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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

HEARING

May 19, 2003

Jefferson City, Missouri

Volume 1

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In the Matter of a Proposed Rulemaking )  
to Implement the Consumer Clean Energy ) Case No.  
Act, Section 386.887 RSMo Supp. 2002 ) EX-2003-0230

BEFORE: \_\_\_\_\_

NANCY DIPPELL, Presiding,  
SENIOR REGULATORY LAW JUDGE.

CONNIE MURRAY,  
COMMISSIONER.

\_\_\_\_\_

REPORTED BY:  
TRACY L. CAVE, CSR, CCR  
ASSOCIATED COURT REPORTERS

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1 (EXHIBIT NO. 1 WAS MARKED FOR IDENTIFICATION.)

2 JUDGE DIPPELL: This is Case No. EX-2003-0230  
3 in the matter of a proposed rule making to implement the  
4 Consumer Clean Energy Act, Section 386.887 Revised Statutes  
5 of Missouri, Supplemented 2002.

6 My name is Nancy Dippell, and I'm the  
7 Regulatory Law Judge assigned to this case. We've come here  
8 today for a public hearing on a proposed rule making.

9 The hearing procedure is a little different  
10 than our normal contested case procedures in that basically  
11 everybody's a witness. We don't have cross-examination like  
12 in contested cases, so if anyone has comments to make, I'll  
13 ask them to come forward and we'll swear you in as a  
14 witness.

15 But just so that we can kind of document who's  
16 here and why, I'll go ahead and ask if the attorneys present  
17 would like to make informal entries of appearance and tell  
18 me if they brought witnesses to testify and plan to make  
19 comments. I'll begin with Staff.

20 MR. WILLIAMS: Thank you, Judge. My name's  
21 Nathan Williams. I'm appearing here on behalf of Staff.  
22 And I have with me Warren Wood, who's the manager of our  
23 energy department, who's prepared to make some comments.  
24 And we also have an exhibit to present to the Commission.

25 JUDGE DIPPELL: Thank you.

1 Office of Public Counsel?

2 MS. O'NEILL: Yes. Ruth O'Neill for the

3 Office of the Public Counsel and the public. I don't have

4 any witnesses to present. We do have some brief comments to

5 make.

6 JUDGE DIPPELL: Okay. Would anyone else like

7 to introduce themselves on the record?

8 MR. HENNON: Your Honor, appearing on behalf

9 of Union Electric Company, doing business as AmerenUE,

10 David B. Hennon 1901 Chouteau Avenue, St. Louis, Missouri

11 63103. I have with me William Hughes, who's prepared to

12 answer questions should there be any. If not, our comments

13 have been pre-filed.

14 JUDGE DIPPELL: Thank you.

15 And, sir, were you here to intend to make

16 comments?

17 UNIDENTIFIED PERSON: No, ma'am.

18 JUDGE DIPPELL: All right. Then we'll go

19 ahead and begin with the comments of Staff. And I believe

20 Mr. Wood is going to testify, so I'll ask you to go ahead

21 and come forward to the witness stand.

22 (Witness sworn.)

23 JUDGE DIPPELL: Thank you. Mr. Wood, if you'd

24 go ahead and state your name and your job title again.

25 THE WITNESS: Warren T. Wood, energy

1 department manager, Missouri Public Service Commission  
2 Staff.

3 JUDGE DIPPELL: Thank you. And you brought  
4 some -- you brought an exhibit that you would like to --

5 THE WITNESS: Yes. Exhibit No. 1 I understand  
6 has been entered into the record. It provides all the  
7 comments that were received during the comment period for  
8 this rule and Staff's responses to those comments.

9 JUDGE DIPPELL: Okay. I have copies and the  
10 hearing officer -- or the court reporter has pre-marked that  
11 as Exhibit No. 1. And so I will enter Exhibit No. 1 into  
12 the record. And that's Proposed Rule and Contract Comments  
13 and Missouri Public Service Commission Staff Responses.

