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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Prehearing Conference

December 14, 2005

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Jefferson City, Missouri

Volume 1

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In the Matter of the Application)
of Girardeau Stevedores)

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Contractors for a Change of) Case No. EO-2006-0145
Electric Supplier)

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KENNARD L. JONES, Presiding,
REGULATORY LAW JUDGE.

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REPORTED BY:

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KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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23

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APPEARANCES:

2

LANNY KOCH, pro se
Girardeau Stevedores Contractors
P.O. Box 4253
Scott City, MO 63750
(573)264-3882

3

4

5

FOR: Girardeau Stevedores Contractors.

6

RODRIC A. WIDGER, Attorney at Law
Andereck, Evans, Milne, Peace & Widger, LLC
1111 S. Glenstone, #2-100
Springfield, MO 65804
(417)864-6401

7

8

FOR: SEMO Electric Cooperative.

9

10

ROBERT S. BERLIN, Associate General Counsel
P.O. Box 360
200 Madison Street
Jefferson City, MO 65102
(573)751-3234

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FOR: Staff of the Missouri Public
Service Commission.

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

2 JUDGE JONES: This is a prehearing
3 conference. The case number is EO-2006-0145, in the
4 matter of the application of Girardeau Stevedores
5 Contractors for a change of electric supplier.

6 My name is Kennard Jones. I'm the judge
7 presiding over this matter. At this time we'll take
8 entries of appearance, beginning with the applicant,
9 Girardeau Stevedores Contractors.

10 MR. KOCH: Lanny Koch.

11 JUDGE JONES: Are you an attorney,
12 Mr. Koch?

13 MR. KOCH: No.

14 JUDGE JONES: Are you represented by an
15 attorney?

16 MR. KOCH: No.

17 JUDGE JONES: And is AmerenUE present? And
18 from SEMO Electric Cooperative?

19 MR. WIDGER: Your Honor, I'm Rod Widger
20 from Andereck, Evans, Milne, Peace & Widger. Our address
21 is 1111 South Glenstone, Springfield, Missouri, here
22 representing SEMO Electric Cooperative.

23 JUDGE JONES: Thank you. And the Staff?

24 MR. BERLIN: Robert S. Berlin, Post Office
25 Box 360, Jefferson City, Missouri 65102, appearing on

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1 behalf of the Staff of the Missouri Public Service
2 Commission.

3 JUDGE JONES: And it doesn't appear that
4 anyone is here from the Office of the Public Counsel.
5 I'll note that for the record, that they are not here.

6 Looks like there's an application for a
7 change of electric supplier from SEMO Electric Cooperative
8 to AmerenUE, and SEMO opposes that application because the
9 application did not allege facts that showed the change
10 would be in the public interest.

11 MR. WIDGER: May I elaborate on that?

12 JUDGE JONES: Of course.

13 MR. WIDGER: Okay. I think there's a
14 certain inevitably, a certain sense of fairness that we
15 should allow this to take place. The sense of what I said
16 in our entry of appearance was that I'm not sure that --
17 and I didn't go into detail, but I'm not sure that a
18 change of supplier to avoid the impact of a line extension
19 policy is different than a change for rate differential.
20 That's maybe a technical, a technical issue there, and I'm
21 concerned about the precedence of saying that line
22 extension policies are not the same as a rate
23 differential.

24 Having said that, we also said that we want
25 to work for a solution on this. We're not -- we're not

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1 going to stand in the way of this change. We are in
2 discussions with Union Electric, though, to use this as an
3 opportunity to clean up more of the service than
4 Stevedores. We may do a little more swapping that lets
5 the whole system have some more efficiency. It may take
6 us out of there completely in exchange for something
7 someplace else.

8 But we don't want to hold his service
9 really hostage to that. I think that we can't stand here
10 and say he's got to invest \$40,000 to get three-phase
11 service.

12 JUDGE JONES: Well, it sounds like it might
13 be best for me to leave you-all to discuss things. The
14 preliminary hearings are primarily conducted to bring all
15 the parties together so that they can have an opportunity
16 to discuss whatever differences they may have, and if they
17 are unable to resolve those differences, then, of course,
18 we'll move into a hearing phase where we'll have a
19 procedural schedule.

