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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

February 14, 2013  
Jefferson City, Missouri  
Volume 1

Emma J. McFarlin and Rebecca )  
Shepherd, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. EC-2013-0024  
 )  
KANSAS CITY POWER & LIGHT )  
COMPANY )  
 )  
Respondent. )

DANIEL JORDAN, Presiding  
SENIOR REGULATORY LAW JUDGE

REPORTED BY:  
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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:

3

Mr. John Borgmeyer

4

and Mr. Kevin Thompson

Public Service Commission

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9 For Rebecca Shepherd:

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Ms. Rebecca Shepherd, Pro Se

3637 Agnes

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Kansas City, MO 64128

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14 For Kansas City Power & Light Company:

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Mr. Roger W. Steiner

Kansas City Power & Light Company

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1200 Main Street

Kansas City, MO 64105

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

2 JUDGE JORDAN: And we will go on the record.  
3 The Commission is call the case in File No. EC-2013-0024.  
4 This is the complaint of Emma J. McFarlin and Rebecca  
5 Shepherd versus Kansas City Power & Light Company.

6 I'm Daniel Jordan. I'm the Regulatory Law Judge  
7 assigned to this action, and I will begin this pre hearing  
8 conference by taking entries of appearance. And I'd also  
9 like Counsel to introduce any representatives of the  
10 clients that are present.

11 So we'll begin with the complainant, which I  
12 believe is Ms. Rebecca Shepherd. Will you give your name  
13 and address for the reporter, please?

14 MS. SHEPHERD: Rebecca Shepherd, 3637 Agnes  
15 Avenue, Kansas City Missouri, 64128.

16 JUDGE JORDAN: And, Ms. Shepherd, is that the  
17 billing address that's at issue here?

18 MS. SHEPHERD: That is correct.

19 JUDGE JORDAN: Very good. Now, I note, also,  
20 the Complaint was filed by Emma J. McFarlin. Will she be  
21 joining us today?

22 MS. SHEPHERD: That's my mother. No, she will  
23 not.

24 JUDGE JORDAN: Very good. For Kansas City Power  
25 & Light Company?

1 MR. STEINER: Let the record reflect the  
2 appearance of Roger W. Steiner. I'm an attorney with  
3 Kansas City Power & Light Company. My address is 1200  
4 Main Street, Kansas City, Missouri, 64105.

5 With me on the phone, I have Sarah Stolberg,  
6 Lois Liechti and Tim Rush.

7 JUDGE JORDAN: Thank you, Counselor. Can you  
8 give a spelling to the court reporter for those first two  
9 names at least?

10 MR. STEINER: I'm going to let them do that.

11 MS. STOLBERG: Sarah Stolberg, S-a-r-a-h, last  
12 name S-t-o-l-b-e-r-g.

13 MS. LIECHTI: I'm Lois Liechti, L-o-i-s, last  
14 name L-i-e-c-h-t-i.

15 JUDGE JORDAN: Thank you. And for Staff?

16 MR. BORGMEYER: Yes. On behalf of the Staff of  
17 the Missouri Public Service Commission, John Borgmeyer and  
18 Kevin Thompson. And, also, here from the Staff, we have  
19 Gay Fred and Alda Nesheim.

20 MS. NESHEIM: Abra.

21 MR. BORGMEYER: Abra Nesheim.

22 JUDGE JORDAN: Spelling, please.

23 MS. NESHEIM: Abra, A-b-r-a, Nesheim,  
24 N-e-i-s-h-e-i-m.

25 JUDGE JORDAN: Thank you. And I will also note

1 that no one from the Office of Public Counsel has appeared  
2 in the hearing room.

3 Is there anyone on the line from the Office of  
4 Public Counsel? I'm not hearing anyone. I mentioned that  
5 because, by regulation, the Office of Public Counsel is a  
6 party to every action at the Commission. They have  
7 discretion as to when they appear and don't. And at this  
8 time, it appears they will not appear.

9 So here's what I'm going to do today. I'm going  
10 to talk about what we're going to talk about, and then  
11 we'll actually talk about it. Part of this will be on the  
12 record so that everyone will -- what everyone -- what  
13 everyone says will be record by the court reporter that's  
14 here in the hearing room for us.

15 When I'm done saying what I have to say and when  
16 the parties are done with what they have to tell me, I'll  
17 go ahead and leave the room, but I'm going to leave that  
18 line open so that all of the parties can discuss these  
19 things outside my presence.

