

In the Matter of:
William L. Hehrs, Jr.

v.

The Empire District Electric Company

EC-2018-0033

November 05, 2018



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A P P E A R A N C E S

FOR THE EMPIRE DISTRICT ELECTRIC COMPANY:

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A P P E A R A N C E S (cont.)

COMPLAINANTS: (appearing via telephone)

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P R O C E E D I N G S

JUDGE CLARK: Well, it is ten o'clock so why don't we go on the record now. Give me just a second. I've got a number of things laid out I want to look at. Okay?

Today's date is November 5, 2018, the current time is 10 a.m. We are in Room 305 of the Governor's Office Building. The Commission has set aside this time today for a Procedural Conference in the case captioned as: William L. Gehrs, Jr., Complainant versus The Empire District Electric Company, Respondent, File No. EC-2018-0033.

My name is John Clark and I'm the regulatory law judge in this matter. I'm going to begin by asking the parties and the attorneys to enter their appearances starting with you, Mr. Gehrs.

MR. GEHRS: This is William L. Gehrs, Jr., Joplin, Missouri.

JUDGE CLARK: Okay. And on behalf of The Empire District Electric Company.

MS. CARTER: Diana Carter with Brydon, Swearngen & England, 312 East Capitol Avenue, Jefferson City, Missouri 65102 for The Empire District Electric Company.

JUDGE CLARK: And from the Commission Staff.

1 MS. ASLIN: Casi Aslin for Commission Staff.

2 JUDGE CLARK: And nobody appears on behalf of
3 the Office of Public Counsel.

4 Now, I have -- are there any preliminary
5 matters before I address the order asking that the stay
6 be continued?

7 Mr. Gehrs, anything besides that you want to
8 talk about today?

9 MR. HIGGINBOTHAM: So my name's Bob
10 Higginbotham and I'm a party to the suit as well.

11 JUDGE CLARK: You had filed at one point --
12 and this dates back from before I became the judge on
13 this case. You had filed a motion to intervene; is
14 that correct?

15 MR. HIGGINBOTHAM: Yes, sir.

16 JUDGE CLARK: And you have not appeared or
17 filed anything in quite some time; is that correct?

18 MR. HIGGINBOTHAM: Correct.

19 JUDGE CLARK: And what's your full name,
20 again?

21 MR. HIGGINBOTHAM: Larry Robert Higginbotham.

22 JUDGE CLARK: Larry Robert Higginbotham.

23 MR. HIGGINBOTHAM: Yeah, I ref-- came in --
24 has got some property probably.

25 JUDGE CLARK: Okay. I'll note that you've

1 entered your appearance for the record. You're not
2 represented by an attorney, are you?

3 MR. HIGGINBOTHAM: No, sir.

4 JUDGE CLARK: Ms. Carter, any -- any
5 prehearing or preliminary matters you wanted to
6 address?

7 MS. CARTER: None. Thanks, Judge.

8 JUDGE CLARK: Okay. Well, I'm going to
9 address two things right now but I'm going to --
10 they'll probably be umbrellaed under this request for a
11 stay. So, Mr. Gehrs, it appears that on Friday,
12 November 2nd, you filed a request that the stay in this
13 case be continued; is that correct?

14 MR. GEHRS: That is correct, sir.

15 JUDGE CLARK: And why are you requesting that
16 stay?

17 MR. GEHRS: Because we have not been able to
18 accumulate any additional information from Empire
19 District. They have failed to answer their
20 interrogatories in this case that's going on in circuit
21 court in Joplin, Missouri. The only thing that they
22 have done is sent their admissions, which is -- took
23 them approximately four months to just do that.

24 JUDGE CLARK: And that is what you included
25 as an attachment to your motion; is that correct?

1 MR. GEHRS: Correct, sir.

2 JUDGE CLARK: And you say -- when you say
3 refused to answer interrogatories, you're not talking
4 about this case; you're talking about a separate
5 circuit court case involving a different matter; is
6 that correct?

7 MR. GEHRS: Ralph Watkins versus Empire
8 District Electric.

9 JUDGE CLARK: And you've indicated previously
10 that you believe that information from this case would
11 help you in your discovery process?

12 MR. GEHRS: Yes, sir, I do. Because the
13 answers they are giving in the civil case deviates from
14 the answers they have given us.

15 JUDGE CLARK: Okay. And I believe I
16 indicated before in a motion, and if not, I'm going to
17 just orally indicate it now. I'm generally pretty
18 liberal with discovery requirements, but just because
19 something is discoverable -- because the requirements
20 for discovery are fairly wide, does not necessarily
21 make it admissible at a hearing. You understand that?

22 MR. GEHRS: Yes, sir.

23 JUDGE CLARK: Okay. Ms. Carter, what's your
24 position in regard to Mr. Gehrs' request for -- to
25 continue the stay in this matter?

1 MS. CARTER: We have no objection.

2 JUDGE CLARK: Okay. Well, if there is no
3 objection, then Staff -- Staff is a neutral party in
4 this I understand so you don't have any position --

5 MS. ASLIN: That is correct.

6 JUDGE CLARK: -- whatsoever?

7 MS. ASLIN: Correct.

8 JUDGE CLARK: Okay. Well, given that Empire
9 does not object and given that it's your complaint, Mr.
10 Gehrs, I'm intent to incline to give you some deference
11 in this matter. I'm going to grant what I'm going to
12 call at this time a one last stay of this complaint. I
13 haven't got a calendar in front of me because I didn't
14 have the foresight to print one off but it appears Ms.
15 Aslin does. Thank you.