14 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

15 JUDGE DIPPELL: Did you have anything  
16 additional you wanted to add, Mr. Wood, or any additional  
17 comments you wanted to make?

18 THE WITNESS: Very briefly some comments  
19 regarding the procedures that went into the development of  
20 this rule and contract, if I may.

21 JUDGE DIPPELL: Go ahead.

22 THE WITNESS: Missouri Revised Statute  
23 Supplement 2002, Section 386.887, the Consumer Clean Energy  
24 Act, became law when the Governor signed House Bill 1402  
25 last summer.

1                   The proposed rule and contract reflect the  
2                   requirements of the statute. The rule and contract also  
3                   address the following provisions that were appointed to the  
4                   Commission for resolution. Subsection 3 states that the  
5                   Commission, in consultation with DNR retail electric  
6                   suppliers, shall develop a simple contract for transactions  
7                   between the customer generator and retail electric supplier.

8                   Subsection 7 states that any safety  
9                   performance, synchronization, interconnection or reliability  
10                  standards established by the Commission shall apply to these  
11                  installations. And subsection 7 also states the customer  
12                  generator shall obtain liability insurance coverage in  
13                  amounts as set by the Commission.

14                  In addition to the noted three items, the  
15                  simple contract required by subsection 3 addresses  
16                  subsection 9 provisions related to the customer generator's  
17                  requirement to furnish the retail electric supplier with a  
18                  certification from a qualified electrician or engineer.

19                  The PSC held three technical conferences with  
20                  interested parties to develop the language that appears in  
21                  this rule and contract. These conferences were held in  
22                  October, November and December of last year.  
23                  Representatives from the Staff, the regulated electric  
24                  utilities, the co-op association, the municipal association,  
25                  Office of the Public Counsel, Department of Natural

1 Resources, Renewable Energy Contractor, Missouri Clean Air  
2 Coalition and interested Representatives and Senators were  
3 invited to these technical conferences.

4 These technical conferences were well attended  
5 by the interested parties and they provide significant  
6 inputs into the language that now appears in the draft rule  
7 and contract. Thank you.

8 JUDGE DIPPELL: Thank you very much. I just  
9 wanted to ask -- I know you've included some additional  
10 information in your comments, but since I haven't had a  
11 chance to review these, I'm going to go ahead and ask. On  
12 behalf of Commissioner Murray, she had a question. And that  
13 is with regard to Section 4A of the rule.

14 THE WITNESS: Yeah. I'm there.

15 JUDGE DIPPELL: And she just wanted to inquire  
16 about the justification for the amount of that insurance.

17 THE WITNESS: Certainly. I'll refer to the  
18 technical conferees' position and what appeared to form that  
19 opinion during the technical conference. I would say there  
20 were three primary factors.

21 First, the lack of occurrences of failures of  
22 this equipment. It appears that several thousands of these  
23 systems have been installed. And I found no record of any  
24 failure of this equipment to provide power back to a  
25 de-energized line. National Electric Code, IEEE and UL

1 requirements are quite stringent regarding anti-islanding  
2 provisions that are installed in this equipment.

3 The second item was the likely outcome  
4 scenarios of failure of this equipment. Current safety  
5 standards for working on power lines state that -- and I'll  
6 be reading from NESC part 4, rules for operations of  
7 electric lines.

8 Employees shall consider electric supply  
9 equipment and lines to be energized unless they are  
10 positively known to be de-energized. Before starting work,  
11 employees shall perform preliminary inspections or tests to  
12 determine existing conditions. Operating voltages of  
13 equipment and lines should be known before working on or in  
14 the vicinity of energized parts.

15 Staff believes that -- Staff believes that  
16 this provides for a low likelihood of back-feeding injury  
17 due to a customer generator's equipment failure to isolate.  
18 So not only do we address the concern regarding, you know,  
19 how often does this equipment fail, what record do we have  
20 of failures.

