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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

October 16, 2013  
Jefferson City, Missouri  
Volume 2

CRAIG MERSHON, )  
)  
Petitioner, )  
)  
vs. )Case No. EC-2013-0521  
)  
UNION ELECTRIC COMPANY d/b/a )  
AMEREN MISSOURI )  
)  
Respondent. )

DANIEL JORDAN, Presiding  
SENIOR REGULATORY LAW JUDGE

REPORTED BY: Monnie S. Mealy, CCR, CSR, RPR  
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1 A P P E A R A N C E S

2 For Staff of the Missouri Public Service Commission:

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6  
7 For Union Electric Company d/b/a Ameren Missouri:

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12  
For Mr. Craig Mershon:

13  
Mr. Craig Mershon, Pro Se

14  
15 Also Present:

16 Mr. Christopher Worth, via telephone  
Ms. Kathy Hart, via Telephone  
17 Ms. Gay Fred  
Mr. Justin Edwards

18  
19  
20  
21  
22  
23  
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1 P R O C E E D I N G S

2 JUDGE JORDAN: The Commission is calling  
3 the case in File No. EC-2013-0521. This is the  
4 Complaint of Craig Mershon versus Ameren Missouri.

5 My name is Daniel Jordan. I am the  
6 Regulatory Law Judge assigned to this action. I  
7 will start with -- by taking entries of  
8 appearances. And I'd also like the parties to  
9 identify assistants or representatives of their  
10 clients. We'll start with the Complainant,  
11 Mr. Mershon.

12 MR. MERSHON: I'm Craig Mershon. I filed  
13 this complaint, and my representative is  
14 Mr. Christopher Worth, Grass Roots Organizer for  
15 Community Advocates for Paraquad?

16 JUDGE JORDAN: Is that Community Advocates  
17 for Paraquad?

18 MR. MERSHON: Yes. Center for Independent  
19 Living.

20 JUDGE JORDAN: Thank you, Mr. Mershon.  
21 And next, let's go to Ameren.

22 MS. GIBONEY: Sarah Giboney at Smith Lewis  
23 representing Ameren Missouri. And on the line also  
24 is Kathy Hart, the Customer Service Supervisor.

25 JUDGE JORDAN: I'm sorry. What was that

1 title again?

2 MS. GIBONEY: Kathy Hart.

3 JUDGE JORDAN: Did you say Customer

4 Services --

5 MS. GIBONEY: Supervisor.

6 JUDGE JORDAN: Supervisor. Thank you.

7 And for Staff?

8 MR. KEEVIL: Appearing for Staff of the  
9 Public Service Commission, Jeff Keevil. Address is  
10 200 Madison Street, Jefferson City, Missouri,  
11 65101. And I also would mention that in the room  
12 here with me are Gay Fred and Justin Edwards of the  
13 Consumer Services Department of the Staff.

14 JUDGE JORDAN: Thank you. And looking  
15 around the hearing room, I see no representative  
16 from the Office of the Public Counsel, and I  
17 believe there is none on the phone.

18 And I mention that because the Office of  
19 Public Counsel is made a party to every action by  
20 Commission regulation, so they have the right to be  
21 here. But they do not -- they're not required to.

22 Here's what we're going to do today.  
23 We're going to have a pre-hearing conference, and  
24 we're going to have part of that on the record, and  
25 that's what we're doing now. We can talk about

1 procedure. We can even talk about what substantive  
2 matters are at issue and discuss the possibilities  
3 for settlement.

4 But you might want to do that in the  
5 second part of this, which will be off the record,  
6 so as to avoid divulging sensitive information,  
7 stuff that you don't want me to hear, stuff that  
8 you just want to discuss with the parties.  
9 And that will include scheduling.

10 And maybe there will be some -- some, some  
11 progress in settlement as well. So what I'll do,  
12 when I'm done doing my -- giving my little  
13 discussion is I'll leave the room. We'll go off  
14 the record. And I'll leave the phone line on so  
15 that everyone can talk.

