

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Missouri-American)	
Water Company's Request for)	
Authority to Implement a General Rate)	
Increase for Water and Sewer Service)	Case No. WR-2008-0311
Provided in Missouri Service Areas)	

**STAFF'S MOTION FOR EXTENSION OF TIME
TO FILE PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff of the Missouri Public Service Commission and, for its Motion for Extension of Time to File Proposed Procedural Schedule, states to the Missouri Public Service Commission as follows.

1. Procedural History of this Rate Case. On April 25,¹ the parties in this case jointly submitted their Proposed Procedural Schedule, in which they proposed, among other things, that an evidentiary hearing be held in this case November 3-21. On April 29, the Commission issued its Order Rejecting Proposed Procedural Schedule, stating that the proposed hearing dates are not available on the Commission's calendar. The Commission also ordered the parties to file a new proposed procedural schedule by no later than May 9. The Commission had previously reserved September 29 through October 17 for the evidentiary hearing in this case.

2. Procedural History of Other Pending Rate Cases. The Commission has now scheduled the evidentiary hearing in another rate case, Case No. HR-2008-0300 ("the Trigen Case") for October 20 through October 31. The Commission has also reserved November 5 through November 26 for the evidentiary hearing in a third rate case, Case No. ER-2008-0318 ("the AmerenUE Case"). On April 24, the Commission issued an order in the AmerenUE Case, rejecting AmerenUE's request to move the dates of the hearing in that case back to December. In the same

¹ All dates herein refer to the year 2008, unless otherwise indicated.

order, the Commission rescheduled the prehearing conference in the AmerenUE Case to May 13, and said it was willing to consider revisions to the hearing schedule if such revisions are proposed by the parties following the prehearing conference – that is, sometime after May 13.

3. Nature of the Problem. It therefore appears that the evidentiary hearing in this case could not be held between October 20 and 31 (because it would conflict with the Trigen case), it could not be held between November 5 and 26 (because the Commission has already rejected that request and because it would conflict with the dates reserved for the evidentiary hearing in the AmerenUE Case), and it could not be held in December (because that would not allow the Commission sufficient time to issue a Report and Order until a date that is too near the operation-of-law date for the tariff sheets filed in this case). Although the Commission did not explicitly so state, it appears the Commission intends that the evidentiary hearing in this case must end by no later than October 17, and must therefore begin no later than September 29.

If the evidentiary hearing in this case begins on September 29, and if (as is typically the case) the parties other than Missouri-American file their direct testimony about 77 days before the beginning of the hearing, the direct testimony would have to be filed by July 14. Missouri-American initiated this case by filing revised tariff sheets on March 31. Thus, the parties would have to file their direct testimony just 105 days after the Company initiated this case.

This case is an important and complicated case with many significant issues. In addition, since Missouri-American has 13 separate service territories, and the Commission currently sets rates for these service territories on a “district-specific” basis, this one case may, in some respects be likened to 13 different rate cases rolled into one. The Staff respectfully submits that it will be extremely difficult for the parties to completely audit the Company, investigate this request, prepare testimony, and present the case to the Commission on this accelerated timetable.

4. Comparison with Schedules in Prior Commission Cases. To illustrate what an extremely compressed procedural schedule would be imposed upon the parties, it is useful to review the procedural schedules that have been established for other recent major rate cases. Following are the date the case was filed, the date direct testimony on revenue requirement was due from parties other than the company, and the date the evidentiary hearing was scheduled to begin, for each of the most recent rate cases of each of Missouri's four large electric companies, three large gas companies and the large steam heating company, and in the last five rate cases for Missouri's large water companies.²

