

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Hearing

May 13, 2008
Jefferson City, Missouri
Volume 1

In the Matter of Union Electric)
Company d/b/a AmerenUE for)
Authority to File Tariffs)
Increasing Rates For Electric)Case No. ER-2008-0318
Service Provided to Customers)
in the Company's Missouri)
Service Area.)

MORRIS L. WOODRUFF, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning, everyone.
3 Let's go ahead and get started. This is a prehearing
4 conference in Case No. ER-2008-0318 which concerns
5 Union Electric Company's tariff to increase their
6 rates for electric service. We'll begin today by
7 taking entries of appearance beginning with AmerenUE.

8 MR. BYRNE: Your Honor, I'm Thomas M.
9 Byrne, attorney for AmerenUE. My address is 1901
10 Chouteau Avenue, St. Louis, Missouri 63103.

11 MR. LOWERY: Also appearing for
12 AmerenUE, James B. Lowery with the law firm of Smith
13 Lewis, LLP, 111 South Ninth Street, Suite 200,
14 Columbia, Missouri 65201.

15 JUDGE WOODRUFF: Thank you. And for the
16 Staff.

17 MR. DOTTHEIM: Steven Dottheim, Kevin
18 Thompson, Nathan Williams, Post Office Box 360,
19 Jefferson City, Missouri 65102, appearing on behalf
20 of the Staff of the Missouri Public Service
21 Commission.

22 JUDGE WOODRUFF: Thank you. And for the
23 Office of Public Counsel.

24 MR. POSTON: Thank you. Marc Poston
25 appearing for the Office of the Public Counsel,

1 P.O. Box 2230, Jefferson City, Missouri 65102.

2 JUDGE WOODRUFF: Thank you. And for
3 Miranda Aluminum.

4 MR. CONRAD: Stu Conrad and David
5 Woodsmall, law firm of Finnegan, Conrad & Peterson.
6 Kansas City address is 3100 Broadway, Suite 1209,
7 Kansas City, MO 64111.

8 JUDGE WOODRUFF: Thank you. And for the
9 State of Missouri.

10 MR. CARLSON: Robert Carlson, P.O. Box
11 899, Jefferson City, Missouri 65102.

12 JUDGE WOODRUFF: For IBEW and the
13 Operating Engineers Union, anyone here for that?

14 (NO RESPONSE.)

15 JUDGE WOODRUFF: I've gotten an e-mail
16 from their attorney indicating they probably would
17 not be able to be here for the prehearing conference,
18 so they are excused.

19 MIEC.

20 MS. VUYLSTEKE: Diana Vuylsteke, Bryan
21 Cave, LLP, 211 North Broadway, Suite 3600, St. Louis
22 63102.

23 JUDGE WOODRUFF: Thank you. And for
24 MEG.

25 (NO RESPONSE.)

1 JUDGE WOODRUFF: And once again, got an
2 e-mail from their attorney indicating she would not
3 be able to be here today, so again, they are excused.

4 For DNR.

5 MS. WOODS: Shelley A. Woods, Assistant
6 Attorney General, Post Office Box 899, Jefferson
7 City, Missouri 65102.

8 JUDGE WOODRUFF: And for Laclede.

9 MR. PENDERGAST: Michael C. Pendergast.
10 Business address is 720 Olive Street, St. Louis,
11 Missouri 63101.

12 JUDGE WOODRUFF: And for the Commercial
13 Group.

14 MR. CHAMBERLAIN: Rick Chamberlain of
15 the law firm Behrens, Taylor, Wheeler & Chamberlain.
16 My address is 6 Northeast 63rd Street, Suite 400,
17 Oklahoma City, Oklahoma 73105.

18 JUDGE WOODRUFF: Thank you. And for
19 AARP.

20 MR. COFFMAN: Appearing on behalf of
21 AARP and the Consumers Council of Missouri, John
22 Coffman, 871 Tuxedo Boulevard, St. Louis, Missouri
23 63119.

24 JUDGE WOODRUFF: Thank you. And I
25 believe that's all the parties that have been

1 admitted into the case. Once again, welcome. You
2 all look like very familiar faces. It just seems
3 like yesterday we were all here for the last Ameren
4 rate case. I guess we'll have fun again with it this
5 time.