20 No one needs to worry about revealing any  
21 sensitive information that I should not hear off the  
22 record. And when everything's done, I'll ask Staff to go  
23 ahead and -- and turn off the -- turn off the phone and  
24 hang up the phone.

25 But there are a few things that I want to talk

1 about, and it's mostly procedural here. I want to make  
2 sure that everybody understands what this action is about.

3 This is a formal action, and if we do go to  
4 hearing, it's an awful lot like a trial. It's much like  
5 what one would have in Circuit Court before a judge. Now,  
6 we do try to keep things simple, especially when there is  
7 a Pro Se Complainant because the idea is to have access to  
8 the Commission's decision-making processes.

9 But the law does require certain things, and  
10 that's what makes it look so much like a trial. I -- that  
11 being said, I want to be fully understood that Pro Se  
12 litigants, persons representing themselves at hearing do  
13 so all the time at the Commission and before other  
14 Tribunals, and they do prevail.

15 So it's not impossible. It's not en -- entirely  
16 an uphill struggle for the Pro Se litigant. But there are  
17 some things that we have to do. We have to make available  
18 the procedure that's called discovery. You probably saw a  
19 reference to that in the Notice of Complaint early on.

20 Discovery is the process by which the parties  
21 get information from each other in a formal fashion. That  
22 is, if it's not -- if it's not revealed in discovery, it's  
23 probably not going to be admissible in Circuit Court. So  
24 everyone has to be very forthcoming with their  
25 information.

1           You will probably, also, once we go off the  
2   record, want to talk about a schedule for these things to  
3   happen, things like discovery. We also have dispositive  
4   motions, that is, if a motion is filed and shows that the  
5   Commission really shouldn't go to trial for various  
6   reasons that are set forth in our regulations, the  
7   Commission will dispose of the action that way and there  
8   will never be a hearing. Any -- any questions so far?

9           MS. SHEPHERD: No, sir.

10          JUDGE JORDAN: Okay. Anyone else have any  
11   questions? I'm not seeing any here. I'm not hearing any  
12   on the line.

13          MR. STEINER: No, Judge.

14          JUDGE JORDAN: Okay. I wanted to raise one  
15   thing in relation to the type of action that we're in,  
16   which is a Complaint. The Statutes provide that a  
17   consumer of utility service can get relief, can get some  
18   kind of help from the Commission.

19                 But that happens when there has been a  
20   violation, a violation of a tariff or a regulation or a  
21   Commission order or a statute. Okay? There has to be a  
22   violation of one of those things to happen.

23                 Staff's report has been pretty thorough in the  
24   provisions of regulation and statutes and -- and tariff  
25   that could be at issue here. What we have to do -- before

1 we go to hearing is narrow down just what provisions are  
2 alleged to be at issue.

3 It's a little bit of a task for a Pro Se  
4 Complainant. But as I say, it's not impossible.  
5 And I'm pretty confident that going through Staff's report  
6 and especially with Staff being here in the room, they can  
7 walk Ms. Shepherd and Kansas City Power & Light through  
8 the regulations that may be at issue here.

9 So that being the case, I think we need -- we  
10 will probably need a little bit more refinement in the  
11 pleadings or perhaps a dispositive motion might be in  
12 order to deal with this complaint.

13 I don't want to be in the position where we go  
14 to a hearing and we don't know what case we're trying.  
15 It's also helpful to the parties because whatever  
16 violation is alleged to have happened, that provision,  
17 whether it's in the tariff or the regulations or the  
18 statutes or some Commission order somewhere, that's going  
19 to tell us what facts are important. That's what's going  
20 to tell the parties what they need to tell the Commission  
21 through me at the hearing.

22 So this is a process of narrowing the issues,  
23 and it's helpful to the parties in preparing their case.  
24 So I just want to make sure that that happens. And the  
25 parties might want to include in their procedural schedule



1 a provision for dispositive motions.

2 Of course, if the parties can settle this case  
3 without any further litigation, all that becomes  
4 unnecessary. And it may be that Ms. Shepherd and Ms.  
5 McFarlin can get what they really need from KCP&L without  
6 -- without litigation, which is always -- which is just  
7 fine by the Commission.

8 We're here to listen to the complaint and try  
9 the case if necessary. But my experience is that the  
10 parties generally can -- can work out something more  
11 useful than the Commission can from its -- from its moved  
12 neutral position. Any questions on that so far?

