

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 In the Matter of the Application)
5 of Union Electric Company, Doing)
6 Business as AmerenUE, for an) Case No.
7 Order Authorizing the Sale,) EO-2004-0108
8 Transfer and Assignment of)
9 Certain Assets, Real Estate,)
10 Leased Property, Easements and)
11 Contractual Agreements to Central)
12 Illinois Public Service Company,)
13 Doing Business as AmerenCIPS,)
14 and, in Connection Therewith,)
15 Certain Other Related)
16 Transactions.)

11

12 PREHEARING CONFERENCE
13 Volume 2
14 Monday, February 9, 2004
15 Governor Office Building
16 200 Madison Street
17 Jefferson City, Missouri 65101

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17 KEVIN THOMPSON, Presiding,
18 DEPUTY CHIEF REGULATORY LAW JUDGE

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22 REPORTED BY:

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17 FOR: Missouri Industrial Energy Consumers.

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19 STEVEN DOTTHEIM, Chief Deputy General Counsel
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22 FOR: Staff of the Missouri Public Service
23 Commission.

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1 APPEARANCES (CONT'D):

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5 FOR: Office of the Public Counsel and
6 The Public.

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P R O C E E D I N G S

JUDGE THOMPSON: Good morning.

We are here in the matter of the application of Union Electric Company, doing business as AmerenUE, for an order authorizing the sale, transfer and assignment of certain assets, real estate, leased property, easement and contractual agreements to Central Illinois Public Service Company, doing business as AmerenCIPS, and, in connection therewith, certain other related transactions.

This is Case No. EO-2004-0108.

My name is Kevin Thompson. I'm the presiding law judge assigned to preside over this matter.

And we'll go ahead and take oral entries of appearance at this time.

We'll begin with the Company.

MR. RAYBUCK: Thank you, Your Honor.

My name is Joseph Raybuck on behalf of AmerenUE.

I would also like to enter the appearance of Edward Fitzhenry, also on behalf of the Company, and I would further like to enter the appearance of James Lowery of the law firm of Smith Lewis.

JUDGE THOMPSON: Very well. Thank you.

Typically you give your mailing address as part of your entry of appearance.

1 MR. RAYBUCK: Forgive me.

2 JUDGE THOMPSON: It's quite all right.

3 MR. RAYBUCK: Mailing address for myself and
4 Mr. Fitzhenry, P. O. Box 66149, St. Louis, Missouri,
5 63166-6149.

6 MR. LOWERY: And my mailing address is
7 111 South Ninth Street, P. O. Box 918, Columbia, Missouri
8 65203, and that law firm is Smith Lewis LLP.

9 JUDGE THOMPSON: Thank you.
10 Staff.

11 MR. DOTTHEIM: Steven Dottheim, Lera Shemwell,
12 Dennis Frey, P. O. Box 360, Jefferson City, Missouri
13 65102, appearing on behalf of the Staff of the Missouri
14 Public Service Commission.

15 JUDGE THOMPSON: Thank you, Mr. Dottheim.
16 Public Counsel.

17 MR. COFFMAN: Appearing on behalf of the Office
18 of the Public Counsel, John B. Coffman, P. O. Box 2230,
19 Jefferson City, Missouri 65102.

20 JUDGE THOMPSON: Thank you.

21 Now, I see other counsel in the room. I don't
22 think we have any official interveners yet in this case.

23 So are you planning to move to intervene at
24 this time?

25 MS. VUYLSTEKE: I thought that we were

1 intervened, and I will check on that intervention right
2 away if we're not.

3 JUDGE THOMPSON: I don't have the docket sheet
4 with me.

5 MR. LOWERY: Your Honor, I believe that's
6 correct.

7 JUDGE THOMPSON: Fine. Just ignore my
8 misleading statement.

9 Go ahead and do your entry.

10 MS. VUYLSTEKE: Diana Vuylsteke of the law firm
11 of Bryan Cave LLP, 211 North Broadway, Suite 3600,
12 St. Louis, Missouri 63102, appearing on behalf of the
13 Missouri Industrial Energy Consumers.

