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VIDEO RECORDING

IN THE MATTER OF BRETT FELBER ET AL V UNION ELECTRIC
COMPANY ET AL

CASE NUMBER: EC-2023-0395

PREHEARING CONFERENCE

AUGUST 30, 2023

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6 JOHN CLARK: I'm not expecting anyone from the
7 Office of the Public Counsel at this point. Any
8 objections to going ahead and starting this Prehearing
9 Conference? Mr. Banks, I can't hear you.

10 ERIC BANKS: Your Honor, could we possibly wait
11 two more minutes? I don't see any of the Ameren
12 people on the call.

13 JOHN CLARK: That would be just fine, I have no
14 problem with that.

15 ERIC BANKS: Thank you, Your Honor.

16 JOHN CLARK: Mr. Banks, is the only attorney
17 we're waiting on Miss Grubbs?

18 ERIC BANKS: Yes, Your Honor.

19 JOHN CLARK: All right, we'll wait just a minute.

20 ERIC BANKS: Thank you, Your Honor. And I did
21 call her and she's going to participate by phone, if
22 necessary.

23 JOHN CLARK: Yeah, I--I heard all of that. Thank
24 you.

25 ERIC BANKS: Okay. Thank you. Well, I'm glad I

1 didn't say anything imprudent. Just goes to show
2 there are no secrets.

3 BRETT: Yes sir.

4 JOHN CLARK: Mr. Keevil?

5 JEFF KEEVIL: Yes, Judge?

6 JOHN CLARK: Okay, let's go on the record. Miss
7 Kliethermes, if you would hit record, I would
8 appreciate it. We don't have a -- we don't have a court
9 reporter available this morning. We weren't able to
10 get one after we lost the one that we had for today's
11 Evidentiary Hearing--or the originally hearing
12 scheduled Evidentiary Hearing--so this matter will be
13 recorded in the system and will be sent out and
14 transcribed by a court reporter, and like last time,
15 will be posted to the Commission's electronic
16 filing system. Today's date is August 30, 2023, and
17 the current time that I have down is 9:03 a.m. The
18 Commission set aside--set--well, I canceled today's
19 Evidentiary Hearing and set a Procedural Conference in
20 its place, since I already had the availability of all
21 of the parties. This case is captioned as Brett
22 Felber, Complainant, versus Union Electric Company,
23 doing business as, Ameren Missouri, Respondent, and
24 that is case or file number EC-2023-0395. My name is
25 John Clark, I am the Senior Regulatory Law Judge

1 overseeing this matter. I'm going to begin by asking
2 the parties to enter their appearance for the record
3 starting with the Complainant, Brett Felber.

4 BRETT FELBER: Brett Felber.

5 JOHN CLARK: Mr. Felber, you're here in person
6 today and you are representing yourself, correct?

7 BRETT FELBER: Yes, Judge.

8 JOHN CLARK: From Ameren Missouri?

9 ERIC BANKS: Eric Kendall Banks, representing
10 Ameren Missouri. My business address is: Banks Law,
11 LLC,
12 1824 Chouteau Avenue, St. Louis, MO 63103.

13 JOHN CLARK: Thank you, and I believe I also see
14 Miss Grubbs on. Miss Grubbs, you're also representing
15 Ameren Missouri, is that correct? Okay, well for the
16 record, I see that Miss Grubbs is part of this WebEx
17 Conference and she is an attorney for Ameren Missouri,
18 if she chimes in later, we'll affirm that. Anybody
19 here from the Commission Staff?

20 JEFF KEEVIL: Yes, Judge. Jeff Keevil,
21 representing the Staff of the Commission, 200 Madison
22 Street, Jefferson City, Missouri 65102.

23 JOHN CLARK: And you've got a couple people...the
24 Manager and one of the staff people in the Customer
25 Service Department that I believe are also...at least

1 listening to this Prehearing Conference.