6 Couple of matters I want to bring up.
7 There are a couple of pending motions out there. One
8 is the Staff filed a motion to consolidate this case
9 with a -- with an investigative case. And the
10 Commission, I believe it has an order on its agenda
11 today to consider that. And I indicated at agenda
12 last week that I would bring that up in this
13 prehearing conference to try to get some guidance
14 from the parties as to what the Commission should do
15 on this.

16 First of all, let me just throw this out
17 generally. Is there a need for this separate case?
18 And I'll -- Public Counsel, this was your motion
19 originally. Do you believe that there is still a
20 need for a separate case?

21 MR. POSTON: To be honest, I'm not
22 familiar with that issue. I'm filling in for
23 Mr. Mills today. So I honestly don't know his
24 opinion -- his position on that. Oh, the answer is
25 yes, I believe.

1 MR. LOWERY: The voice has spoken to
2 Mr. Poston.

3 JUDGE WOODRUFF: Mr. Kind or
4 Mr. Trippensee, go ahead and explain. What -- what
5 is the reason for having the issues in a separate
6 case?

7 MR. KIND: The reason why we'd like to
8 see them consolidated?

9 JUDGE WOODRUFF: Uh-huh.

10 MR. KIND: Two reasons: The -- I guess
11 the secondary reason would be just the discovery
12 issues. There's already been a considerable amount
13 of discovery done in that case, and so then there
14 would be issues of getting access to that material in
15 the rate case.

16 However, I think the primary issue for
17 Public Counsel is that if the cases are not
18 consolidated, it may limit the Commission's ability
19 to achieve its stated intention, the intention that
20 it stated in the Report and Order in Case No.
21 ER-2007-0002, and that intention was to ensure that
22 UE fulfills its commitment of holding ratepayers
23 harmless from the Taum Sauk disaster.

24 The reason why we think it may be
25 difficult for the Commission to achieve the intention

1 that it stated in that Report and Order is because
2 some may argue that the only issues that can be
3 addressed in this pending rate case are issues of
4 holding customers harmless from the Taum Sauk
5 disaster only with respect to the time period that's
6 covered in this pending rate case.

7 And we believe that the Commission
8 stated very strongly in its Report and Order in the
9 rate case that it felt UE had made a strong
10 commitment to hold ratepayers harmless in that case
11 and that the Commission intended to make sure that
12 that's what actually did occur.

13 And the Commission wanted its Staff to
14 investigate to determine whether or not in their view
15 that occurred, and to, you know, make a
16 recommendation to the Commission based on the results
17 of its investigation.

18 JUDGE WOODRUFF: Okay. Anyone want to
19 respond to that? I know Staff and the company have
20 already indicated they didn't have any objection to
21 consolidating this.

22 MR. BYRNE: I guess -- I mean, just --
23 just to briefly reply, we have made a commitment to
24 hold ratepayers harmless and I think we're -- we
25 believe we've lived by that commitment and will

1 continue to live by that commitment.

2 I guess at this point -- I mean, the
3 docket hasn't even been opened. I'm not sure it
4 makes a whole lot of difference whether a docket's
5 opened and consolidated with the existing case or --
6 or the issues are just picked up in the existing
7 case. I mean, even though discovery's been done,
8 there's been no -- there isn't a docket that's --

9 JUDGE WOODRUFF: Right.

10 MR. BYRNE: I mean, you know, it's been
11 docketed on EFIS but a case has never been opened.
12 So to my mind, it's six of one, half a dozen of the
13 other whether you just, you know, move the stuff --
14 move the discovery into the existing rate case or it
15 almost seems like an empty gesture to open a case and
16 then consolidate it into the rate case.

17 JUDGE WOODRUFF: Okay.

18 MR. KIND: Can I respond to that?

19 JUDGE WOODRUFF: Go ahead.

20 MR. KIND: You know, Mr. Byrne stated
21 that he feels that the company did hold ratepayers
22 harmless in the last rate case with respect to the
23 Taum Sauk disaster. And I believe that the -- the
24 testimony that UE has already filed, its direct
25 testimony in this case filed by witness Shawn Schukar

1 raises serious questions about whether or not that
2 occurred.

3 And the reason why it raises questions
4 is because UE has made an explicit adjustment in this
5 rate case with respect to sales of capacity that
6 could have been made were the Taum Sauk plant still
7 in service. It explicitly made that adjustment in
8 this case and it made no such adjustment in the prior
9 case.