14 JUDGE THOMPSON: Thank you.

15 Mr. Johnson.

16 MR. JOHNSON: Robert C. Johnson and
17 Lisa C. Langeneckert, 720 Olive Street, St. Louis,
18 Missouri 63101, appearing on behalf of the Missouri
19 Energy Group, Barnes-Jewish Hospital, et al.

20 JUDGE THOMPSON: Thank you, sir.

21 Any other interveners?

22 Okay. This is a prehearing conference that the
23 parties included in their proposed procedural schedule
24 which was adopted by the Commission, and so whatever
25 business you have to transact here today is essentially

1 your business and not the Commission's.

2 So I'm simply asking if any parties have
3 anything to bring to my attention at this time?

4 And hearing nothing, I'll make my --
5 Mr. Coffman, just about to get out the door.

6 MR. COFFMAN: I think I'd like to take this
7 opportunity just to note that I think that there are
8 still a lot of outstanding discovery issues and that it's
9 likely that we'll call upon you, perhaps, to schedule
10 another discovery conference in the future.

11 JUDGE THOMPSON: Any time.

12 MR. COFFMAN: Okay.

13 JUDGE THOMPSON: We had one such discovery
14 order issued.

15 And I believe the Company has filed a motion
16 for rehearing. In case you're wondering what happened to
17 that and what is going on with it, we wait ten days to
18 see if there are any responses, and I think the response
19 time is just about up on that one.

20 I believe you filed your request for rehearing
21 on the 30th. Isn't that correct?

22 MR. RAYBUCK: Correct, Your Honor.

23 MR. COFFMAN: And we also have some issues with
24 that order, as well as some, I guess, data request
25 responses have been compelled that we're still following

1 up on.

2 JUDGE THOMPSON: I told you it was my goal to
3 make everyone unhappy.

4 MR. COFFMAN: And there are some that we don't
5 think we've gotten a response to. Mr. Raybuck has said
6 he's going to check on that and see where we are with
7 some of those data requests.

8 JUDGE THOMPSON: Very well.

9 MR. COFFMAN: I think there is still a lot yet
10 to work out.

11 JUDGE THOMPSON: Very well.

12 We can convene a discovery conference or
13 hearing, whatever you want to call it, on very short
14 notice, especially since the parties can participate by
15 telephone. So there is no need to travel down here.

16 The one that we did do we did not include the
17 interveners in, and perhaps I should ask you at this time
18 whether you would have preferred to be part of that
19 discovery conference, and, if so, we would make a point
20 of including you in any future ones.

21 MS. VUYLSTEKE: We appreciate you asking us,
22 and we have not been involved in the discovery disputes.
23 We've been more observing. And we would appreciate
24 receiving notice of them but may not participate.

25 JUDGE THOMPSON: Okay.

1 MR. COFFMAN: I'll just note that I didn't send
2 notice to other interveners, and I certainly will attempt
3 to make that my practice in the future.

4 I think there is probably at least a potential
5 for some ex parte issue or some other issues if all
6 parties are not noticed up on these things.

7 JUDGE THOMPSON: I think it's best that
8 everyone receives notice, whether they choose to
9 participate or not.

10 MR. JOHNSON: Yes, I'd appreciate having
11 notice.

12 JUDGE THOMPSON: Thank you, sir.

13 That will be our practice from here on out.

14 The Movant in that past one will need to
15 prepare a written motion to compel, since it's going to
16 go in front of Commissioners at this point.

17 Okay?

18 MR. COFFMAN: Okay.

19 JUDGE THOMPSON: They're going to expect to see
20 written pleadings as in a traditional matter.

21 MR. RAYBUCK: Were you referring to any future
22 requests for a discovery conference?

23 JUDGE THOMPSON: I was referring to the one
24 that is already in the pipeline.

25 Where you filed your motion for rehearing,

1 there never was a traditional motion, written motion, to
2 compel, if you'll recall. Mr. Coffman moved to compel on
3 the record during the discovery conference.

4 I suppose if you're content with the record
5 made there, we can simply place that in front of the
6 Commissioners.

7 MR. COFFMAN: It had been my expectation to
8 get -- to file more pleadings, if you will, on the
9 matters that are already the subject of the discovery
10 order.

