13 Complainant,)

14 vs.) File No. EC-2011-0373

15 KCP&L Greater Missouri)

16 Operations Company,)

17 Respondent.)

18
19 _____
20 DANIEL JORDAN, Presiding

 REGULATORY LAW JUDGE

21
22 _____
23
24 REPORTED BY:

 NANCY L. SILVA, CCR

25 TIGER COURT REPORTING, LLC

A P P E A R A N C E S

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Commission

1 JUDGE JORDAN: Let's go on the
2 record.

3 The Commission is calling File
4 No. EC-2011-0373. This is the prehearing
5 conference for the case of Eddie Shepherd versus
6 KCP&L Greater Missouri Operations. I'm Daniel
7 Jordan. I'm the regulatory law judge assigned
8 to this action.

9 Today we're going to have some
10 discussion on the record, and after we do that,
11 I am going to leave the line open but go off the
12 record and leave the room so that the parties
13 may have discussions in my absence and not worry
14 about prejudicing me with any sensitive
15 information that they're not ready for me to
16 hear.

17 I'm going to start by taking entries of
18 appearance, which means, basically, introductions:
19 Name and address for the court reporter. Let's
20 start with the complainant, Mr. Shepherd. Will
21 you recite your name and address for us, please.

22 MR. SHEPHERD: Eddie Shepherd, 8675
23 County Road 392, St. Joe, Missouri.

24 JUDGE JORDAN: Thank you,
25 Mr. Shepherd.

1 One thing I need to clarify, and that is
2 whether -- which side of the county line you are on.
3 Are you in Buchanan County or are you in Andrew
4 County?

5 MR. SHEPHERD: Andrew County.

6 JUDGE JORDAN: Andrew County. Thank you
7 very much.

8 And for the Utility.

9 MR. STEINER: Roger W. Steiner, attorney
10 for KCP&L Greater Operations Company, 1200 Main
11 Street, Kansas, Missouri. I gave the court reporter
12 my card.

13 JUDGE JORDAN: Thank you. And you have a
14 representative of your client with you.

15 MR. STEINER: Cynda, go ahead.

16 MS. HENDERSON: Hi. This is Cynda
17 Henderson, Regulatory Affairs, Kansas City Power and
18 Light Company, 1201 Walnut, Kansas City, Missouri --
19 I'm sorry -- 1201 Main.

20 JUDGE JORDAN: Thank you.

21 And for Staff.

22 MS. HERNANDEZ: Good morning. Jennifer
23 Hernandez appearing on behalf of the Staff of the
24 Missouri Public Service Commission. Our address is
25 P.O. Box 360, Jefferson City, Missouri 65102. May

1 the record also reflect Dan Beck is here as a
2 technical witness.

3 JUDGE JORDAN: Thank you.

4 And I'll ask whether there's anyone here
5 from the Office of the Public Counsel. I don't see
6 anyone and I haven't heard anyone on the line yet.

7 (No response.)

8 JUDGE JORDAN: Okay. OPC is not present.
9 They have the right to be, but they're not required
10 to be.

11 Now, here's a few things that I want to
12 mention as far as the procedure for a hearing goes.
13 I want to make sure that everybody understands that
14 an administrative hearing, basically, is a trial and
15 is much like what happens in circuit court. It is an
16 evidentiary proceeding, and that means that the
17 evidence that we take will be subject to statute;
18 that is, the statutes will provide whether it comes
19 into the record or not, and the record is where the
20 Commission gets its facts from.

21 I'm going to give you a citation to a
22 statute that constitutes almost all the law on entry
23 of evidence, and that is Section 536.070, and that's
24 in the Revised Statutes of Missouri. I believe
25 you'll find that in the main volumes of RSMo 2000.

1 Now, the point of a hearing is to resolve
2 disputed facts, so if we have a hearing, it really
3 ought to be because there is a dispute as to the
4 facts of what happened. If there's no real disputes
5 as to the facts but only what the facts signify under
6 the law, there's really no need for a hearing.