16 Keep in mind, also, that if the parties  
17 reach an impasse and can't really resolve their  
18 differences but would like to try a little further,  
19 the Commission offers mediation services. All the  
20 Regulatory Law Judges are -- are trained in civil  
21 mediation, and they can be very effective in that.  
22 So that's something to keep in mind, also.

23 Question so far from everyone? From  
24 Mr. Mershon, any question about what we're doing  
25 today?

1 MR. MERSHON: I understand perfectly what  
2 we're doing today.

3 JUDGE JORDAN: Very good. And anything  
4 from the utility, Ameren?

5 MS. GIBONEY: No, Judge.

6 JUDGE JORDAN: Very good. And Staff?

7 MR. KEEVIL: Not yet.

8 JUDGE JORDAN: Okay. All right. A few  
9 things I wanted to mention to all the parties.  
10 This action is a Complaint, and the purpose of a  
11 Complaint is basically one thing, to determine  
12 whether Ameren has committed a violation.

13 And when I say a violation, Mr. Mershon  
14 raises a good point in some of his pleadings that  
15 it is not about his feelings, that he's heard from  
16 other parties saying, Well, we're sorry your  
17 feelings are hurt. And Mr. Mershon wants to  
18 concentrate on other provision law, and that's  
19 exactly what the complaint is about.

20 We'll be talking about in this proceeding,  
21 in this Complaint proceeding, about whether there  
22 has been a violation of a statute or a regulation,  
23 tariff or Order of the Commission. That's what  
24 this proceeding determines.

25 As far as what those provisions might be,

1     there are some listed in the Staff report that  
2     might be applicable to the fact that Mr. Mershon  
3     alleges. And if Mr. Mershon has any others that he  
4     wants to address, he needs to do that in a timely  
5     manner and certainly not delay. This would be a  
6     good time to bring that up.

7             That could also be a subject for  
8     discussions of scheduling. Scheduling deals with  
9     things like filings, when the hearing date is good  
10    for people, things like that.

11            Depending on when the hearing date is  
12    everybody has to be prepared well in advance, so  
13    it's good to have filings come to an end well  
14    before that.

15            I just want to remind everyone that this  
16    is -- this will be an evidentiary proceeding if we  
17    go to hearing. It will be much like Circuit Court,  
18    and the law of evidence will apply.

19            Technical rules of evidence don't. But  
20    what's a technical rule and what's a fundamental  
21    rule? Well, I will point all parties to a statute  
22    in the Revised Statutes of Missouri, and that is  
23    Section 536.070. And that will tell you how to get  
24    your facts before the Commission. And that's if --  
25    that's if we do go to evidentiary hearing.

1           There's other ways to deal with this  
2   Complaint. And I know you've all been through the  
3   regulations, so you know what they are. There's  
4   always the possibility for settlement. There are  
5   Consent Orders. There are dispositive positions  
6   that can get a ruling without a hearing and all  
7   kinds of things like that.

8           Any questions so far on that?  
9   Mr. Mershon, anything so far?

10           MR. MERSHON: I'd like to know -- I tried  
11   that 800 number -- 866, whatever it is. It didn't  
12   work. What's wrong with it? You put it in your  
13   pleading, and it did not work.

14           JUDGE JORDAN: I have no idea. You dialed  
15   866-630-9356?

16           MR. MERSHON: Yeah. And it says this  
17   number does not end up going to another number.

18           JUDGE JORDAN: Okay. I appreciate you  
19   mentioning, that and I'm going to take that  
20   straight to my technical people. What else can I  
21   -- what other questions can I answer for you,  
22   Mr. Mershon?

23           MR. MERSHON: Nothing right now will I see  
24   where this heads.

25           JUDGE JORDAN: Very good. Very good.



1 Anything from Ameren?

2 MS. GIBONEY: No, Judge.

3 JUDGE JORDAN: All right. Anything from  
4 the Staff?

5 MR. KEEVIL: Yeah. I guess I'll ask it  
6 now. You mentioned scheduling, Judge. And then  
7 you said basically what the -- I guess my first  
8 question was going to be about filing a list of  
9 issues.

10 But you basically stated what the issue  
11 is. And I agree with that. So does that alleviate  
12 the need to file a list of issues because,  
13 basically, what I just said has -- you know, has  
14 Mr. Mershon -- has Ameren violated any statute,  
15 rule, regulation, order relative to Mr. Mershon. I  
16 mean, that's basically the list.