11 And I hear you saying that there does need to
12 be a written motion to compel on the issues that are
13 still being challenged by the Company. Is that --

14 JUDGE THOMPSON: I think that would be best.

15 MR. COFFMAN: Okay. So an order in response
16 would include a motion to compel?

17 JUDGE THOMPSON: I think that would be the best
18 way to handle it.

19 MR. LOWERY: Can I ask a point of
20 clarification, if I may?

21 Since we have our motion for rehearing and the
22 ten days will be past today or tomorrow, at this time the
23 Commission will be in a position to move on -- if OPC
24 files a motion to compel on that same issue now, I'm
25 wondering procedurally where that leaves us in terms

1 of -- we may want to respond to that.

2 JUDGE THOMPSON: Absolutely. Absolutely.

3 That's why discovery disputes, especially in
4 cases that have operation of law dates, or which
5 otherwise need to be resolved very quickly, which, in
6 fact, this is one such, I don't think there is an
7 operation of law date, but the -- I know the Company
8 would like it resolved very quickly.

9 That has been why discovery disputes tend to
10 not get resolved in time for the information to be of any
11 practical use to the parties seeking it, because, as you
12 know, under our rules, you file something, the other side
13 gets up to ten days to respond, then you get ten days to
14 respond, or whatever they file.

15 Meanwhile, your operation of law date or your
16 date that you want action by is creeping closer by leaps
17 and bounds.

18 Usually there is a procedural schedule in place
19 by which testimony has to be filed. It makes it
20 difficult.

21 We've attempted to speed up the process, but I
22 don't know if practically it's going to have that effect
23 or not. I guess we'll find out.

24 MR. LOWERY: Do you not expect, then, to rule
25 on the motion for reconsideration that is pending until

1 there would be a formal motion to compel filed by OPC?

2 JUDGE THOMPSON: No. I'm going to place the

3 motion for reconsideration before the Commissioners at

4 their next agenda --

5 MR. LOWERY: Okay.

6 JUDGE THOMPSON: -- following the tenth day.

7 MR. LOWERY: All right.

8 JUDGE THOMPSON: And what they will then do

9 with it is up to them.

10 MR. LOWERY: Right. Okay. Thank you.

11 JUDGE THOMPSON: Okay.

12 MR. COFFMAN: I just want to make sure I'm

13 counting the ten days as you are.

14 The order that I received --

15 JUDGE THOMPSON: We have accountants in the

16 room if we need help. I know we can get it.

17 MR. COFFMAN: I suppose ten days may be

18 tomorrow.

19 MR. LOWERY: That's official tomorrow, I think,

20 probably.

21 MR. COFFMAN: Okay. Great. I'm on the same

22 page now.

23 JUDGE THOMPSON: Okay.

24 Anything else at this time?

25 MR. DOTTHEIM: Yes.

1 One thing I might tentatively raise, at the
2 present the hearings are scheduled for the 18th, 19th,
3 22nd, 23rd and 24th of March. The Southwest Power Pool
4 has scheduled on March 18th a rather significant
5 participant funding symposium and the FERC has scheduled
6 on the 19th a technical conference on the white paper on
7 bulk power market design for the SPP region.

8 In checking the Commission's schedule, it
9 appears that the following week after the 18th and 19th,
10 the 25th and the 26th, are still open dates.

11 I was going to explore with the parties this
12 morning -- I've mentioned just in passing with the
13 Company late last week, but I was going to explore with
14 the other parties this morning the possibility of
15 requesting that the first two hearing dates, the 18th and
16 19th, possibly be moved to the end of the next week, the
17 25th and the 26th, so there would be -- instead of
18 starting Thursday and Friday, the 18th and 19th, going
19 Monday, Tuesday and Wednesday of the next week, the
20 hearings would be scheduled for Monday through Friday of
21 the week of the 22nd.

22 Before I pursue that any further, I don't know,
23 Judge, whether you know your own schedule for the 25th
24 and 26th, whether you're already committed.

25 JUDGE THOMPSON: If they're open on the hearing

1 calendar, then they're open for me.

2 MR. DOTTHEIM: Okay.

3 JUDGE THOMPSON: So you guys can decide those
4 things amongst yourselves and just give me a suitable
5 motion.

6 Okay. Anything else?

7 Thank you very much. Nice to see you all this
8 morning.

9 WHEREUPON, the on-the-record portion of the
10 Prehearing Conference was concluded.

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