

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
PREHEARING CONFERENCE

APRIL 16, 2009
Jefferson City, Missouri
Volume 1

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12 Linda Shivers,)

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13 Complainant,)

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) Case No. EC-2009-0271

14 vs.)

)

15 Union Electric Company)

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d/b/a

16 AmerenUE,)

)

17 Respondent.)

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KENNARD L. JONES, Presiding,
SENIOR REGULATORY LAW JUDGE.

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22 REPORTED BY:

23 Pamela Fick, RMR, RPR, MO CCR #447

Midwest Litigation Services

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1 APPEARANCES:

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

2 JUDGE JONES: We're on the record in
3 Case No. EC-2009-0271. Let's go ahead and take
4 entries of appearance from Staff.

5 MR. DEARMONT: This is Eric Dearmont
6 appearing on behalf of Staff, P.O. Box 360, Jefferson
7 City, Missouri 65102.

8 MR. WILLIAMS: Judge, I'll go ahead and
9 make an entry as well. Nathan Williams.

10 JUDGE JONES: Go ahead, Nathan, tell
11 them you're here.

12 MR. WILLIAMS: Nathan Williams is also
13 appearing on behalf of the Staff.

14 JUDGE JONES: And from AmerenUE?

15 MS. TATRO: Wendy Tatro, 1901 Chouteau
16 Avenue, St. Louis, Missouri, appearing on behalf of
17 AmerenUE.

18 MR. KNOLL: This is Alex Knoll, 111
19 South Ninth Street, Suite 200, Columbia, Missouri
20 65201, appearing on behalf of AmerenUE.

21 JUDGE JONES: All right. Also,
22 Mr. Shivers, can you go ahead and state your name.

23 MR. SHIVERS: Yes. My name is Juan
24 Kennard Shivers. I'm the husband of Linda Shivers,
25 appearing on her behalf.

1 JUDGE JONES: And is Ms. Shivers still
2 there?

3 MS. SHIVERS: Yes.

4 JUDGE JONES: Can you go ahead and state
5 your name, Ms. Shivers?

6 MS. SHIVERS: My name is Linda Shivers.

7 JUDGE JONES: Now, Mr. Shivers, this is
8 the problem. The account is in Linda Shivers' name.
9 She filed the complaint. And by you standing in on
10 her behalf, you're effectively representing her. And
11 the Commission's rules don't allow someone other than
12 an attorney -- well, is that true?

13 MR. WILLIAMS: You can appear on behalf
14 of yourself, or an attorney can appear on your
15 behalf, but it's required by case law.

16 JUDGE JONES: Well, Ms. Tatro, I know in
17 our rules if you're a corporation you have to have an
18 attorney, and if you're an individual you have to
19 appear on your own behalf; is that right?

20 MS. TATRO: I believe that's probably a
21 more accurate statement than what I said earlier.

22 JUDGE JONES: Okay. Mr. Shivers --

23 MR. SHIVERS: Yes.

24 JUDGE JONES: -- and Mrs. Shivers, I'm
25 gonna give you an opportunity to say why you think

1 you ought to be able to appear on her behalf.

2 MR. SHIVERS: Because I'm her husband,
3 and if anything were to happen to Ms. Shivers,
4 AmerenUE would come to me for any bills, past bills
5 due.

6 MS. TATRO: Can I make a suggestion,
7 your Honor? Perhaps Ms. Shivers can make a verbal
8 motion to amend her complaint to add her husband also
9 as one of the plaintiffs.

10 JUDGE JONES: Okay. That sounds good.
11 Staff, have you got any objection in that regard?

12 MR. WILLIAMS: I have no opposition to
13 that.

14 JUDGE JONES: Okay.

15 MS. TATRO: I would hate for a technical
16 difficulty -- you know, I'm sympathetic to the
17 position that she's in.

18 JUDGE JONES: Okay. Ms. Shivers?

19 MS. SHIVERS: Yes.

20 JUDGE JONES: Do you understand what
21 Ms. Tatro is talking about?

22 MS. SHIVERS: What did she say?

23 JUDGE JONES: She's wanting you to amend
24 your complaint to include your husband so that the
25 caption would thereafter read Linda Shivers and Juan

1 Shivers as complainants.

2 MS. SHIVERS: I would like to do that.

3 JUDGE JONES: Mr. Shivers?

4 MR. SHIVERS: Yes.

5 JUDGE JONES: Are you satisfied with

6 that?

