

THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference
August 16, 2017
Jefferson City, Missouri
Volume 1

Jerrald Fisher,)
Complainant,)
vs.) File Number EC-2017-0281
Union Electric d/b/a)
Ameren Missouri,)
Respondent.)

MICHAEL BUSHMANN, Presiding
SENIOR REGULATORY LAW JUDGE

REPORTED BY:
Angie D. Threlkeld, CCR
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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FOR: Staff of the Missouri Public Service Commission

1 JUDGE BUSHMANN: Let's go on the record.
2 Today is August 16th, 2017. It's 2:00 p.m. The
3 Commission has set this time for a procedural conference
4 in the case captioned as Jerrald Fisher versus Union
5 Electric Company d/b/a Ameren Missouri, File Number
6 EC-2017-0281.

7 My name's Michael Bushmann. I'm the
8 regulatory law judge in this matter.

9 And let's begin by having Counsel make their
10 entries of appearance.

11 Mr. Fisher, am I correct that you're
12 representing yourself in this case?

13 MR. FISHER: Unfortunately, Your Honor, I've
14 been pro se in this whole endeavor for so long. I'm an
15 indigent, so I have no money for an attorney.

16 JUDGE BUSHMANN: Well, that's fine. And if
17 you have any questions while we're on the record here, be
18 sure and stop me and ask me. I want to make sure that
19 you understand what's going on. And there is a court
20 reporter sitting here next to me, who will be
21 transcribing everything that we say while we're on the
22 record.

23 Appearing for Ameren Missouri.

24 MS. GIBONEY: For Ameren Missouri, I'm Sarah
25 Giboney from the law firm of Smith Lewis. And the court

1 reporter has my contact information. And with me today
2 is a representative of Ameren Missouri. This is Cathy
3 Hart.

4 JUDGE BUSHMANN: Thank you.

5 And Commission staff.

6 MS. MERS: Nicole Mers, appearing on behalf
7 of the Commission staff. And my information has been
8 provided to the court reporter.

9 JUDGE BUSHMANN: And I don't see anybody here
10 from public counsel.

11 All right. Well, the first thing I wanted to
12 do was to take up the Ameren Missouri motion to dismiss
13 that was included with its answer. The standard for
14 reviewing a motion to dismiss is solely a test of the
15 adequacy of Mr. Fisher's complaint to see if it alleges a
16 violation of state law or a tariff or Commission rule.

17 Since Mr. Fisher does make that allegation in
18 his complaint, I don't think it would be appropriate to
19 grant the motion to dismiss now, based solely on the
20 adequacy of the complaint itself.

21 However, Ameren Missouri does raise some
22 really good points in its motion about how the Commission
23 may not be able to grant some of the relief that
24 Mr. Fisher is asking for, such as constitutional claims
25 and request for money damages.

1 I should let you know, Mr. Fisher, that the
2 Commission is not a court of law, and so it doesn't have
3 the authority to make a decision about constitutional
4 claims or to award any money damages. The only thing the
5 Commission can decide is whether or not Ameren Missouri
6 violated a state law, one of its tariffs, or one of the
7 Commission's rules.

8 Since the facts of the case could apply to
9 multiple claims that Mr. Fisher has made in his
10 complaint, I think what I'll do is take the motion to
11 dismiss with the case and deal with that in a final
12 decision. But any evidence that might be presented
13 that's not related to the issues the Commission can
14 decide would be not relevant and would be subject to an
15 objection.

16 So I think we're going to need a procedural
17 schedule to move the case forward. Since Mr. Fisher is
18 not represented by counsel, I would ask staff to please
19 file a proposed procedural schedule by August 24th. And
20 I would be willing to consider skipping prefiled
21 testimony and going with live testimony at an evidentiary
22 hearing, if the parties decide that that would be
23 appropriate and make that request.

24 Mr. Fisher, the procedural schedule that I
25 mentioned is something that once we go off the record you

1 and the other parties can talk about it. It's a schedule
2 of events for the case and the dates by which those
3 events need to occur that would lead up to an evidentiary
4 hearing and then a final decision by the Commission.