2 JEFF KEEVIL: Actually, I think--actually, I think we have
3 two of the Manager and two of the people, Judge.

4 JOHN CLARK: You are correct.

5 JEFF KEEVIL: Miss Fontaine, Mr. Thomason.

6 JOHN CLARK: I see that. Thank you for
7 correcting me. Anybody here from the Office of the
8 Public Counsel? Okay. And I see that Miss Grubbs
9 said that her volume or that her microphone isn't
10 working at the moment, but she put something in the
11 chat indicating that...apologies, my audio is not
12 working at the moment. So, we'll catch up with her
13 when we get a chance. Is there anybody I've missed...by
14 way of Counsel for parties, or other parties? No.
15 Okay. Mr. Felber, I'm going to go ahead and start
16 with you. You had -- we had had a Conference to address
17 outstanding Discovery issues, and at that Conference,
18 you indicated that you would answer for outstanding
19 Discovery things and then you proceeded to change your
20 mind, in regard to some of those and decide that you
21 are not going to answer them, after you indicated to
22 me that you were going to answer them. That's not how
23 this is usually done. The way this is usually done,
24 is when we have a Discovery Conference, I ask if
25 you're going to answer something and if you have an

1 objection to answering it, you say so at that time.
2 That's the time to say that. Because otherwise what
3 happens--is what happens, is Mr. Banks has to file a
4 Motion to Compel because you're not doing what you
5 said that you would do. And then subsequently, I have
6 to cancel the Evidentiary Hearing, which is not a
7 productive use of anybody's time, the way I see
8 it. So, the first thing I'm gonna do is let you know
9 that I'm going to be resetting your Evidentiary
10 Hearing, but now we're going to have to put it beyond
11 a lot of other Commission stuff that's going on. So,
12 at this point, I'm going to be looking at that last
13 week of September.

14 BRETT FELBER: Uh-huh. I did file it also in --
15 I did file a suit in the City of St. Louis for the..

16 JOHN CLARK: That--that is fine.

17 BRETT FELBER: I apologize--I apologize for it,
18 but Ameren's email address and that is not
19 HIPAA compliant, so any medical information that's
20 sent over from a doctor needs to be HIPAA compliant
21 before I can send it. They're a 22.09 billion dollar
22 company, I sent them copies of where my live--the
23 affidavit--he has two copies, he's going to get a
24 third copy...grasping for straws of everything, I
25 mean...the whole thing's ridiculous. It all is...it's all

1 ridiculous. Even the stuff he sent me last night at
2 11:34 p.m. It's ridiculous, it contradicts his stuff.
3 I feel like I'm being bullied, I feel like I'm
4 being--you know, he hasn't had to compel anything you
5 know I didn't file a Motion to Compel, but he didn't
6 give me the information I needed for the one guy, I
7 had to have a detective get it.

8 JOHN CLARK: Well, that's again--that's not how
9 things are done, if you...

10 BRETT FELBER: I know.

11 JOHN CLARK: ...had to file a Motion to Compel,
12 you're free to file a Motion to Compel, too. I asked
13 you at the Discovery Conference--you had first
14 indicated you had numerous data requests that weren't
15 answered--that when I asked you about the Data
16 Requests, you indicated one, I made a ruling on that
17 one, then I asked if you had any other Data Requests
18 that you wanted me to address in that Discovery
19 Conference and you said you did not.

20 BRETT FELBER: It was the one with the with the
21 Ameren the 2 employees that came.

22 JOHN CLARK: You haven't...

23 BRETT FELBER: The second one the second was a
24 person was a party that drove his own personal
25 vehicle wasn't a Ameren vehicle, so therefore, he

1 wasn't covered under Ameren's policies. Yep. Uh-huh.
2 It's illegal. I mean, half of the stuff being done
3 by half of the stuff being done by Ameren's illegal
4 right here.

5 JOHN CLARK: Well, I'm gonna reiterate--
6 I don't care about outside lawsuits, I-I-I-I simply
7 just...

8 BRETT FELBER: I do.

9 JOHN CLARK: ...do not. I understand you do. I do
10 not.

11 BRETT FELBER: I do. I care 100 percent about
12 it.

13 JOHN CLARK: I care about focusing on the matter
14 in front of me...

15 BRETT FELBER: Right.

16 JOHN CLARK: ...which is your matter in this case.
17 So, we're gonna set -- I will issue a new order setting
18 a Hearing date for the last week of September. That
19 is when the Hearing will occur, regardless of anything
20 that happens. So, that Hearing will take place, I
21 don't foresee myself continuing that Hearing for
22 anything beyond an emergency. However, if the
23 Discovery matters do not get sorted out prior to that
24 Hearing, that's just going to affect the ability of
25 the parties to present certain evidence and I will

