

Glory Pittsenbarger

vs.

Empire District Electric Company

Hearing Before:

Judge Ross Keeling

June 21, 2022

Vol 1

PHIPPS REPORTING

Raising the Bar!

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A P P E A R A N C E S

(All parties appearing via WebEx.)

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1 The following proceedings began at 9:01 a.m.:

2 JUDGE KEELING: Okay. Today is
3 June 21st, 2022. This is a WebEx conference. The
4 Commission has set this time for a pre-hearing
5 conference in the case captioned as Glory
6 Pittsenbarger versus Empire District Electric Company,
7 doing business as Liberty, File Number EC-2022-0291.

8 And my name is Ross Keeling. I'm the
9 Regulatory Law Judge in this matter. And we'll begin
10 by the attorneys and parties making their entries of
11 appearance. First of all, the complainant, that's
12 you, Ms. Pittsenbarger. You're here. Correct?

13 MS. PITTSBARGER: Yes.

14 JUDGE KEELING: And you are the
15 complainant. You filed a complaint in this matter; is
16 that correct?

17 MS. PITTSBARGER: Yes.

18 JUDGE KEELING: Okay. And for the
19 respondent, and that would be Liberty? Do we have any
20 appearance -- any entries of appearance for Liberty?

21 MS. CARTER: Yes. This is Diana Carter
22 for the Empire District Electric Company, doing
23 business as Liberty.

24 JUDGE KEELING: Okay. Anybody else on
25 behalf of Liberty? Okay. And then Staff? Do we have

1 any entries of appearance for the Staff?

2 MR. VANDERGRIFF: I'm Eric Vandergriff,
3 Staff counsel's office.

4 JUDGE KEELING: Okay. Anybody else?
5 Okay. Very good. Have I missed anybody?

6 MR. POSTON: Hi. This is Marc Poston
7 with Office of Public Counsel.

8 JUDGE KEELING: Hi, Marc Poston. We've
9 got Marc Poston with Office of Public Counsel here.

10 Okay. Failure to appear without having
11 previously secured a continuance shall constitute
12 grounds for dismissal absent a showing of good cause,
13 but everybody's here. And that would be under
14 20 CSR 4240-2.090(5).

15 The Regulatory Law Judge can rule on
16 procedural and substantive issues at this pre-hearing
17 conference and -- but I don't think we're going to get
18 there. Are there any preliminary matters that need to
19 be taken up at this time? Does anybody have any
20 questions that they need answered?

21 Okay. Hearing nothing, I'll say in this
22 matter, a complaint and answer and a Staff report have
23 been filed. And the things I want to talk about today
24 is mostly for the benefit of the complainant,
25 Ms. Pittsenbarger.

1 And Mr. Vandergriff, you are Staff
2 counsel; is that correct?

3 MR. VANDERGRIFF: That's correct.

4 JUDGE KEELING: What I would like you to
5 do, could you please explain the nature of the
6 Commission's relationship to the Staff and how the
7 Staff and the Commission communicate with one another?

8 And the reason I'm -- the reason I want
9 to do this is because for those who are unfamiliar, I
10 want it to be clear what the role of Staff is and
11 what -- and how that differs from the Commission
12 itself. Could you please give us that explanation?

13 MR. VANDERGRIFF: All right. A brief
14 explanation is that Staff, consisting of the Staff
15 counsel's office, technical staff, we have also our
16 auditing staff, our role here is to investigate and to
17 recommend policies for the Commission.

18 Staff counsel's office, though we are
19 commissioned to work for the Commissioners, we in no
20 way talk to the Commissioners. That's in order for
21 the Staff to come up with competent investigations,
22 competent recommendations that the Commission can then
23 use, should they choose to.

24 So Staff counsel, though we work for the
25 Commissioners, we don't talk to Commissioners or the

1 Judges about anything that has anything to do with the
2 case. We just send recommendations their way. Is
3 that a sufficient explanation?

4 JUDGE KEELING: So your means of
5 communicating with the Regulatory Law Judges the
6 Commission are through filings in the EFIS system; is
7 that correct?

8 MR. VANDERGRIFF: That's correct. And
9 any other communications we have is shared to
10 everyone. There's no one-on-one conversations.

11 JUDGE KEELING: Okay. And so you have --
12 you've submitted a Staff's report in this matter. And
13 I just wanted to point out that just because Staff's
14 report says one thing, that does not mean that's what
15 the Commission will do. Correct?

16 MR. VANDERGRIFF: That's correct.

17 JUDGE KEELING: Okay. Thank you very
18 much. I just want everyone to understand what could
19 happen. Does anybody have any response to that?

20 MS. PITTSBARGER: I don't. It's hard
21 for me to understand all of this, but I'm listening.

22 JUDGE KEELING: Okay. That's -- I
23 brought -- I called this conference for your benefit,
24 Ms. Pittsenbarger. And as -- I just want wanted you
25 to know that the Staff of the Commission is actually a

1 party in this matter and that the Staff, although they
2 file pleadings in this matter and recommendations,
3 they are -- they're a party and they are not the
4 Commission itself. They do not make the final
5 decisions, although you'll be dealing with them
6 throughout this matter because they are -- they are
7 the face of the Commission in terms of litigation.