5 Do you have any questions about the -- what
6 I've been talking about, any of those things?

7 MR. FISHER: Yes, sir, I do.

8 JUDGE BUSHMANN: Well, go ahead.

9 MR. FISHER: I have provided for the Court in
10 that email item that I mentioned earlier a procedural
11 document that you requested. There is one on file in the
12 Court as we speak.

13 JUDGE BUSHMANN: Okay. Well, I don't have a
14 copy of that with me. But when we go off the record, you
15 can talk with the other parties about what dates would
16 work for you for the different things that need to occur.
17 The attorneys can let you know what the usual case events
18 are for hearings of this type, cases of this type; and
19 then you can kind of come to an agreement with them about
20 when would be the best date to do that.

21 Did you have any other questions about any of
22 that?

23 MR. FISHER: Yes, sir, I do have questions.

24 JUDGE BUSHMANN: Go ahead.

25 MR. FISHER: The question that I have is that

1 I have suffered long delay. My power has been off going
2 on three years because of this decision of denial of
3 service. Clearly, as in my procedural schedule submitted
4 to the Court, it says that they have admitted in the
5 answers to the complaint that they have denied me
6 service. And I can testify to being denied service. I
7 haven't had service in close to three years. So that is
8 prima facie.

9 My contentions are all well written in that
10 document I sent to the Court, and the problem here is a
11 matter of delay. I've been out of my home. They broke
12 in my home; they stole my pipes on Memorial Day. I am a
13 veteran. I haven't had no place to live. I live on \$750
14 a month. I don't know why I'm being persecuted by a
15 multimillion dollar -- billion dollar corporation over
16 this issue at hand. And it's been continuing. And I
17 think that is absolutely wrong to have another date to
18 deal with this over a procedural schedule, when I have
19 before the Court now a procedural schedule.

20 And it is with respect, sir, that I ask that
21 it be read so at least my side is mentioned in the Court,
22 sir.

23 JUDGE BUSHMANN: Okay. Well, the Commission
24 has certain rules that it has to follow. Those rules are
25 required for us to follow. Some of those rules require

1 us to have certain procedural events and have an
2 evidentiary hearing. There has to be presentation of
3 evidence. The Commission has to receive that evidence,
4 and then make a final decision on that.

5 So I understand that you've submitted what
6 you would request would be done at a certain time, but
7 the Commission is the one that makes the ultimate
8 decision about when the case events would occur leading
9 up to an evidentiary hearing. That's what you and the
10 other counsel can talk about once we go off the record,
11 and hopefully you can come to some agreement. If you
12 cannot come to an agreement, you can submit your own
13 request for a procedural schedule separate from the other
14 parties. It's good if you can all agree. But if you
15 can't agree, you can provide something on your own.

16 I don't remember receiving anything from you
17 that's what you're describing. There was some
18 correspondence that was received shortly after there was
19 a notice of this conference, but I don't remember it
20 saying anything as to what you described. So you may
21 want to double-check, if you have access to any of the
22 case files from the Commission. It's on the Internet.
23 If you're able to access that, you can see everything
24 that has been filed in the case. And if there's
25 something that's missing that you want to include, then

1 you can try and send that again to the Commission's data
2 center.

3 Let me throw it open then to other parties
4 and see if there's anything else that they have that need
5 to be discussed while we're on the record.

6 MS. MERS: No, sir.

7 MS. GIBONEY: I don't believe so, Judge.

8 JUDGE BUSHMANN: Okay.

9 MR. FISHER: Your Honor?

10 JUDGE BUSHMANN: Yes, sir.

11 MR. FISHER: I have a problem with the fact
12 that they're unprepared on the date of this procedure.
13 The Court sent notice to me that we would have this at
14 2:00 on this day. I did respond with a written
15 procedural schedule, which is in the Court. That's the
16 only correspondence I sent you. And my problem is I
17 cannot get discovery from Ameren. And I've gone as far
18 as the Federal Court to force discovery and have been
19 unable to get any information from them. They have a --

20 JUDGE BUSHMANN: Well, I --

21 MR. FISHER: -- and a delay and a -- and this
22 needs to come to an end.

23 JUDGE BUSHMANN: Well, one of the things that
24 would be decided in the procedural schedule is, if
25 there's any special requests for the number of days that

1 a party has to respond to a discovery request, part of
2 that is in the Commission rules. So if you wanted to try
3 and get a copy of that. I think it was sent to you -- it
4 may have been sent to you. And it says in there about
5 how long a party has to respond once they've received a
6 discovery request.