1 certainly entertain objections that are placed for
2 failing to to follow Discovery rules. See, Mr. Felber,
3 you have a narrative--you have a thing--you have a
4 story that you want to tell in your Evidentiary
5 hearing, and your story goes something like, I made an
6 agreement to pay my bill and then they shut off my
7 service, they should not have, it should never have
8 been shut off. These are the reasons why I believe it
9 should never have been shut off, and therefore, I win.
10 Ameren also has a narrative. They have a narrative
11 they're gonna put forth and their narrative goes
12 something somewhat like this, the Complainant was
13 supposed to pay his bill by such-and-such a date.
14 Complainant agreed to pay so much to initiate some
15 sort of agreement, that did not happen, therefore,
16 there is no agreement and such, we did nothing wrong
17 in turning off Complainant's service for failure to
18 pay an undisputed amount. That's -- that's more
19 along the lines of their narrative, if I had to guess.
20 So, you each have your narrative, and you're each
21 using pieces that you have to construct that
22 narrative, and so, you have the pieces that I think
23 you want, for the most part, although you've indicated
24 there's some Discovery that you would like to get
25 answered that may fill in some of those pieces,

1 additionally for you, to round out your narrative.
2 Likewise, Ameren wants to round out their narrative
3 and there's things that they have a right to. No
4 party gets to play "Hide This Ball". This isn't
5 Columbo, nobody's gonna go into court and discover who
6 really did it. That's not the--that's not the purpose
7 of what's going on here. As I've indicated before,
8 the sole jurisdiction of the Commission in this case,
9 is to determine, under the Complaint Rule, whether
10 Ameren Missouri has violated a law, subject to the
11 Commission's jurisdiction, a Commission Rule, an Order
12 of the Commission that would apply to Ameren and
13 Ameren tariff, or some other provision over which the
14 Commission would have some sort of jurisdiction in how
15 the law is interpreted. So, that is the narrow band.
16 However, you keep bouncing your theory of this case,
17 changed a numer--number of times from the time you
18 filed your initial complaint, to where you've settled
19 now, I believe on what you're calling Breach of
20 Contract claim. And so, I guess the underlying
21 question for the Commission in this is in your Breach
22 of Contract claim, over which the Commission has zero
23 jurisdiction, whether or not there is a violation of
24 a rule, law or tariff. And so, such as the
25 Commission would have jurisdiction over, so that's the

1 underlying question within that. To that effect,
2 Ameren Missouri asked some things. You said you would
3 answer them and now you're saying you're not and you
4 are exerting such things as, well their email isn't
5 HIPAA complaint. I don't know of anybody's email
6 system that is that is necessarily HIPAA compliant.
7 HIPAA is--as I understand it--more of an obligation.
8 It is an obligation on the part of those who are
9 authorized to hold personal medical information to not
10 release that information and I believe it's a
11 fairly--it used to be five-thousand dollars--but I
12 believe it's a fairly automatic, what the
13 violation what the penalty per violation is. We people
14 exchange medical information at the Commission all the
15 time. There are ways to do it, and there are
16 Commission rules in regard to keeping that information
17 Confidential. Likewise, at the Hearing, there are
18 ways to keep that information Confidential. There's
19 what's called in camera. In camera is where I
20 basically cut off the camera for the--anybody who
21 might be reviewing remotely, we do not broadcast out
22 that portion of the Hearing, it is transcribed, the
23 court reporter's there, so there's a record of it.
24 And the basically we take that kind of testimony in
25 person, under oath, in camera. Ultimately, I see us

1 addressing a lot of issues in this case in camera, for
2 the sake of protecting your private information. But
3 we are going to need to figure out a way for you to
4 answer those Data Requests, and like I said, if you're
5 not going to answer those Data Requests, then it
6 certainly will impact what you're allowed to present
7 at the Evidentiary Hearing.

8 BRETT FELBER: I've answered every single one
9 minus the that one--and it really doesn't revolve
10 around the sim--resimilitude of the main objective
11 of everything is the Breach of Contract it would've have
12 been a Breach of Contract because there's the paper,
13 there's the article, and they did an illegal
14 disconnection, okay? Staff didn't and to be fair
15 and everything, Staff didn't put my phone call records
16 that I submitted from T-Mobile in there, into the Staff
17 report. That was sent the first time that I did
18 everything through EFIS, so if we wanna talk about
19 fairness, there's no fairness. The Staff forgot to
20 put those in there, that showed when Ameren called,
21 when they didn't. All Ameren submitted is opinions.
22 Opinions on paper, blank pieces of paper, none of that
23 stuff does anything. They--oh we don't have a copy of
24 it because of Sangried (ph). So, we're going to type
25 up an opinion piece of paper. I've never seen

1 anything go like that in my life. Never.