7 KCP&L-GMO has filed some motions to
8 dispose of this action without a hearing which, under
9 the regulations, can happen. It didn't quite come
10 together for them, but the thing I want to note is
11 that the documents they show so far, if true, may go
12 a long way to prove their case, so I'd like the
13 parties to think very hard about what would actually
14 happen at a hearing and why we actually need a
15 hearing.

16 If the parties can agree to facts and
17 submit this case on a stipulation of facts, it saves
18 everyone a lot of time, a lot of hassle; moreover,
19 it's even better if the parties can work out a
20 solution between them, and I know the parties have
21 been working on that, but I'm going to encourage more
22 work on that.

23 The law encourages settlement, and the
24 reason that the law encourages settlement is that the
25 parties can usually come to some arrangement that is

1 better than an outsider, like the Commission, can
2 come up with simply because the parties know better
3 what they really need than the Commission does.

4 The Commission can only apply the law to
5 the facts. That's all the Commission can do, and
6 that's surprisingly limited in a case like this,
7 whereas the parties can -- in an action like this,
8 the parties can work out virtually anything that they
9 want to, so you have a lot more possibilities for
10 getting what you really want out of this action than
11 if the Commission goes to hearing.

12 On the other hand, I want to emphasize
13 that everybody has the right to a hearing if they
14 want. I'm just asking everyone to consider the
15 economies of time.

16 Any questions so far?

17 MR. SHEPHERD: Just continue on right now.

18 JUDGE JORDAN: Say that again,
19 Mr. Shepherd.

20 MR. SHEPHERD: Continue on right now.

21 JUDGE JORDAN: All right. I will do that.

22 Let's see. Now, in connection with that,
23 the Commission offers mediation services; that is,
24 the Commission, someone who's not going to hear the
25 case, will act as a neutral party to help the -- will

1 act as a neutral to help the parties work out a deal
2 that can get the parties what they want, and that
3 would be a session kind of like what we're doing
4 now. It can be face-to-face. It can be over the
5 phone.

6 In that kind of situation, that third
7 person won't be a decision-maker. It will be someone
8 who has background with the law, and the parties can
9 share information confidentially with that person,
10 sensitive information they might not want the
11 decision-maker to hear, and work towards some kind of
12 a resolution of the action, so I offer that as a
13 possibility also.

14 If we do go to hearing, remember I am not
15 an accountant and I'm not an engineer and I'm not an
16 economist. I'm an administrative lawyer. My
17 expertise is in conducting hearings. That's my
18 angle. So anyone who wants to present evidence for
19 my consideration in making a recommendation to the
20 Commission will have to speak in very plain and
21 simple terms.

22 Now, that being said, let me pause there
23 and ask if anybody has any questions. Mr. Shepherd,
24 any questions about the procedure at hearing?

25 MR. SHEPHERD: Not at the moment, I don't.

1 JUDGE JORDAN: Okay. Any questions from
2 the Utility?

3 MR. STEINER: You mentioned mediation. If
4 we're interested in that, both parties would just
5 file something that says that we want to mediate? Is
6 that the process? I've never asked for it before.
7 That's why I'm asking.

8 JUDGE JORDAN: That's a good question, and
9 I'm glad you asked. The Commission would want
10 something in writing to tell the Commission that you
11 want mediation. It is best done under agreement of
12 all parties, and that should be in writing also.

13 It is true that the Commission can compel
14 any party -- under its regulations, the regulations
15 provide that the Commission can compel any party to
16 attend mediation. That's not the best way. We've
17 done that in the past, and the results have been
18 mixed.

19 My experience is that when parties attend
20 a mediation, they may not be terribly hopeful of
21 success in settlement but -- and further, that
22 typically the cases do not settle on that day, but
23 what I've seen in my almost three years here is that
24 when parties go to mediation, though they don't
25 settle that day, they settle later and without

1 hearing, and I think that's because it gives that
2 day -- they take some time to think about what's
3 happening.