20 And if it's necessary in this case to have
21 a hearing, I don't think prefiled testimony will be
22 necessary for one. I don't think there's enough testimony
23 for there to be prefiled testimony. In fact, there -- I
24 don't know that there will be a need for any testimony.
25 Sounds like this may be a legal argument more so than

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1 factual.

2 MR. WIDGER: I'm thinking that we will work
3 toward a stipulation, an agreeable stipulation.

4 JUDGE JONES: I'll leave you-all to do
5 that. Do you think you can make that determination today?

6 MR. WIDGER: Well, UE's not here.

7 JUDGE JONES: UE apparently doesn't care
8 how this turns out.

9 MR. WIDGER: What I was talking about was
10 giving more than that service to UE, adding a little bit,
11 and we taking a UE service in another place, kind of a
12 little bit of customer swap there, that allows both
13 systems to maximize efficiencies.

14 JUDGE JONES: It sounds like you're saying
15 you don't want to lose the revenue from this one client or
16 customer, rather you want to be able to cover it somewhere
17 else.

18 MR. WIDGER: Well, in truth, he's running
19 on generators. We're not getting revenues on the
20 warehouse at present. We have single-phase service. He
21 needs three-phase service. He's been running generators
22 because three-phase service from us would involve a lot of
23 construction to get there, but UE is right across the
24 street.

25 JUDGE JONES: So what happens if UE just

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1 doesn't cooperate with you? What if they don't want to
2 talk about --

3 MR. WIDGER: If that falls apart, we will
4 not continue to oppose this case. And like I said, we
5 won't hold -- we won't hold them hostage. We're just
6 using the time and the opportunity here to try to make it
7 a win/win for everybody.

8 JUDGE JONES: Well, how will you be able to
9 make this hearing, this prehearing conference, what I
10 assume will be a settlement conference, how will you be
11 able to make that worth being here in the absence of UE
12 not being here?

13 MR. WIDGER: Well, I'm surprised UE's not
14 here. The local manager of UE and the manager of the coop
15 met yesterday, and my understanding was things were
16 looking positive from the manager level. I'm not sure why
17 legal representation's not here.

18 JUDGE JONES: So does that mean this
19 prehearing conference then as far as settlement is
20 concerned is in vain?

21 MR. WIDGER: Yes.

22 JUDGE JONES: So you-all --

23 MR. WIDGER: We can talk about the concepts
24 and kind of use the Staff and kind of -- we can kick some
25 things around.

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1 JUDGE JONES: Will you be able to speak
2 with UE any time soon?

3 MR. WIDGER: Obviously I can call them any
4 time. I expected them to be here today.

5 JUDGE JONES: The only reason I ask is so
6 that the case can move forward. I don't want to -- if UE
7 is not cooperative and -- I don't want this application to
8 be stayed because they don't want to talk to you. I don't
9 think that would be fair to the applicant.

10 MR. WIDGER: I think that we can work out a
11 schedule, that we can sit here with Staff and go ahead and
12 comply with the requirements for setting out a schedule
13 that moves us to a determination, and then we can always
14 interrupt that or discard that when we have an agreement.

15 JUDGE JONES: Mr. Koch, do you have
16 anything you'd like to add?

17 MR. KOCH: I've been trying to get it done
18 for ten years.

19 JUDGE JONES: Is this the first time you
20 filed?

21 MR. KOCH: Well, I always -- right. That's
22 the only choice they give me here. You know, I had to do
23 something, because that's the only choice they give me.

24 JUDGE JONES: And I may be mistaken, but I
25 think even if everyone agreed with you, you'd still have

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1 to file an application to change the supplier.

