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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

January 6, 2003
Jefferson City, Missouri
Volume 1

In the Matter of the Assessment)
Against the Public Utilities in the)
State of Missouri for the Expenses) Case No. AO-2002-1156
of the Commission for the Fiscal)
Year Commencing July 1, 2002.)

DALE HARDY ROBERTS, Presiding,
CHIEF REGULATORY LAW JUDGE.

REPORTED BY:

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1 P R O C E E D I N G S

2 JUDGE ROBERTS: Good morning, ladies and
3 gentlemen. We're here for a prehearing conference in Case
4 No. AO-2002-1156, which is In the Matter of the Assessment
5 Against the Public Utilities in the State of Missouri for
6 the Expenses of the Commission for the Fiscal Year
7 Commencing July 1, 2002.

8 As you all know, the Commission issues its
9 Orders setting out the assessments, and there were several
10 requests for either rehearing or reconsideration, and
11 although one of those parties had their issue settled, I
12 think there remain issues which are not settled.

13 Before we proceed with those, I'll take
14 entries of -- and let me make clear, we indicated that we
15 would take intervenors, and I don't know if the deadline was
16 Friday, but I will certainly accept intervenors today. And
17 we didn't issue an Order Granting Intervention pending this
18 hearing, but there's no -- I mean, the parties who applied
19 will be granted intervention. So you can consider yourself
20 a party whether you've received that officially or not.

21 So with that being said, let me start with
22 entries of appearance with the one party that I believe was
23 an original applicant. I believe that's you, Mr. Boudreau.

24 MR. BOUDREAU: Indeed.

25 JUDGE ROBERTS: I'm sorry. Go ahead and enter

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1 your appearance, please.

2 MR. BOUDREAU: Let the record reflect the
3 appearance of Paul Boudreau for the law firm of Brydon,
4 Swearngen & England, 312 East Capitol Avenue, Jefferson
5 City, Missouri, appearing for Missouri Gas Energy, or
6 Southern Union Company, doing business as Missouri Gas
7 Energy, excuse me, and also Laclede Gas Company.

8 JUDGE ROBERTS: Let me stick with the parties
9 who are already in this. Public Counsel, do you want to go
10 ahead?

11 MS. O'NEILL: Yes. Ruth O'Neill for the
12 Office of the Public Counsel, P.O. Box 7800, Jefferson City,
13 Missouri 65102.

14 JUDGE ROBERTS: And Staff?

15 MR. JOYCE: Dana Joyce for the Missouri Public
16 Service Commission Staff, P.O. Box 360, Jefferson City,
17 Missouri 65102.

18 JUDGE ROBERTS: And then the other
19 intervenors. Mr. Lane, do you want to start out? Never
20 known you to be bashful before.

21 MR. LANE: Good morning, your Honor. Paul
22 Lane on behalf of Southwestern Bell Telephone LP, doing
23 business as SBC Missouri. My address is One SBC Center,
24 Room 3520, St. Louis, Missouri 63101.

25 MR. DORITY: Good morning, Judge. Larry

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1 Dority with Fischer & Dority, PC, appearing on behalf of
2 CenturyTel of Missouri, LLC, Spectra Communications Group,
3 LLC, d/b/a CenturyTel, and ALLTEL Missouri, Inc. Our
4 address is 101 Madison, Suite 400, Jefferson City, Missouri
5 65101.

6 JUDGE ROBERTS: Mr. Fischer?

7 MR. FISCHER: And James M. Fischer, 101
8 Madison Street, Suite 400, Jefferson City, Missouri,
9 appearing on behalf of Kansas City Power & Light.

10 JUDGE ROBERTS: Is there anyone else who had
11 planned to intervene?

12 (No response.)

13 What appears to be -- I'll make sure that I
14 understand this, and then I'll ask for any questions or
15 comments you may have.