2 JOHN CLARK: You do...

3 BRETT FELBER: Never in my life, have I ever seen that.

4 JOHN CLARK: You do quite literally the same
5 thing...

6 BRETT FELBER: No.

7 JOHN CLARK: ...on a daily basis. You literally
8 file hand typed up things...

9 BRETT FELBER: Yep.

10 JOHN CLARK: ...with your opinions on the case.
11 You literally do that almost every day. You did it
12 just a second ago, you said Ameren's illegal
13 disconnection.

14 BRETT FELBER: Yep.

15 JOHN CLARK: That is something the Commission has
16 to determine. It is not a fact for your
17 determination, is it a fact for the Commission to
18 determine. You may have an opinion as to that, but it
19 is your opinion.

20 BRETT FELBER: I-I--I strongly disagree with that.

21 JOHN CLARK: You everything you said just now are
22 excellent points to bring up at your Evidentiary
23 Hearing. If you want to get up at your Evidentiary
24 Hearing and talk about how Staff should have and
25 failed to consider certain what you believe to be

1 relevant evidence I think that is fine. That is a very
2 constructive use of yours and the Commission's time to
3 hear where you think the holes in other party's
4 evidence or conclusions are. But as I indicated, Ameren
5 has a narrative as well, and they're entitled to
6 explore that narrative. Now, you've indicated that
7 the only thing what is the only Data Request that has
8 remained unanswered in your mind?

9 BRETT FELBER: I wanna know my biggest thing is
10 making sure the guy it was uploaded into EFIS--why they
11 sent the person that's solicited for Ameren in a
12 private vehicle owned by himself?

13 JOHN CLARK: Okay, you're getting off track.

14 BRETT FELBER: I want it.

15 JOHN CLARK: I'm asking not what...

16 BRETT FELBER: That's what I want.

17 JOHN CLARK: I did that's not what I asked you.

18 BRETT FELBER: That's the answer to the request I
19 want.

20 JOHN CLARK: What I asked...

21 BRETT FELBER: I wanna they

22 JOHN CLARK: I'm going to get to the Data Request
23 you want, I'm asking, is the only Data Request you
24 haven't answered for Ameren, what is it?

25 BRETT FELBER: It's the healthcare. The other

1 ones, they've gotten copies of it, whether it's been
2 from here, in the Affidavit, the piece of paper, plus,
3 if you look at what I-I--I sent it last night
4 to because Mr. Banks sent it to me. I made a good
5 point on this this is great for everything. I'll
6 go back to my email that I sent last night where
7 billing...where you're trying to charge other people
8 billing. I sent it to Mr. Banks right after, I think,
9 you were clipped in it, because he sent it toe sent
10 it yeah, he sent it to Jermaine, Mr. Keevil, Miss
11 Kliethermes, and all that. Down on Page 2 of his Exhibits
12 that he put for 5/19/23, where it specifically states,
13 cannot switch name to avoid bill. Payment required
14 before any name changes. So, you're requiring whoever
15 comes in to pay a bill that's (inaudible).

16 JOHN CLARK: What number are we looking at? What
17 Exhibit number?

18 BRETT FELBER: The stuff that he sent last night
19 for Exhibits. It was the paperwork that he sent as
20 his evidence or exhibits that to everything. It was
21 sent to me at 11:34 that he filed (inaudible).

22 JOHN CLARK: I don't believe I would've received
23 any of that. I believe that all I receive is the
24 Exhibit List because there's no reason that I should
25 be looking at unentered Exhibits at this point in

1 time. So, that would be something you received, I do
2 not believe I was on the receiving end of that. All I
3 have is an Exhibit List that was filed in EVIS--EFIS
4 by Ameren Missouri.

5 BRETT FELBER: Okay. Yeah, he sent it, it was
6 Page 2. Right here, it's the one that says 1:28 p.m.
7 FEIN Documentation. Company is legit but traces Brett
8 to add nine two-thousand Lambert is also listed on the
9 company traces to add three two-thousand eleven per
10 TLO owner Felber Living Trust. Cannot switch name to
11 avoid bill. Payment required before any name changes.
12 Uh-huh. Yep. So, it kind a contradicts things.
13 It's it goes on I mean, it--it's a never-ending
14 story. They've done such a good job trying to polish
15 the beginning of everything and they've screwed up
16 going down the road of things. And I hate to be
17 argumentative towards it, but it's the truth. If we
18 think 103 days or 104 days of illegal disconnections
19 of service is probable, I--I don't know where to tell
20 you. I want you guys to go live 103 days, 104 days or
21 105 days and use a generator or spend the expenditures
22 that I am. I'm paying for the expense of this. My
23 taxes pay for it. You know, I mean, it's really
24 is. It's--it's pitiful. There was a great article that
25 was produced by KSDK last Friday, I think I--I think

1 they really need to look into that. Yeah. Just like
2 that Evergy (ph) thing that's going on right now,
3 Evergy's (ph) getting ready to be investigated.
4 Ameren's on that path, too.