2 MR. WIDGER: Right.

3 JUDGE JONES: So maybe you should have
4 filed that ten years ago. I guess you just didn't
5 realize.

6 MR. KOCH: Well, no. They were going to --
7 SEMO was going to take care of it for me.

8 MR. OVERBEY: There were some informal
9 discussions, and I think that was where the understanding
10 was, and then with time I guess it became known that an
11 application needed to be filed. Even if the coop was
12 willing to turn it loose on previous times, before UE
13 could pick them up under the state law an application
14 would have to be filed and ruled on by the PSC.

15 MR. WIDGER: And there's two sides to every
16 story.

17 JUDGE JONES: Before you say anything,
18 what's your name?

19 MR. OVERBEY: Dan Overbey. I'm with the
20 Port Authority. I'm here with Mr. Koch.

21 JUDGE JONES: The Port Authority?

22 MR. OVERBEY: Southeast Missouri Regional
23 Port Authority. It's -- we're the entity that leases the
24 land to Mr. Koch, along with other customers there.

25 MR. KOCH: For the public to dock.

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1 JUDGE JONES: So if at some time the lease
2 expires, they move out, you'll be stuck with whoever your
3 supplier will be as a result of this case; is that your
4 interest?

5 MR. OVERBEY: Yes.

6 JUDGE JONES: All right. Well, I'm sorry
7 it's taken ten years for you to figure out you needed to
8 file an application. That's unfortunate.

9 I interrupted you. You wanted to say
10 something.

11 MR. WIDGER: Well, your Honor, I'm just
12 saying, yeah, there's two sides to every story. My
13 understanding, we have never had an application, an
14 application for three-phase service at that site. There
15 have been talks, but we have never had cause to even sit
16 down and engineer the exact costs of that. It's never got
17 to that point.

18 JUDGE JONES: What do you mean an
19 application, something that he filed with you-all?

20 MR. WIDGER: Right. Right, for three-phase
21 service.

22 JUDGE JONES: Let me ask you this: Ten
23 years ago apparently Mr. Koch approached SEMO and said, I
24 need -- informally even. You don't have -- you're not
25 aware of this at all?

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1 MR. WIDGER: I'm sure they've had
2 discussions, and Mr. Koch has run generators for his
3 own --

4 JUDGE JONES: Now it appears they've had
5 discussions. It seems like if an application was
6 necessary, you would have said, you need to do this, you
7 need to do that, and that certainly should have happened
8 over a decade.

9 MR. WIDGER: And to my knowledge, it has
10 never moved to that point of formally requesting
11 three-phase service. But that's neither here nor there.
12 We want to solve the problem.

13 JUDGE JONES: It could have some bearing,
14 you know, if -- if SEMO Coop has known for ten years that
15 he's been wanting to change service, I mean, it's not your
16 fault. It's his responsibility to know what he's supposed
17 to do under the law. If he didn't know, he should have
18 went and got an attorney that could have told him. But if
19 you-all knowing what he should have done withheld that
20 information, that shows bad faith.

21 MR. WIDGER: That's never happened. The
22 point is, at whose cost. Our line extension policies make
23 it his cost. He obviously would prefer it be our cost.
24 So that's the rub. It's just the dollars of who pays for
25 the line extension.

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1 JUDGE JONES: Well, are you saying that he
2 wasn't aware that he probably could switch to AmerenUE?

3 MR. WIDGER: No, I don't know.

4 JUDGE JONES: Were you, Mr. Koch?

5 MR. KOCH: Pardon?

6 JUDGE JONES: Were you aware that you could
7 change your electric supplier to AmerenUE?

8 MR. KOCH: The Coop talked like they were
9 going to get us three-phase power. We went with them to
10 start with when UE wasn't out there. Okay. And they
11 talked like they were going to eventually get us
12 three-phase power, so we wasn't worried about it.
13 Eventually it was coming, but it never came.

14 JUDGE JONES: Well, then, the issue it
15 sounds like it wasn't who's going to pay. Were you aware
16 that that was even an issue?

17 MR. KOCH: No, no. I didn't know I was
18 going to have to pay. I think there's 12 or 16 miles of
19 line they've got to build, and there ain't no way I could
20 build that line for my demand. But they had the
21 opportunity to take on some other customers out there that
22 they could have brought it in that would have made it
23 feasible. UE did.