17 JUDGE JORDAN: Right.

18 MR. KEEVIL: So do we need to file a list  
19 of issues, or how do you perceive --

20 JUDGE JORDAN: I'll tell you -- I'll tell  
21 you. I don't see anything in the complete  
22 regulation that requires filing a list of issues.

23 Issues list and position statements are  
24 kind of a bleed-over from rate cases.

25 MR. KEEVIL: Okay.

1 JUDGE JORDAN: Where they are necessary.

2 I mean, there's really no other way to do a rate  
3 case because you can't do pleadings when you have  
4 tens of thousands of line-ups.

5 The practice is helpful in some ways, but  
6 not necessarily. I'm not going to require any  
7 further pleadings. Parties might want to do it,  
8 but they would want to schedule that. I mean, that  
9 would be up to the parties. That's for you to  
10 decide.

11 MR. KEEVIL: So the only thing that you  
12 actually need scheduled would be a hearing date  
13 then?

14 JUDGE JORDAN: For all I care for my  
15 purposes, yes. If you don't schedule things like  
16 discovery cut-off, et cetera, you may run into  
17 issues of late discovery.

18 But the Commission could always refuse to  
19 rule on it, Motion to Enforce Discovery, because  
20 it's simply too late.

21 MR. KEEVIL: Right. The -- something I  
22 just -- reminded me of a question I was going to  
23 ask, and then I forgot.

24 JUDGE JORDAN: Okay. Well, take your  
25 time. Issues, statements.

1 MR. KEEVIL: Yeah. You said the only --  
2 the only thing that you require would be a hearing  
3 date. Okay. I guess --

4 JUDGE JORDAN: Right. The rest of the  
5 scheduling really is for the parties convenience.

6 MR. KEEVIL: Right.

7 MS. GIBONEY: Judge, I do have a question.  
8 This is Sarah Giboney from Ameren.

9 JUDGE JORDAN: Yes, ma'am.

10 MS. GIBONEY: I guess I have a question  
11 about given the second filing by Mr. Mershon the  
12 one that's labeled Petition.

13 JUDGE JORDAN: Yes.

14 MS. GIBONEY: I guess I have a question  
15 about what -- what the current relief requested by  
16 Mr. Mershon is. That would -- you know, if I had a  
17 clearer understanding of that, then I think, you  
18 know, we might try to file some motions.

19 JUDGE JORDAN: Well, I think that's a fair  
20 question, but it's really more a question -- we'll  
21 start with the filer's intent. Mr. Mershon, did  
22 you want us -- what was -- your most recent  
23 complaint, is that intended to replace your earlier  
24 filings?

25 MR. MERSHON: It is intended to bring it

1 up to date, but, also, to -- that's what the  
2 complaint really is about is -- you all talk about  
3 rules and regulations and all that. It's really  
4 not about that. It's really about how people --  
5 how Ameren and the Missouri Public Service  
6 Commission kind of treats the customers.

7 It brings out -- and there is no  
8 regulation to treat people really badly and then  
9 get responses from them. There's -- there needs to  
10 be something put in place where basically because  
11 they -- because they are of this agency, they have  
12 the right to treat people, solve people's problems  
13 and they say they're following tariffs.

14 There is no tariff in the world that would  
15 tell somebody, Okay, well, we can do whatever we  
16 want to. It's basically -- like I said, it's abuse  
17 of power. And that's what they have done, I  
18 believe.

19 JUDGE JORDAN: Okay. I'm not going to  
20 waste everybody's time by repeating what I said  
21 about what the statutes say a Complaint is about.  
22 I've been through that, and I think everybody  
23 understands that.

24 It might be worth the parties' time to --  
25 to straighten this out off the record as to what

1 Mr. Mershon is putting at issue. Right now I have  
2 two Complaints, and I have two responses, and I  
3 have Staff's report. So this might be a good time  
4 for an issues list. I don't know. But I will  
5 leave the parties to -- to sort that out. Anything  
6 else before we go off the record?

