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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Procedural Conference
June 29, 2017
Jefferson City, Missouri
Volume 2

In The Matter Of The)
Application Of Roger Pritchett)
For Change of Electric Supplier) File No. EO-2017-0217

MICHAEL BUSHMANN, Presiding,
SENIOR REGULATORY LAW JUDGE

REPORTED BY:

Pamela S. Gentry, CCR NO. 426
TIGER COURT REPORTING, LLC

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APPEARANCES:

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P R O C E E D I N G S

JUDGE BUSHMANN: Let's go on the record.

Today is June 29th, 2017, at 1:30 p.m.

The Commission has set this time for a Procedural Conference in the case captioned as In The Matter Of The Application Of Roger Pritchett For Change Of Electrical Supplier, File No. EO-2017-0217. My name's Michael Bushmann. I'm the Regulatory Law Judge in this matter. And let's have counsel make entries of appearance.

Mr. Pritchett, am I correct that you'll be representing yourself in this matter?

MR. PRITCHETT: Yes.

JUDGE BUSHMANN: If you ever have any questions while we're having this conversation on the record, please stop and ask me. I'll be happy to try and explain what's going on.

And there is a Court Reporter here next to me who will be transcribing everything that we say, and that will be provided in a transcript later.

MR. PRITCHETT: Okay.

JUDGE BUSHMANN: And representing the Empire District Electric Company?

MS. CARTER: Diana Carter, Bryan Swaengen England, 312 East Capitol Avenue, Jefferson

1 City, Missouri.

2 JUDGE BUSHMANN: For Ozark Electric
3 Cooperative?

4 MR. BATTAGLER: Shawn Battagler with the
5 Andereck Evans Law Firm at 3816 South Greystone Court,
6 Suite B, Springfield, Missouri, 65804.

7 JUDGE BUSHMANN: Thank you.
8 And for Commission Staff?

9 MS. MERS: Nicole Mers on behalf of
10 Commission Staff, and my information has been provided
11 to the Court Reporter.

12 JUDGE BUSHMANN: And there's no
13 appearance today by Public Counsel. All right.

14 Mr. Pritchett, what I understand, based
15 on e-mails that have been circulating around, is that
16 you're still interested in pursuing your request to
17 change your electric supplier, but you're not
18 comfortable in appearing at a hearing.

19 Is that understanding correct?

20 MR. PRITCHETT: Yes, sir. I've been --
21 the process started back in February, and I -- I
22 thought that the Commission was the final word, and --
23 and when they said that they had denied, you know, I
24 thought the thing was dropped. And, then, I got
25 another e-mail that, you know, that -- that it was

1 still valid. So, I was like, Well, I don't know what's
2 going on here. And, so, I -- that's where I'm at.

3 You know, I don't want to make any
4 problems or anything, but it doesn't matter. I mean, I
5 -- I really would like my service provider to change,
6 but I don't -- I didn't know that I was expecting to
7 have to appear in court and everything like that. I
8 don't know everything like that.

9 You know, it's just the matter I can't.
10 You know, I don't want to put out, you know, that kind
11 of efforts or money or anything like that.

12 JUDGE BUSHMANN: Okay. Well, let me
13 first explain one thing that may have gotten you
14 confused, is that when the Commission Staff provided a
15 recommendation, that wasn't a final determination.

16 MR. PRITCHETT: Okay.

17 JUDGE BUSHMANN: The recommendation was
18 something that the Staff advises the Commissioners that
19 they would propose, but it's up to the Commissioners to
20 make the final decision. So, that's -- that may have
21 caused your confusion.

22 With regard to where we go from here, I
23 understand you're not comfortable with going through a
24 hearing, but here's the problem that that presents.
25 The -- the e-mails and the pictures that have been

1 filed and submitted in -- in this case, are not yet
2 legal evidence. In order for me to write a final
3 order, there has to be evidence based on sworn
4 testimony or, perhaps, a written agreement among the
5 parties that agrees to sufficient undisputed facts that
6 would allow me to base an order on that.

7 So, since there appears there may be a
8 dispute about the circumstances surrounding your
9 justification for changing suppliers, it's possible the
10 parties may not be able to reach an agreement on the
11 facts. I don't know.

12 That leaves sworn testimony which can
13 either be at a hearing or in the form of a written
14 affidavit. However, the parties who have to agree to
15 the use of a written affidavit because they would be
16 giving up their right to cross-examination, and that's
17 something that lawyers are not usually likely to do.
18 But that is another potential option.

19 Now, a hearing wouldn't necessarily mean
20 that you would appear in person. If the parties do
21 agree, then it's possible you could appear by telephone
22 like you are -- like you're doing now. But, again,
23 that would require agreement of parties for that to
24 happen.

25 I'm telling you all this to explain to

1 you that, just to meet your obligation to prove your
2 case, it involves more than just sending in an e-mail
3 and some pictures. In order for the Commission to be
4 able to do its job, we have to have legal evidence to
5 make a decision.

6 So, I wanted to find out what your
7 thoughts were about all of these options and whether
8 you thought that you might be able to comply with any
9 of those.