4 We're not talking about vast differences,
5 distances between attorney and client. We're not
6 talking about a client that's in Los Angeles or North
7 Carolina or something like that. The parties have --
8 the parties come to the table with an idea, but then
9 they do tend to think about it, and then they
10 actually -- they do later settle, so I find that very
11 hopeful and optimistic, and I think it commends the
12 mediation process to everybody.

13 MR. STEINER: Thank you.

14 JUDGE JORDAN: You're quite welcome. The
15 Commission encourages mediation because it generally
16 gets positive results.

17 Any other questions on that matter?

18 (No response.)

19 JUDGE JORDAN: Not hearing any, so I will
20 move on. I'm going to ask something of Mr. Shepherd.
21 There's been some -- you've served some subpoenas,
22 and some of that's been upheld and some of it has
23 not. My question is: Preparation for hearing, which
24 is currently scheduled for seven days from now,
25 Mr. Shepherd, how are you feeling about that?

1 MR. SHEPHERD: That's fine.

2 JUDGE JORDAN: Okay.

3 MR. SHEPHERD: I'd like to get it changed
4 up here to St. Joe, if I can.

5 JUDGE JORDAN: We can do that, and since
6 this is a small complaint case, it really should be
7 held locally, so you have the right to have that
8 hearing within your county or within 30 miles of
9 where the service was provided, and since that's a
10 matter of --

11 MR. SHEPHERD: Andrew County would be
12 fine.

13 JUDGE JORDAN: Say that again, please.

14 MR. SHEPHERD: Andrew County would be
15 okay.

16 JUDGE JORDAN: Very good. Very good.
17 What I'll do then, since that's a matter of right, is
18 I will -- upon leaving this prehearing conference, I
19 will go to my office and start working on getting a
20 location for that hearing, and if I can keep the same
21 date, I will; otherwise, I'll change the date but,
22 yes, it will be in Andrew County.

23 MR. SHEPHERD: Okay. And my question is,
24 I submitted to you guys a long time ago a request for
25 discovery, to the light company and you guys, and I

1 ain't got none of that stuff back yet, so how am I
2 supposed to fill out the subpoenas for the people to
3 come to court when I ain't got their names or
4 nothing?

5 JUDGE JORDAN: That's a fair question, and
6 enforcement of discovery is something we can talk
7 about. Now, when you say "served on you guys," we've
8 got Staff here and we've also got the Utility here.

9 MR. SHEPHERD: Okay. I sent the
10 Commission a copy of the request for discovery, and
11 they sent it to Kansas City Power and Light. Now, I
12 have not received nothing back from Kansas City Power
13 and Light yet.

14 JUDGE JORDAN: Okay. So let me take a
15 look.

16 MR. SHEPHERD: I got it right here. I can
17 read it off to you.

18 MR. STEINER: Is he talking about the
19 thing that's entitled, Western District Court?

20 JUDGE JORDAN. Right. We've had a few
21 discovery documents. We're all sorting through our
22 papers now, making sure we've got the right one for
23 you, Mr. Shepherd.

24 MR. SHEPHERD: I've got it right here in
25 my hand. I'll read it to you.

1 JUDGE JORDAN: Okay. What's the heading
2 on that? Does that start with --

3 MR. SHEPHERD: It's, In the United States
4 District Court for the Western District of Missouri,
5 St. Joe District.

6 JUDGE JORDAN: St. Joseph Division; is
7 that correct?

8 MR. SHEPHERD: Yeah, Division.

9 JUDGE JORDAN: Okay. I'm looking at a
10 document headed that. I know we've had a few here,
11 but this one does say, Request for Discovery.

12 MR. SHEPHERD: Right. It says, Motion,
13 running at my light meter; number such and such on
14 7/28/10; that it hit my electric furnace, my air
15 conditioner, my hot water tank, and transformer
16 before that; subpoenas to testify; work order on
17 replacing the transformer out here on the pole; the
18 account history from date '91 to 2011 --

19 JUDGE JORDAN: Yeah. I'm see--

20 MR. SHEPHERD: -- correct list of names of
21 all the meter readers, include the supervisor,
22 Carroll Stevey, Mr. Strausser, the two men that came
23 out that night and looked at my tree. They cut the
24 tree off the line that night 'cause they was getting
25 time and a half, but they wouldn't come back the next

1 day to cut it off 'cause they was going to get
2 regular time.