WR-2008-0311 (This case)	MAWC	Filed: March 31, 2008 Direct Testimony: July 14, 2008 (Day 105) ³ Hearing begins: September 29, 2008 (Day 182) ⁴
ER-2007-0002	AmerenUE	Filed: July 7, 2006 Direct Testimony: December 15, 2006 (Day 161) Hearing begins: March 12, 2007 (Day 248)
ER-2007-0004	Aquila	Filed: July 3, 2006 Direct Testimony: January 18, 2007 (Day 199) Hearing begins: April 2, 2007 (Day 273)
ER-2007-0315	Empire	Filed: February 1, 2006 Direct Testimony: June 23, 2006 (Day 142) Hearing begins: September 5, 2006 (Day 216)
ER-2007-0291	KCPL	Filed: February 1, 2007 Direct Testimony: July 24, 2007 (Day 173) Hearing begins: October 1, 2007 (Day 242)
GR-2007-0003	AmerenUE	Filed: July 7, 2006 Direct Testimony: December 15, 2006 (Day 161) Hearing begins: March 12, 2007 (Day 248)
GR-2007-0208	Laclede	Filed: December 1, 2006 Direct Testimony: May 4, 2007 (Day 154) Hearing begins: July 30, 2007 (Day 241)

² The dates shown are taken from the Order Establishing Procedural Schedule in each case.

³ Per assumptions above, in Paragraph 3.

⁴ Per assumptions above, in Paragraph 3.

WR-2006-0387	Atmos	Filed: April 7, 2006 Direct Testimony: September 13, 2006 (Day 159) Hearing begins: November 27, 2006 (Day 234)
WR-2007-0216	MAWC	Filed: December 15, 2006 Direct Testimony: June 5, 2007 (Day 172) Hearing begins: August 6, 2007 (Day 234)
WR-2000-281	MAWC	Filed: October 15, 1999 Direct Testimony: April 6, 2000 (Day 174) Hearing begins: June 5, 2000 (Day 234)
WR-2000-844	County Water	Filed: June 23, 2000 Direct Testimony: November 20, 2000 (Day 160) Hearing begins: February 5, 2001 (Day 226)
WR-2004-xxx	MAWC	Filed: May 19, 2003 Direct Testimony: October 3, 2003 (Day 137) Hearing begins: December 15, 2003 (Day 210)
HR-2008-0300	Trigen	Filed: March 11, 2008 Direct Testimony: August 1, 2008 (Day 143) Hearing begins: October 20, 2008 (Day 223)

The data shown above is summarized in the following table.

<u>Case No.</u>	<u>Direct Testimony Due</u>	<u>Hearing Begins</u>
WR-2008-0311	Day 105	Day 182
ER-2007-0002	Day 161	Day 248
ER-2007-0004	Day 199	Day 273
ER-2006-0315	Day 142	Day 216
ER-2007-0291	Day 173	Day 242
GR-2007-0003	Day 161	Day 248
GR-2007-0208	Day 154	Day 241
GR-2007-0387	Day 159	Day 234
WR-2007-0216	Day 172	Day 234
WR-2000-281	Day 174	Day 234
WR-2000-844	Day 160	Day 226
WR-2003-0500	Day 137	Day 210
HR-2008-0300	Day 143	Day 223

The briefest glance at the above table shows the extreme constraints the Commission's schedule in this case would impose upon the parties.

The parties (other than Missouri-American) would have to file their direct testimony by Day 105. In every other case listed above, direct testimony was not due until Day 137 or later. In the other 12 cases listed above, the average time for filing direct testimony was Day 161.

The evidentiary hearing in the instant case would have to begin by Day 182. In every other case listed above, the evidentiary hearing would not begin until Day 210 or later. In the other 12 cases listed above, the average time for the evidentiary hearing to begin was Day 235.

The Staff submits that the extremely compressed procedural schedule that would be required in this case would work to the detriment of all the parties.

5. Cause of the Problem in this Case. One cause of the problem in this case is that three large companies filed rate cases within a span of about three weeks. The evidentiary hearings in rate cases have typically begun about 230 days after the cases were filed. The Commission apparently believes that three weeks will be needed for the hearing in this case and in the AmerenUE case, and that two weeks will be needed for the hearing in the Trigen case. Since these three cases were filed at nearly the same time, it is difficult to schedule eight weeks of hearings, in a manner that allows each hearing to begin around Day 230.

