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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS  
Early Prehearing Conference  
December 11, 2009  
Jefferson City, Missouri  
Volume 1

In the Matter of the Empire )  
District Electric Company of )  
Joplin, Missouri For Authority to )  
File Tariff Increasing Rates For ) File No. ER-2010-0130  
Electric Service Provided to )  
Customers in the Missouri Service )  
Area of the Company )

KENNARD L. JONES, Presiding,  
SENIOR REGULATORY LAW JUDGE.

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

2 JUDGE JONES: This is the early prehearing  
3 conference for Case No. ER-2010-0130. My name is Kennard  
4 Jones. I'm presiding judge over the matter.

5 First let's take entries of appearances,  
6 and when entering your appearance, just state your name  
7 and who you're representing. You don't have to give your  
8 address and telephone number and whatnot. We'll start  
9 with Empire.

10 MR. SWEARENGEN: Thank you, Judge. Let the  
11 record show Diana Carter, Russ Mitten and Jim Swearngen  
12 on behalf of the Empire District Electric Company.

13 JUDGE JONES: Thank you. And the Staff of  
14 the Commission.

15 MS. KLIETHERMES: Thank you, Judge. Sarah  
16 Kliethermes, Steve Dottheim, Nathan Williams and Kevin  
17 Thompson on behalf of the Staff of the Missouri Public  
18 Service Commission.

19 JUDGE JONES: Thank you. The Office of the  
20 Public Counsel.

21 MR. MILLS: On behalf of the Office of the  
22 Public Counsel and the public, my name is Lewis Mills.

23 JUDGE JONES: Thank you. And the  
24 Department of Natural Resources.

25 MS. WOODS: On behalf of the Department of

1 Natural Resources, Sarah Mangelsdorf and Shelley Woods,  
2 Assistant Attorney General. Thank you.

3 JUDGE JONES: Midwest Energy Users  
4 Association.

5 MR. WOODSMALL: Thank you, your Honor.  
6 David Woodsmall and Stewart Conrad on behalf of the  
7 Midwest Energy Users Association.

8 JUDGE JONES: The City of Kansas City? Not  
9 here. They did enter, didn't they?

10 MR. SCHWARZ: Joplin.

11 JUDGE JONES: Joplin, that's who it was.

12 MR. SCHWARZ: May it please the Commission?  
13 Tim Schwarz, Stephanie Bell and Marc Ellinger for the City  
14 of Joplin.

15 JUDGE JONES: Is there anyone --  
16 Mr. Fisher.

17 MR. FISCHER: Yes. On behalf of Kansas  
18 City Power & Light Company, James M. Fischer.

19 JUDGE JONES: Okay. Is there anyone else  
20 here that hasn't entered an appearance that wishes to do  
21 so?

22 (No response.)

23 JUDGE JONES: All right. Well, the first  
24 thing we have is the proposed procedural schedule in two  
25 weeks. Are you-all going to be able to do that?

1 MR. SWEARENGEN: Piece of cake.

2 JUDGE JONES: Won't be a problem. Great.  
3 Customer notice. Mr. Swearngen, do you have a proposed  
4 customer notice?

5 MR. SWEARENGEN: No, sir, I do not.

6 JUDGE JONES: Will you before the end of  
7 the day?

8 MR. SWEARENGEN: I'm looking at Mr. Mills  
9 for that.

10 JUDGE JONES: Mr. Mills?

11 MR. MILLS: Yes.

12 JUDGE JONES: Well, you do have one?

13 MR. MILLS: I will by the end of the day.

14 JUDGE JONES: I don't anticipate problems  
15 with that, but if there are problems with the customer  
16 notice, I'd like to -- whatever party has problems, to  
17 make that known Monday by the end of the day.

18 And it seems that the parties are in  
19 agreement that the test year will end June 30, 2009.  
20 Does any party who has not chimed in on that have any  
21 objection to it?

22 (No response.)

23 JUDGE JONES: Okay. Also, it seems that  
24 the updated test year for known and measurable changes  
25 will end December 31st. Empire didn't really make a

1 statement on that. Do you agree with that?

2 MR. SWEARENGEN: That's something we want  
3 to talk about when we get into the procedural schedule and  
4 so forth.

5 JUDGE JONES: To be discussed. Also, there  
6 was agreement on the true-up of April 30th between Staff  
7 and Empire, but OPC had some analysis in that regard. Can  
8 I get some response to OPC's filing, Mr. Swearengen?

9 MR. SWEARENGEN: Well, again, that would be  
10 another one of those issues that I hope we're able to work  
11 out in the context of agreeing to a procedural schedule  
12 this morning.

13 JUDGE JONES: Now, I know that there are a  
14 couple of projects that Empire is involved in that I  
15 assume it wishes to be included in its costs, but it  
16 doesn't look like those projects will be concluded soon  
17 enough for there to be any real discussion prior to the  
18 effective date of the tariff. Is that true?

