

1           BEFORE THE PUBLIC SERVICE COMMISSION

2                   STATE OF MISSOURI

3                                 \_\_\_\_\_  
4           TRANSCRIPT OF PROCEEDINGS

5                   Prehearing Conference

6                           August 23, 2011

7                   Jefferson City, Missouri

8                           Volume 1

9                                 \_\_\_\_\_  
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11       In the Matter of

12       The Suspension Of Union                 )

13       Electric Company d/b/a                   )

14       Ameren Missouri's Rider SR,    ) File No. ET-2012-0016

15       Solar Rebate Tariff                    )

16                                 \_\_\_\_\_  
17                   MORRIS L. WOODRUFF, Presiding

                  SENIOR REGULATORY LAW JUDGE

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22       REPORTED BY:

                  NANCY L. SILVA, RPR, CCR

23       TIGER COURT REPORTING, LLC

## A P P E A R A N C E S

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Commission

1 JUDGE WOODRUFF: Well, it is 10:00  
2 o'clock, so let's go ahead and get started.

3 We're here today for a prehearing  
4 conference in File No. ET-2012-0016, which  
5 concerns the suspension of Union Electric's  
6 Rider SR, Solar Rebate Tariff.

7 We'll begin by taking entries of  
8 appearance beginning with Ameren.

9 MR. BYRNE: Yes, your Honor. This is  
10 Tom Byrne representing Ameren Missouri. My  
11 address is 1901 Chouteau Avenue, St. Louis,  
12 Missouri 63103.

13 JUDGE WOODRUFF: And for Staff.

14 MS. WILLIAMS: Nathan Williams,  
15 Deputy Staff, P.O. Box 360, Jefferson City,  
16 Missouri 65102.

17 JUDGE WOODRUFF: For public counsel.

18 MR. MILLS: On behalf of the Office  
19 of Public Counsel and the public, my name is  
20 Lewis Mills. My address is P.O. Box 2230,  
21 Jefferson City, Missouri 65102.

22 JUDGE WOODRUFF: All right. Do we  
23 have anyone else on the telephone line?

24 MR. ZAKOURA: Yes. This is Jim  
25 Zakoura. I'm in Overland Park, Kansas. Also

1       Arthur Rhodes is here and our client, Adam  
2       Lloyd, is here from Brightergy.

3               JUDGE WOODRUFF: Okay. We're having  
4       a little hard time hearing. Who were you  
5       representing?

6               We're representing Brightergy.

7               I believe that's everyone then. And  
8       in case the court reporter didn't catch  
9       Brightergy, B-r-i-g-h-t-e-r-g-y.

10              It's a little bit of an unusual  
11      name.

12              Mr. Dority, did you want to enter an  
13      appearance also?

14              MR. DORITY: No, thanks, Judge.

15              JUDGE WOODRUFF: We'll just note for  
16      the record that Larry Dority is here, and he's  
17      representing KCP&L in a similar tariff case  
18      going on.

19              Okay. Well, I scheduled this  
20      prehearing conference so that we can get some  
21      discussion about where we want to go with this  
22      case. I'll just first off ask Ameren Missouri:  
23      Can you explain Ameren's position at this point  
24      on this tariff, because there have been some  
25      changes in circuit court that probably affect

1       this, so where are we at?

2               MR. BYRNE:  Sure, Judge.  Let me say:

3       This is -- you know, the reason that we filed this  
4       tariff was because of Judge Greene's order in circuit  
5       court, which had originally declared that the payment  
6       of solar rebates was unconstitutional, so we were  
7       faced with the problem of having an inconsistent  
8       ruling in circuit court with our tariff, which  
9       required us to pay solar rebates, so we went ahead  
10      and filed and asked that the tariff be suspended.

11             Since then there have been some actions  
12      in circuit court that have a bearing on this docket;  
13      in particular, the Missouri Retailers Association,  
14      which was the entity that was arguing the  
15      unconstitutionality of solar rebates, has dropped out  
16      of the case and dropped their argument, and I think  
17      one of the solar groups that proposed to intervene  
18      had dropped out, so I think on the basis of that,  
19      this case is likely to go away in the relatively near  
20      future.