5 JOHN CLARK: Okay. You are losing focus.

6 BRETT FELBER: I am losing focus because I'm
7 ticked off because it's I have to produce I have to
8 produce I have things left out, Your Honor. I get
9 things left out, but then it's okay for him to leave
10 things out and then go ahead and do whatever. They've
11 committed property damage.

12 JOHN CLARK: Hey, stop it. We're gonna
13 address we're going to address your Data Request in a
14 second. We're going to do things in the order that I
15 have set out to do them. We're going to do them one
16 at a time. You were required to provide information
17 that you had applied to Ameren for a medical hardship.
18 You said you would provide that, you did not provide
19 that. Now you're claiming you will not provide that
20 because of you do not believe they're HIPAA
21 protections. If you proceed to do that, then I will
22 not let you present evidence at your Evidentiary
23 Hearing that you applied for medical hardship. You'll
24 lose the ability to do that if you do not provide that
25 information. If you applied for a medical hardship,

1 Ameren has a right to see the evidence in regard to
2 that so that they can refute it if they want to. I
3 can't hear you, are you on mute?

4 BRETT FELBER: I am. I'm not--I'm not at the
5 disposal of continuously send stuff to Ameren. They
6 use a company that's called Sangried(ph).
7 Sangried(ph)'s a con-artist company. Con-artist
8 company. If...

9 JOHN CLARK: I don't care about that.

10 BRETT FELBER: I do. It's a whole relevant thing
11 to everything and that's where you're not
12 understanding it.

13 JOHN CLARK: Well then why don't you just email
14 it directly to Mr. Banks?

15 BRETT FELBER: I don't want to. I don't he

16 JOHN CLARK: Then as I said, then that...

17 BRETT FELBER: How much stuff have I emailed to
18 him and he's asked for three copies of?

19 JOHN CLARK: (Inaudible) If you want to say there
20 is a medical reason that you should have had service,
21 or that they should not have disconnected your service
22 for a further amount of time, in order to present
23 evidence on that at the Evidentiary Hearing, you will
24 need to provide that evidence in advance to Mr. Banks.
25 Okay, I take it at this time that you will not be

1 doing that.

2 BRETT FELBER: No.

3 JOHN CLARK: Okay. Well then let's move on.

4 What outstanding Data Requests do you have with Ameren
5 that you would like answered?

6 BRETT FELBER: I wanna know that why they sent a
7 technician that was driving his personal vehicle,
8 through illegal trespassing, which through a
9 premises. I already know it was June 15th. Is that
10 how Ameren operates?

11 JOHN CLARK: Did you -- did you issue a Data
12 Request to them asking that?

13 BRETT FELBER: I did.

14 JOHN CLARK: Okay. Mr. Banks, did you receive
15 that Data Request?

16 ERIC BANKS: I don't believe we did, Your Honor.
17 I would recommend that Mr. Felber file a Motion to
18 Compel and attach whatever he allegedly..

19 BRETT FELBER: Okay.

20 ERIC BANKS: ...sent us as an Exhibit to that
21 Motion to Compel.

22 JOHN CLARK: That would be appropriate at this
23 point since we are technically beyond what the
24 Discovery deadline was. So, Mr. Felber, as I did away
25 with I wanna say a couple of conferences ago I did away

1 with the need for anyone to have an immediate
2 conference with the Judge under the rule to file a
3 Motion to Compel. So you are free to file a Motion to
4 Compel Ameren to answer any outstanding Data Requests
5 that you have issued that are unanswered. So, I
6 assume that you will do that?

