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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Hearing
May 19, 2014
Jefferson City, Missouri
Volume 1

In the Matter of KCP&L Greater)
Missouri Operations Company's)
Application for Authority to) File No.
Establish a Renewable Energy) EO-2014-0151
Standard Rate Adjustment)
Mechanism)

MICHAEL BUSHMANN, Presiding,
REGULATORY LAW JUDGE.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR, CCR NO. 838
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25 Service Commission.

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

2 (WHEREUPON, the procedural conference
3 began at 10:00 a.m.)

4 JUDGE BUSHMANN: The Commission has
5 set this time for a procedural conference in a case
6 captioned as in the matter of KCP&L Greater
7 Missouri Operations Company's application for
8 authority to establish a renewable energy standard
9 rate adjustment mechanism, File No. EO-2014-0151.

10 Today is May 19th, 2014. My name is
11 Michael Bushmann. I'm the Regulatory Law Judge in
12 this matter.

13 Let's begin with attorneys making
14 their entries of appearance. For Kansas City -- or
15 KCP&L Greater Missouri Operations Company.

16 MR. FISCHER: Yes, Judge. Let the
17 record reflect the appearance of James M. Fischer,
18 Fischer & Dority, PC. Our address is 101 Madison
19 Street, Suite 400, Jefferson City, Missouri 65101.

20 JUDGE BUSHMANN: Thank you. Office
21 of the Public Counsel.

22 MS. BAKER: Thank you. Christina
23 Baker, P.O. Box 2230, Jefferson City, Missouri
24 65102, appearing on behalf of the Office of the
25 Public Counsel and the ratepayers.

1 JUDGE BUSHMANN: Thank you.

2 Commission Staff.

3 MS. HERNANDEZ: Jennifer Hernandez,
4 Akayla Jones and Nathan Williams, all appearing on
5 behalf of the Staff of the Missouri Public Service
6 Commission. Our address is P.O. Box 360,
7 Jefferson City, Missouri 65102.

8 JUDGE BUSHMANN: Okay. And for Ag
9 Processing, Incorporated.

10 MR. CONRAD: Thank you, your Honor.
11 Please let the record show the appearance of
12 Stuart W. Conrad, Finnegan, Conrad & Peterson,
13 3100 Broadway, Suite 1209, K.C., Missouri. I've
14 been discouraged from providing the reporter with a
15 copy of the usual form, but she said she knows it.

16 JUDGE BUSHMANN: Very good. Is there
17 anybody here today from Earth Island Institute,
18 d/b/a Renew Missouri?

19 MR. LINHARES: Andrew Linhares, Renew
20 Missouri, 910 East Broadway, Suite 205, Columbia,
21 Missouri.

22 JUDGE BUSHMANN: Thank you. Is there
23 anybody here from Ameren Missouri?

24 (No response.)

25 JUDGE BUSHMANN: Well, the

1 preliminary matters deal with intervention. Renew
2 Missouri's application to intervene was filed and
3 ten days elapsed. I think that was last Friday.
4 There were no objections at that time that were
5 stated. Do any parties have any objections to that
6 application?

7 MR. CONRAD: No.

8 JUDGE BUSHMANN: Hearing none, then I
9 will grant Renew Missouri's application to
10 intervene as a party.

11 Ameren Missouri filed an application
12 to intervene on May 15th. The time has not --
13 normally ten days runs for parties to object. So
14 just out of curiosity, do any parties have an
15 objection to Ameren Missouri's application to
16 intervene?

17 MR. CONRAD: They're not a customer,
18 and I ordinarily would object, but it's thus far
19 proved unavailable. So I'm not going to bother
20 you.

21 JUDGE BUSHMANN: Okay. I haven't
22 heard any objections, so I will grant Ameren
23 Missouri's application to intervene.

24 Okay. Well, the main reason I
25 scheduled this conference was to talk about the

1 appropriate timetable of events as far as
2 procedurally how this case needs to proceed because
3 of the type of proceeding that it is. It's my
4 understanding that this is the first case that has
5 tried to apply this proceeding, this type of
6 proceeding.

7 So I wanted to make sure that we were
8 all on the same page as to what procedure is
9 applicable. I found the rule myself to be rather
10 confusing, so I wanted to make sure I'm reading it
11 right and that we all agree on how it should be
12 read.

13 So let's talk about -- well, first of
14 all, am I correct, Mr. Fischer, that this is GMO's
15 first application for this type of rate adjustment
16 mechanism?