13 MS. SHEPHERD: No, Judge.

14 JUDGE JORDAN: Okay. Any questions from Kansas  
15 City Power & Light?

16 MR. STEINER: No.

17 JUDGE JORDAN: Okay. Staff?

18 MR. BORGMEYER: No, Judge.

19 JUDGE JORDAN: Okay. In connection with that,  
20 let me remind the parties that we do offer mediation, that  
21 is, if the parties can't work something out, if they --  
22 they want to settle, they would rather not try the case  
23 and want to attempt settlement, every one of the  
24 Regulatory Law Judges has training in civil mediation and  
25 is qualified to help the parties work something out.

1           And that's been successful in -- in other cases  
2   and it could be successful here, so I want everybody to  
3   keep that in mind. Whoever mediates the case won't be  
4   hearing the case because the idea is that the parties in  
5   mediation may want to reveal information that they don't  
6   really want to come out in trial. And that's fine. That  
7   means that if I'm conducting the hearing, I won't be doing  
8   the mediation, but somebody else will.

9           But that's about all I have to say. So I open  
10   it up to any questions of a procedural nature from the  
11   parties. So we'll start with Ms. Shepherd. Anything that  
12   I -- that I can help you with here outside, of course,  
13   giving legal advice?

14           MS. SHEPHERD: No, sir. I pretty much  
15   understand everything you said and what the procedure is.  
16   I made myself familiar with the statute. Thank you.

17           JUDGE JORDAN: Very good. Very good. Kansas  
18   City Power & Light, do you have any issues you'd like to  
19   raise with me?

20           MR. STEINER: No, Judge. Thank you for laying  
21   that information out.

22           JUDGE JORDAN: Oh, I'm absolutely happy to do  
23   so. Staff, any -- any issues that you needed to address?

24           MR. BORGMEYER: No, thank you, your Honor.

25           JUDGE JORDAN: Okay. Well, since no one has any

1 issues for me, I will go ahead and put an end to the  
2 on-the-record portion of this proceeding. I'll go ahead  
3 and -- once we're off the record, I'll leave the room.  
4 But I'll leave this telephone line open. I hope everyone  
5 has productive discussions while I'm gone.

6 And I intend to be in the building all day if  
7 the parties need me for anything. Before we go off the  
8 record, one last call, anything for me? Not hearing  
9 anything. So with that, thank you very much for  
10 attending. And we will go off the record.

11 (The proceedings were concluded at 10:15 a.m. on  
12 February 13, 2013.)

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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  
8 Professional Reporter, and Notary Public, within and for  
9 the State of Missouri, do hereby certify that I was  
10 personally present at the proceedings as set forth in the  
11 caption sheet hereof; that I then and there took down in  
12 stenotype the proceedings had at said time and was  
13 thereafter transcribed by me, and is fully and accurately  
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and  
17 seal on February 22, 2013.

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Monnie S. Mealy, CSR, CCR #0539