7 BRETT FELBER: Yep. Yes sir.

8 JOHN CLARK: Okay. Wait a second, I'm taking a
9 note cause I like to have notes on all these things.
10 All right, I will look for a Compel Motion from you.
11 I'm not telling you you have to file one, but if you
12 try file one, I will take it up. There are still and
13 just to say I haven't forgotten about them there's an
14 outstanding motions, there are two motions to quash, I
15 believe I will be taking both of those up at the
16 Evidentiary Hearing and there is a Summary
17 Determination Motion out there by Mr. Felber that has
18 not been determined. Now typically, in a Summary
19 Determination Motion, parties have 30 days to respond
20 to that. Mr. Banks responded on behalf of Mr. Amon
21 behalf of Ameren stating essentially that--that--that the
22 Motion for Summary Determination was untimely in that
23 it was filed within 60 days of an Evidentiary Hearing.
24 However, complaints are a little bit of a shorter run
25 process then then other proceedings, in that they tend

1 to move faster. And you'll bear with me, I'm a little
2 foggy today because I've had I've been recovering from
3 COVID for the last few days. To that end, I'm less
4 worried, III--I, the fact that he didn't request leave
5 of the Commission, is not as fa--fatal to me since the
6 allegations essentially were fundamentally the same as
7 what was being alleged. I was going to originally
8 take his Motion for Summary Determination with the
9 case since it would be well within 30-day timeframe
10 anyway, but at this point, let me look at when that
11 Summary Determination Motion was filed. The Summary
12 Determination Motion was filed on 8/10, which would
13 make the 30 days on that roughly, well that would hit on
14 September the 10th. But, that's a weekend so it would
15 move to September the 11th. Mr. Banks, would Ameren
16 be able to answer the Summary Determination Motion
17 within that timeframe?

18 ERIC BANKS: Yes, Your Honor. Thank you.

19 JOHN CLARK: Okay. Then I will set a deadline
20 of I'll set a deadline of September 11th for Ameren to
21 respond to the Summary Determination Motion. Bear
22 with me just a second, I'm going to take a note.
23 Okay. And Mr. Banks will you be available will you and
24 Miss Grubbs be available the last week the 25th through
25 the 29th for a one-day Evidentiary Hearing in that--in

1 that range?

2 ERIC BANKS: Unfortunately, we will not, Your
3 Honor. We really only expect to have one witness and
4 that's Miss Kliethermes, who's on the call right now.
5 She's going to be out-of-town on business, not
6 out-of-town, out of the country, the last two weeks of
7 September. We were wondering if the new hearing date
8 could possibly be October 4th, 5th, or 6th?

9 BRETT FELBER: Ha!

10 JOHN CLARK: Okay. Hold on just a second. I'm
11 going to step away for just a moment, I want to take a
12 look at my wall calendar. So, the 5th? Okay, thank
13 you. Looks like the way it is set right now, the 4th
14 is occupied with a Rule-Making Hearing. The 5th is a
15 Thursday, I like Thursdays for Evidentiary Hearings
16 anyway. All right, I will schedule.

17 BRETT FELBER: Your Honor, I can't make the 5th
18 or the 6th, I work.

19 JOHN CLARK: Okay. All right. That's fine. What
20 day can you make?

21 BRETT FELBER: Can we put I mean--can we push it up
22 a week?

23 JOHN CLARK: You mean, into September?

24 BRETT FELBER: Yeah, can we push it up the week
25 of the 18th through the 22nd?

1 JOHN CLARK: I cannot unfortunately because
2 there's Commission stuff already scheduled out. That
3 was the first free week I saw where I had multiple
4 days to select from. So, now we're going to be going
5 into that second week of October. Kayla, is there
6 anything scheduled from the 9th to the 13th?

7 KK: No, Judge. The only thing is the 9th is
8 Columbus Day, otherwise, that week is free.

9 JOHN CLARK: Okay.

10 BRETT FELBER: What about October the 6, October
11 6th, that Friday?

12 JOHN CLARK: Mr. Banks does October 6th work for
13 you?

14 ERIC BANKS: Yes, Your Honor. Thank you.

15 JOHN CLARK: Mr. Keevil, does October 6th work
16 for you?

17 Jeff Keevil: It works for me, Judge, but I do
18 not know about my witnesses, I'm not..physically
19 present with my wit--they are on the line, you could you
20 could ask Miss Fontaine if October 6th would a be if
21 she's available October 6th.

22 JOHN CLARK: Miss Fontaine, are you available
23 October 6th?

24 Sarah Fontaine: Yes, I am.

25 JOHN CLARK: Okay. We have a winner.

1 BRETT FELBER: I believe I have 3 witnesses.

2 JOHN CLARK: Okay, who are your witnesses?

3 BRETT FELBER: My son, my daughter, and my wife.

4 JOHN CLARK: Okay.

5 BRETT FELBER: And I'm gonna I'll--I guess

6 I'll Aubrey Kliethermes put her on that wi--witness

7 list, too.