21 And I would note quickly in terms of not  
22 finding any failures, that was also not only verified by  
23 looking at a number of solar electric power association  
24 sites and other sites that deal with this equipment, but  
25 also looking at Department of Energy, National Renewable



1 Energy Lab information, statistics they had on this  
2 equipment.

3 The third item was looking at some of the  
4 liability provisions of other states. Several states do not  
5 require any additional liability insurance: Oklahoma,  
6 Arkansas, California, New York, Maryland Nevada and Hawaii,  
7 for instance. At least two other states recommend customers  
8 obtain liability insurance, but do not require it.

9 A quick review of a number of other states  
10 showed reliability insurance range of around \$100,000 to  
11 \$500,000. Washington was at about \$200,000; Florida,  
12 100,000; Virginia, 100,000 for less than 10 Kw and \$300,000  
13 for systems greater than 10 Kw; Wisconsin at \$100,000; and  
14 Massachusetts, none for system less than 10 Kw in size and  
15 \$500,000 for a system in excess of 10 Kw.

16 And I would note -- I've not verified it, but  
17 I understand that Idaho may have something on the order of  
18 \$2 million range, which was far above all the other numbers  
19 that I found.

20 JUDGE DIPPELL: Okay. Thank you. Did you  
21 have any additional comments you wanted to make?

22 THE WITNESS: I do not.

23 MR. WILLIAMS: Judge --

24 JUDGE DIPPELL: Mr. Williams?

25 MR. WILLIAMS: -- I would like to point out to

1 the Commission that the Staff is supporting a minor  
2 modification to the rule as reflected on -- I believe it's  
3 No. 6B of Exhibit 1. It's the last page. The Commission  
4 may want to inquire into that. I don't know.

5 JUDGE DIPPELL: Mr. Woods -- or Wood, would  
6 you like to elaborate on that just a little bit?

7 THE WITNESS: Certainly. My apology for not  
8 bringing that up when you asked.

9 There was a comment from the Department of  
10 Natural Resources, Comment B, that appears on page 8 of  
11 Exhibit 1. It was -- the comment comes down to the fact  
12 that the contract currently requires a non-binding estimate  
13 of interconnection costs.

14 There was some concern expressed that, well,  
15 this becomes a binding contract. The customer will have  
16 signed it before they know what the final interconnection  
17 costs will be.

18 Just for interest sake, I would note that most  
19 of these types of facilities, even relatively small  
20 photovoltaic systems, will cost above and beyond \$10,000 to  
21 install. It's quite expensive for the equipment, it's  
22 expensive for the certifications, installation.

23 And Staff's looked at that comment from DNR on  
24 page 8 and agreed that there's probably some room to modify  
25 the contract slightly to change the language in the last

1 sentence of Section D3 to take out the language that says  
2 "non-binding estimate of interconnection costs" and change  
3 that to "not to exceed costs for interconnection with."

4 We don't believe it's appropriate and likely  
5 that costs will be known to the penny, but we do believe  
6 it's reasonable to ask for a not to exceed cost for  
7 interconnection when the contract is actually executed so  
8 that the customer would know their maximum exposure before  
9 they sign it.

10 JUDGE DIPPELL: Was the comment from  
11 Department of Natural Resources, was that a formal written  
12 comment that was filed after the publication or was that a  
13 comment you received prior to that?

14 THE WITNESS: Of the comments received by  
15 Staff, this is the only one that came in by e-mail and was  
16 not officially filed on that day. And Staff included it in  
17 here. It's appropriate to note, once again, it was not  
18 officially filed in the comment period.

19 MR. WILLIAMS: Judge, if I might, it was a  
20 comment that Staff received after the publication of the  
21 proposed rule.

22 JUDGE DIPPELL: Okay.

23 THE WITNESS: Yes.

24 JUDGE DIPPELL: Okay. Thank you very much.  
25 You may be excused, Mr. Wood.

1 THE WITNESS: Thank you.

2 JUDGE DIPPELL: Okay. I'll generally ask for  
3 other comments supporting the rule. Ms. O'Neill, were your  
4 comments going to be in support or opposition or both?