7 MR. SHIVERS: Yes, thank you.

8 JUDGE JONES: And Ms. Tatro?

9 MS. TATRO: That's acceptable to UE.

10 JUDGE JONES: Okay. Well, after this

11 hearing, I'll issue a notice in that regard. And

12 Mr. Shivers, your first name is spelled how?

13 MR. SHIVERS: J-u-a-n.

14 JUDGE JONES: Okay. I'll add you as a

15 Complainant to the -- to this matter. Now, let's go

16 ahead and get to why we're here. You-all have filed

17 a complaint because there's a defective meter and

18 AmerenUE has come back later on and said you owe so

19 much money. This prehearing conference is an

20 opportunity for you, Ameren and our Staff to discuss

21 the matter further.

22 Have you talked to Ameren at all about

23 this since you filed the complaint?

24 MR. SHIVERS: No, they have not

25 contacted me at all.

1 JUDGE JONES: Okay.

2 MR. SHIVERS: Me or my wife.

3 JUDGE JONES: Okay. Well, this gives

4 you-all an opportunity to try to work this out and

5 figure out how you-all might be able to resolve this

6 complaint without going to hearing. If you-all can't

7 come to an agreement, then we will have to move on to

8 hearing. And I'll tell you now -- Mr. and Mrs. Shivers,

9 do you have access to a computer?

10 MR. SHIVERS: Yes.

11 JUDGE JONES: Internet?

12 MR. SHIVERS: Yes.

13 JUDGE JONES: Have you been to the

14 Commission's web site?

15 MR. SHIVERS: Yes.

16 JUDGE JONES: There are rules,

17 procedural rules in Chapter 2 of the Commission's

18 rules. And if you look on the web site, there's

19 probably a link that says statutes or rules or

20 something of that sort. Staff and Ameren, somebody

21 will be able to help you find that. But it's not

22 that difficult to find.

23 There are procedural rules in there that

24 you need to be aware of if you are gonna represent

25 yourself. Those rules -- and I will tell you now,

1 this provides for a certain amount of discovery. In
2 other words, you've made a claim and you're saying
3 that Ameren has in some way violated either the law
4 or its tariffs or perhaps a Commission order. In
5 moving your case forward, you essentially have to
6 prove that, okay? And you have to prove through
7 those procedural means that we have in our rules.

8 Now, there are discovery rules. In
9 other words -- do you know what the word discovery
10 means in this context?

11 MR. SHIVERS: No, I'm not sure.

12 JUDGE JONES: Okay. It basically --
13 when you have two parties fighting about something,
14 they both have the right to information that the
15 other party might have.

16 MR. SHIVERS: Okay.

17 JUDGE JONES: And there are procedures
18 on how to get information from Ameren. And if it's
19 necessary for you to prove your case, then it's your
20 burden to request certain information from Ameren in
21 writing, don't just call anybody up.

22 And if there's something that you think
23 Ameren has that you need in order to prove your case,
24 then you need to request that from them prior to the
25 hearing.

1 MR. SHIVERS: Okay.

2 JUDGE JONES: So this would be part of
3 you making your case. Now, more than informing you
4 about the discovery rules will probably be me helping
5 you practice law. So I'm gonna stop short of that,
6 and I just want you to be aware of the rules that are
7 in there, and you should look at them. I don't know
8 when this hearing will be. I'm not -- it could be at
9 the end of the summer or sometime early fall, I'm not
10 sure. It depends on the Commission's calendar and
11 what you-all work out here today.

12 MR. SHIVERS: Can you give me -- as far
13 as like, do I contact AmerenUE or do I contact their
14 representative, the attorney?

15 JUDGE JONES: Oh, you contact the
16 attorneys.

17 MR. SHIVERS: Okay.

18 JUDGE JONES: You definitely want to
19 talk to their attorneys. And like I said, it would
20 be best if you -- if you do that in writing.

21 MR. SHIVERS: I sure will.

22 JUDGE JONES: And read the rules of
23 discovery. I'm not -- you're at a disadvantage
24 because you're representing yourself; you do realize
25 that?

1 MR. SHIVERS: I understand.

2 JUDGE JONES: Okay. Attorneys
3 understand what these discovery motions are and
4 motions to produce and all these sorts of things.
5 They understand that and they also know that if
6 someone refuses to give them something, then there
7 are measures that can be taken to compel the other
8 party to turn over certain information.

9 So familiarize yourself with those rules
10 in preparation for your case because you will be
11 treated just -- you're not gonna be given any more
12 deference than the Ameren attorneys are gonna be
13 given. You-all are gonna be on the same playing
14 field for this case.

15 Do you have any -- before I leave
16 you-all to discuss this matter, do you have any
17 questions, anything at all that you need to ask me to
18 clear this up for you?