21             Judge Greene is likely to -- he -- he set  
22      aside his whole order, and I think he's -- now that  
23      the solar rebate issue appears to be resolved, he's  
24      likely to issue another order that eliminates the  
25      finding that the solar rebates are unconstitutional,

1 and at that point there will be no -- you know, we  
2 can withdraw this tariff and there will be no more  
3 need for this docket. I guess I'm a little reluctant  
4 to do that until the final step is taken and Judge  
5 Greene issues his revised order.

6 So that's -- I guess that's why we  
7 haven't withdrawn our tariff yet, but I would  
8 anticipate Judge Greene will issue that order in the  
9 next week or two, and then we will have -- we will  
10 know with certainty that there's not a problem and we  
11 can withdraw the tariff.

12 JUDGE WOODRUFF: All right. Any other  
13 parties want to respond to that?

14 MR. WILLIAMS: Staff's already filed its  
15 renewed recommendation. We think, based on the  
16 information we have about what's occurred in circuit  
17 court, there's nothing in front of Judge Greene for  
18 him to rule on the solar rebate at this stage, so  
19 there's no reason for the delay but -- in not going  
20 forward with this case, and we've already contacted  
21 the companies about withdrawing these tariff sheets  
22 and they've declined to do so with reasons expressed,  
23 I guess, basically by Mr. Byrne.

24 JUDGE WOODRUFF: Okay. Brightergy want to  
25 be heard?

1                   MR. ZAKOURA: Brightergy supports the  
2                   position of Staff. We believe that it's appropriate  
3                   to withdraw the tariffs at this time.

4                   JUDGE WOODRUFF: All right. Public  
5                   counsel?

6                   MR. MILLS: Judge, my understanding is  
7                   we're only talking about a very short time. My  
8                   recommendation is we simply put this case, you know,  
9                   on hold with some sort of, you know, filing due in  
10                  three weeks or so, and assuming that the judge does  
11                  what we expect him to do, I think this will all go  
12                  way.

13                 JUDGE WOODRUFF: All right. Well, I'm  
14                 certainly in favor of anything that makes the cases  
15                 go away, so what we'll do -- normally in these kind  
16                 of prehearing conferences, I'll order the parties to  
17                 file a procedural schedule after a week. I'm just  
18                 going to issue the direction to file a procedural  
19                 schedule in three weeks on the assumption that it's  
20                 probably not going to be necessary, but if something  
21                 develops at that time, give me a procedural schedule  
22                 in three weeks. I'm not sure what that'll be, but  
23                 three weeks from today. I don't have a calendar in  
24                 her front of me. Nathan, have you got one?

25                 MR. WILLIAMS: Apparently there's one on

1 the table.

2 JUDGE WOODRUFF: Oh. Okay.

3 MR. WILLIAMS: September 13.

4 JUDGE WOODRUFF: September 13? All  
5 right. I'll issue the order, then, directing the  
6 parties to file a procedural schedule by September  
7 13, unless the tariff is previously withdrawn.

8 Anything else we need to discuss?

9 MR. BYRNE: No, your Honor.

10 JUDGE WOODRUFF: All right. With that,  
11 then, the on-the-record portion of this proceeding is  
12 concluded and adjourned. If you want to discuss  
13 anything further, you can after I leave, otherwise  
14 we'll talk to you some other time.

15 We are back at 11:00 on the KCP&L cases.

16 Thank you.

17 MR. BYRNE: Thank you.

18 MR. MILLS: Thank you. Thank you.

19 (The hearing concluded.)  
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## 1 CERTIFICATE

2 I, Nancy L. Silva, RPR, a Certified  
3 Court Reporter, CCR No. 890, the officer before  
4 whom the foregoing hearing was taken, do hereby  
5 certify that the witness whose testimony appears  
6 in the foregoing hearing was duly sworn; that  
7 the testimony of said witness was taken by me to  
8 the best of my ability and thereafter reduced to  
9 typewriting under my direction; that I am  
10 neither counsel for, related to, nor employed by  
11 any of the parties to the action in which this  
12 hearing was taken, and further, that I am not a  
13 relative or employee of any attorney or counsel  
14 employed by the parties thereto, nor financially  
15 or otherwise interested in the outcome of the  
16 action.

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19 Nancy L. Silva, RPR, CCR  
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