10 JUDGE WOODRUFF: Well, we don't really
11 need to get into the details of the issue at this
12 point. I was -- I had also noted that. All right.
13 Anyone else to want respond on that -- on that
14 question?

15 MR. CONRAD: We don't have any objection
16 to the consolidation, your Honor.

17 MS. WOODS: Department doesn't have any
18 objection.

19 MR. CARLSON: Yeah, the State -- we were
20 parties to both cases, and we think the consolidation
21 is a good idea for the reasons Mr. Kind stated.

22 JUDGE WOODRUFF: Okay. The other
23 pending motion I wanted to bring up was Public
24 Counsel had filed a motion early in this case to make
25 certain testimony public. Ameren responded with an

1 explanation of why that information was properly
2 confidential or proprietary or highly confidential.
3 And I'd actually ordered Public Counsel to respond to
4 that, but they never did. Let me ask again, does
5 Public Counsel have a continuing concern about that
6 issue?

7 MR. POSTON: I believe so. All I -- If
8 I could turn it over to Mr. Trippensee.

9 MR. TRIPPENSEE: On the confidentiality?

10 JUDGE WOODRUFF: Yes.

11 MR. TRIPPENSEE: I think that -- to be
12 honest, Mr. Mills was handling that and a higher
13 authority has called him this morning.

14 JUDGE WOODRUFF: Yes, I understand he's
15 over at the Supreme Court right now.

16 MS. WOODS: Yes, he is.

17 MR. TRIPPENSEE: So I'm not intimately
18 familiar with his concerns there.

19 JUDGE WOODRUFF: All right. Well, we'll
20 leave it for now, then.

21 MR. LOWERY: Well, Judge, I mean, if I
22 might, I guess I would ask the Commission to go ahead
23 and rule. We -- we responded within the ten days the
24 confidentiality rule required us to respond, and we
25 were very specific in -- in citing the categories

1 that justified how we had treated information with
2 the -- with -- with one minor error that we had made.
3 We designated some proprietary information highly
4 confidential which we've now corrected in the record
5 both under the Commission's rules and your orders.

6 Public Counsel has had sufficient time
7 to respond and hasn't done so, and I think it would
8 be appropriate at this time for the Commission to
9 deny Public Counsel's motion on that -- on that point
10 just -- just as a matter of substance and procedure.

11 JUDGE WOODRUFF: I'll take a look at it.
12 I'm not gonna make a ruling on that right now.

13 MR. LOWERY: Thank you.

14 MR. CONRAD: Has there -- Judge, has
15 there -- perhaps Mr. Lowery can respond in this area.
16 Has there been any further discussion between you
17 guys and --

18 MR. LOWERY: Mr. Mills has not contacted
19 us about any of it.

20 JUDGE WOODRUFF: I can certainly
21 understand Mr. Mills has been rather busy with a
22 number of cases these days that the Commission has as
23 a whole.

24 All right. The other thing we need to
25 talk about today is the procedural schedule. And

1 that's getting chuckles of delight out there in the
2 audience. I know Ameren has filed a motion asking
3 that the hearing be delayed back in December, and I
4 think I replied in an order at some point I don't
5 believe that can happen because of the concerns of
6 the Commission about trying to get orders out at
7 least 30 days before the operation of law day, which
8 in this case meets January 29th.

9 And obviously the Commission needs some
10 time to deliberate and I need time to write the
11 order. That said, I am open to working with you as
12 far as tweaking the schedule a bit. We certainly
13 can't wait three or four weeks as was suggested, but
14 tweak it to adjust it a little bit.

15 MR. CONRAD: Go ahead.

16 MR. DOTTHEIM: Judge, I don't know if
17 you want to do this discussion on the record or -- or
18 off the record, but -- but if possible, I would like
19 to inquire if it would not be inappropriate as to
20 the -- the Commission's thinking regarding issuing
21 the Report and Order 30 days before the operation
22 of -- of law date.

23 We -- we have with us this morning
24 Mr. Conrad who in other rate cases represents clients
25 which is -- on behalf of those clients he's raised,

1 Mr. Conrad has, issues relating to the timing of
2 compliance tariffs and the provision of adequate time
3 for the review of -- of compliance tariffs and
4 requesting a hearing regarding the compliance
5 tariffs -- tariffs.