7 And in the future, if you don't receive a
8 response or receive a response that you're not satisfied
9 with, you do have the power under Commission rules to
10 request that the Commission compel a response. So that
11 is an option that will be open to you. But that would be
12 something we would deal with later in a separate matter.

13 Right now all we're talking about today is
14 getting a procedural schedule so we can get the case
15 resolved as quickly as possible.

16 MR. FISHER: Your Honor?

17 JUDGE BUSHMANN: Yes, sir.

18 MR. FISHER: May I have an additional word,
19 sir?

20 JUDGE BUSHMANN: Yes.

21 MR. FISHER: In regards to compelling this
22 information, when the issue was in the Federal Court, I
23 did just that very same thing. I petitioned the Court to
24 have them respond to discovery and asked the Court to
25 compel them to respond. They have not responded to this

1 date. And it was thrown out of court, and the Court
2 ruled they did not have to respond.

3 JUDGE BUSHMANN: Well, this is a separate
4 thing -- this is a separate proceeding from what you may
5 have already filed in Federal Court. Nothing that
6 happened in that court applies here. We are not a court
7 of law. We're just an administrative agency.

8 MR. FISHER: Yes, sir.

9 JUDGE BUSHMANN: So if you do have discovery
10 that you want to submit to the company, then you would
11 need to do that again in this proceeding under the rules
12 of the Commission. So you might want to take a look at
13 those Commission procedural rules that were sent to you
14 so you know what's going on with the procedures here.

15 MR. FISHER: Yes, sir, I do understand that.

16 JUDGE BUSHMANN: Okay.

17 MR. FISHER: The biggest problem with that is
18 the long delay and nothing getting done.

19 JUDGE BUSHMANN: I understand. And that's
20 why we'll try and get the parties together, once I leave
21 here, and you can see if there's a way we'll move the
22 case along as quickly as we can. I understand that that
23 that's difficult for you based on your circumstances, but
24 the Commission has certain procedures it has to follow.

25 MR. FISHER: May I ask a question, one last

1 i ssue?

2 JUDGE BUSHMANN: Yes, go ahead.

3 MR. FISHER: I have tried to speak with their
4 attorney for some type of settlement for the wrongness
5 they've done to me and continuing, as well as the massive
6 lawsuit I have lost. And Ameren Missouri being a
7 monopoly, I have no one else to go to. And I have
8 suffered and am suffering at this very moment, continued
9 losses without remedy.

10 JUDGE BUSHMANN: Well, I can't talk about
11 settlement. I can't talk about settlement. But once I
12 leave the room, then you're welcome to bring that up with
13 the other parties.

14 MR. FISHER: Yes, sir. Thank you.

15 JUDGE BUSHMANN: All right. If there's
16 nothing further then, we will go off the record. And you
17 have -- the conference number is open till 4:00, if you
18 need it. Also, I've got a copy of the adjudication
19 calendar for the next six months, so it will help you to
20 come up with a schedule.

21 Mr. Fisher, I'm going to leave the room now,
22 and you can continue your conversation off the record
23 with the other attorneys.

24 Thank you, sir.

25 MS. GIBONEY: Thank you, Judge.

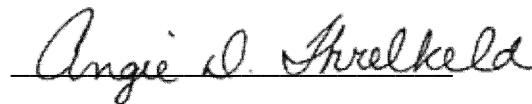
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MR. FISHER: Thank you so much, Your Honor.
(Off the record.)