3 JUDGE JORDAN: Okay. I think we're all
4 looking at the same page here now, at least. What
5 you got to understand is that discovery generally
6 happens between the parties without the Commission
7 knowing about it unless, like you're doing now, you
8 tell me that you haven't got the things you've asked
9 for so --

10 MR. SHEPHERD: I ain't got nothing.

11 JUDGE JORDAN: Right. So far you've got
12 no compliance with that discovery.

13 Mr. Steiner, have you got that document
14 in front of you?

15 MR. STEINER: Yeah. I think you dealt
16 with that in an order saying that you had not seen
17 that when he filed his complaint and basically said
18 that there was not proper discovery. I'll look for
19 that order but --

20 JUDGE JORDAN: Okay.

21 MR. STEINER: Then these were all
22 incorporated into his subpoenas, and that's what
23 we --

24 MR. SHEPHERD: I think that was --

25 MR. STEINER: -- were getting ready to

1 produce at the hearing so --

2 JUDGE JORDAN: Right. Now, if I
3 understand correctly, Mr. Shepherd has done this
4 request for discovery so that he can get these things
5 before the hearing. Is that correct, Mr. Shepherd?

6 MR. SHEPHERD: Correct.

7 JUDGE JORDAN: Now, Mr. Steiner, you're
8 saying I've already ruled on this document?

9 MR. STEINER: I believe in one of these
10 orders you said you didn't notice that before and --

11 JUDGE JORDAN: Oh. I remember because --

12 MR. STEINER: Right.

13 JUDGE JORDAN: -- it was headed, In The
14 United States District Court --

15 MR. STEINER: Right.

16 JUDGE JORDAN: -- U.S. District Court.
17 Different jurisdiction.

18 MR. STEINER: Right.

19 JUDGE JORDAN: Entirely different agency,
20 so I didn't know quite what to do with that from --

21 MR. STEINER: Exactly, and neither did
22 we. And then all of these have been incorporated
23 into the subpoena.

24 JUDGE JORDAN: Uh-huh.

25 MR. STEINER: I think a lot of these we

1 could produce beforehand, if that's something we need
2 to do, but some of these, I don't think we can
3 produce, and we dealt with that in the Motion to
4 Quash --

5 JUDGE JORDAN: Right.

6 MR. STEINER: -- some of these so --

7 JUDGE JORDAN: You know, that might get us
8 pretty far down the road, I think, in this. These
9 things are the same items that were asked for in the
10 subpoena --

11 MR. STEINER: Right.

12 JUDGE JORDAN: -- which has been partially
13 quashed. The remainder of them I've directed GMO to
14 produce.

15 Now, Mr. Shepherd is asking they be
16 produced before the hearing --

17 MR. STEINER: Right.

18 JUDGE JORDAN: -- so that he can look at
19 them and prepare his case, and I think that's
20 reasonable.

21 MR. STEINER: Well --

22 JUDGE JORDAN: Go ahead. Please go ahead.

23 MR. STEINER: Except for the -- like, some
24 of these are individuals. We wouldn't produce those
25 before the --

1 JUDGE JORDAN: But you would identify
2 them.

3 MR. STEINER: Well, that's part of my
4 problem.

5 JUDGE JORDAN: If you can. If you can.

6 MR. STEINER: Some of these people --
7 anyway. Yeah.

8 MR. SHEPHERD: Well, they all -- excuse
9 me. They all work up here at the St. Joe office.

10 MR. STEINER: Okay. I'm just saying, for
11 instance, the two men that came out that night at
12 8:30, I'm assuming that to be the lightning strike,
13 which I think has been identified on 7/28, earlier in
14 that day.