6 Unfortunately, Mr. Mills is not
7 available this morning who has also in other rate
8 cases raised issues regarding the timing involving
9 the filing and processing of compliance tariffs and
10 the holding of a hearing regarding compliance
11 tariffs.

12 I thought in that we have Mr. Conrad
13 here and possibly Mr. Poston and others from the
14 Office of Public Counsel, we might have a discussion
15 respecting those matters that -- that might be
16 productive, it -- it might not be. But I thought
17 that is -- is something that -- that might occur
18 either on the record or off -- or off -- or off
19 the -- off the record and --

20 JUDGE WOODRUFF: Let's start it on the
21 record and see how it goes and we can certainly
22 discuss it further off the record if you want to.
23 Mr. Conrad, do you want to reply?

24 MR. CONRAD: Yes, sir. Well, there's
25 not a lot for my colleague, Mr. Dottheim, for me to

1 finding something that at least to our view does not
2 comply, then we need to have a mechanism or at least
3 time somehow, someplace, somewhere to raise that.
4 The specific case, I think, that has caused the
5 wrinkle has been -- well, I guess there may be two.
6 The last Aquila case in which I think Aquila had to
7 go four times before they satisfied Staff and they
8 still did not satisfy Public Counsel with respect to
9 some things, nor us.

10 Then the Empire case, which I believe --
11 Mr. Dottheim can correct me, but I think that's
12 ER-2006-0315. And the Aquila case to which I'm
13 referring, I think, is ER-2007-0004, is the -- is the
14 one that was filed shortly after Ameren's last. And
15 in both those, there -- there were some items of
16 dispute.

17 Now, here, we will probably be
18 interested in and focused on a narrower group of
19 tariffs than the -- than the areas that Staff and
20 Public Counsel had to wrestle with and I recognize
21 that. I don't really -- beyond that, I can't -- I
22 can't agree, obviously, up front to waive something,
23 but --

24 JUDGE WOODRUFF: And I wouldn't expect
25 you to.

1 MR. CONRAD: No, and I'm not suggesting
2 that your Honor would. But I think that's the --
3 that apparently is the motivation behind it and I
4 understand that and there -- there should be some
5 mechanism to deal with that.

6 One thing that I could just, whether on
7 or off the record suggest, is that it may go a long
8 ways toward solving that if the intervenors, bluntly,
9 were involved in that process at an early -- early
10 stage in the development of -- of whatever. Now, you
11 know, we haven't seen an order, so it may be very
12 simple.

13 Sometimes it's not anymore. Things that
14 used to be simple 20 years ago no longer are. This
15 is the age of computers and because somebody can do
16 something, it often doesn't occur to them whether
17 they should.

18 But that's -- that's in a nutshell the
19 problem. And I don't -- I don't disagree with -- you
20 know, with -- with Mr. Dottheim's characterization of
21 it, but that's -- that's kind of our side of it.

22 MR. DOTTHEIM: And -- and one thing
23 that -- that Mr. Conrad had -- had raised that came
24 into play, not actually with the compliance tariffs
25 themselves that -- that might --

1 MR. CONRAD: Uh-huh.

2 MR. DOTTHEIM: -- that I know Mr. Conrad
3 had raised at an earlier stage in the Empire case,
4 the ER-2006-0315 was Section 536.067(4) which --
5 which -- which I looked at recently. And there's a
6 provision for ten days' notice for a hearing by -- by
7 the Commission or by any agency.

8 And I would expect Mr. Conrad or the
9 Office of Public Counsel probably to cite that
10 section to the Commission. And once we -- well, even
11 before we get into the 30-day period or -- or -- or
12 not, but that -- that -- that -- Mr. Conrad citing
13 that section, well, we were actually in the midst of
14 a -- of a hearing and it led to the suspension of the
15 hearing and the rescheduling of it. So that's
16 another factor also.

17 MR. CONRAD: And, your Honor, that
18 was -- I'm sorry.

19 MR. LOWERY: No, go ahead.

20 MR. CONRAD: Let me go ahead and fill
21 that out. What Mr. Dottheim says is correct, and
22 I -- you know, his -- his memory of the citations and
23 the parens is far better than I.