8 JOHN CLARK: Is she she's an Ameren witness so you
9 will be able to, you're always able to question other
10 parties' witnesses.

11 BRETT FELBER: Okay.

12 JOHN CLARK: Yes, you don't have to worry about
13 listing their witnesses as witnesses for yourself, as
14 well.

15 BRETT FELBER: All right.

16 JOHN CLARK: All right. Now, your son and
17 daughter, are...how old are they?

18 BRETT FELBER: My son is 16, he's autistic. My
19 daughter's 17. And...

20 JOHN CLARK: I just needed to know that they were
21 old enough to testify, that's fine. Thank you.

22 BRETT FELBER: Okay.

23 JOHN CLARK: I don't need more information than
24 that and I don't see any reason for you to tell me
25 more.

1 BRETT FELBER: Okay. Thank you.

2 Jeff Keevil: Your Honor, I assume I assume Mr.
3 Felber himself will be a witness as well, is that...

4 BRETT FELBER: Yes.

5 JOHN CLARK: Mr. Felber, I can't imagine that Mr.
6 Felber would be able to get much of his narrative in
7 without testifying on his own behalf, since he is his
8 witness for much of the events that--that he
9 indicates has happened. So, if he if he testifies,
10 certainly Staff will be Staff and Ameren will be
11 allowed to cross examine him. All right, I think that
12 addresses everything I wanted to address today. Mr.
13 Felber, I think it I would encourage you to see if you
14 can work out a way with Mr. Banks that he can get this
15 information that he needs from you in regards to a
16 Medical Waiver, but if not, I've expressed to you what
17 I'm likely to do. With that in mind, we have a new
18 trial date of October the 6th at 9 a.m. I'll need to
19 clear that with the Commission before I enter an order
20 because I do not always know the Commissioners'
21 individual calendars and they generally do like to
22 show up to these hearings, ask questions, and--and pay
23 attention to what's going on. So, if one of them has
24 a conflict with it, and wants to appear, that may
25 affect whether or not we're able to have it on the

1 6th, but I think it would be highly unlikely that that
2 would be the case. So, as of right now, let's do
3 October the 6th and I will issue an order before the
4 end of the week. Mr. Felber, as I said, you're free
5 to file a Motion to Compel, is there--are there any
6 other outstanding motions that I have neglected to
7 mention?

8 BRETT FELBER: No. But there is one more thing.

9 JOHN CLARK: Go ahead, Mr. Felber.

10 BRETT FELBER: In the report that Miss Kliethermes,
11 well Staff, had produced they said they had a senior
12 engineer do everything. I wanna know his credentials.
13 What he specializes in and what he thinks about
14 .jpg's. And if .jpg's...

15 JOHN CLARK: So this is wait a second you're
16 talking about Staff?

17 BRETT FELBER: No, not Staff. It was in theit
18 was in the thing when, I guess, when I sent a copy of I
19 guess to the Staff, the Agreement. I initially sent
20 it as just a screenshot of the Agreement, instead of
21 printing it out and everything.

22 JOHN CLARK: Uh huh.

23 BRETT FELBER: Miss Kliethermes had said that a .jpg
24 can be altered. I would like to know what Staff
25 engineer looked at that and what..

1 JOHN CLARK: What Staff engineer looked at that?

2 BRETT FELBER: For--for Ameren. For Ameren.

3 JOHN CLARK: What Ameren engineer, okay.

4 BRETT FELBER: That would be the only other thing
5 because .jpg's are non-edible.

6 JOHN CLARK: Uh huh.

7 BRETT FELBER: So, and then you they have a copy
8 of the other one which has the trademark through it.
9 So, I would like to question that.

10 JOHN CLARK: I used I used to be I used to be a
11 Municipal Judge and at the time I was, red light
12 cameras were a big thing in Missouri and there were a
13 number of times that people came in and said, well, if
14 you look, I used Photoshop and I can show this video
15 again, and it clearly shows that I can make the light
16 green. And that may be true. Showing that something
17 can or could have been done is a very different thing
18 from showing that is has been done. And I haven't
19 seen any evidence to indicate, other than the
20 allegation that you might have altered it, I haven't
21 seen any evidence to that regard. Certainly, you can
22 issue a data request to Ameren asking for
23 further explanation of that opinion, asking who it was
24 that made that determination and how it was that that
25 determination was arrived at. Those are all cleared

1 for Data Requests. I'm not gonna be setting a Data
2 Request deadline before this next trial.