15 MR. SHEPHERD: No, that ain't -- they came
16 out and -- like January or February of this year.

17 MR. STEINER: Okay. Well, that -- that
18 might be part of the reason we can't find them.

19 MR. SHEPHERD: That was the dangerous
20 situation call: Limb on the line.

21 JUDGE JORDAN: Okay. Okay. You know, I
22 think if you guys talk about this, you'll probably be
23 able to work out what it is Mr. Shepherd wants and --

24 MR. STEINER: Okay.

25 JUDGE JORDAN: -- I think that -- here's

1 what I think: This request for discovery is not
2 exactly in the format that an experienced lawyer
3 would file in circuit court, but I don't want that to
4 get in the way of resolving this case, so my hope is
5 that if Mr. Shepherd clarifies this for GMO today,
6 that GMO can produce what it can produce.

7 MR. STEINER: Right.

8 JUDGE JORDAN: That also sounds like
9 will -- Mr. Shepherd, you'll probably want some
10 time -- he'll need some time to produce those things
11 when he understands what those are. You'll want some
12 time to review them so that --

13 MR. SHEPHERD: I need their names so I
14 could type up the subpoenas --

15 JUDGE JORDAN: Correct.

16 MR. SHEPHERD: -- head back down to the
17 office in St. Joe and serve it to them.

18 JUDGE JORDAN: Right, so --

19 MR. STEINER: And, you know, if it's a
20 contractor that KCP&L -- that did the tree work and,
21 again, we didn't have any record of this --

22 MR. SHEPHERD: This -- this is your guys.

23 MR. STEINER: -- we wouldn't have the
24 power to produce them. He would have to serve a
25 third-party contractor. We wouldn't --

1 MR. SHEPHERD: What's your name?

2 JUDGE JORDAN: This is --

3 MR. STEINER: This is Mr. Steiner, Roger
4 Steiner.

5 MR. SHEPHERD: Steiner? This was your
6 guys's own company guys that came out that night at
7 8:30 or 9:00 o'clock that night.

8 MR. STEINER: Okay. We looked in our
9 records for 7/28 because we did -- we thought that
10 night meant the -- we'll need to know what night
11 you're talking about. My other --

12 MR. SHEPHERD: All right.

13 MR. STEINER: So we can look at that new
14 date you're talking about, but we didn't have any
15 record of anyone doing that on 7/28.

16 And then our other further complication
17 is, is if it's -- a lot of our tree trimming is done
18 by contractors, and we would not have the ability to
19 produce those people at --

20 MR. SHEPHERD: This was your guy's --

21 MR. STEINER: We need names but --

22 MR. SHEPHERD: -- tree people. A
23 technical man came out to look at the meter with him,
24 and the guy that I talked to worked at St. Joe Light
25 and Power for 40 years for that company.

1 MR. STEINER: Okay. Well, what was the
2 date that you're thinking it was?

3 MR. SHEPHERD: It's in February this year,
4 sir. I don't know exactly what date 'cause -- I just
5 called them and told them it was a dangerous
6 situation, at the 800 number, and they came out at
7 9:00 o'clock that night or so after they was off work
8 and they looked at it. Well, we'll cut these two
9 little limbs off. They got pictures down there of
10 the -- of the tree on the line and -- but we won't
11 come back tomorrow because we'll get regular-pay
12 hours in the daytime.

13 MR. STEINER: I want to ask the judge:
14 What would that have to do with a faulty meter
15 complaint?

16 MR. SHEPHERD: Well, the lightning hit the
17 meter, and you get me a light -- a letter saying it
18 hit the meter.

19 JUDGE JORDAN: Here's what we're getting
20 at.

21 MR. SHEPHERD: Yeah.

22 JUDGE JORDAN: What do you anticipate the
23 guys that cut the limb, what will they show that will
24 prove your claim or that thwart --

25 MR. SHEPHERD: Technically, I pushed on

1 the meter and the meter stopped.

2 JUDGE JORDAN: Okay. So --

3 MR. SHEPHERD: Hang on a minute.

4 JUDGE JORDAN: Yeah. Go ahead.

5 MR. SHEPHERD: Pushed on the meter again
6 and the meter speeded up, and the meter -- pushed on
7 it again and the meter slowed down.