22

Registered Professional Reporter

23

24

25

<p><b>A</b></p> <p><b>Abra</b> 4:20,21 4:23 <b>absolutely</b> 10:22 <b>access</b> 6:7 <b>accurately</b> 12:13 <b>action</b> 3:7 5:6 6:2,3 7:7,15 <b>address</b> 3:13 3:17 4:3 10:23 <b>admissible</b> 6:23 <b>advice</b> 10:13 <b>Agnes</b> 2:10 3:14 <b>ahead</b> 5:17,23 11:1,2 <b>Alda</b> 4:19 <b>alleged</b> 8:2,16 <b>appear</b> 5:7,8 <b>appearance</b> 3:8 4:2 <b>appeared</b> 5:1 <b>appears</b> 5:8 <b>assigned</b> 3:7 <b>attempt</b> 9:23 <b>attending</b> 11:10 <b>attorney</b> 4:2 <b>available</b> 6:17 <b>Avenue</b> 3:15 <b>awful</b> 6:4 <b>A-b-r-a</b> 4:23 <b>a.m</b> 11:11</p>	<p><b>building</b> 11:6</p> <p><b>C</b></p> <p><b>C</b> 2:1 3:1 <b>call</b> 3:3 11:8 <b>called</b> 6:18 <b>caption</b> 12:11 <b>case</b> 1:12 3:3 8:9,14,23 9:2 9:9,22 10:3,4 <b>cases</b> 10:1 <b>CCR</b> 1:22 12:21 <b>certain</b> 6:9 <b>CERTIFICA...</b> 12:1 <b>Certified</b> 12:6 12:7 <b>certify</b> 12:9 <b>Circuit</b> 6:5,23 <b>City</b> 1:7,13,23 2:5,11,14,15 2:16 3:5,15 3:24 4:3,4 8:7 9:15 10:18 <b>civil</b> 9:24 <b>clients</b> 3:10 <b>come</b> 10:6 <b>Commission</b> 1:1 2:2,4 3:3 4:17 5:6 6:13 7:5,7,18,21 8:18,20 9:7 9:11 <b>Commission's</b> 6:8 <b>Company</b> 1:14 2:14,15 3:5 3:25 4:3 <b>complainant</b> 3:11 6:7 8:4 <b>complaint</b> 3:4 3:20 6:19 7:16 8:12 9:8 <b>concluded</b> 11:11</p>	<p><b>conducting</b> 10:7 <b>conference</b> 1:5 3:8 <b>confident</b> 8:5 <b>connection</b> 9:19 <b>consumer</b> 7:17 <b>correct</b> 3:18 <b>Counsel</b> 3:9 5:1 5:4,5 <b>Counselor</b> 4:7 <b>COUNTY</b> 12:4 <b>course</b> 9:2 10:12 <b>court</b> 4:8 5:13 6:5,23 12:7 <b>CSR</b> 1:22 12:21</p> <p><b>D</b></p> <p><b>D</b> 3:1 <b>Daniel</b> 1:17 3:6 <b>day</b> 11:6 <b>deal</b> 8:12 <b>decision-mak...</b> 6:8 <b>discovery</b> 6:18 6:20,22 7:3 <b>discretion</b> 5:7 <b>discuss</b> 5:18 <b>discussions</b> 11:5 <b>dispose</b> 7:7 <b>dispositive</b> 7:3 8:11 9:1 <b>doing</b> 10:7</p>	<p><b>entirely</b> 6:15 <b>entries</b> 3:8 <b>especially</b> 6:6 8:6 <b>everybody</b> 6:2 10:2 <b>everything's</b> 5:22 <b>experience</b> 9:9</p> <p><b>F</b></p> <p><b>facts</b> 8:19 <b>familiar</b> 10:16 <b>far</b> 7:8 9:12 <b>fashion</b> 6:21 <b>February</b> 1:7 11:12 12:17 <b>File</b> 3:3 <b>filed</b> 3:20 7:4 <b>fine</b> 9:7 10:6 <b>first</b> 4:8 <b>formal</b> 6:3,21 <b>forth</b> 7:6 12:10 12:14 <b>forthcoming</b> 6:24 <b>Fred</b> 4:19 <b>fully</b> 6:11 12:13 <b>further</b> 9:3</p> <p><b>G</b></p> <p><b>G</b> 3:1 <b>Gay</b> 4:19 <b>generally</b> 9:10 <b>give</b> 3:12 4:8 <b>giving</b> 10:13 <b>go</b> 3:2 5:17,22 6:3 7:1,5 8:1 8:13 11:1,2,7 11:10 <b>going</b> 4:10 5:9 5:9,10,17 6:23 8:5,18 8:19 <b>good</b> 3:19,24 10:17,17</p>	<p><b>H</b></p> <p><b>hand</b> 12:16 <b>hang</b> 5:24 <b>happen</b> 7:3,22 <b>happened</b> 8:16 <b>happens</b> 7:19 8:24 <b>happy</b> 10:22 <b>hear</b> 5:21 <b>hearing</b> 3:7 5:2 5:4,14 6:4,12 7:8,11 8:1,14 8:21 10:4,7 11:8 <b>help</b> 7:18 9:25 10:12 <b>helpful</b> 8:15,23 <b>hereof</b> 12:11 <b>hereunto</b> 12:16 <b>Honor</b> 10:24 <b>hope</b> 11:4</p> <p><b>I</b></p> <p><b>idea</b> 6:7 10:4 <b>important</b> 8:19 <b>impossible</b> 6:15 8:4 <b>include</b> 8:25 <b>information</b> 5:21 6:21,25 10:5,21 <b>intend</b> 11:6 <b>introduce</b> 3:9 <b>issue</b> 3:17 7:25 8:2,8 <b>issues</b> 8:22 10:18,23 11:1</p>
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