16 The pending either confusion or issue as I
17 understand it seems to be the -- as you know, the statute
18 allows the Commission to assess for its reasonable expenses,
19 and the issue that seems to have been raised was the issue
20 that the Commission maintains its own expenses for -- we
21 have our own computer department, our own internal
22 accounting, our own human resources office, and then -- and
23 we consider those to be reasonable expenses in terms of
24 conducting our business.

25 And then we are assessed a fee from the

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1 Department of Economic Development. As a Type 3 transfer
2 agency we come under them, and they assess us a fee, which
3 may have been in the report that was completed by Donna
4 Prenger, Donna Kolilis at the time. I'm not sure. And I
5 don't know the number. It was at one time 275,000 or
6 475,000. I'm not sure.

7 But in any event, there is a sort of
8 assessment, if you will, from DED for those same services
9 which they would provide if we needed them. We don't
10 because we have our own.

11 And then in light of the budget crisis and
12 after the consideration of doing a sweep of funds, I think,
13 in lieu of that the State is assessing the Public Service
14 Commission for all those same services again inasmuch as
15 they would be provided by the Office of Administration if we
16 needed them.

17 So one issue that I know is, among other
18 things, those services. One issue that I know is pending is
19 the either reasonableness or necessity, I guess, of us
20 paying three times for those services.

21 I'm not sure if there -- Mr. Boudreau, I guess
22 I'll go to you first. There were possibly some other issues
23 that you raised in your initial pleading. Is there anything
24 you can tell us in terms of the resolution of those?

25 MR. BOUDREAU: Yes, I believe so. We met

1 shortly after filing of the Application for Rehearing with
2 representatives of the Staff, myself and Mr. Hack on behalf
3 of Missouri Gas Energy, and we were able to determine at
4 that time that -- the Staff was able to familiarize both of
5 us with the process, and the questions that we had, other
6 than the Office of Administration overhead sweep, for lack
7 of a better term, were satisfactorily resolved in our view.

8 So as far as from my company's perspective or
9 from my client's perspective, the only thing that remains is
10 some questions about the process that is now -- took place
11 apparently at the end of 2002 and also in 2003 where the
12 Office of Administration increased their overhead lug, again
13 for lack of a better term, in trying to figure out what that
14 is, what the trend's going to be, if there is a trend, and
15 to maybe examine whether there's some duplication of costs
16 as a result of that.

17 But we had no other issues other than that at
18 this point.

19 JUDGE ROBERTS: Thank you.

20 Are there any other -- is anyone aware of any
21 other issues in this case that may need to be addressed?
22 It's a pretty open question, but I'm trying to figure out
23 the scope of this case at the moment. I guess I'll start
24 with Mr. Lane.

25 MR. LANE: I don't have anything else, your

1 Honor. We're just monitoring the case at this point.

2 JUDGE ROBERTS: Mr. Dority?

3 MR. DORITY: The same, your Honor. We're just
4 monitoring.

5 JUDGE ROBERTS: Mr. Fischer?

6 MR. FISCHER: That's also true for Kansas City
7 Power & Light.

8 JUDGE ROBERTS: Office of the Public Counsel?

9 MS. O'NEILL: That's the same.

10 JUDGE ROBERTS: And Staff, I'm not sure -- for
11 lack of a more elegant term, I don't think, Staff, you have
12 a dog in this fight other than you're --

13 MR. JOYCE: Here to provide information.

14 JUDGE ROBERTS: Right.

15 All right. You know, my practice in
16 prehearing conferences is to try and push the parties in
17 terms of how many days of hearing and how many witnesses
18 would be required.

19 I have a feeling if this went to any kind of a
20 hearing, I'm kind of thinking out loud, but it seems like it
21 might be a legal argument as to the reasonableness and
22 necessity of the duplicate payments. I'm not sure that this
23 is really a fact-based situation.

24 I think the Staff is -- it sounds like the
25 Staff has met with the parties in the past, and I'm

1 confident they would do so again today. I don't think
2 there's any secret about the amount of money that's paid to
3 DED or the amount of money that's paid to OA.

