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6 TRANSCRIPT OF PROCEEDINGS
7 Second Prehearing
8 January 29, 2008
9 Jefferson City, Missouri
Volume 2

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12 In the Matter of the)
Application of Wasatch)
13 Investments, LC, for) Case No. EO-2008-0031
Change of Electric)
14 Supplier.)

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19 CHERLYN VOSS, Presiding
20 REGULATORY LAW JUDGE.

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

2 JUDGE VOSS: Good morning. We're here
3 for a prehearing conference in Commission Case Number
4 EO-2008-0031, in the matter of the Application of
5 Wasatch Investment, LC, for change of electric
6 supplier.

7 My name is Cherlyn Voss. I'm the
8 regulatory law judge assigned to this case and will
9 be presiding over this prehearing conference. We're
10 gonna begin with entries of appearance beginning with
11 Wasatch Investments, LC?

12 MR. WITT: Jeff Witt for Wasatch
13 Investments.

14 JUDGE VOSS: For Wasatch. Thank you.
15 For AmerenUE?

16 MS. TATRO: Wendy Tatro, 91 Chouteau
17 Avenue, St. Louis, Missouri, on behalf of AmerenUE.

18 JUDGE VOSS: Cuivre River Electric
19 Cooperative, Incorporated?

20 MR. SPORLEDER: Andrew Sporleder, 700
21 East Capitol, Jeff City, Missouri, on behalf of
22 Cuivre River Electric Cooperative.

23 JUDGE VOSS: For Commission Staff?

24 MR. REED: Steve Reed, P.O. Box 360,
25 Jefferson City, Missouri 65102.

1 JUDGE VOSS: Office of Public Counsel?

2 MR. MILLS: Lewis Mills. My address
3 is Post Office Box 2230, Jefferson City, Missouri
4 65102.

5 JUDGE VOSS: The primary purpose of the
6 prehearing conference is to bring the parties
7 together to determine the best method to resolve this
8 case as expeditiously as possible. To that end, I
9 have a few questions for the parties.

10 First, since the parties did not file a
11 list of disputed facts, I'd like to confirm that
12 there are no facts in dispute among the parties that
13 would necessitate an evidentiary hearing?

14 MS. TATRO: Not that I'm aware of.

15 JUDGE VOSS: On behalf of Wasatch?

16 MR. WITT: No. We had agreed on
17 everything that was filed.

18 JUDGE VOSS: Are there any disputed
19 facts, though?

20 MR. WITT: Not on what was filed.

21 JUDGE VOSS: Well, the question is, do
22 you believe an evidentiary hearing is necessary to
23 bring out additional facts that might help your case?
24 We're trying to determine today whether I need to
25 schedule a hearing or whether the parties would like

1 to brief the legal issues in this case.

2 MR. WITT: No, we would like a hearing.

3 JUDGE VOSS: You want a hearing?

4 MR. WITT: Yes.

5 JUDGE VOSS: Okay. That changed a lot
6 of questions I had. Well, in that case, do you
7 believe there's any need for prefiled testimony or do
8 you believe that live testimony at the hearing would
9 be preferable?

10 MR. WITT: It would be preferable.

11 JUDGE VOSS: For live testimony?

12 Cuivre River, do you have any objection
13 to that?

14 MR. SPORLEDER: Actually, we would
15 probably prefer to have actually written briefing
16 versus live testimony just because of the costs
17 associated with live testimony.

18 JUDGE VOSS: I will say if there's live
19 testimony taken, unfortunately the briefing happens
20 after. That's what I was hoping to avoid today, was
21 the cost the parties would incur in participating in
22 a hearing if there were truly no facts in dispute,
23 but apparently Wasatch thinks there are facts in
24 dispute, so maybe the parties can get together and
25 discuss a hearing date.

1 Does anyone have a problem with picking
2 a hearing date somewhere in the near future? Took me
3 by surprise. Sorry, I anticipated there would be
4 no --

5 MR. REED: I take it, Judge, what we
6 would need to do is propose a hearing date as opposed
7 to a full procedural schedule that incorporates a
8 witness list and all the other things. I say that
9 because it's Mr. Witt's case. I realize Staff
10 undertakes a lot of this sort of thing, the proposed
11 procedural schedule and whatnot, but if that's not
12 required, we can propose a hearing date, we can all
13 show up and just try the case.