8 And the next thing I want to --

9 MS. PITTSBARGER: I understand.

10 JUDGE KEELING: You understand that?

11 MS. PITTSBARGER: Yes, I do now.

12 JUDGE KEELING: Okay. I wanted you to
13 understand that difference. Because if you got
14 confused about that, then you might not be able to
15 make decisions appropriate with regard to your
16 complaint.

17 And the second matter I wanted to explain
18 was that, Ms. Pittsenbarger, in this matter, you will
19 be required to prove your case; that is, the burden of
20 proof is on you. And that has two parts. That is you
21 will have to produce -- you'll have to produce
22 evidence showing that your complaint is valid and
23 true, and you will have to present it in a way that
24 persuades the Commission that your case is correct or
25 that your case requires consideration.

1 And now that evidence is not -- it can be
2 documents, it can be your own testimony. Just
3 whatever evidence you have is what you need to produce
4 and you need to -- and you need to satisfy the burden
5 of proof in that. Do you have any questions about
6 that?

7 MS. PITTSBARGER: No. I did the best I
8 could by writing the letter.

9 JUDGE KEELING: Okay. Well, you have the
10 opportunity to engage in discovery and to ask
11 questions and follow all the rules in 20 CSR 4240-2.
12 Those are the procedural rules for the -- for
13 proceedings at the Commission. So I just wanted you
14 to be aware of that.

15 And if you have any questions about legal
16 process, about your rights or obligations in this
17 matter, then you will need to hire an attorney. No
18 one here can give you that advice. But I just wanted
19 you to be aware of what your obligations are with
20 regard to your complaint. Okay?

21 MS. PITTSBARGER: Okay.

22 JUDGE KEELING: Does anybody else have
23 any comments to make on of that? Mr. Vandergriff?

24 MR. VANDERGRIF: No comments to add.

25 JUDGE KEELING: Okay. Mr. Poston?

1 MR. POSTON: Yeah. I would just like to
2 add that -- just so she knows who our office is,
3 Office of Public Counsel. We represent the public
4 generally. We don't represent individual customers,
5 but, you know, we are a party in this case just to
6 kind of over- -- just looking out for the public
7 interest.

8 And so to the extent that she has any
9 questions for me, you're more than welcome to call our
10 office, you know, if you do have questions about
11 process and things and you don't want to hire an
12 attorney. You know, we can't represent you, but we
13 may be able to help you understand a few things about
14 the process. And so you are welcome to call our
15 office with any questions you might have.

16 MS. PITTSBARGER: What is your phone
17 number?

18 MR. POSTON: Let me just give you my
19 direct line. It's 573.751.5138. And we have an
20 800-number, but I can't recall it.

21 MS. PITTSBARGER: And your name again?

22 MR. POSTON: I'm sorry. Go ahead.

23 MS. PITTSBARGER: Your name again,
24 please?

25 MR. POSTON: My name is Marc Poston,

1 P-o-s-t-o-n.

2 MS. PITTSBARGER: Okay. Okay.

3 JUDGE KEELING: Very good. Ms. Carter,
4 do you have anything to put on that?

5 MS. CARTER: No. Thank you, Judge.

6 MS. PITTSBARGER: Excuse me, you guys.

7 JUDGE KEELING: Sure.

8 MS. PITTSBARGER: My computer is going
9 to go to sleep. So hang on. I've been having some
10 problems with my computer.

11 JUDGE KEELING: Okay. We're nearly
12 finished, Ms. Pittsenbarger.

13 MS. PITTSBARGER: Okay. All right.
14 Just go --

15 JUDGE KEELING: If nobody else -- say
16 that again, please.

17 MS. PITTSBARGER: No. I said just go
18 forward, please.

19 JUDGE KEELING: Okay. So if nobody else
20 has any other comments, I wanted to thank you all very
21 much for coming and having this brief session for the
22 benefit of the public and the complainant. And -- and
23 if nobody else has anything else to say, then we'll go
24 ahead and go off the record.

25 MR. VANDERGRIFF: Your Honor, I think

1 Diana Carter may have had something to say.

2 JUDGE KEELING: Ms. Carter?

3 MS. CARTER: Judge, I was just going to
4 ask if you had given us a date for a procedural
5 schedule -- for a proposed procedural schedule or if
6 you're wanting that?

7 JUDGE KEELING: Do we have submitted
8 dates for procedural schedule on the record now? Have
9 they been filed, proposed dates?

10 MS. CARTER: No. No. This is our first
11 get-together in this docket. And I don't believe we
12 currently have a date by which you'd like a proposed
13 schedule.

14 JUDGE KEELING: Okay. Could you please
15 get together -- all of the parties get together and
16 propose a date for -- or propose a procedural schedule
17 for this matter so that we can get things rolling and
18 figure out when things are going to happen.

19 And submit that to me by July 1st. No,
20 July -- yeah, July 1st is a good day for that. That's
21 more than ten days out. Anybody have any questions?
22 Okay.

23 MS. PITTSBARGER: I don't.

24 JUDGE KEELING: Okay. Well, thank you
25 very much for attending and everybody have a good day.

1 (Whereupon, the proceedings were
2 concluded at 9:13 a.m.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
COUNTY OF BOONE)

I, Tracy Taylor, CCR, CRR, RPR, do hereby
certify that I was authorized to and did
stenographically report the foregoing proceeding; and
that the transcript pages 1 through 13 is a true
record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative,
employee, attorney, or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am
I financially interested in the action.



Tracy Thorpe Taylor, CCR, CRR, RPR

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