

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

5 Prehearing Conference

6 July 12, 2011

7 Jefferson City, Missouri

8 Volume 2
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10
11 Janet Parks,)
12 Complainant,)
13 vs.) File No. GC-2011-0232
14 Missouri Gas Energy,)
15 Respondent.)

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17 _____
18 DANIEL JORDAN, Presiding
19 SENIOR REGULATORY LAW JUDGE
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21
22 REPORTED BY:

23 NANCY L. SILVA, CCR

24 TIGER COURT REPORTING, LLC
25

A P P E A R A N C E S

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JANET PARKS (via telephone)

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FOR: Pro Se

MEGHAN McCLOWRY

CULLY DALE

Missouri Public Service Commission

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FOR: Staff of the Missouri Public Service

Commission

ALSO PRESENT: Mary Schierman-Duncan, Consumer

Services Division

1 JUDGE JORDAN: We will go on the
2 record.

3 The Commission is calling the action
4 in File No. GC-2011-0232. That is Parks versus
5 Missouri Gas Energy.

6 I'm Daniel Jordan. I'm the
7 regulatory law judge assigned to this action.
8 We are conducting a prehearing conference
9 today. We won't be trying the case today. No
10 one will be arguing the action to me. We're
11 going to talk about how we're going to try the
12 case and how the parties will argue the action
13 to me.

14 We will begin with entries of
15 appearance, and I will go in this order: I'll
16 begin with Ms. Parks and then with the utility
17 and then with Staff, so Ms. Parks, would you
18 recite your name and address for our court
19 reporter, please.

20 MS. PARKS: Yes. Janet Parks,
21 302 Kimberly Drive, Belton, Missouri 64013.

22 JUDGE JORDAN: Refresh my
23 recollection, Ms. Parks. Is that the address at
24 which you want these services provided?

25 MS. PARKS: Yes, it is.

1 JUDGE JORDAN: Okay. And do you have a
2 telephone contact that we can use for you?

3 MS. PARKS: Yes. 913.439.0600.

4 JUDGE JORDAN: Thank you.

5 Next an entry of appearance from the
6 utility.

7 MR. COOPER: Dean Cooper, Law Firm of
8 Brydon, Swearngen & England, PC, P.O. Box 456,
9 Jefferson City, Missouri 65102, appearing on behalf
10 of Southern Union Company, doing business as Missouri
11 Gas Energy.

12 JUDGE JORDAN: Will there be any
13 representatives of your client with us today?

14 MR. COOPER: Only myself.

15 JUDGE JORDAN: Okay.

16 MS. PARKS: Your name was Dean Cooper?

17 MR. COOPER: It is.

18 JUDGE JORDAN: Yes, spelled just like it
19 sounds.

20 MS. PARKS: Okay.

21 JUDGE JORDAN: All right. And we'll move
22 next to Staff.

23 MS. McCLOWRY: Meghan McClowry and Cully
24 Dale with the Staff of the Missouri Public Service
25 Commission. Our business address is P.O. Box 360,

1 Jefferson City, Missouri 65102. And with us today we
2 have Mary Schierman-Duncan from the Consumer Services
3 Department.

4 JUDGE JORDAN: Thank you.

5 MS. PARKS: I didn't get those names,
6 Judge.

7 JUDGE JORDAN: Will you repeat them.

8 MS. McCLOWRY: I'm Meghan McClowry. I'm
9 attorney for the Staff, and I have with me Cully
10 Dale.

11 MS. PARKS: Could you spell that name?

12 MS. McCLOWRY: Both or --

13 MS. PARKS: Yes, please. Your last name,
14 maybe.

15 MS. McCLOWRY: Okay. Meghan, M-e-g-h-a-n.

16 MS. PARKS: Oh. Okay.

17 MS. McCLOWRY: And McClowry,
18 M-c-C-l-o-w-r-y.

19 MS. PARKS: Uh-huh.

20 MS. McCLOWRY: And Cully Dale is
21 C-u-l-l-y; Dale, D-a-l-e.

22 MS. PARKS: Okay.

23 MS. McCLOWRY: And with us is Mary
24 Schierman-Duncan from Consumer Services.

25 MS. PARKS: Mary Duncan.

1 MS. McCLOWRY: Yes.

2 MS. DALE: Close enough?

3 MS. SCHIERMAN-DUNCAN: That's good enough.

4 MS. PARKS: Okay.

5 JUDGE JORDAN: And I see that the Office
6 of Public Counsel is not present. They're
7 technically a party to this action, but they don't
8 have to participate if they don't want to.

9 MS. PARKS: Okay.

10 JUDGE JORDAN: Here's what we're going to
11 do. We're going to do part of this session on the
12 record in which I will discuss with the parties the
13 procedure that this complaint must follow, and I'm
14 also going to ask the parties to take this
15 opportunity off the record to discuss the case and
16 see what kind of settlement that they may come to
17 without trying the case before me and without my
18 recommendation to the Commission, because it is my
19 experience that the parties can work out better
20 solutions than I can recommend and that the
21 Commission can make in most every case.

22 So what we'll do is we'll discuss
23 procedure. Then I'll leave the room. We'll go off
24 the record. The parties can discuss the action and
25 see what they can work out.