24 MR. DOTTHEIM: Well, I -- I've been
25 helped -- I've been helped with the parens by -- by

1 another source, so I think we'll be -- we -- we will
2 hear from.

3 MR. CONRAD: I -- I -- I have trouble
4 anymore in remembering what it is I had for
5 breakfast but -- early onset Alzheimer's is a great
6 thing. You meet new people every day.

7 The -- the point, however, that he
8 raises is that in many instances, the -- the process
9 that has been used is one that Staff reviews the
10 tariffs and then somebody for the Staff files an
11 affidavit that says I've looked at these and they
12 comply.

13 And that, I think, is what we had -- had
14 raised. I can't remember specifically Public
15 Counsel's thing that says, hey, you know, I've got --
16 I basically have just an affidavit here and because
17 we have a difference of opinion as to whether we have
18 compliance, we need to have some kind of a mechanism
19 to do that. And that apparently spawns the -- the
20 ten-day notice thing if you're gonna have a hearing
21 about it.

22 If there's -- obviously, if there's some
23 other way to resolve it, we would be eager to do
24 that. But those opportunities did not present
25 themselves in that particular case. So I'm -- I'm

1 sorry, I --

2 JUDGE WOODRUFF: Anyone else to want
3 jump in?

4 MR. LOWERY: Your Honor, I guess just a
5 couple of things. I think when Mr. Dottheim started
6 his comments, I think he was at least attempting to
7 inquire of you on behalf of the Commission for some
8 guidance in terms of how this 30-day, you know, we
9 feel that there's a need or at least your orders
10 indicate that you felt there was a need that a Report
11 and Order be issued 30 days in advance of the
12 operation of law day and how that came to -- came to
13 pass and why 30 days and so on because if you look --
14 if you look historically, that is shortening the time
15 by which the Commission typically has issued its
16 Report and Order by just shy of three weeks,
17 probably, in 19, 20, 21 days. And I understand --

18 JUDGE WOODRUFF: Normally before, we
19 would have run for at least ten days before the
20 operation of law dates.

21 MR. LOWERY: Right. And I understand
22 the -- the 0315 case and the resulting Supreme Court
23 decision and -- and that it made clear that there
24 will need to be a reasonable time to seek rehearing.
25 And that reasonable time may or may not be ten days,

1 but we sort of know by case law that ten days is a
2 safe harbor. And so, I understand --

3 JUDGE WOODRUFF: And we now know that an
4 hour and a half isn't enough.

5 MR. LOWERY: We know an hour and a half
6 is not enough, we know ten days is enough. So
7 somewhere between there is a reasonable time. It
8 depends on the circumstances. So I think it would be
9 helpful probably to all the parties to understand the
10 Commission's thinking on essentially the additional
11 three weeks.

12 The other issue -- and if it pleases the
13 Commission, I'd be happy, you know, maybe to hear --
14 hear some discussion from you about that.

15 On the other point in this 536.067(4)
16 issue, I mean, as Mr. Conrad indicates, we're a long
17 way potentially from whether any of those issues may
18 or may not be ripe. But I would say there are some
19 legal issues as to whether or not that provision
20 applies in lieu of provisions in Chapter 386 that
21 deal with the Commission's authority to set hearings.

22 And it's also not completely correct to
23 say that that statute, even if it did apply, always
24 prescribes ten days because if the public interest in
25 the judgment of the Administrative Commission was

1 such that ten days -- that a reasonable time is less
2 than ten days, it could be less than ten days.

3 So I don't think we need to get into a
4 long discussion about the intricacies of the Missouri
5 Administrative Procedures Act this morning because I
6 don't think we're to a ripe point about that. But --
7 but it's not quite as black and white as to whether
8 or not that's an issue or not, understanding
9 Mr. Conrad's concern about if his clients have a
10 difference of opinion about compliance tariffs,
11 whether they want to have an opportunity to be heard.

12 And that's understandable and -- and I
13 don't even know in this case we're gonna have a
14 controversy about that at this point.

15 JUDGE WOODRUFF: Hopefully not.

16 MR. LOWERY: Hopefully not. I mean, we
17 didn't in the last UE case, but that doesn't
18 necessarily mean we won't, but we didn't in the last
19 UE case.