17 MR. FISCHER: Yes, Judge, it is.

18 JUDGE BUSHMANN: Does anybody need a
19 copy of the rule? I brought some extras.

20 MR. FISCHER: I'd take one if you
21 have one readily available.

22 JUDGE BUSHMANN: So what I was
23 looking at in this rule, it appears that
24 subsection A for initial filings by the company
25 requires that the procedure in subsection C be

1 utilized.

2 Now, subsection C provides for a
3 Staff report and intervenor comments within 75 days
4 of filing, but subsection A has an additional
5 provision that says that, for an initial filing,
6 which I'm assuming this is, that that extends from
7 75 to 120 days from the initial filing, which would
8 put the Staff report and intervenor comments to be
9 filed no later than August 8th. Then the company
10 would have 15 days to reply after that.

11 And the original filing had tariff
12 sheets that were filed, and I believe that the
13 effective date of the tariffs were August 8th. So
14 I wanted to make sure that, are we all agreed,
15 then, that that would be the appropriate procedure
16 to follow on the Staff report, the timetable for
17 Staff report and the intervenor comments? Any
18 opinion, Mr. Fischer, on that?

19 MR. FISCHER: I think the company's
20 going to be flexible on setting a procedural
21 schedule that works. That's, I think, reasonable
22 under the rule.

23 JUDGE BUSHMANN: I just want to make
24 sure I'm reading that right. Anybody have any
25 difference of opinion on how that should be

1 applied?

2 MR. CONRAD: I'm sorry. You said
3 that would fall in August?

4 JUDGE BUSHMANN: My calculation from
5 the date of the filing, which was April 10th, I
6 believe, if you add 120 days to that, that would
7 put it at August 8th, which is the effective date
8 of the tariff.

9 So if that's correct, then we would
10 need to do something about the tariffs. They would
11 need to be suspended for a period of time to allow
12 for the completion of the procedures, because we're
13 really not getting started until then because Staff
14 report and intervenor comments wouldn't be due
15 until that date.

16 MR. FISCHER: Judge, it is a
17 complicated rule. I was under the impression we
18 had 120 days for the whole proceeding to get
19 resolved.

20 JUDGE BUSHMANN: It would be if we
21 fell under the procedure B, subsection B, because
22 the rule other than -- other than establish --
23 other than the initial filing, then it -- then
24 which procedure used depends upon the amount of the
25 increase in utility revenue, if it's less or more

1 than 2 percent. If it's less than 2, then you
2 follow B.

3 This is -- the amount here is less
4 than 2, because I believe under the application in
5 Mr. Rush's testimony, it was 1 percent. Normally
6 that would be under subsection B, which would be
7 the whole thing would have to get wrapped up in 120
8 days. But the complicating factor that I'm reading
9 in here is, because this is an initial filing, it
10 kicks it into the different subsection.

11 So that would mean that we have a different
12 timetable.

13 MR. FISCHER: Is there an end day on
14 that? Is there an end date on that process?

15 JUDGE BUSHMANN: Well, that brings up
16 the next point that I wanted to talk about, which
17 is under this subsection C, which is the procedure
18 for initial filings, there's some language in here
19 that confused me about the Commission's hearing, if
20 necessary.

21 It says, the Commission shall have,
22 quote, no less than 30 days from the filing of the
23 utility's reply to hold a hearing and issue a
24 report and order approving or rejecting the
25 application.

1 Now, normally that language would say
2 no later than 30 days, but the words no less than
3 30 days are a different meaning entirely. That
4 means that -- if you read it literally, it seems to
5 me that that means that the Commission has to wait
6 at least 30 days before issuing an order after the
7 reply.

8 I don't know if the drafters of the
9 rule intended that to be the way that it's read,
10 but no less than 30 days is not no later than 30
11 days. So that would mean, if you read it
12 literally, that the Commission would have to wait
13 30 days at the least to issue its order, and there
14 is no end date contemplated in the rule, that it
15 could go on for some period of time after that. It
16 sets a minimum time but not a maximum time.

17 So I wanted to bring that to the
18 attention of the parties so that you can be
19 thinking about how you want to handle that.

20 MR. CONRAD: Judge, I'm all for
21 giving the Commission lots of time. Five years has
22 a great ring to it.

23 JUDGE BUSHMANN: I'm sure it does.
24 So what I can do is, if the parties are in
25 agreement that they think that we're supposed to be

1 following the procedure in subsection C, with the
2 caveat that the Staff report isn't due until 120
3 days and the intervenor comments aren't due until
4 that time, what I can do is then order that the
5 Staff report and the intervenor comments be filed
6 no later than August 8th. The rule provides for
7 the company's reply deadline after that, and so
8 that would then trigger the requirement to hold a
9 hearing.