1 So there are a few things that I want
2 everyone to understand, and the first is that the
3 procedure in which we are engaged is litigation. It
4 is not a discussion. It is litigation. The burden
5 of proof is on the Complainant -- and that is Janet
6 Parks -- to prove a violation, a violation of tariff
7 or regulation or statute committed by Missouri Gas
8 Energy. The burden of proof is on Ms. Parks. No one
9 else even has to show up. They probably will,
10 though, and Ms. Parks will have one shot to make the
11 record to introduce evidence admissible under the law
12 that will demonstrate a violation.

13 If there is a violation, the Commission
14 may be able to craft some kind of remedy. I think
15 what kind of remedy the Commission can make in this
16 case is also an issue. Mostly we go from the
17 pleadings. The parties may later submit an issues
18 list, which is like a refined version of the
19 complaint that tells the Commission what the parties
20 think is at issue.

21 Now, in preparing for your action, there
22 are some things that I want the parties to know. One
23 is the availability of discovery. Discovery's the
24 way that you get facts from the other side, and
25 discovery includes things like requests for

1 admissions and depositions and interrogatories and
2 requests for the production of documents and things.
3 These are all set forth in the Missouri Supreme Court
4 Rules, which the Commission has incorporated into its
5 own procedure.

6 Now, when the time comes for trying this
7 case, I want all parties to be aware of Section
8 536.070. That is a statute, a Missouri statute.
9 You'll find it in the volumes called The Revised
10 Statutes of Missouri. That's Section 536.070.

11 That statute governs how the law of
12 evidence applies in this action as opposed to the
13 usual circuit court action with a jury. The order of
14 proof, well, that is subject to the parties'
15 agreement, but generally it's going to be -- the
16 Complainant will make her case and then the utility
17 will make its case, and then Staff may make a case if
18 it feels that it wants to.

19 After the hearing is complete and the
20 record is closed, the reporter, the Commission's
21 reporter, will file a copy of the transcript, and the
22 parties also have the right to file written argument
23 which will show the Commission how the record made at
24 the hearing, the transcript and the exhibits, that
25 is, show -- support their case.

1 Then from all that what I do is I prepare
2 a document which constitutes a recommendation to the
3 Commission. The Commission will vote on it at an
4 open meeting that will be telecast to the whole world
5 via the Internet.

6 That is what I have prepared to tell the
7 parties right now. Questions about what I've said so
8 far?

9 We'll start with Ms. Parks. Any
10 questions for me so far?

11 MS. PARKS: No, not at this time.

12 JUDGE JORDAN: Okay. Anything from the
13 utility?

14 MR. COOPER: No, your Honor.

15 JUDGE JORDAN: And from Staff? Any
16 questions?

17 MS. McCLOWRY: No, your Honor.

18 JUDGE JORDAN: Well, I must have done a
19 better job than I thought.

20 That's all I have to say to the parties,
21 and it doesn't sound like the parties have anything
22 for me, so I will go ahead and turn this time over to
23 the parties so that you may work on -- well, I hope
24 you can settle the case entirely. If not, I hope
25 that you can at least come to some agreement about

1 how to try this case.

2 All right. Now, I'd like Staff to file
3 with me a memorandum or report, say, tomorrow,
4 letting me know, just in the most general terms,
5 whether there's been progress towards a settlement or
6 whether you think a hearing will be required. I
7 don't want any details of your settlement
8 discussions.

9 The reason I'm leaving the room is so
10 that you may speak freely to one another without
11 worrying about me hearing something that you may not
12 want to reveal, remembering, of course, that this is
13 litigation. This is a trial.

14 MR. COOPER: Your Honor, I looked very
15 quickly at the order setting the prehearing
16 conference. I don't think I saw a specific date for
17 a procedural schedule. Is that something that I
18 missed or --

19 JUDGE JORDAN: I have not set one.

20 MR. COOPER: Okay.

21 JUDGE JORDAN: So I've set nothing further
22 than this prehearing conference.

23 MR. COOPER: Okay.

24 JUDGE JORDAN: If the parties can get
25 together on something like that, that would be

1 perfectly helpful to me. I try to accommodate
2 the parties' schedule as much as I can.

3 Anything else before we go off the
4 record and I leave the room?

5 MS. PARKS: Not from me.

6 JUDGE JORDAN: Okay. Well, I'll ask
7 Staff that when you conclude to hang up the
8 phone and turn off the lights.

9 MS. McCLOWRY: Okay.

10 JUDGE JORDAN: And I'll await your
11 memorandum or report, whatever you want to call
12 it.

13 MS. McCLOWRY: Okay.

14 JUDGE JORDAN: Thank you, everyone.
15 I will adjourn this part of the prehearing
16 conference, and we will go off the record.

17 MS. PARKS: Thank you.

18 JUDGE JORDAN: Thank you, everyone.

19 MR. COOPER: Thank you.

20 (The hearing concluded.)
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1 CERTIFICATE

2 I, Nancy L. Silva, RPR, a Certified
3 Court Reporter, CCR No. 890, the officer before
4 whom the foregoing hearing was taken, do hereby
5 certify that the witness whose testimony appears
6 in the foregoing hearing was duly sworn; that
7 the testimony of said witness was taken by me to
8 the best of my ability and thereafter reduced to
9 typewriting under my direction; that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to the action in which this
12 hearing was taken, and further, that I am not a
13 relative or employee of any attorney or counsel
14 employed by the parties thereto, nor financially
15 or otherwise interested in the outcome of the
16 action.

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Nancy L. Silva, RPR, CCR
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