24 JUDGE JONES: Okay. Well, I'm going to
25 give SEMO -- we've got holidays coming up now. You ought

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1 to be able to have discussions with Ameren by the end of
2 the year, shouldn't you?

3 MR. WIDGER: Let us comply with the
4 scheduling order that kind of brought us here, and yes,
5 those discussions will proceed. And like I said, we're
6 very, very optimistic that, you know, there will be a
7 win/win/win out of this for both suppliers and the
8 customer.

9 JUDGE JONES: Okay. What I'll do, then, is
10 I'm going to -- I'm going to write myself a note to let me
11 know if by December 31st I'm not able to write an order
12 approving a change of supplier, then I'm going to issue an
13 order for status update and a procedural schedule.

14 MR. WIDGER: I thought we would go ahead
15 and lay out a procedural schedule while we're here today
16 that keeps us to the wheel on this.

17 JUDGE JONES: Okay. Well, I don't have the
18 Commission's hearing calendar down here with me, but I'll
19 tell you what we want to do. It doesn't sound like it's
20 going to be any more than a one-day hearing, so we just
21 need one day for a hearing.

22 MR. WIDGER: Right.

23 JUDGE JONES: Prefiled briefs. See, I have
24 a problem with this because Mr. Koch isn't represented, so
25 his sophistication with regard to making these legal

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1 arguments on whether or not rate differential and line
2 power -- or line extension policies are different under
3 the law, I don't know that he can even make an argument in
4 that regard. So that leaves him at a disadvantage, but --

5 MR. BERLIN: Well, your Honor, Staff did
6 file a memorandum in this case. Staff conducted an
7 investigation, filed a memorandum, and the memorandum
8 recommended that this change of supplier application be
9 approved as it is in the public interest to do so.

10 I'm not sure what a procedural schedule
11 will get us at this point, recognizing Mr. Widger's
12 statement that he's got issues to work out with AmerenUE,
13 and that I think it's agreed here that in order for
14 Mr. Koch at Girardeau Stevedores to receive three-phase
15 service, there would be involved at least a 12-mile
16 construction project adding three-phase line service to
17 get it out to the port. So that is covered in Staff's
18 memo in some detail.

19 JUDGE JONES: Does Staff say whether or not
20 there's a difference between the line extension policy and
21 a rate differential?

22 MR. BERLIN: Staff does state that, and it
23 is Staff's position that the line extension does not
24 amount to a rate differential case. SEMO's line extension
25 policy is such that the customer would pay for that

1 approximately 12-mile line extension to run the service,
2 the three-phase service to his location. That is separate
3 and distinct from a rate differential. And based upon the
4 discussions at the prehearing, that appears to be the only
5 issue that would be argued.

6 JUDGE JONES: And, Mr. Widger, do you agree
7 with Mr. Berlin that that is the issue?

8 MR. WIDGER: The issue, I think that that
9 is the -- that defines the legal guidance that the
10 Commission needs to follow, and it would be -- it would be
11 making a statement from here on for all cases, then, that
12 line extension policies, which obviously affect dollars,
13 and all those -- and how much a customer pays affects the
14 difference of what's in rates, you know, in the monthly
15 rate, I'm not sure you can distinguish it. But if the
16 Commission makes that statement that that is
17 distinguishable, then that will impact probably a lot of
18 other locations that may want a change of power supplier.

19 JUDGE JONES: Well, Mr. Berlin is arguing
20 that if the applicant pays for this line extension and
21 then goes -- or then stays with you-all or if he goes to
22 Ameren, your rates don't change if he stays with SEMO.
23 Rates won't change. He just pays the line extension,
24 whatever that is. It's a one-time payment.

25 MR. WIDGER: It's a contribution in aid of

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1 construction, then, that does not have to go into rates.
2 I mean, I'm not an accountant. We may get beyond me here
3 real quick.

4 JUDGE JONES: As far as it affecting every
5 other line extension policy in the state, you do know that
6 the Commission's decisions have no precedential value?