Another cause of the problem is that the Commission apparently is now attempting to follow a policy of issuing the Report and Order in a rate case 30 days before the operation-of-law date for the suspended tariff sheets, instead of the 10 days that had been customarily allowed in the past. This effectively shortens, by 20 days, the amount of time that can be allowed between the date a case is filed and the date the hearing begins, and, to a lesser extent, the date on which direct testimony must be filed by parties other than the regulated company.

The final cause of the problem in this case is that the Commission has, in effect, decided that the instant case must be the first of the three rate cases to be heard, even though the Trigen Case

was filed 20 days before this case was filed, and even though this case is demonstrably more complicated than the Trigen Case and requires more preparation time.

As a result, the parties will be constrained in their time to investigate, conduct discovery, prepare testimony, and present evidence.

The problems presented in scheduling these cases are not unique. Multiple cases have been filed in short succession in the past, without unduly shortening the time to prepare for hearing. For example, in 2007, three cases⁵ were filed within a span of five days; yet in each case, the Commission allowed the parties far more preparation time than may be available to the parties in the instant case.

The Staff submits that an acceptable procedural schedule can be devised that meets the Commission's objectives, if the procedural schedule in this case is established in coordination with the procedural schedules in the Trigen Case and the AmerenUE Case. The Staff submits, however, that it is essential that the schedules of these three rate cases be coordinated.

6. The Commission's Objectives. The Staff understands that the Commission's objectives in establishing a procedural schedule include: establishing an orderly procedure that allows all parties adequate time to fully investigate the facts and issues, to prepare direct, rebuttal and surrebuttal testimony, and to present evidence at a hearing, in which they provide the Commission with evidence that is sufficient to enable the Commission to issue a thoroughly informed report and order, which establishes just and reasonable rates, and which allows the parties and the Commission adequate time to prepare, file, and approve revised tariff sheets that comply with the report and order prior to the date on which the tariff sheets would otherwise become effective by operation of law.

⁵ Case No. ER-2007-0004 (Aquila electric), filed July 3, 2006; Case No. ER-2007 -0002 (AmerenUE electric), filed July 7, 2006; and Case No. GR-2007-0002 (AmerenUE gas), filed July 7, 2006.

7. The Parties' Objectives. The parties seek the same objectives as the Commission, but with special emphasis on the allowance of adequate time to prepare for each stage of the proceeding, consistent with prior and pending rate cases that are of comparable complexity.

8. Request for Reconsideration. The Staff respectfully requests that the Commission reconsider its Order Rejecting Procedural Schedule, or offer guidance that will enable the parties to modify the procedural schedule in a way that will allow both the Commission and the parties to achieve the objectives mentioned above. Specifically, the parties desire to file direct testimony no sooner than August 15 (Day 137) and to commence the evidentiary hearing no sooner than October 22 (Day 204).

9. Hypothetical Procedural Schedule that Would Meet the Commission's Objectives. Set forth below is a hypothetical procedural schedule for this case, which would achieve most of the objectives of the Commission and the parties.

The Staff does not represent that this is a proposed schedule. It is offered only in an attempt to persuade the Commission that schedules for all three pending rate cases can be devised that are acceptable to all parties and to the Commission.

Date Case was Filed	March 31
Direct Testimony, other than Company, excluding rate design	August 15 (Day 137)
Rebuttal Testimony	September 29
Surrebuttal Testimony	October 14
Evidentiary Hearing	Oct. 22 – Nov. 12 (15 hearing days) (Begin on Day 204; 67 days after Direct)
Transcripts	November 21

True-Up Hearing	December 3-4
Initial Brief	December 12
Reply or True-Up Brief	December 29
Report and Order	January 29, 2009 (31 days after last brief)
Compliance Tariffs Filed	February 6, 2009
Objections to Tariffs	February 13, 2009
Operation of Law	February 28, 2009 (Day 334) (30 days after Report & Order)

Adopting these schedules would require some compromises, including the Trigen and AmerenUE schedules.