20 So you know, if it pleases the
21 Commission, perhaps you could help us understand the
22 30 days a little bit better. And -- and I will say
23 that a procedural schedule that we've sort of hoped
24 to talk about this morning does -- does move that --
25 I think you said, you know, you're pretty concerned

1 about moving the hearing dates as far as we were
2 initially talking, but you'd be open to maybe
3 discussing with us how I think we -- we have -- we
4 have proposed maybe something in between the two that
5 we think would work, but it might be helpful if you
6 could help us understand. It might help facilitate
7 our off-the-record discussion about where we're
8 going.

9 MR. BYRNE: I think our proposed
10 schedule has like three weeks --

11 MR. LOWERY: Three weeks instead of 30
12 days.

13 JUDGE WOODRUFF: Okay. Well, first of
14 all to the question of why 30 days, that's the
15 direction I've gotten from the Commission for 30
16 days. If you come up with something that says three
17 weeks, I'm not saying that's impossible. I would
18 need to bring it to the Commission's attention at
19 agenda.

20 And I don't know that there's anything
21 magic about 30 days. The reason for 30 days is
22 simply to be fair to all the parties. We don't want
23 to try and jam anything down anybody's throat.

24 MR. LOWERY: Could I -- I mean, I'm not
25 aware of any Commission order or even deliberations

1 where any adoption of a 30-day standard has taken
2 place.

3 JUDGE WOODRUFF: No, it's an informal
4 discussion with the various Commissioners and chief
5 law judge and the chairman.

6 MR. LOWERY: I just want to make sure I
7 haven't --

8 JUDGE WOODRUFF: That's what I've been
9 told, so --

10 MR. LOWERY: I just want to make sure I
11 haven't missed something out there that I wasn't
12 aware of.

13 JUDGE WOODRUFF: There hasn't been any
14 sort of rulemaking that would establish a 30-day
15 requirement, but that is what I've been directed to
16 require. And like I say, if the parties can give a
17 good reason to allow three weeks, 21 days, it's
18 certainly possible that the Commission will accept
19 that.

20 MR. LOWERY: That's fine. I appreciate
21 having a little better understanding of where that
22 may be -- may be coming from.

23 JUDGE WOODRUFF: Okay.

24 MR. LOWERY: Thank you.

25 JUDGE WOODRUFF: Anyone else want to

1 jump in on that?

2 (NO RESPONSE.)

3 JUDGE WOODRUFF: Let's -- let's talk for
4 a moment about the procedural schedule for hearing
5 dates. You said you were looking about moving things
6 around a little bit?

7 MR. LOWERY: Well, we had -- we had
8 proposed -- we had sent to the parties yesterday at
9 least to initiate discussions on a proposed
10 procedural schedule that I believe had the hearings
11 starting on the 12th of November.

12 Essentially what it -- what it would do
13 is, it would move one week after -- after
14 Thanksgiving holiday. So we would start in the
15 middle of that week, I think, Wednesday through
16 Friday, then go the next week, then go the first two
17 days of Thanksgiving week.

18 And Steve, I think, is probably looking
19 at it, so correct me if I'm wrong. Then -- then be
20 off for the three days of the Thanksgiving holiday,
21 so to speak, and then come back the Monday following
22 and finish the hearings.

23 I mean, I will say on behalf of the
24 company, and it's impossible to know this, and I know
25 Mr. Dottheim feels strongly that we certainly want to

1 reserve three weeks, and we're not disagreeing with
2 Staff on that. I will say that I'm not personally
3 convinced that's necessarily going to have to happen
4 for a couple reasons. We don't have a gas case.

5 JUDGE WOODRUFF: Right.

6 MR. LOWERY: The -- the -- at least the
7 case the company has put on on direct, I think, is
8 not as broad in scope in many respects as the other
9 case was. Now, that doesn't mean that others may
10 not, you know, broaden the scope of the case, but at
11 least if you look at it on paper right now, I could
12 certainly envision the case being done in two weeks.
13 We even had some dead time in the last case where we
14 had a couple of days where we really didn't -- and I
15 think we might have finished one day early, if I
16 remember correctly, so --

17 JUDGE WOODRUFF: I believe that's
18 correct, yes.

19 MR. LOWERY: -- so I just throw that out
20 for -- and in like looking at the schedule, it may
21 not even be necessary that we have three weeks. But
22 I think it's probably prudent to reserve those just
23 in case under the circumstances.