5 MS. O'NEILL: Pretty much both. Mostly in  
6 support, but there's some -- there are some things we would  
7 like to point out, so --

8 JUDGE DIPPELL: Okay. We'll go ahead then  
9 with you, if that's all right. If you'd like to come up to  
10 the witness stand. Get to take on a new role.

11 MS. O'NEILL: Yes.

12 (Witness sworn.)

13 JUDGE DIPPELL: If you'd go ahead and state  
14 your name and your position, your job title, so forth for  
15 the court reporter.

16 THE WITNESS: My name is Ruth O'Neill. I am  
17 an assistant public counsel with the Office of the Public  
18 Counsel.

19 JUDGE DIPPELL: And you're giving your  
20 comments today on behalf of the Office of the Public  
21 Counsel?

22 THE WITNESS: That's correct.

23 I would like to start out by saying that in  
24 reviewing the statute on which these rules were based,  
25 Office of Public Counsel was actually disappointed in the

1 statute in the form that it was finally passed as 386.887.

2 And we believe that the comments that Bill  
3 Roush made on behalf of Heartland Solar Energy Industries  
4 Association that were filed in this case are things that we  
5 concur with in many respects.

6 We don't believe that the statute actually  
7 promotes the use of green alternative energy methods. We do  
8 not believe that the statute as passed is particularly  
9 beneficial to consumers.

10 I would also echo the comments of the DNR on  
11 the last page of Exhibit 1, that while they don't believe  
12 the proposed rule provides incentives for consumers to  
13 generate clean energy for their use, we also understand that  
14 the governing statute is restrictive in this regard.

15 Regarding the rules that were actually  
16 promulgated in response to the statute that was actually  
17 passed, the Office of Public Counsel has reviewed the  
18 proposed rule. We believe that most of the provisions of  
19 the proposed rule comply with the restrictions in the  
20 statute; however, we also have concerns about the provision  
21 regarding liability insurance.

22 We believe that there is insufficient evidence  
23 of risk to require a minimum of \$100,000 in liability  
24 insurance coverage. We don't believe that accurately  
25 reflects the risk that's at issue. We believe that provides

1 a barrier to consumers who might be considering implementing  
2 clean energy and participating in net metering.

3 We believe that the comments of Anita  
4 Randolph, which are very similar to the comments I was going  
5 to make, regarding liability insurance on page 7 of  
6 Exhibit 1 are things that should be considered by the  
7 Commission.

8 We believe that if liability insurance is  
9 going to be required, that the amount should be lower than  
10 \$100,000 as a minimum. Perhaps a maximum or ceiling of  
11 \$100,000.

12 I also this morning looked at the comments  
13 regarding DNR regarding the proposed change and Staff's  
14 proposed changing language, which is on the last page of  
15 Exhibit 1. We believe that would also be appropriate. And  
16 we would concur with that.

17 Given the restrictive nature of the statute  
18 that was passed, we have no other objections to the  
19 provisions of the rule as promulgated.

20 JUDGE DIPPELL: Thank you.

21 Commissioner Murray, do you have any questions  
22 for Ms. O'Neill?

23 COMMISSIONER MURRAY: I think you've probably  
24 just covered it. Thank you.

25 JUDGE DIPPELL: Thank you, Ms. O'Neill. Step

1 down.

2 Is there anyone else present who would like  
3 to, first of all, testify in support of the rule?

4 I see no additional comments in support of the  
5 rule.

6 Is there anyone who would like to provide  
7 comments in opposition to the rule? Is there anyone who  
8 wants to present neutral comments?

9 Okay. I don't see any additional comments  
10 then, so I will go ahead and conclude the public hearing on  
11 this rule. Thank you all for your attendance and we are  
12 adjourned.

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