19 MR. SWEARENGEN: I don't think so. I think  
20 the -- hopefully the projects will be concluded and  
21 subject to audit and we'll be able to include those costs  
22 or some of them in the rates that we have filed in this  
23 proceeding. Once again, that's another matter I think  
24 that will come up in the context of talking about the  
25 procedural schedule.

1 JUDGE JONES: Okay. Was there any  
2 testimony filed in your direct about those projects?

3 MR. SWEARENGEN: Yes.

4 JUDGE JONES: Okay. And also the last  
5 thing I want to bring up is, I realize the time frame is  
6 pretty tight given the schedule that the Commission is  
7 under with other matters. I only allotted nine days for  
8 this hearing. Is that going to be enough time? Does  
9 anybody have doubt? Is there a doubt?

10 MR. WOODSMALL: The only reason I hesitate  
11 is I could see some doubt depending on the nature of the  
12 capital projects that may be addressed in the context of  
13 that hearing. If you're talking about addressing an audit  
14 of Plum Point and of Iatan 2 and of Iatan 1, I would be  
15 concerned, but if those somehow get deferred through our  
16 discussions today, nine days may be enough. We probably  
17 should know more at the end of today.

18 JUDGE JONES: Okay. And as you all know by  
19 the notice I recently issued, there are two outstanding  
20 applications to intervene. I anticipate those would be  
21 dealt with in next week's agenda, although I won't begin  
22 to speak for what the Commission will want to do next  
23 week.

24 Is there anything else that any party would  
25 like to bring up that I need to know about on the record

1 during this prehearing conference?

2 MR. WOODSMALL: Related to the outstanding  
3 application for intervention of MEUA, I would just note  
4 that until that -- it appears that until that's granted,  
5 we can't get access to the highly confidential information  
6 that's in EFIS, even though Empire acknowledges that at  
7 least two of the entities within that association should  
8 automatically be parties.

9 So I'm wondering if there's any way that we  
10 can get access to that highly confidential information  
11 pending the Commission's ruling on Wednesday.

12 JUDGE JONES: I can't -- I can only speak  
13 to that to the extent that those parties or entities that  
14 are presumed to be parties despite your intervention  
15 request can get access to it. You've recently added  
16 another party or entity that can't. Is that true?

17 MR. WOODSMALL: We added to the  
18 association. Enbridge Pipeline is going to participate  
19 through the association.

20 JUDGE JONES: So if between now and the  
21 Commission's ruling on this issue it's necessary for  
22 Praxair and Explorer to get that information, being all  
23 parties to the case, then that would necessitate the third  
24 entity also having access to highly confidential  
25 information, wouldn't it?

1                   MR. WOODSMALL: No, because since it is  
2 designated highly confidential, we cannot share that with  
3 the party. We can -- only the attorney and only any hired  
4 consultants could see it. So it would never -- whether  
5 they're a party or not, it would never be shared with the  
6 client. So whether we have just Praxair and Explorer or  
7 100 other clients, it would never be shared with them, so  
8 there would be no change. It would just go to the  
9 attorneys.

10                   JUDGE JONES: Okay. I suspect that this  
11 won't be an issue if the Commission rules next week.

12                   MR. WOODSMALL: The sooner the better,  
13 yeah. If they wait, then we're looking at past the New  
14 Year's, and it will be well over two months into the case  
15 before we -- and maybe Empire will send it to us. You  
16 know, they acknowledge that at least some of our entities  
17 should be parties.

18                   JUDGE JONES: Okay.

19                   MR. WOODSMALL: All I'm asking is sooner  
20 rather than later.

21                   JUDGE JONES: Well, if the Commission  
22 doesn't address the issue next week, then, the issue of  
23 intervention, then I will make this highly confidential  
24 issue an issue.

25                   MR. WOODSMALL: Okay.

1                   JUDGE JONES: Other than that, I suspect it  
2 will go away with the Commission's ruling.

3                   Is there anything else anyone would like to  
4 discuss?

5                   (No response.)

6                   JUDGE JONES: Okay. Seeing nothing, we are  
7 off the record. Thank you all.

8                   WHEREUPON, the recorded portion of the  
9 prehearing conference was concluded.

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

2 STATE OF MISSOURI )  
3 COUNTY OF COLE ) ss.

4 I, Kellene K. Feddersen, Certified  
5 Shorthand Reporter with the firm of Midwest Litigation  
6 Services, do hereby certify that I was personally present  
7 at the proceedings had in the above-entitled cause at the  
8 time and place set forth in the caption sheet thereof;  
9 that I then and there took down in Stenotype the  
10 proceedings had; and that the foregoing is a full, true  
11 and correct transcript of such Stenotype notes so made at  
12 such time and place.

13 Given at my office in the City of  
14 Jefferson, County of Cole, State of Missouri.

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16 Kellene K. Feddersen, RPR, CSR, CCR

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