4 Does anyone anticipate that there would be
5 witnesses required? I mean, assuming if this came to
6 hearing that you-all stipulated, yes, the PSC paid this many
7 dollars to DED and this many dollars to OA and --

8 MR. BOUDREAU: If I may. I haven't had a
9 chance to think this through in a lot of detail, and I
10 apologize for that, but what time I have had to consider the
11 course this particular proceeding might take is there may,
12 in fact, be some facts that need to be developed in the
13 sense of what services are being provided by either the
14 Department of Economic Development in the sort of overhead
15 allocation that the Commission gets versus what sort of
16 services are being provided by Office of Administration.

17 So I think there may be some factual
18 development that is needed on those issues if this case
19 proceeds. So whether or not that comes in the form of
20 testimony or whether that comes in in terms of stipulated
21 facts I don't know, but I would think that there would be
22 some factual issues that do need to be grappled with if this
23 case proceeds.

24 JUDGE ROBERTS: Mr. Boudreau, I think you got
25 me there. I hadn't actually thought about that. I don't --

1 beyond that, I don't see much in the way of factual contest
2 for the facts. It seems to be the law.

3 MR. BOUDREAU: I would agree with that.
4 Beyond that point, we know what the amounts are. The bills
5 speak for themselves. A lot of this, I think, will play
6 out, but some of the underlying issues I think will need to
7 be developed.

8 JUDGE ROBERTS: All right. And in that case,
9 I don't know -- I know that the Staff individuals who are
10 primarily involved in this process appear to be present, so
11 I'm sure they're ready to provide you the information you
12 need when we leave the room.

13 Are there any questions or motions for
14 anything?

15 MR. BYRNE: Your Honor, could I enter my
16 appearance?

17 JUDGE ROBERTS: Certainly. I'm sorry.

18 MR. BYRNE: I apologize.

19 JUDGE ROBERTS: No. That's quite all right.
20 Actually, we started early. Go right ahead.

21 MR. BYRNE: My name is Thomas M. Byrne, and
22 I'm representing Union Electric Company, doing business as
23 AmerenUE. My address is 1901 Chouteau Avenue -- that's
24 C-h-o-u-t-e-a-u -- St. Louis, Missouri 63103. Thank you,
25 your Honor.

1 JUDGE ROBERTS: Thank you. And I didn't mean
2 to exclude you from any of the questions or issues, if you
3 have anything you want to ask about.

4 MR. BYRNE: I have nothing to add. We're
5 mostly monitoring this case at this point.

6 JUDGE ROBERTS: Thank you.
7 Any motions from any of the parties?

8 MR. BOUDREAU: I have one final topic I'd like
9 to bring up.

10 JUDGE ROBERTS: Yes, sir.

11 MR. BOUDREAU: And it's on a procedural point.
12 MGE has filed an Application for Rehearing. To my
13 knowledge, the application has not been granted, which is
14 one of the reasons I haven't spent a whole lot of time, more
15 than I have, because I wasn't quite sure if it was going to
16 be productive time.

17 Am I to understand that as a result of these
18 discussions you'll get back with the Commission and the
19 Commission will determine at that point whether or not the
20 application should be granted? I'm just trying to figure
21 out what we should be aiming towards here.

22 JUDGE ROBERTS: At the very least, that will
23 happen. It may be -- this is one of those questions about
24 which comes first. There was some uncertainty about whether
25 the issues had been resolved to the satisfaction of the

1 parties or not, and there was some maybe confusion on the
2 part of some folks in terms of the redundant payments.

3 So based upon the turnout today and the number
4 of requests for intervention which were received in the last
5 probably ten days, I will take that information back to the
6 Commissioners and ask them if they want to go ahead and
7 issue an Order at this time to sort of formalize what's
8 going on here or wait until they hear back from the parties
9 and then determine, you know, how they want to proceed.

10 MR. BOUDREAU: Very good. Thank you.

11 JUDGE ROBERTS: Thank you.

12 Anything else? Hearing nothing, then we'll go
13 off the record and you-all can work through the issues.
14 Thank you very much for being here this morning.

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

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