7 MR. WIDGER: Well, I understand that, but I
8 think that the Commission is principled and would probably
9 want to make the same -- follow the same principles in
10 every case before it.

11 JUDGE JONES: And I'll also tell you that
12 your -- the thing that seems to be keeping this from
13 progressing is AmerenUE's absence. Okay. Everything you
14 want to talk about with AmerenUE is irrelevant to this
15 case.

16 MR. WIDGER: Yes and no, from the
17 standpoint that it affects -- it could affect how far we
18 need to pull lines back and could affect what UE needs to
19 do or how little or maybe less they need to do to serve
20 customers. We've got poles in place. Maybe they would
21 want to use part of our pole system if we pull off of it,
22 as an example.

23 JUDGE JONES: You said they were right
24 across the street from them.

25 MR. WIDGER: I know. They're across with

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1 Either way it's -- the law talks about service to
2 structures, and so UE can't touch stuff that we're already
3 serving, absent a PSC order. But there's also then a
4 neighbor here, a neighbor who has this fertilizer storage
5 that is served by UE. I think that's one where we also
6 serve an office.

7 So with -- it may be if we set this for
8 another prehearing conference, if you give us 30 days or
9 something to say it's going to work or not.

10 JUDGE JONES: Where are you located,
11 Mr. Koch? Where did you drive from?

12 MR. KOCH: Scott City, Missouri.

13 JUDGE JONES: Scott City.

14 MR. OVERBEY: Near Cape Girardeau.

15 JUDGE JONES: My wife's from Benton.

16 That's too far for him to travel.

17 MR. WIDGER: But if we can work this out,
18 they won't need to come back. If we work it out, it's
19 going to go by stipulation.

20 JUDGE JONES: If you work it out, we don't
21 need another prehearing conference.

22 MR. WIDGER: Right. But setting a date
23 creates the urgency and gives us the backstop.

24 JUDGE JONES: There's already an urgency.
25 I'm just going to say by the end of the year if this isn't

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1 worked out, what I'll probably do, because it doesn't
2 sound like -- well, I guess it could be a factual case.
3 I'm not really sure on that. So if it is not worked
4 out -- I'm even hesitant to say that, because I'm still
5 hearing things that this situation is the electricity that
6 goes to his warehouse, he needs three-phase service. You
7 don't have it. It's going to cost more money to get that.
8 AmerenUE has it. They're right across the street.

9 The question is, is changing to AmerenUE in
10 the public interest? Is that change for a reason other
11 than rate differential? Those are the questions. Those
12 questions don't seem to be relevant to you. It seems like
13 you're asking a lot of other questions that have to do
14 with structures around the area and other customers,
15 different areas with AmerenUE, and I don't think that
16 that's -- I don't think it's fair to burden this case with
17 all those issues.

18 Now, if that's something you want to talk
19 about with AmerenUE that will keep you from having a dog
20 in this fight, then you can do that on your own. But at
21 this point I don't see -- I don't hear you saying that
22 this is not in the public interest.

23 MR. WIDGER: That's probably not what I've
24 intended to imply. I'm thinking it is very much in this
25 customer's interests, very much, and we're very

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1 sympathetic.

2 JUDGE JONES: Well, who is -- who would you
3 for purposes of this case say is the public?

4 MR. WIDGER: Well --

5 JUDGE JONES: It can't be every citizen in
6 Missouri, that's for sure.

7 MR. WIDGER: No. And you have to -- and
8 that's getting into kind of a philosophical discussion,
9 too. I think both companies represent their entire
10 rate-paying base of customers.

11 JUDGE JONES: Are you saying if Mr. Koch
12 changes from SEMO to Ameren, is that going to affect your
13 customer base?

14 MR. WIDGER: Well, in a very small way. I
15 mean, it's a customer. He's one customer.

16 JUDGE JONES: So it will affect the
17 customer base?

18 MR. WIDGER: I mean, de minimis, yeah.

19 JUDGE JONES: Ameren's customers and your
20 customers seem to be the world of the public in this case,
21 and if the customers of SEMO are going to be affected in
22 some de minimis way, and he's been needing service from
23 you now for ten years, it sounds like his need outweighs
24 the interests of the SEMO customer base. Do you follow
25 me?

