

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Prehearing Conference
8 October 22, 2007
9 Jefferson City, Missouri
Volume 1

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12 Ralph E. Pridgen, Jr.,)
)
13 Complainant,)
)
14 v.) Case No. EC-2008-0021
)
15 The Empire District)
Electric Company,)
16)
Respondent.)

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21 KENNARD L. JONES, Presiding,
22 SENIOR REGULATORY LAW JUDGE

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25 REPORTED BY:

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1 APPEARANCES:

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6 FOR: Himself.

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22 Service Commission.

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

2 JUDGE JONES: We are on the record in
3 Case No. EC-2008-0021. My name is Kennard Jones.
4 I'm the regulatory law judge assigned to this matter
5 in the case of Ralph Pridgen, Jr. versus the Empire
6 District Electric Company. At this time we'll take
7 entries of appearances.

8 Mr. Pridgen, would you please state your
9 name and your address.

10 MR. PRIDGIN: Ralph Pridgen, Jr.,
11 1351 East US Highway 160 in Everton, Missouri.

12 JUDGE JONES: Thank you, sir. And for
13 Empire District.

14 MS. CARTER: Diana Carter, Brydon,
15 Swearengen & England, 312 East Capitol Avenue,
16 Jefferson City, Missouri 65101.

17 JUDGE JONES: And for the Staff of the
18 Commission.

19 MR. FREY: Dennis L. Frey, Post Office
20 Box 360, Jefferson City, Missouri 65102, representing
21 the Staff of the Missouri Public Service Commission.

22 JUDGE JONES: Thank you, Mr. Frey. And
23 for the record, I'll say that the Office of Public
24 Counsel who is a party to all Commission cases is not
25 present today, and I don't suspect that they will

1 participate.

2 Okay. Mr. Pridgen, you're claiming that
3 a meter reading for a particular time was unusually
4 high?

5 MR. PRIDGIN: Yes.

6 JUDGE JONES: And Empire checked the
7 meter and said it was okay?

8 MR. PRIDGIN: And the problem I had with
9 that was the meter failed during that major ice storm
10 condition. There was power surges, there was shorts
11 blown.

12 JUDGE JONES: You're saying it wasn't
13 working because the power was off --

14 MR. PRIDGIN: The -- my issue --

15 JUDGE JONES: -- right? Is that what
16 you're saying?

17 MR. PRIDGIN: Yes.

18 JUDGE JONES: Okay.

19 MR. PRIDGIN: That the -- the meter
20 failed during unusual conditions. They tested the
21 meter under normal conditions two months later.
22 There was no question from either party of the
23 operation when the meter was tested. I was
24 questioning what occurred with the meter in very
25 unusual conditions, and I'd like to adjust my claim

1 just a little bit.

2 It was never my burden of proof, I don't
3 believe, to explain why the meter failed. My case
4 was simply to prove that the reading on March was
5 incorrect.

6 JUDGE JONES: Okay.

7 MR. PRIDGIN: It's impossible for me to
8 prove why the meter failed in my case. I was trying
9 to get Empire to run the tests to prove that.

10 JUDGE JONES: So is it your theory that
11 under abnormal conditions the meter failed?

12 MR. PRIDGIN: Yes.

13 JUDGE JONES: Okay.

14 MR. PRIDGIN: And to make my case, I
15 feel like all I need to do is prove that on the date
16 that this meter was taken in question, the meter was
17 incorrect.

18 JUDGE JONES: Okay. The burden of
19 proof, as you probably know, is a legal issue, so --

20 MR. PRIDGIN: I -- I'm --

21 JUDGE JONES: It's a legal argument that
22 you're presenting, not a factual argument that the
23 meter did, in fact, fail. Burden of proof can be
24 further explored later. I don't think that's
25 anything we have to worry about today.

1 MR. PRIDGIN: I don't think there's any
2 reason to go into why the meter failed.

3 JUDGE JONES: Now, the purpose of this
4 prehearing conference -- let me back up and ask you
5 this. Have you been in contact with the company
6 about this case?

7 MR. PRIDGIN: I contacted the company
8 right after the receipt of the --

9 JUDGE JONES: The answer?

10 MR. PRIDGIN: The complaint -- I mean
11 the bill.

12 JUDGE JONES: Uh-huh.

13 MR. PRIDGIN: At that time they said
14 that it was -- colder weather caused more electricity
15 to be used, and then we went further from that. They
16 tested the meter --

17 JUDGE JONES: Well, since you've filed
18 your complaint, though, have you talked --

19 MR. PRIDGIN: Oh, no, I have not.

20 JUDGE JONES: So you haven't talked to
21 their attorney at all?

22 MR. PRIDGIN: No, I have not.

23 JUDGE JONES: That's the purpose
24 primarily of this prehearing conference is to give
25 you an opportunity to talk to the attorney and to

1 talk with our Staff. And our Staff is a neutral
2 third party. They don't have a position that they
3 will take in the case. They just check it out.
4 They've got to give their opinion on what they think
5 is the solution to the problem.

6 You don't -- just because they're our
7 staff doesn't mean that the Commission agrees with
8 them all the time. They put on evidence just like
9 any other party in the case.

10 MR. PRIDGIN: Okay.

11 JUDGE JONES: So this is a time for you
12 to sit down and talk about that and with their
13 attorney and see if you-all can't reach an agreement --

14 MR. PRIDGIN: Oh, okay.

15 JUDGE JONES: -- on this case. If you
16 can't come to some resolution, then you-all need to
17 discuss hearing dates, dates we can have a hearing.
18 How far did you have to come today?