8 MR. STEINER: You pushed on it?

9 MR. SHEPHERD: No, your technical guy did.

10 MR. STEINER: Okay. This is one -- is the
11 technical guy the guy that allegedly cut the tree
12 limb off?

13 MR. SHEPHERD: No, I cut the tree limb
14 off.

15 MR. STEINER: Who pushed on the meter?
16 The two men that came out at 8:30 at night?

17 MR. SHEPHERD: Yes, your company guys
18 pushed on the meter.

19 MR. STEINER: Pushed on the meter, and
20 that's why you want to talk to them, because they
21 pushed on the meter? Is that right?

22 MR. SHEPHERD: Right.

23 MR. STEINER: Okay.

24 JUDGE JORDAN: Okay. All right. Thank
25 you for that clarification, Mr. Shepherd.

1 MR. SHEPHERD: That's fine.

2 JUDGE JORDAN: Yeah. That's the kind of
3 thing that we're here to talk about. Since the
4 parties are getting into the details of what they
5 need and what they need to do, I think my job here is
6 mostly done, unless the parties have any further
7 questions for me.

8 MR. STEINER: Well, I would have one, your
9 Honor.

10 JUDGE JORDAN: Yes.

11 MR. STEINER: I mean, you clarified this
12 request for discovery as very -- almost identical to
13 the subpoena. You clarified such as account
14 financial history, 6/1/91 to 6/1/11. When I'm
15 producing the documents to Mr. Shepherd, can I use
16 your clarifications, because you said it will only go
17 back to 2004?

18 JUDGE JORDAN: Right. You can rely on my
19 clarification order to define the scope of the
20 discovery for items that are requested. If they're
21 the same items, my ruling would be the same.

22 MR. STEINER: Okay.

23 MR. SHEPHERD: On the -- the -- the
24 account financial thing, I want the ones with the
25 daily usage of kilowatt hours on it every day.

1 JUDGE JORDAN: Now, let me ask you about
2 that, Mr. Steiner, and also your client's
3 representative here. Daily kilowatt hours, is that
4 something that appears on a bill?

5 MR. STEINER: No.

6 MR. SHEPHERD: Yeah.

7 MR. STEINER: No, it does not. Not every
8 day, no.

9 JUDGE JORDAN: Okay.

10 MR. STEINER: An average.

11 JUDGE JORDAN: An average appears on a
12 monthly bill; is that correct?

13 MR. STEINER: Right, and we would produce
14 those.

15 MR. SHEPHERD: On your monthly bill, you
16 look on your bill -- I've got one here somewhere --
17 it says, Your average daily use was, like, 24
18 kilowatt hours a day; same period last year, 5,674.

19 JUDGE JORDAN: Okay. So that's what
20 appears on the bill is -- is that what you're looking
21 for? Are you looking for copies of bills?

22 MR. SHEPHERD: I want the copy of my bills
23 so I could show you guys in court where my trailer
24 house used this much electricity a day, and after the
25 lightning hit the meter, jumped from that to 152

1 kilowatt hours a day.

2 JUDGE JORDAN: Okay. I thank you for that
3 clarification. This is very helpful.

4 MR. SHEPHERD: Okay.

5 JUDGE JORDAN: Okay. Does anyone --

6 MR. SHEPHERD: Now --

7 JUDGE JORDAN: Something else,
8 Mr. Shepherd?

9 MR. SHEPHERD: Yeah, there's a bunch.
10 When Carroll Stevey came out and looked at the meter,
11 I was bitching at the meter people down there in
12 St. Joe. The meter reader wasn't reading the meter
13 right, and she -- he came out. Carroll Stevey came
14 out and read the meter. They charged me for 17,000
15 kilowatt hours of electricity, and I used, like, 600
16 to 700 that month, and I had to pay the 17,000 off or
17 they was going to shut my lights off.

18 And when I got it paid off, I went to the
19 budget payment plan, and then they figured the 17,000
20 kilowatt water hours' electricity, plus the lowest
21 bill I had, came up to \$152 a month payment, and I
22 paid that all off till I went back to the regular
23 payment thing.