1 MR. WIDGER: Yes, and I think that I -- and
2 I think that I started by saying I think there's a certain
3 inevitably and a certain fairness to acting favorably on
4 his application. We just want to kind of get the ducks in
5 a row.

6 I really wish UE had been here today so we
7 could drop the discussion on the record and sit down and
8 look at the maps and, you know, knock this thing out.

9 JUDGE JONES: They're not here, and quite
10 frankly, I don't -- in their pleadings even they've said
11 they're neutral on this. So why would AmerenUE pay an
12 attorney to come here if they're neutral? It doesn't make
13 sense to me from an economic standpoint. Why would they
14 pay someone to be here? Now, if you want to talk to them
15 on the phone or whatever you need to do, I don't know.

16 But what I'll probably do, if I don't hear
17 something by the end of the year, I'm going to go ahead
18 and set this for a hearing. We'll have an evidentiary
19 hearing. You don't have to bother with hiring an
20 attorney. We'll just put you on the stand and ask some
21 questions.

22 And that hearing -- now I'll tell you,
23 Mr. Koch, just so you know, I know you've been ten years
24 waiting on this to happen, but the Public Service
25 Commission's hearing calendar is pretty full right now.

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1 In fact, I believe all of January is taken. It may be
2 possible -- and when I say that, we have two hearing
3 rooms. There's one over here at 310, and we're in 305
4 now. 310 is the preferable hearing room. Commissioners
5 may agree to have a hearing in here. Just simply we
6 stream all of our hearings over the Internet so people can
7 have public access. They may agree to have it in here.
8 But if you've waited ten years, a couple more months
9 certainly can't do any more harm.

10 MR. OVERBEY: He's a patient fellow.

11 MR. KOCH: Well, our next step was to just
12 shut the power down, run off the generators for six months
13 and then swap anyhow. That's my next step.

14 MR. WIDGER: There's no tie.

15 MR. KOCH: Didn't the Commission tell me I
16 could do that?

17 JUDGE JONES: You're going to lose the
18 court reporter because you're talking to Mr. Bax here and
19 he's not -- she doesn't even know him.

20 MR. KOCH: The flipflop law ain't in effect
21 no more?

22 MR. WIDGER: It's an anti-flipflop law.
23 It's not a time lapse that allows a change. It's approval
24 by the PSC that allows the change.

25 JUDGE JONES: But I would try to get you a

1 hearing as soon as possible. I'll put it to you that way.
2 A day when Commissioners are here, at least some of them.
3 There are five. We'll have a hearing if this can't be
4 settled by the end of the year.

5 Is there anything from the Staff?

6 MR. BERLIN: Yeah. Your Honor, I have a
7 procedural question. I note that Mr. Koch filed an
8 application, verified application for change of supplier.
9 I note that the attorney for Ameren filed a verified
10 statement in this case. So my question is, would the
11 Commission find it helpful if Staff filed a verification
12 for its Staff Memo that was filed previously?

13 JUDGE JONES: To where it relates back to
14 the memo?

15 MR. BERLIN: Simply a verification or
16 affidavit of Mr. Bax, the Staff individual who conducted
17 the investigation and prepared the memo for the
18 Commission. I note that in some cases Staff Memos are
19 filed with verifications and some they're not.

20 JUDGE JONES: I'll tell you what, that
21 may -- I'm glad you brought that point up. Yes, it would
22 be helpful. And I'm wondering now if verified pleadings
23 can't replace the necessity of a hearing.

24 MR. WIDGER: And that's what would be
25 helpful. Then he would be able to submit that and it can

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1 be considered as sworn.