10 I'm not sure we even need a
11 procedural schedule at this point because we don't
12 even know if there's going to be any disputed
13 issues until the Staff report and the intervenor
14 comments come back in.

15 So we could at this point forego a
16 procedural schedule, although I would order a
17 deadline for those reports -- the reports, and then
18 if it comes that there is disagreement and there is
19 a dispute, then I could have another prehearing
20 conference and we could figure out going from there
21 what the timetable would need to be, if we need to
22 have a hearing.

23 Does anybody have any thoughts on
24 that process?

25 MR. CONRAD: Your suggestion, Judge,

1 makes a lot of sense. Until you know, A, that
2 there's going to be a dispute, and B, what the
3 dispute is about, it's pretty difficult to identify
4 what --

5 JUDGE BUSHMANN: It's going to be
6 hard for the parties to set hearing dates when we
7 don't know if we even need to have a hearing.

8 MR. CONRAD: And it would seem that,
9 to maybe build upon what your thought process is,
10 that we would need to wait, August -- I'm just
11 throwing a date out, and I don't know what day of
12 the week it falls on -- August 18, basically ten
13 days, and then have another get-together and see
14 where we are. You may not -- you may find that you
15 don't need a hearing at that point.

16 JUDGE BUSHMANN: Right.

17 MR. CONRAD: But if you did, then
18 you'd have to develop --

19 JUDGE BUSHMANN: Right. We would
20 need to have a procedure for coming to a hearing,
21 an evidentiary hearing. Staff have any opinion
22 about that?

23 MS. HERNANDEZ: No. That sounds
24 reasonable to us. Of course we'll work as
25 expeditiously as possible, and possibly if the

1 language can be worked out amongst the parties, it
2 may be that we could get it done a little bit
3 earlier. But waiting to see if we need a hearing
4 and not issue an unnecessary order or coming up
5 with a procedural schedule that we won't have to
6 use is good to avoid now.

7 MR. CONRAD: Now, I found out, Judge,
8 this morning, and I don't know -- this is anecdotal
9 at this point, that this rule is still in a state
10 of flux.

11 JUDGE BUSHMANN: How so?

12 MR. CONRAD: Well, that's -- I just
13 found out that there was still changes going on.
14 Maybe there's -- maybe there are not. Staff might
15 know.

16 MS. HERNANDEZ: We're in a position
17 to submit our recommendations on revisions under
18 House Bill 142 to the Commission. We have actually
19 given those to the Commissioners, and they've been
20 postponed for agenda discussion until May 28th.

21 But to my recollection, there was
22 nothing about the RESRAM that we were proposing to
23 change. Now, of course, when you offer a rule up,
24 anything can happen when they're discussing it, but
25 as of now there's no changes to that section

1 proposed.

2 JUDGE BUSHMANN: And this would apply
3 anyway since it was filed under this existing rule.

4 Mr. Fischer, do you have any thoughts
5 on the process I've laid out, suggestions?

6 MR. FISCHER: I'm, I think, okay with
7 that, Judge. It is a rather technical area. I
8 hope we can reach an agreement among the parties
9 and just suggest that way to short circuit the
10 process. I do think, though, that if it becomes
11 apparent we do have differences, we probably need
12 to move fairly expeditiously to get it set for a
13 hearing.

14 JUDGE BUSHMANN: And if the parties
15 want to come to me once it becomes apparent that
16 there is a dispute that's not reconcilable, then
17 that's fine. We can change the procedure --

18 MR. FISCHER: Okay.

19 JUDGE BUSHMANN: -- at that point
20 once you know more. Public Counsel have any
21 opinions on this?

22 MS. BAKER: I think that is fine with
23 us. We'll also keep one eye on the Commission's
24 schedule to see if it starts filling up in that
25 area. If it does, then we might want to go ahead

1 and set some aside. But for now, I think that's
2 fine.

3 JUDGE BUSHMANN: If it becomes
4 apparent that we need to have a prehearing
5 conference, all you have to do is ask. I'll get it
6 scheduled.

7 MR. FISCHER: Judge, with regard to
8 the effective date of the tariffs, maybe we can
9 wait a little bit to see if we can get it done.

10 JUDGE BUSHMANN: Before suspending.

11 MR. FISCHER: Yeah.

12 JUDGE BUSHMANN: We have some time to
13 play with, so that will be fine. I'll kind of just
14 keep that on hold for now.