24 And I want him to testify that they
25 overcharged me for the 17,000 kilowatt hours of

1 electricity that month, that I need Ralph -- not
2 Ralph -- Mr. Strausser to testify that he came out
3 and tested the meter out here at the pole.

4 I need to -- all the meter readers that
5 came out and looked at it and read the meter, 'cause
6 every time I caught them reading the meter, it was
7 like a thousand kilowatt hours a month, 900,
8 something like that, and when I don't catch them
9 reading it, it's 2500, 3200, 5,000 kilowatt hours a
10 month.

11 JUDGE JORDAN: Okay. If I recall
12 correctly, my order addressed those persons and the
13 production of those persons at hearing, did it not?

14 MR. STEINER: A list of the names of those
15 people --

16 JUDGE JORDAN: Right.

17 MR. STEINER: -- is what was requested.

18 JUDGE JORDAN: Right.

19 MR. SHEPHERD: I don't know their exact
20 names, so I can't put their exact names down.

21 JUDGE JORDAN: Correct.

22 MR. SHEPHERD: I know Carroll Strausser --
23 or Carroll Stevey -- I'm sorry - because I went to
24 school with him, and I know Mr. Strausser 'cause I
25 went to school with his nephew.

1 JUDGE JORDAN: And you will need those
2 before hearing so you can subpoena them to testify.
3 Am I correct?

4 MR. SHEPHERD: Correct.

5 JUDGE JORDAN: Okay.

6 MR. SHEPHERD: And the supervisor of the
7 meter readers in St. Joe, I wanted to have her
8 testify, the subpoena too. I don't know her name.
9 You know, I'm trying as best I can.

10 JUDGE JORDAN: I think I've already said
11 that you can have those things in my order of
12 clarification on your subpoena produced at trial, and
13 what I've just told Mr. Steiner is that I expect him
14 to deliver those things to you before hearing, so
15 you're going to get those things.

16 MR. SHEPHERD: That's fine.

17 MR. STEINER: Right, pursuant to your
18 clarification order, with the exception: If we can't
19 identify the names of the individuals that came out
20 at night.

21 MR. SHEPHERD: Okay. Mr. --

22 MR. STEINER: I don't know.

23 MR. SHEPHERD: What's your first name,
24 Mr. Shriner [sic]?

25 MR. STEINER: Steiner. My name's Roger.

1 MR. SHEPHERD: Roger. If you want to just
2 call me one day and I'll meet you down here at the
3 Kansas Power and Light Company, the supervisor, the
4 female supervisor, she was going to retire last year,
5 if that'll help you out any.

6 JUDGE JORDAN: Yeah, it may take a while
7 for Mr. Steiner to identify who these people are, but
8 that's something that he's working on.

9 You know what it sounds like? It sounds
10 like it may be -- I think we're going to have to
11 continue this hearing date, not only because of the
12 location, but also because it sounds like the parties
13 are going to need some more time to prepare their
14 cases, produce -- find documents, identify people and
15 exchange that information, so what I am going to do
16 is I'm going to -- when I leave this room, I'm going
17 to go ahead and issue an order canceling this hearing
18 date, and what I'll do is state that I will reset it
19 by separate order.

20 And what I'll also want to happen: By
21 the end of the day I want Staff to file a report with
22 me of a sentence or two giving me an idea of whether
23 we will need a hearing and when the parties think
24 will be appropriate for that.

25 MR. STEINER: I should be able to get this

1 discovery to Mr. Shepherd Thursday or Friday of next
2 week, if not sooner, but with the understanding that
3 I'm not -- I'm just giving him documents. I'm not
4 giving him people, I mean, because the discovery
5 is --

6 JUDGE JORDAN: Right. You'll be
7 identifying people --

8 MR. STEINER: Right.

9 JUDGE JORDAN: -- so that he may subpoena
10 them.

11 MR. STEINER: Then he can subpoena them.

12 JUDGE JORDAN: Right. I think that's
13 what -- that's what MR. SHEPHERD has in mind. Am I
14 correct, sir?

15 MR. SHEPHERD: Right.

16 JUDGE JORDAN: Very good. Very good.

17 Well, what I'm going to do now, unless
18 the parties actually have any questions for me about
19 the procedure of the hearing and how that goes, I
20 will leave the parties to further discussions, which
21 so far have been fruitful and very helpful, and I
22 encourage you to continue this dialogue in my
23 absence.