7 MS. GIBONEY: Judge, are we -- are we at a  
8 place where we can talk about a scheduling --  
9 scheduling and a scheduling order?

10 JUDGE JORDAN: Yes. But it doesn't sound  
11 -- but it sounds like -- I don't think you will  
12 need me to do that. Or will you?

13 MS. GIBONEY: Do we want to just talk  
14 generally maybe with Mr. Mershon about a discovery  
15 cut-off date and then a hearing date?

16 JUDGE JORDAN: Yes. And -- and you can  
17 certainly do that. I'll leave the room so you can  
18 -- you could do that, and we'll go off the record.  
19 Is there anything more for me before I leave the  
20 room and we go off the record?

21 MR. KEEVIL: Judge, I've got two things  
22 that came back to me.

23 JUDGE JORDAN: Yes.

24 MR. KEEVIL: One of which is it is nearly  
25 impossible at times to contact Mr. Mershon because

1 he has not provided an e-mail address or fax  
2 number. So if we are -- if we were in a position  
3 to exchange, you know, issue lists, for example,  
4 something like that, we need to get an e-mail or a  
5 fax or something for Mr. Mershon so we can do that  
6 in the 21st Century technology.

7 The other thing is I would just --  
8 question for you, looking at this small Complaint  
9 rule, it has something in there about Staff shall  
10 do a report, but Staff shall not advocate a  
11 position.

12 So that puts us in kind of a weird  
13 situation because the rule says do not -- Staff, do  
14 not advocate. So I find myself -- I find myself  
15 wondering exactly what it is -- beyond the filing  
16 of that report that we filed a month ago, what it  
17 is exactly that we do or that we are expected to do  
18 or are allowed to do because, I mean, you know, I  
19 can't really take a position one way or the other  
20 beyond what was already filed. Any -- any guidance  
21 that you could give on that would be appreciated.

22 JUDGE JORDAN: Well, I'll tell you what  
23 the practice has been so far, and maybe you can  
24 follow that, or maybe reading the regulation, you  
25 can see some other practice that would be

1 appropriate, also.

2           The last time I did one of these, we did  
3 go to evidentiary hearing. And all parties, not  
4 counting Office of Public Counsel, were present.  
5 That means Staff was there. Staff brought with it  
6 a witness in case one of the parties or the  
7 Regulatory Law Judge or Commissioners, should a  
8 Commissioner show up, wanted to call that witness.

9           And that's -- and that's what -- that's  
10 what staff did in that case. Staff also  
11 cross-examined so as to clarify its position. And  
12 that's -- that was Staff's -- that's what Staff  
13 did.

14           MR. KEEVIL: Okay. Yeah. That's kind of  
15 what I was thinking. But that would be about all  
16 that would be permitted basically under the rule  
17 that says, Do not advocate.

18           JUDGE JORDAN: Well, it's a little bit  
19 enigmatic, isn't it?

20           MR. KEEVIL: Yes.

21           JUDGE JORDAN: Because as lawyers, we --  
22 Staff Counsel is hired mostly to advocate. And so  
23 here you are representing Staff, but you're not to  
24 advocate. Well, not to advocate any position  
25 beyond what's in your report; isn't that correct?

1 MR. KEEVIL: That's correct.

2 JUDGE JORDAN: I don't have that  
3 regulation before me, but I think it's something  
4 like that. So that much, you can advocate.

5 MS. GIBONEY: Judge, this is Sarah  
6 Giboney. I do have a follow-up to something  
7 Mr. Mershon said, and I wanted to ask you a  
8 question given your most recent order.

9 I believe I heard Mr. Mershon say that his  
10 -- the Pleadings or Petition was intended to bring  
11 his Complaint up to date were his words.

12 And I guess I have a concern about there  
13 being any additional pleadings like that because  
14 the -- you know, my understanding of the Complaint  
15 process is a -- the point in time, snapshot of a  
16 particular -- whatever that's being complained of,  
17 but it's not intended to be an open-ended, you  
18 know, drop box.