15 MR. FISCHER: Okay.

16 JUDGE BUSHMANN: And Renew Missouri,
17 do you have anything?

18 MR. LINHARES: I think this rule --

19 THE REPORTER: I'm sorry. I can't
20 hear you back there.

21 MR. LINHARES: I was just saying that
22 the rule has a few different time frames, the 120
23 days, 75 days. I think if all the parties -- I
24 guess Ameren Missouri isn't here.

25 JUDGE BUSHMANN: I don't think so.

1 MR. LINHARES: If all the parties
2 were to basically agree to forego their opportunity
3 to file that later 120 days comments, we could
4 agree to a shorter time frame if we wanted to. I
5 mean, I'm certainly in favor of taking as much time
6 as we need because this is a complicated area and
7 it's the first time we're doing it, but I think
8 we're all -- it's possible that we could agree to a
9 quicker time frame.

10 JUDGE BUSHMANN: Okay. Well, then
11 here's what I would propose that I'll do. Later
12 today I'll issue a notice that will include
13 information that I have allowed intervention on the
14 two parties, and that I have ordered Staff report
15 and intervenor comments to be filed no later than
16 August 8th of this year. So that will set the --
17 set it going, and I'll -- you guys can stay here
18 and talk if you want to about how you want to
19 proceed at this point.

20 I will hold off on taking any action
21 on suspension of the tariff in the hopes that in
22 the near future there might be an agreement and all
23 parties can come together and it can be resolved
24 quicker than what would be anticipated.

25 Is there anything else that I need to

1 take up before we go off the record?

2 MR. CONRAD: Would the Judge be
3 amenable to taking up two or three other things on
4 the data requests and so on? I mean, shortening
5 the time doesn't mean anything now because we're
6 not working under it -- under that, but we may have
7 some data requests. Company and Staff may also.

8 And I'm just thinking that a word or
9 two on process of that, things like data requests
10 go to everybody, all attorneys, and dispose of in
11 responses would be if there were formulas in the --
12 I mean, if it's spreadsheet-type things, then with
13 the formulas complete so the things are operable,
14 we have usually had those types of things, what I
15 call tacking, and that's my word for it, but if --
16 if the 20 days, which is kind of standard, stays
17 and I ask somebody, the requestee, please send us a
18 copy of your response to Staff Data Request XXX,
19 whatever it is, that I don't get an initial 20
20 days. If they have the response available, then
21 it's -- I'm not concerned about like overnight, but
22 I shouldn't have to start a new period if the
23 response has already been put together and
24 prepared.

25 Those are -- those are really the

1 things I'm talking about. Sometimes we've talked
2 about shortening the turnaround time, but that's in
3 the context of a testimony schedule. So that seems
4 to be, based on what you're saying, premature at
5 this point.

6 JUDGE BUSHMANN: Right. Well, rather
7 than issue a detailed discovery order in this case,
8 I think I would rather, since the parties to this
9 case are used to dealing with each other and used
10 to dealing with these discovery rules, that we just
11 proceed under the rules as they exist now, and if
12 there's any problem, if there's any dispute, then I
13 would be happy to take any phone calls, we can have
14 a discovery informal resolution by phone as it's
15 provided in the rules. If that doesn't work, then
16 I can hold a discovery conference where it's a
17 little more formal. And, if necessary, at that
18 point if it's just not working out, then I can
19 issue more detailed rules in an order.

20 But I'd like to just kind of go
21 informally at this point just to see how it works.
22 If it doesn't, just pick up the phone and call me
23 and we can get it resolved right away.

24 Anything else the parties need me to
25 handle? All right. I will leave the -- is anybody

1 on the phone? I don't think so. So I'll leave the
2 room for you-all to discuss anything that you need
3 to discuss at this point, and we're off the record.

4 (WHEREUPON, the recorded portion of
5 the procedural conference was concluded at
6 10:20 a.m.)

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C E R T I F I C A T E

STATE OF MISSOURI)

) ss.

COUNTY OF COLE)

I, Kellene K. Feddersen, Certified
Shorthand Reporter with the firm of Midwest
Litigation Services, do hereby certify that I was
personally present at the proceedings had in the
above-entitled cause at the time and place set
forth in the caption sheet thereof; that I then and
there took down in Stenotype the proceedings had;
and that the foregoing is a full, true and correct
transcript of such Stenotype notes so made at such
time and place.

Given at my office in the City of
Jefferson,

County of Cole, State of Missouri.

Kellene K. Feddersen, RPR, CSR, CCR

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