

REPORTED BY:

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19 Service Commission.
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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: The clock on the wall says
3 it's a little after one o'clock, so let's go ahead and get
4 started. We're here this afternoon for a comment hearing
5 on a couple of proposed rules, 4 CSR 240-3.162 and 4 CSR
6 240-20.091.

7 This is the second comment hearing on this
8 rulemaking. As indicated previously by an Order issued by
9 the presiding judge, the comments and testimony from the
10 previous hearing will also be considered as part of the
11 rulemaking, so there's no need to repeat yourselves today.

12 Let's get started, then, by taking entries
13 of appearance, beginning with Staff.

14 MR. DOTTHEIM: Steven Dottheim, Post Office
15 Box 360, Jefferson City, Missouri 65102, appearing on
16 behalf of the Staff of the Missouri Public Service
17 Commission.

18 JUDGE WOODRUFF: And for MIEC.

19 MS. ILES: Carole Iles from Bryan Cave,
20 LLP, 221 Bolivar Street, Suite 101, Jefferson City,
21 Missouri.

22 JUDGE WOODRUFF: And for AmerenUE.

23 MR. LOWERY: James Lowery, Smith Lewis,
24 LLP, 111 South Ninth, Suite 200, Columbia, Missouri 65201,
25 on behalf of Union Electric Company, d/b/a AmerenUE.

1 JUDGE WOODRUFF: Public Counsel.

2 MR. POSTON: Thank you. Marc Poston
3 appearing on behalf of Office of the Public Counsel and
4 the public, P.O. Box 2230, Jefferson City, Missouri 65102.

5 JUDGE WOODRUFF: Any other attorneys here
6 that I missed? I don't see anybody else.

7 All right. Well, of course this is a
8 public comment hearing, and as I indicated previously,
9 this is the second iteration of this public comment
10 hearing for this rulemaking. Does anyone -- anything
11 anyone wants to add at this point?

12 MS. ILES: I would, your Honor.

13 JUDGE WOODRUFF: Go right ahead.

14 MS. ILES: I have a very brief oral
15 statement.

16 JUDGE WOODRUFF: Go right ahead.

17 MS. ILES: My name is Carole Iles. Again,
18 I've entered my appearance. I'm an attorney with Bryan
19 Cave, LLP in its Jefferson City office. Ed Downey and
20 Diana Vuylsteke had previously appeared in this matter in
21 the public hearing, and they were unable to be here today
22 due to other pressing matters, and I want to thank you for
23 the opportunity to present these comments.

24 I represent the Missouri Industrial Energy
25 Consumers, which is an association of corporations that

1 consume energy on a large scale. They are, therefore,
2 very interested in the cost of energy and in these
3 proposed regulations. The MIEC has filed written comments
4 along with suggested revisions to the proposed rules, so
5 my oral comments will be brief. I also understand that
6 Mr. Downey presented similar comments in the previous
7 hearing.

8 The main point we would like to make
9 focuses on Section 386.266, which is the section of the
10 Revised Statutes of Missouri that authorizes these
11 regulations and the ECRM. We believe that it is clear
12 that this statute was intended to strike a balance between
13 the interests of utilities and consumers, and this is
14 reflected in numerous provisions of the statute that we
15 have pointed out in our written comments.

16 Most importantly, I would note that
17 subdivision 1 of subsection 4 of the statute states that
18 to approve the ECRM this Commission must find that the
19 ECRM, quote, is reasonably designed to provide the utility
20 with a sufficient opportunity to earn a fair return on
21 equity. That's the part that we think is very key, and
22 there are a number of other provisions in the statute that
23 we feel and we've pointed out in our written comments
24 indicate that the statute is supposed to take into account
25 the interests of consumers.

1 The Commission's regulations should be
2 faithful to these consumer protections and to the
3 legislative intent to strike a balance between consumers
4 and utilities. We respectfully submit that the proposed
5 regulations tip the scale in favor of the utilities, and
6 rather than use the ECRM to raise revenues to meet the
7 approved rate of return on equity, these regulations would
8 allow the ECRM to raise revenues above what is necessary
9 for the utilities to meet that return.

10 In fact, under certain circumstances a
11 utility that is already exceeding its approved rate of
12 return would receive additional revenues under the ECRM.
13 We believe that result is inconsistent with Section
14 286.266, it was not sanctioned by the Legislature, and
15 therefore should be rejected by this Commission.

16 Our proposed changes to the ECRM
17 regulations rebalance the scale so that the utilities will
18 receive additional revenues for environmental costs when
19 necessary but, consistent with the statute's requirements,
20 only when necessary for the utilities to achieve their
21 authorized rate of return on equity.

22 Thank you very much.

23 JUDGE WOODRUFF: Thank you. Anyone else
24 wish to make any comments?

25 MR. LOWERY: Your Honor, Jim Lowery on

1 behalf of Union Electric Company. The only comment I
2 would make is that the company had filed comments in this
3 docket on March 3rd and additional comments on March the
4 4th and also provided verbal comments at the prior
5 hearing.

6 It's my understanding the Commission's
7 ruling in this case is that those are part of this
8 rulemaking just as if they were made today or filed today
9 or filed within this last 30-day period. And with that,
10 we stand on those comments and submit them to the
11 Commission for consideration.

12 JUDGE WOODRUFF: Thank you. Any other
13 comments anyone wants to make?

14 (No response.)

15 JUDGE WOODRUFF: All right. I don't see
16 anyone else raising their hand, so with that, we are
17 adjourned. Thank you.

18 WHEREUPON, the public hearing in this case
19 was concluded.

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1 C E R T I F I C A T E

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3 STATE OF MISSOURI)

4) ss.

5 COUNTY OF COLE)

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7 I, Kellene K. Feddersen, Certified

8 Shorthand Reporter with the firm of Midwest Litigation

9 Services, do hereby certify that I was personally present

10 at the proceedings had in the above-entitled cause at the

11 time and place set forth in the caption sheet thereof;

12 that I then and there took down in Stenotype the

13 proceedings had; and that the foregoing is a full, true

14 and correct transcript of such Stenotype notes so made at

15 such time and place.

16 Given at my office in the City of

17 Jefferson, County of Cole, State of Missouri.

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Kellene K. Feddersen, RPR, CSR, CCR