24 And while I'm out of the room, you can
25 talk about all kinds of things that may be helpful in

1 resolving these issues.

2 Does anyone have any questions about
3 hearing procedure for me before I leave the room?

4 MR. SHEPHERD: No, I do not.

5 JUDGE JORDAN: All right. Mr. Shepherd,
6 thank you for being so well-prepared. And also,
7 Mr. Steiner, I appreciate your cooperation and Staff
8 being available as well.

9 MR. SHEPHERD: Before you leave the phone
10 line --

11 JUDGE JORDAN: Yes, sir?

12 MR. SHEPHERD: -- I want to apologize for
13 the, "In The United States District Court," 'cause
14 that's what I typed up for another lawsuit --

15 JUDGE JORDAN: Ah.

16 MR. SHEPHERD: -- and I was just using
17 that template to do the motion thing for.

18 JUDGE JORDAN: Well, I figured that, and
19 it threw me off, but part of why we have these
20 conferences --

21 MR. SHEPHERD: I apologize for that.

22 JUDGE JORDAN: Apology accepted, and
23 that's why we talk together so that we can straighten
24 those things out.

25 MR. SHEPHERD: Right. You know, I sent

1 you guys pictures of the tree on the -- on the power
2 line --

3 JUDGE JORDAN: I have those before me.

4 MR. SHEPHERD: A bunch of pictures of
5 where the burnt spot is on the meter, the burnt spots
6 are on the back of the meter, different readings that
7 I had than the ones Kansas City Power and Light had
8 so --

9 JUDGE JORDAN: I see pictures of the
10 meter. I see pictures of the tree. I see pictures
11 of the dials, very detailed pictures of the dials on
12 the meter, so I've got all that in my file.

13 Well, if there are no more procedural
14 questions, we will adjourn this part of the
15 prehearing conference. I will leave this line open
16 for the parties to continue their constructive
17 dialogue.

18 MR. SHEPHERD: If Roger just wants to call
19 me right back on his phone, that's fine with me.

20 MR. STEINER: No, we'll --

21 JUDGE JORDAN: Oh, we'll leave this line
22 open.

23 MR. STEINER: This line will be open. We
24 can talk now.

25 JUDGE JORDAN: Yes, use this Commission's

1 line. It's at your disposal. And Staff will be here
2 to help you straighten things out too. They're very
3 helpful in this context.

4 MR. SHEPHERD: All right.

5 JUDGE JORDAN: And with that, if no one
6 has any other questions about procedure for me --

7 MS. HERNANDEZ: No, sir.

8 MR. SHEPHERD: No, that's good enough.

9 JUDGE JORDAN: All right.

10 MR. STEINER: You are canceling next
11 week's hearing? Is that what you said?

12 JUDGE JORDAN: I will do that as soon as I
13 get back to my office.

14 And with that we'll go off the record.
15 Thank you, everyone.

16 MR. STEINER: Thank you.

17 MR. SHEPHERD: Thank you.

18 MS. HERNANDEZ: Thank you.

19 (The hearing concluded.)
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1 CERTIFICATE

2 I, Nancy L. Silva, RPR, a Certified
3 Court Reporter, CCR No. 890, the officer before
4 whom the foregoing hearing was taken, do hereby
5 certify that the witness whose testimony appears
6 in the foregoing hearing was duly sworn; that
7 the testimony of said witness was taken by me to
8 the best of my ability and thereafter reduced to
9 typewriting under my direction; that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to the action in which this
12 hearing was taken, and further, that I am not a
13 relative or employee of any attorney or counsel
14 employed by the parties thereto, nor financially
15 or otherwise interested in the outcome of the
16 action.

17
18 _____
19 Nancy L. Silva, RPR, CCR
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