3 JEFF KEEVIL: Actually, Judge...Judge, I was gonna
4 say we actually had one for the date that is now past
5 that we had a Data Request deadline.

6 JOHN CLARK: We did?

7 JEFF KEEVIL: So--so are you removing that Data
8 Request deadline now, or I would assume that
9 Data Request deadline holds where it was?

10 ERIC BANKS: (Inaudible), Your Honor.

11 BRETT FELBER: III mean, I already...

12 JOHN CLARK: I'm gonna allow Mr. Felber to ask
13 this one Data Request.

14 BRETT FELBER: All right.

15 JOHN CLARK: So, I'm gonna I'm gonna grant as
16 to any other Data Requests at this point...I'm gonna
17 grant Staff and Ameren's I'm going to call it an oral
18 objection to doing away with any Discovery deadlines.
19 So, Discovery deadlines have passed, I will allow
20 you to issue this one Data Request to Ameren for them
21 to answer timely. Likewise, as I indicated, you can
22 file a Motion to Compel as to any outstanding Data
23 Requests that you have already issued to Ameren.

24 BRETT FELBER: Okay.

25 JOHN CLARK: And that at least will minimize the

1 number of Discovery issues that I have to deal with
2 before the Hearing. All right, is there any other are
3 there any other matters I need to address or that the
4 Commission needs to address at this time?

5 ERIC BANKS: No, thank you, Your Honor.

6 JEFF KEEVIL: Judge, I'm not sure I'd say it's
7 something that requires addressing, but just to
8 clarify, I guess remove some confusion...Mr. Felber made
9 reference earlier in the call to Staff not including
10 the phone calls that he had provided in the Staff
11 report and I was just going to point I would like to
12 point out, those are attached as Exhibit B to the
13 Staff report, so they, they are at least some of them,
14 not gonna say every single one of the, but several are
15 in there as Exhibit B through the Staff report, so if
16 anyone's confused about that, you can look at the
17 Exhibit B.

18 JOHN CLARK: Okay. And as I indicated before,
19 Mr. Felber, at the Evidentiary Hearing, you'll be
20 allowed to question Staff as to why they did not give
21 more weight to, or more consideration to, evidence
22 that you have provided.

23 BRETT FELBER: Okay.

24 JOHN CLARK: But as I indicated, each party has
25 their narrative and their allowed to as long as it's

1 relevant pursue it. All right, I heard nothing else in
2 regard to matters. I will issue an order before the
3 end of the week, resetting the Evidentiary Hearing for
4 Friday, October the 6th at 9 a.m. I'd like to get
5 started, I have no idea at this point how long this
6 Hearing's going to take, so...and Mr. Felber is it
7 your--still your desire to do this Hearing via WebEx?

8 BRETT FELBER: Yes, Your Honor.

9 JOHN CLARK: Okay. Likewise, I noticed that Mr.
10 Felber, you, I guess, emailed an Exhibit List?

11 BRETT FELBER: No, he...

12 JOHN CLARK: I'm sorry.

13 BRETT FELBER: Mr. Banks emailed that Exhibit
14 List.

15 JOHN CLARK: Okay, you did not email an Exhibit
16 List, correct?

17 BRETT FELBER: No, I did not.

18 JOHN CLARK: And that's because you that's because
19 the Evidentiary Hearing was canceled, correct?

20 BRETT FELBER: Correct.

21 JOHN CLARK: Okay. And Mr. Keevil contacted my
22 office to find out whether or not he needed to submit
23 an Exhibit List and was told that no he did not. Mr.
24 Banks submitted an Exhibit List on behalf of Ameren.
25 I appreciate that, Mr. Banks. You didn't have to with

1 no Evidentiary Hearing, but I appreciate I appreciate
2 that everybody at least pays attention to my orders.
3 So, I'm gonna have a similar requirement with this
4 one, that a day before the Evidentiary Hearing that
5 the parties email to me a list of their Exhibits that
6 they intend to use during the Hearing and to each
7 other, an Evidentiary List, so everybody can follow
8 along with what evidence is being offered. So that
9 will also be included in that Order. I don't believe
10 there's anything else to address at this point. Okay.
11 Nobody moved to say anything so with that, we
12 will go off the record. I'll thank everyone for their
13 time and I will try and get...

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