16 MS. ASLIN: Uh-huh.

17 JUDGE CLARK: I am -- and when you were
18 asking -- we're asking until January 18th; is that
19 correct?

20 MR. GEHRS: That is correct, sir.

21 JUDGE CLARK: I am -- because circuit court
22 cases are relatively unpredictable in terms of how they
23 tend to continue stuff. At this time, I believe I want
24 to go to February the 10th --

25 MR. GEHRS: All right, sir.

1 JUDGE CLARK: -- which is a Friday for the
2 discontinuance of the stay. What will happen is once
3 that day -- of 2019 obviously. Once that day has
4 passes I will probably order another procedural
5 conference, and that's because once you have completed
6 the discovery process I'd like to go ahead and set this
7 for a hearing as quickly as possible, because as I
8 said, while it is your complaint, the Commission does
9 have an interest in moving these things along.

10 MR. GEHRS: Yes, sir. I understand. We'd
11 like to move it as soon as we can also.

12 JUDGE CLARK: Okay. Are there any other
13 matters at this time that either party would like to
14 address? Mr. Gehrs?

15 MR. GEHRS: No, sir, I have none. Bob, you
16 got anything?

17 MR. HIGGINBOTHAM: No, sir. Thank you.

18 JUDGE CLARK: Well, that's what I was getting
19 ready to ask. Mr. Higginbotham?

20 MR. HIGGINBOTHAM: No, sir. Thank you very
21 much.

22 JUDGE CLARK: And, Mr. Higginbotham, did you
23 have any opposition to the request to continue the
24 stay?

25 MR. HIGGINBOTHAM: No, sir.

1 JUDGE CLARK: And, Ms. Carter?

2 MS. CARTER: No, Judge, other than I don't
3 recall how the intervention of Mr. Higginbotham was
4 resolved.

5 JUDGE CLARK: I don't think it was. I think
6 what happened was that Mr. -- you mean you don't know
7 whether it was granted or not?

8 MS. CARTER: Yes, I think that Judge Jordan
9 maybe had asked for there to be some clarification
10 about if he wanted to intervene as a complainant or
11 just as an interested party and I -- I don't know if we
12 ever got that resolved.

13 JUDGE CLARK: I don't know if that's been
14 resolved either. Mr. Higginbotham, what's your
15 position?

16 MR. HIGGINBOTHAM: I was unfamiliar with
17 that. I would be interested in entering as a
18 complainant.

19 JUDGE CLARK: Okay. So you -- you also have
20 a complaint?

21 MR. HIGGINBOTHAM: Yes, the same -- the same
22 exact complaint. Yes, sir.

23 JUDGE CLARK: Involving the exact same
24 property?

25 MR. HIGGINBOTHAM: No, my own property.

1 JUDGE CLARK: I think what I would like --
2 let me -- let me take a quick note here.

3 MR. HIGGINBOTHAM: I -- I -- I see -- Your
4 Honor, do you mind if I -- I tell --

5 JUDGE CLARK: Hold on just a second. I'm
6 just taking a quick note.

7 I would have to -- and I was none prepared to
8 do so today. I'm going to have to go back and look at
9 how you were originally allowed to intervene and see if
10 Judge Jordan had asked for any clarification of that.
11 That's something that we may want to address after the
12 stay in regard to this if you don't have any opposition
13 to this. Because there's two ways of handling this.
14 If it's a different property but the same issue, then
15 really a lot it is going to depend for me on whether or
16 not Empire is objecting. Because if they're objecting,
17 my -- my tendency would be that this ought to be a
18 separate and distinct complaint on its own. If Empire
19 is not objecting, then I'm probably not going to have
20 any problems with joining these matters if it's the
21 same issue and would involve the same findings.

22 MR. HIGGINBOTHAM: Correct, sir. Yes -- and
23 it is the same issue just different property that I
24 own.

25 JUDGE CLARK: But offhand, it sounds like

1 it's -- it sounds like it's a separate and distinct
2 complaint. So I'm going to have to take some time and
3 look at this. And I may shoot out a motion asking for
4 some clarification. Okay? Or an order for asking for
5 clarification. Okay?

6 MR. HIGGINBOTHAM: Yes, sir.

7 JUDGE CLARK: All right. And thank you for
8 bringing that to my attention, Ms. Carter.

9 MS. CARTER: Thanks, Judge.

10 JUDGE CLARK: Is there anything in regard to
11 that that you wanted to address, Ms. Carter?

12 MS. CARTER: No.

13 JUDGE CLARK: Okay. Well, I'll take a look
14 at it and -- and see where -- where Judge Jordan left
15 it.

16 MS. CARTER: Thank you.

17 JUDGE CLARK: Are there any other issues that
18 need to be addressed by the Commission at this time?

19 MR. GEHRS: No, sir, I don't think so.

20 JUDGE CLARK: Okay. With that in mind, I
21 will issue an order staying the case until
22 February 10, 2019.

23 This hearing is adjourned and we will go off
24 the record at this time.

25 (Hearing was adjourned at 10:11 a.m.)

CERTIFICATE

I, Chevon D. McFadden, a Certified Verbatim Reporter, Certified Court Reporter, CCR No. 1399, 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 proceeding 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.



Chevon D. McFadden, CVR, CCR No. 1399

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