19 MR. SHIVERS: You're saying that's on
20 the Public Service Commission's web site, the
21 procedural rules, correct?

22 JUDGE JONES: Right. You might --

23 MS. TATRO: When we go off the record, I
24 can walk him through the link because there's a
25 specific guide that the Commission recently put on

1 about representing yourself before the PSC, so we'll
2 make sure he has that.

3 JUDGE JONES: Are you comfortable with
4 Ameren helping you prove your case?

5 MS. TATRO: I'm not gonna help him prove
6 his case.

7 JUDGE JONES: Are you comfortable with
8 that, Mr. Shivers?

9 MR. SHIVERS: I'm comfortable with them
10 giving me the information to locate, yes.

11 JUDGE JONES: Okay. Now, a lot of
12 times -- and this is for all the parties involved --
13 what we have here is prefiled testimony. In other
14 words, testimony is filed prior to the hearing and
15 then introduced at the hearing.

16 Because of the nature of this complaint,
17 however, we won't have prefiled testimony. It will
18 just be live testimony like it would -- like you
19 might see in any other court case.

20 I hope that you -- if this has to go to
21 hearing, I hope you intend to travel to Jeff City for
22 it. Do you?

23 MR. SHIVERS: Yes, I will.

24 JUDGE JONES: Okay.

25 MR. SHIVERS: Also I wanted to know if I

1 have to admit any additional documents. I still need
2 to know the procedure.

3 JUDGE JONES: Well, look at the claim
4 that you've made and then determine -- there's
5 several ways you can prove certain facts that you
6 allege, either by testimony or through documentation.
7 Now, how you choose to do that, it's up to you to
8 prove your case.

9 MR. SHIVERS: Okay.

10 JUDGE JONES: Do you have any -- other
11 than yourself and perhaps your wife, are there any
12 other witnesses that you'll need to call?

13 MR. SHIVERS: Well, I do have some
14 e-mails and stuff like that that I may have, yeah.

15 JUDGE JONES: Okay. But are there --
16 are there any witnesses that you think you'll need to
17 call? When I say call, I mean have -- give testimony
18 at any hearing we might have.

19 MR. SHIVERS: Well, not at this time.

20 JUDGE JONES: Okay. Well, I don't have
21 anything else. Staff, do you have anything?

22 MR. DEARMONT: I don't think so.

23 JUDGE JONES: Ameren?

24 MS. TATRO: Do you want the name of my
25 witnesses, your Honor?

1 JUDGE JONES: Oh, you have witnesses?
2 How many witnesses do you have?

3 MS. TATRO: I may have two. I have
4 Kathy Hart, and then the other witness I may have
5 would be one of our meter people. And I'm sorry, I
6 don't have a name for you right now. I can call with
7 that later.

8 JUDGE JONES: That's fine. And will
9 Staff have a witness?

10 MR. DEARMONT: We will, your Honor. It
11 will be Marilyn Doerhoff, just one.

12 JUDGE JONES: And Mr. Shivers, will you
13 be testifying?

14 MR. SHIVERS: Yes.

15 JUDGE JONES: Will Mrs. Shivers be
16 testifying?

17 MR. SHIVERS: Probably not.

18 JUDGE JONES: Well, I want to tell you
19 that her reluctance to participate by the death of
20 her sister, by the time this hearing comes around,
21 will be out in the future sometime.

22 MR. SHIVERS: Yeah, I understand that.
23 Like I say, her sister has been battling cancer for a
24 while. She has taken off quite a few days to take
25 care of her sister.

1 JUDGE JONES: Oh, so she may have to
2 work.

3 MR. SHIVERS: Yeah. They're bringing
4 her home Thursday so she may not be able to take off.

5 JUDGE JONES: So we're looking at maybe
6 five witnesses at the most, which is about a half a
7 day hearing.

8 Okay. Now, does anyone have any
9 questions before I leave you-all to discuss -- and by
10 the way, Mr. Shivers, when I leave the room, you will
11 be off the record.

12 MR. SHIVERS: Okay.

13 JUDGE JONES: Just so you know. And so
14 you know the players, the Staff of the Commission is
15 unbiased. They issued a report in this case, and it
16 seems like I remember it being in favor of Ameren,
17 but they don't favor Ameren just for the sake of it.

18 You know, their position starts off as
19 an advisory type of position on the Commission, and
20 Ameren, on the other hand, is on the other side of
21 the fence.

22 So I'll leave you-all to discuss the
23 matter. If no one has anything else, then we're off
24 the record.

25 MR. SHIVERS: I didn't catch your name.

1 JUDGE JONES: My name is Judge Jones.
2 I'm sorry, I should have told you that. Okay. With
3 that, then, we are off the record.

4 (WHEREUPON, the recorded portion of the
5 prehearing conference was concluded.)

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