10 MR. PRITCHETT: You know, I -- I, you
11 know -- like I said, I'd be willing, if -- if they
12 thought, you know, if my case was strong enough, I'd be
13 willing to phone in like I am now, but I don't, you
14 know, want to drive to Jeff City like for -- I don't
15 know where I stand. It may just be -- I don't know. I
16 don't know, you know.

17 JUDGE BUSHMANN: Well, if you're thinking
18 along those lines, you could -- once we go off the
19 record, you could discuss it with the other parties and
20 find out if they would be willing to do that.

21 One thing that you would have to be
22 prepared for would be, if you're going to be -- see,
23 you carry the burden of proof. It's your obligation to
24 prove to the Commissioners that you're entitled to a
25 change of supplier. So, that means you have to present

1 evidence which could be in the form of sworn testimony
2 that you would provide under oath at a hearing.

3 You would also, perhaps, want to have
4 evidence in the form of the pictures that you sent in.
5 Those are in the file, but they're not in evidence,
6 which would mean that you would need to -- now, they've
7 been filed in efis, and I think we could be -- make
8 arrangements to be presented or other parties to access
9 them from the computer system. But, if there are any
10 other documents that you would want to submit, you
11 would want to make sure that they were copied
12 sufficiently and provided to the other attorneys well
13 in advance of the hearing.

14 I'm telling you all this to let you know
15 that there are certain obligations in a hearing that
16 you would need to -- to follow through with in order to
17 have a chance of being successful. But that's totally
18 up to you.

19 If you would like to proceed that way, we
20 can, and after we go off the record in a few minutes,
21 I'll let you talk with the other attorneys and see if
22 there's something that could be worked out.

23 What do you think about those ideas?

24 MR. PRITCHETT: Well, you know, I'm --
25 I'm just not sure I want to go through the long haul.

1 Like I said, my case wasn't strong enough with the
2 Commission. Like I said, I thought it was over with
3 two months ago. If I don't dismiss, it may be a waste
4 a lot of our time.

5 Now, I -- I -- like I said, I don't
6 believe I want to pursue it any further unless, you
7 know, the evidence is there, and just -- I understand
8 your position that you've got to have sworn testimony,
9 but, you know -- you know, it may just be too much.
10 Too late.

11 JUDGE BUSHMANN: I'm sorry. Did someone
12 else have something they wanted to add?

13 (No response.)

14 JUDGE BUSHMANN: No.

15 Well, if you're thinking that you do not
16 want to proceed any further, then I guess the next --
17 the option would be to just voluntarily dismiss your
18 action.

19 MR. PRITCHETT: Yeah.

20 JUDGE BUSHMANN: That's up to you.
21 That's a decision you would have to make.

22 MR. PRITCHETT: Yeah. That -- that
23 probably would be the best all-around.

24 JUDGE BUSHMANN: Are you telling me today
25 that's what you want to do?

1 MR. PRITCHETT: Yeah, I think so. Unless
2 -- unless the attorneys from Ozark or, you know, thinks
3 I have a case or should pursue it. I don't really
4 know.

5 JUDGE BUSHMANN: Do you want to wait and
6 make that decision after you've had an opportunity to
7 speak with counsel from the other parties?

8 MR. PRITCHETT: That -- that would be
9 good. Yes.

10 JUDGE BUSHMANN: If you decide that you
11 want to voluntarily dismiss, you would need to just
12 send in just something to the Commission saying
13 something to that effect, signed by you, and that
14 you're wanting to voluntarily dismiss your case.

15 If you decide afterwards to speaking with
16 the attorneys that you want to proceed, then I will --
17 I will leave that to counsel to make that
18 determination. If it looks like Mr. Pritchett's
19 decided he wants to go forward, then I would ask Staff
20 to file a proposed Procedural Schedule by July 10th
21 setting out a hearing date.

22 As I mentioned at the last Procedural
23 Conference, I think, we can dispense with the prefiled
24 testimony. So, that wouldn't be necessary. And an
25 optional brief for Mr. Pritchett, or at least for

1 everybody else. In -- in the event that Mr. Pritchett
2 decides he wants to go forward.

3 So, I will -- unless you have any other
4 questions, Mr. Pritchett, I'll then allow you to speak
5 with the other attorneys off the record, and you can
6 see if that's something you want to pursue, or if you
7 decide that's just too much, then you can send in a
8 written request that your case be dismissed.

9 Does that sound reasonable to you?

10 MR. PRITCHETT: Yes, sir. Thank you,

11 JUDGE BUSHMANN: Any-- anybody else want
12 to make any comments or have any other statements
13 before we -- while we're still on the record?

14 (No response.)

15 JUDGE BUSHMANN: I don't hear any.

16 In that case, we'll be off the record.

17 (Record was closed at 1:09 p.m.)

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C E R T I F I C A T E

I, Pamela S. Gentry, Certified Shorthand Reporter with the firm of Tiger Court Reporting, LLC, 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.


Pamela S. Gentry, CSR, CCR

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