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CERTIFICATE OF REPORTER

I, Angie D. Threlkeld, a Certified Court Reporter, CCR No. 1382, the officer before whom the foregoing hearing was taken, do hereby certify that the foregoing hearing was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Angie D. Threlkeld, CCR



<p style="text-align: center;">A</p> <p>ability 14:6 able 4:23 8:23 absolutely 7:17 access 8:21,23 action 14:9,13 additional 10:18 adequacy 4:15 4:20 adjudication 12:18 administrative 11:7 admitted 7:4 agency 11:7 agree 8:14,15 agreement 6:19 8:11,12 ahead 6:8,24 12:2 allegation 4:17 alleges 4:15 Ameren 1:14 2:8 3:5,23,24 4:2 4:12,21 5:5 9:17 12:6 Angie 1:20 14:3 14:19 answer 4:13 answers 7:5 anybody 4:9 appearance 3:10 appearing 3:23 4:6 applies 11:6 apply 5:8 appropriate 4:18 5:23 asked 10:24 asking 4:24 Assistant 2:9 attorney 2:4 3:15 12:4 14:11</p>	<p>attorneys 6:17 12:23 August 1:7 3:2 5:19 authority 5:3 award 5:4</p> <hr/> <p style="text-align: center;">B</p> <p>based 4:19 11:23 behalf 4:6 believe 9:7 best 6:20 14:6 biggest 11:17 billion 7:15 Box 2:6,11 bring 12:12 broke 7:11 Building 2:10 Bushman 1:17 3:1,7,16 4:4,9 6:8,13,24 7:23 9:8,10,20,23 10:17,20 11:3 11:9,16,19 12:2,10,15</p> <hr/> <p style="text-align: center;">C</p> <p>C 2:1 calendar 12:19 captioned 3:4 case 3:4,12 5:8 5:11,17 6:2,17 8:8,22,24 10:14 11:22 cases 6:18 Cathy 4:2 CCR 1:20 14:4 14:19 center 9:2 certain 7:24 8:1 8:6 11:24 CERTIFICATE 14:1</p>	<p>Certified 14:3 certify 14:5 circumstances 11:23 City 1:7 2:12 claims 4:24 5:4 5:9 Clearly 7:3 close 7:7 Columbia 2:6 come 6:19 8:11 8:12 9:22 12:20 Commission 1:1 2:13 3:3 4:5,7 4:16,22 5:2,5 5:13 6:4 7:23 8:3,7,22 10:2,9 10:10 11:12,13 11:24 Commission's 5:7 9:1 company 3:5 11:10 compel 10:10,25 compelling 10:21 Complainant 1:11 complaint 4:15 4:18,20 5:10 7:5 conference 1:6 3:3 8:19 12:17 consider 5:20 constitutional 4:24 5:3 contact 4:1 contentions 7:9 continue 12:22 continued 12:8 continuing 7:16 12:5 conversation</p>	<p>12:22 copy 6:14 10:3 12:18 corporation 7:15 correct 3:11 correspondence 8:18 9:16 counsel 2:9 3:9 4:10 5:18 8:10 14:8,11 court 1:20 3:19 3:25 4:8 5:2 6:9,12 7:4,10 7:19,21 9:13 9:15,18 10:22 10:23,24 11:1 11:1,5,6,6 14:3</p> <hr/> <p style="text-align: center;">D</p> <p>D 1:20 14:3,19 d/b/a 1:13 2:8 3:5 damages 4:25 5:4 data 9:1 date 6:20 7:17 9:12 11:1 dates 6:2,15 day 7:12 9:14 days 9:25 deal 5:11 7:18 10:12 decide 5:5,14,22 decided 9:24 decision 5:3,12 6:4 7:2 8:4,8 delay 7:1,11 9:21 11:18 denial 7:2 denied 7:5,6 described 8:20 describing 8:17 different 6:16</p>	<p>difficult 11:23 direction 14:7 discovery 9:17 9:18 10:1,6,24 11:9 discussed 9:5 dismiss 4:12,14 4:19 5:11 document 6:11 7:10 dollar 7:15,15 double-check 8:21</p> <hr/> <p style="text-align: center;">E</p> <p>E 2:1,1,4 earlier 6:10 EC-2017-0281 1:12 3:6 Electric 1:13 2:8 3:5 email 6:10 employed 14:8 14:11 employee 14:11 endeavor 3:14 entries 3:10 events 6:2,3,17 8:1,8 evidence 5:12 8:3,3 evidentiary 5:21 6:3 8:2,9</p> <hr/> <p style="text-align: center;">F</p> <p>facie 7:8 fact 9:11 facts 5:8 far 9:17 Federal 9:18 10:22 11:5 file 1:12 3:5 5:19 6:11 filed 8:24 11:5</p>
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