19 And I -- I understood from your order  
20 where you say -- where Mershon asked for an  
21 extension to file more pleadings. And in your  
22 order, you say, Mr. Mershon offers no allegations  
23 why further filings are necessary to support relief  
24 that he has sought. Therefore, the Commission will  
25 deny the Motion for an extension of time.



1 I guess I'm asking for just a little -- a  
2 little clarity to -- to -- to Mr. Mershon about  
3 what additional pleadings might be permitted for;  
4 in other words, not to make additional complaints.

5 JUDGE JORDAN: Right. Well, I don't think  
6 I've said that there will be further pleadings. I  
7 think I said that there will be further complaints.

8 Our regulations are a little weird on  
9 this. They include pleadings. They include  
10 motions, you know, for interlocutory relief rather  
11 than initial responsive reply, which is what we  
12 usually think of as pleadings.

13 So as far as that goes, I was not  
14 anticipating any further Complaints. And if there  
15 were, I think I'd be inclined to assign a separate  
16 Complaint number to it because we have to solidify  
17 the issues. Otherwise, we can never try the case.

18 MS. GIBONEY: I think that's a better way  
19 of saying what I was trying to say, solidify the  
20 issues and the issues can't be continually added  
21 to.

22 JUDGE JORDAN: If that were true, we could  
23 never give Mr. Mershon the finality he desires.

24 MS. GIBONEY: Okay. I just wanted to make  
25 sure we were all clear on that. When he said his

1 -- his -- the pleading that was called a Petition  
2 was to bring things up to date that that wasn't --  
3 he wasn't intended to continue to file things that  
4 added to the Complaint.

5 JUDGE JORDAN: Right. Now, my most recent  
6 order, which is dated October 9th, ordered  
7 paragraph 1 allows -- states that there will be  
8 extended time for him to respond because he set  
9 forth in a little more detail and clarity what the  
10 -- what his issues were with communication.

11 And that's what -- that's what the ordered  
12 paragraph said. I will -- depending on what's  
13 filed and what he's responding to, there will be  
14 more time for his responses. That's the most  
15 recent order.

16 And I hope the parties will discuss ways  
17 that Mr. Mershon can -- can communicate with --  
18 with the -- with the parties more efficiently.

19 I am pleased to note that Mr. Mershon is  
20 filing his -- his documents correctly and in a way  
21 that gets to us more quickly. So I'm -- I'm  
22 pleased to see that progress.

23 MS. GIBONEY: And, and did we -- did we  
24 get some resolution on the e-mail issue?

25 JUDGE JORDAN: Not so far. But I think

1 you can do that without -- I would like Mr. Mershon  
2 to provide the parties with an e-mail address or --  
3 that would be -- I think that's the best way to  
4 communicate. That's how lawyers communicate these  
5 days. Mr. Mershon, do you have an e-mail address  
6 that these parties can communicate?

7 MR. MERSHON: I do, but it's kind of hard  
8 for me to see a lot of things, so that's why I put  
9 all my stuff in writing.

10 JUDGE JORDAN: Yes. Okay. Well, I'll  
11 leave the parties to discuss that when they're off  
12 -- when I'm -- when we're off the record. Is there  
13 anything else that I can do for the parties before  
14 we go off the record? I'm not hearing thing --  
15 anything.

16 So I thank everyone for their  
17 participation in this and -- and their willingness  
18 to make progress. And with that, we will go off  
19 the record. Thank you very much.

20

(The proceedings were concluded at 1:25 p.m. on  
21 October 16, 2013.)

22

23

24

25

1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI )

) ss.

4 COUNTY OF OSAGE)

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,  
7 Certified Court Reporter #0538, and Registered Professional  
8 Reporter, within and for the State of Missouri, do hereby  
9 certify that I was personally present at the proceedings as  
10 set forth in the caption sheet hereof; that I then and there  
11 took down in stenotype the proceedings had at said time and  
12 was thereafter transcribed by me, and is fully and accurately  
13 set forth in the preceding pages.

14

15 IN WITNESS WHEREOF, I have hereunto set my hand and  
16 seal on \_\_\_\_\_, 2013.

17

18

19

20 \_\_\_\_\_  
21 Monnie S. Mealy, CSR, CCR #0538  
22 Registered Professional Reporter

23

24

25

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