14 JUDGE VOSS: Mr. Witt and Sporleder, can
15 you hear all right?

16 MR. WITT: I can.

17 MR. SPORLEDER: Yes.

18 JUDGE VOSS: Mr. Reed is sitting a
19 little ways away from the phone. I just wanted to be
20 sure. For the people that don't normally practice
21 routinely at the Commission, in some cases in bigger
22 cases they will have witnesses prefile testimony and
23 do mini rounds and responses and also have a hearing
24 and briefing.

25 I just wanted to confirm that there's no

1 need among the parties to file written testimony,
2 that live testimony at the hearing will suffice. Do
3 you see any need for prefiled testimony, Mr. Sporleder?

4 MR. SPORLEDER: No.

5 JUDGE VOSS: Ameren?

6 MS. TATRO: We're fine.

7 JUDGE VOSS: Okay. Staff?

8 MR. REED: No.

9 JUDGE VOSS: Public Counsel?

10 MR. MILLS: No.

11 JUDGE VOSS: And if the parties after
12 the close today do determine after discussing it
13 among themselves that a hearing isn't necessary, let
14 me know and we'll go with the briefing schedule.

15 Just because we may not get another
16 opportunity, I will say with briefing, since we're
17 talking about saving costs, Mr. Sporleder, if there
18 are parties that have identical positions on the
19 issues which may happen after or even before, I think
20 it would not be unreasonable for parties to jointly
21 file a single brief in that situation to minimize
22 legal expenses.

23 I do have one question for Cuivre River
24 today that was unclear, and if you can't speak for
25 your client, Mr. Sporleder, today, I'd ask you to --

1 well, actually, it doesn't matter as much now that
2 we're having a hearing, but based upon Cuivre River's
3 October 9th response to order directing parties to
4 respond, it's now unclear whether Cuivre River is
5 willing to serve Wasatch, given legal questions
6 surrounding such service, so I just want to know, can
7 Cuivre River state for the record that it's willing,
8 ready and able to serve the property at issue given
9 the question of surrounding legality providing such
10 service?

11 MR. SPORLEDER: No, we're not able.

12 JUDGE VOSS: You're not able to say
13 today or you're not willing to?

14 MR. SPORLEDER: I believe it's safe to
15 say we're not willing to because of the various legal
16 reasons that are set forth.

17 JUDGE VOSS: Okay. That's great. I
18 just wanted to confirm because your continued
19 participation left me uncertain.

20 Okay. I had a couple issues I thought
21 if the parties were going to brief that I'm gonna go
22 ahead and bring up because I think there is a
23 potential when the parties get together that they
24 may decide that they do want to go ahead and just
25 brief it. But the questions that I have that I

1 thought really needed to be briefed were, one, can
2 the Commission consider a change of supplier request
3 under Section 393.106.2 when no electric service has
4 ever been provided through a permanent facility at
5 the location in question?

6 And I can fax this to anyone who would
7 like me to, if that helps, since the transcript won't
8 be out for a few days.

9 And the second question is, if the
10 Commission can consider such a request, does
11 Section 393.106.2 bar the Commission from considering
12 the legality of service in considering such a change
13 of supplier request? Do those make sense to
14 everybody?

15 Mr. Sporleder, do you have a fax number
16 if you'd like me to --

17 MR. SPORLEDER: Yeah, I was gonna ask
18 you to fax it. It's (573) 634-7822.

19 JUDGE VOSS: And Mr. Witt, do you have a
20 fax?

21 MR. WITT: Yes. (314) 571-7365.

22 JUDGE VOSS: Okay. And I'm gonna go
23 ahead and quickly draft it, but it's not as much
24 of an issue if there's gonna be an evidentiary
25 hearing.

1 Well, I guess at this point, aside from
2 setting a date to file a hearing date or briefing
3 schedule, whichever the parties ultimately decide, I
4 would say a week from today.

5 Are there any additional questions or
6 issues that need to be addressed on the record?

7 (NO RESPONSE.)

8 JUDGE VOSS: Hearing none, this will
9 conclude the on-the-record portion of this prehearing
10 conference.

11 (WHEREUPON, the recorded portion of the
12 prehearing conference was concluded.)

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