The Staff regrets that such compromises would be necessary. The Staff believes, however, that these compromises would be more acceptable than requiring the parties in the instant case to file their direct testimony just 105 days after the case was filed (instead of the 150 days that have typically been provided); and would be more acceptable than beginning the evidentiary hearing just 182 days after the case was filed (instead of the 220-240 days that have typically been provided).

The Staff also notes that the schedule shown above for this case, to file testimony and prepare for the hearing, is tighter than the schedules that would be required for either the Trigen Case or the AmerenUE Case. Also, the schedule shown above would allow the Commission more days to deliberate this case than it would allow for either of the other two cases.

As noted above, the foregoing is not a proposal, but is offered only to show that schedules that meet most of the objectives of the Commission and the parties can be achieved. This would improve the ability of the Commission to establish just and reasonable rates in all three cases.

10. Coordination of Schedules in All Three Cases. As is obvious from the foregoing, the Commission could not adopt a procedural schedule for this case that is like the one shown (for illustration) in Paragraph 9, without coordinating the schedules in all three cases. Indeed, to adopt the schedule above, the Commission would have to amend the procedural schedule that has already been approved for the Trigen Case, and it would have to schedule the hearing in the AmerenUE Case for dates different from those that have been “reserved” for that hearing.⁶

11. Parties Cannot Now Propose a Procedural Schedule. The parties in this case have worked diligently to reach agreement upon a proposed procedural schedule, and they continue to do so. Despite these efforts, however, they have not been able to agree upon a procedural schedule that would culminate in a hearing that begins on September 29, the date the Commission has reserved for the hearing in this case.

12. Request for Extension of Time. The Staff therefore respectfully requests that the Commission extend the time for filing a revised proposed procedural schedule in this case until May 16, three days after the date of the prehearing conference in the AmerenUE Case. The parties in this case will be in a much better position to propose a reasonable procedural schedule in this case after they know what schedule the parties in the AmerenUE Case will propose.

13. Concurrence of Other Parties. The Staff states that it has shown a copy of this pleading to the other parties in this case, and has asked whether they concur with this request or oppose it. Missouri-American Water Company, the Missouri Industrial Energy Consumers, and the Utility Workers Union of America Local 335, AFL-CIO, informed the Staff that they support this motion. Metropolitan St. Louis Sewer District, the City of Joplin, Missouri, the City of Riverside Missouri, and the Missouri Gaming Company informed the Staff that they oppose the compressed

⁶ The Commission has not adopted a procedural schedule for the AmerenUE case. In fact, the prehearing conference will not even be held until May 13.

procedural schedule; and that they neither support nor oppose this motion. The Office of the Public Counsel, the City of Jefferson City, Missouri, Public Water Supply Districts No. 1 and 2 of Andrew County, Missouri, and Public Water Supply District No. 1 of DeKalb County, Missouri, informed the Staff that they do not oppose this motion. The Missouri Energy Group informed the Staff that it does not object to the dates mentioned in the hypothetical procedural schedule in Section 9 hereof. AG Processing, Inc., Park University, the City of Lake Waukomis, Missouri and the City of Parkville, Missouri have not informed the Staff of their position on this motion. To the best knowledge and belief of the Staff, none of the parties in this case opposes this motion.

WHEREFORE, the Staff respectfully requests that the Commission extend the time by which the parties must file a new proposed procedural schedule in this case by one week, to May 16, 2008, and that it reconsider the Order Rejecting Procedural Schedule, or in the alternative, that the Commission offer guidance that will enable the parties to modify the proposed procedural schedule in a way that will allow both the Commission and the parties to achieve the objectives discussed herein.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or e-mailed to all counsel of record on this 9th day of May 2008.

/s/ Keith R. Krueger