19 MR. PRIDGIN: A little over 100 miles.

20 JUDGE JONES: A little over 100 miles.
21 Was it a burden for you to be here?

22 MR. PRIDGIN: I had to take off a day of
23 work.

24 JUDGE JONES: Would it be a burden for
25 you to attend a hearing? You can pick a date for

1 your convenience, of course. So will you have to
2 take off work again?

3 MR. PRIDGIN: I've only got one vacation
4 left to use this year.

5 JUDGE JONES: One vacation day?

6 MR. PRIDGIN: Yeah.

7 JUDGE JONES: Well, you can make the
8 hearing next year if you want. I'd rather for you to
9 be able to sleep late at home than come here for a
10 hearing on a vacation day. So you can set it for
11 next year.

12 In fact, next year may even be better
13 because our hearing calendar is getting pretty full.
14 We're probably about two or three months out right
15 now already. But that's something you-all can talk
16 about also.

17 In many of our cases we have people file
18 what we call prehearing testimony or prefiled
19 testimony where they file written testimony by
20 affidavit. That won't be necessary in this case. I
21 don't know if you were looking at our rules or
22 anything.

23 MR. PRIDGIN: No, I haven't.

24 JUDGE JONES: So that's not even a
25 concept that you're familiar with? Do you have any

1 witnesses other than yourself that you were wanting
2 to have testimony --

3 MR. PRIDGIN: No, just the documents
4 that I've presented. And I believe that they -- I
5 mean, I feel like they prove beyond any reasonable
6 doubt that the meter has to be wrong.

7 JUDGE JONES: Okay. Beyond a reasonable
8 doubt, I heard you say that.

9 MR. PRIDGIN: I'm not a --

10 JUDGE JONES: Well, since you brought it
11 up, I don't want you to think that you have to prove
12 beyond a reasonable doubt something. It's probably
13 just a balance, just a little bit more -- if the
14 Commission believes you more than they believe the
15 company, then you win.

16 Now, those documents that you have, that
17 would be evidence and you'll mark that during the
18 hearing, during the course of the hearing. It's not
19 something that I will be looking at today. You
20 understand that?

21 MR. PRIDGIN: Okay.

22 JUDGE JONES: So you'll be marking those
23 for the hearing, so you want to make copies of what
24 you have, a copy for the Empire District and a copy
25 for Staff and a copy for myself, and I'll make copies

1 for the Commission. You won't have to worry about
2 that. We'll make copies of those documents that will
3 be marked as evidence.

4 And Empire, they'll have documents also
5 that will be marked. I tell you, your documents,
6 mark them exhibits 1 up to however many you have.
7 Empire's documents will be marked with letters A
8 through -- hopefully they won't have more than 26. A
9 up to as many letters as they need.

10 Denny, will you let me know what the
11 results of your-all's conversation is, whether you've
12 settled anything or you need hearing dates or
13 whatnot?

14 MR. FREY: Sure.

15 JUDGE JONES: Mr. Pridgen, do you have
16 any questions you want to ask about the whole
17 process?

18 MR. PRIDGIN: I don't think so. Today's
19 only for us to try to reach this out amongst
20 ourselves?

21 JUDGE JONES: Exactly.

22 MR. PRIDGIN: And then if we can't reach
23 it, it moves forward?

24 JUDGE JONES: It moves forward, exactly.

25 Diana, do you have anything else?

1 MS. CARTER: I do not, unless -- I think
2 you had already said no prefiled.

3 JUDGE JONES: No, I don't think that
4 will be necessary. Staff will have one witness?

5 MR. FREY: I believe so, yes.

6 JUDGE JONES: And you'll have how many
7 witnesses?

8 MS. CARTER: I think it will need to be
9 two because I think there were two different people
10 involved with Mr. Oliver, but I don't have the name
11 of the person who was out there on site.

12 JUDGE JONES: I don't need that now. So
13 we're talking four witnesses including yourself. If
14 it needs to go to hearing, what will happen is you
15 will give your opening statement which is pretty much
16 your general argument. Then I'll swear you in as a
17 witness and you can state your case, enter in your
18 evidence and whatnot to me.

19 And I suppose Staff will probably ask
20 questions of you, and then Empire will ask questions
21 of you. And if they -- you know how attorneys can
22 treat a witness on the stand, but if they ask you
23 things that in your answers seem to be misleading or
24 you don't think that it's complete or clear, then
25 you'll have an opportunity to come back and address

1 those concerns.

2 MR. PRIDGIN: Come back and clarify my
3 side?

4 JUDGE JONES: Exactly, exactly. Then
5 the Commission may have questions and a Staff witness
6 will be put on and then Empire's. Other than that,
7 if you-all can work it out, we may not need a
8 hearing.

9 MR. PRIDGIN: Well, I hope we can.
10 Everything's been in writing and telephone and face
11 to face and discussed issues. Hopefully we can --
12 somebody will agree to somebody's side.

13 JUDGE JONES: Well, good luck. Do
14 you-all have anything else you want to discuss while
15 we're on the record?

16 MR. FREY: No, thank you.

17 JUDGE JONES: Okay. With that, then,
18 we're off the record.

19 (WHEREUPON, the recorded portion of the
20 prehearing conference was concluded.)

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