24 JUDGE WOODRUFF: Sure. And that sounds
25 reasonable to me.

1 MR. LOWERY: And I don't know what the
2 other parties think about, by the way, the November
3 12th -- I mean, that's just -- that's just our
4 proposal at this point. We're not presupposing that
5 anybody agrees or disagrees. We just wanted to start
6 discussions.

7 MR. BYRNE: But I think it does help in
8 terms of setting the other dates. If we could have
9 that as a possibility for the hearing, that --

10 JUDGE WOODRUFF: Sure.

11 MR. BYRNE: -- loosens the constraints
12 on the other dates for everybody. It makes -- it may
13 make it -- the more likely we can reach an agreement
14 on -- on a --

15 JUDGE WOODRUFF: It's only a week. It
16 could make a big difference, I'm sure.

17 MR. CHAMBERLAIN: Your Honor?

18 JUDGE WOODRUFF: Yes.

19 MR. CHAMBERLAIN: I just wanted to note,
20 I have not received the Ameren proposed procedural
21 schedule, so -- so I don't know what those dates are.
22 I have not checked those.

23 MR. LOWERY: Rick, this is -- this is
24 Jim. I apologize if I somehow left you off the
25 e-mail, because I didn't mean to. We sent it out

1 yesterday afternoon. But we can either, perhaps when
2 we go off the record, get it to you, or we can talk
3 you through it when we -- when we -- when we discuss
4 it.

5 MR. CHAMBERLAIN: Okay.

6 MS. VUYLSTEKE: I can e-mail it to you
7 now.

8 MR. LOWERY: Diana's got her BlackBerry,
9 so --

10 MS. VUYLSTEKE: Yeah. What's your
11 e-mail address?

12 MR. CHAMBERLAIN: RDClaw, as in lawyer,
13 @swbell.net.

14 MS. VUYLSTEKE: Okay.

15 MR. CHAMBERLAIN: Thank you.

16 MR. LOWERY: Thank you, Diana.

17 MS. VUYLSTEKE: Sure.

18 JUDGE WOODRUFF: Well, let me say that
19 if the parties can agree upon moving it back a week,
20 I think I can sell that to the Commission.

21 MR. DOTTHEIM: Judge, of course, the
22 Staff's concern is multifold. There are concerns
23 clearly in this case. The Staff would like as much
24 time in the field as it generally has had in the past
25 to conduct an audit, but I think as -- as you are

1 aware, there are two other rate cases that have been
2 filed very closely to this -- to this case.

3 Some of the counsel that are in the --
4 the hearing room this morning are -- are counsel in
5 those other cases, and Staff understands that they
6 have other clients in those other cases that are not
7 the same clients of this case so they have other
8 concerns in those other cases that are independent of
9 the concerns they have in this case.

10 But the -- the hearing dates in -- in
11 those other -- in those other cases are of concern to
12 the Staff, one of which the hearing dates in a
13 complex Missouri American case are very early, the
14 hearing dates, and so --

15 JUDGE WOODRUFF: Yes. Again, because of
16 the conflict with all the other rate cases.

17 MR. DOTTHEIM: Yes. And -- and -- and
18 so the Staff has it in mind too as far as trying to
19 alleviate problems that it views in -- in those other
20 cases by possibly changing the schedule in -- in the
21 AmerenUE case in addressing concerns the Staff has in
22 the AmerenUE case at the same time.

23 So I mean, that -- that is clearly the
24 basis for the Staff's motivation in -- in -- in
25 seeking to try to work something out schedule-wise.

1 It is not solely the AmerenUE case.

2 JUDGE WOODRUFF: Oh, I certainly
3 understand that. The judges have talked about it as
4 well. And we're certainly aware of the --

5 MR. DOTTHEIM: And I'm quite sure -- and
6 I'm quite sure that's the case and understand.

7 JUDGE WOODRUFF: All right. Anything
8 else anyone wants to bring up while we're still on
9 the record?

10 (NO RESPONSE.)

11 JUDGE WOODRUFF: All right. Well,
12 hearing nothing, then, at this point we'll adjourn
13 the on-the-record portion of this proceeding, and
14 I'll leave you to your discussions.

15 (WHEREUPON, the recorded portion of the
16 prehearing conference was concluded.)

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