2 JUDGE JONES: That would leave SEMO to
3 file -- well, I can't remember whether you-all were
4 verified or not.

5 MR. WIDGER: It's my signature, so I hope
6 it was.

7 JUDGE JONES: Well, when I say -- I mean,
8 something that would take the place of testimony is what
9 I'm wanting.

10 MR. WIDGER: Right. Right.

11 JUDGE JONES: Yeah. Who's Ruben Jeane?

12 MR. WIDGER: He's the manager at the coop.
13 He's the guy.

14 JUDGE JONES: Yeah, that might not be --
15 that's a good idea, Mr. Berlin. Thank you. I'd have
16 you-all do that. And, Mr. Koch, after Staff files their
17 verification -- Mr. Widger, do you anticipate having to
18 file any other information in the case?

19 MR. WIDGER: No.

20 JUDGE JONES: After Staff files their
21 verification, you have the whole case, right, all the
22 papers that have been filed? You may look those over, and
23 if there's something you want to add, go ahead and file it
24 and have it notarized so that I can use that as evidence,
25 as testimony, so you won't have to come back up here and

1 sit in the courtroom and talk with us. And if either --
2 if the Staff or SEMO wants to respond to whatever he might
3 file, then go ahead and do that.

4 If you-all don't decide this or settle this
5 by the end of the year, maybe by January 15th you want to
6 file something. Is that enough time for you to look over
7 everything and see if there's something you want to file?
8 And then by the end of January, any responses will be due,
9 January 31st. And so soon after January 31st, maybe we
10 can have an Order in this case disposing of it.

11 Does that sound okay to everyone?

12 Mr. Widger?

13 MR. WIDGER: Yes.

14 JUDGE JONES: Mr. Koch?

15 MR. KOCH: It's just going to be what UE
16 and SEMO decide between them to straighten it out then?

17 JUDGE JONES: Well, if Mr. Widger wants
18 this to be a contested matter, if he wants the Commission
19 to have to issue a Report and Order based on the evidence,
20 I don't know what it is he's got to talk to Ameren about,
21 but it seems like that's going to be the thing that makes
22 him make up his mind.

23 MR. KOCH: The way I understand it, he's
24 wanting to try to swap me for some other, and I don't know
25 what that's got to do with me.

1 JUDGE JONES: It don't believe it has
2 anything to do with you, but he's taken the position now
3 that opposes your application, and I have to recognize
4 that, and I have to treat it as a contested case and look
5 at the testimony and then make findings and then an Order.

6 What motivates him to contest it, it could
7 be something as simple as the grocery store around his
8 house raised the price of bread \$3. If that's what is
9 motivating him, then I can't discount that motivation. I
10 can't say that's not a good enough reason to contest this
11 application. But he has to oppose it with the affidavit
12 that he's filed. That will be taken as testimony.

13 MR. KOCH: With the heading of what do I
14 need to address? Am I addressing whether it's in the
15 public interest or not?

16 JUDGE JONES: If that is the issue, whether
17 or not it's in the public interest. The two standards
18 that are necessary for the Commission to consider a change
19 of electric supplier is, one, whether or not that change
20 is for a reason other than a rate differential. In other
21 words, if they're charging you X amount a month for
22 electricity on rate, you know, you know, the rate per
23 kilowatt hour I believe is how you do that, and then you
24 run into some guy at Ameren and he says, is that what he's
25 charging you? We can charge you less. Then you say for

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1 that reason you want to change, that's not legal. You
2 can't do that.

3 And then generally the change has to be in
4 the public interest. That's a pretty broad thing, and
5 it's always being defined and redefined. So those are two
6 things that you may want to -- that you want to address.
7 And I'd like you to do that by January 15th. That's only
8 if this doesn't settle, you see. And then I'll have them
9 respond to whatever it is you say, because they may
10 disagree, and then I'll look at both those pleadings,
11 those affidavits, and then make a determination from that.

12 Okay. Does anyone have anything else?
13 Mr. Widger?

14 MR. WIDGER: No, your Honor.

15 JUDGE JONES: Mr. Berlin?

16 MR. BERLIN: No, your Honor.

17 JUDGE JONES: Mr. Koch?

18 MR. KOCH: No.

19 JUDGE JONES: With that, then, we'll go
20 ahead and go off the record.

21 WHEREUPON, the recorded portion of the
22 prehearing conference was concluded.

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