

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Early Prehearing Conference

September 3, 2009  
Jefferson City, Missouri  
Volume 1

In the Matter of Union Electric           )  
Company d/b/a AmerenUE's Tariffs        )Case No. ER-2010-0036  
to Increase its Annual Revenues        )  
for Electric Service                    )

MORRIS L. WOODRUFF, Presiding  
DEPUTY CHIEF REGULATORY LAW JUDGE

REPORTED BY:           Monnie S. Mealy, CCR, CSR, RPR  
Midwest Litigation Services  
3432 W. Truman Boulevard, Suite 207  
Jefferson City, MO 65109  
(573) 636-7551

## 1 A P P E A R A N C E S

2 For Staff of the Missouri Public Service Commission:

3 Mr. Nathan Williams  
4 and Mr. Steven Dottheim  
5 Public Service Commission  
6 P.O. Box 360  
7 200 Madison Street  
8 Jefferson City, MO 65102  
9 (573) 751-8702

7 For Office of Public Counsel and the Public:

8 Mr. Lewis Mills  
9 Office of the Public Counsel  
10 P.O. Box 2230  
11 200 Madison Street  
12 Jefferson City, MO 65102

12 For Union Electric Company:

13 Mr. Thomas M. Byrne  
14 and Wendy K. Tatro  
15 Attorneys at Law  
16 1901 Chouteau Avenue  
17 St. Louis, MO 63103  
18 (314) 554-2514

16 Mr. James B. Lowery  
17 Smith Lewis, LLC  
18 111 S. 9th Street, Suite 200  
19 Columbia, MO 65201  
20 (573) 443-3141

19 For Charter Communications, Inc.:

20 Mr. Mark W. Comley  
21 Newman, Comley & Ruth  
22 601 Monroe Street, Suite 301  
23 P.O. Box 537  
24 Jefferson City, MO 65102-0537  
25 (573) 634-2266

1 For Missouri Energy Group:

2 Ms. Lisa Langeneckert  
3 Sandberg, Phoenix & von Gontard, PC  
4 515 North 6th Street, #1500  
5 St. Louis, MO 63101-1880  
6 (314) 446-4238

7  
8 For Missouri Retailers Association:

9 Mr. Thomas R. Schwarz, Jr.  
10 Blitz, Bardgett & Deutsch  
11 308 East High Street, Suite 301  
12 Jefferson City, MO 65101  
13 (573) 634-2500

14 Mr. Samuel E. Overfelt  
15 Attorney at Law  
16 2009 Greenberry Road  
17 Jefferson City, MO 65101  
18 (573) 635-8927

19 For Missouri Department of Natural Resources:

20 Ms. Shelley A. Woods  
21 Office of the Attorney General  
22 221 W. High Street  
23 P.O. Box 899  
24 Jefferson City, MO 65102  
25 (573) 751-8464

For Missouri ACORN:

Mr. Thomas G. Glick  
Danna McKittrick  
7701 Forsyth, Suite 800  
Clayton, MO 63105  
(314) 726-1000

1 For AARP and Consumers Council of Missouri:

2 Mr. John Coffman  
3 Attorney at Law  
4 871 Tuxedo Boulevard  
5 St. Louis, MO 63119  
6 (314) 424-6779

7  
8 For Missouri Industrial Energy Consumers:

9 Ms. Diana Vuylsteke  
10 Bryan Cave, LLP  
11 211 N. Broadway, Suite 3600  
12 St. Louis, MO 63102  
13 (314) 259-2543

14 For Midwest Energy Users Association:

15 Mr. David Woodsmall  
16 Finnegan, Conrad & Peterson  
17 3100 Broadway, Suite 1209  
18 Kansas City, MO 64111  
19 (573) 893-8079

20 For IBEW Union and Operating Engineers:

21 Ms. Sherrie Schroder  
22 Hammond & Shinnars  
23 7730 Carondelet, Suite 200  
24 St. Louis, MO 63105  
25 (314) 727-1015

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

2 JUDGE WOODRUFF: This is the prehearing  
3 conference in Case No. ER-2010-0036 which concerns  
4 AmerenUE's request for a rate increase.

5 We'll begin today by taking entries of  
6 appearance, beginning with AmerenUE.

7 MR. BYRNE: Your Honor, my name is Thomas M.  
8 Byrne. I'm representing Union Electric Company doing  
9 business as AmerenUE. My address is 1901 Chouteau Avenue,  
10 St. Louis, Missouri, 63103. And Wendy K. Tatro is also  
11 representing AmerenUE.

12 MR. LOWERY: Good morning, your Honor. James B.  
13 Lowery, Smith Lewis, LLP, 111 South 9th Street, Suite  
14 200, Columbia, Missouri, 65201, also appearing on behalf  
15 of Union Electric Company d/b/a AmerenUE.

16 JUDGE WOODRUFF: All right. Appearance for  
17 Staff?

18 MR. WILLIAMS: Thank you, Judge. Kevin  
19 Thompson, Chief Staff Counsel, Steven Dottheim, Chief  
20 Deputy Staff Counsel, Nathan Williams, Deputy Staff  
21 Counsel, Eric Dearmont, Assistant Staff Counsel, P.O. Box  
22 360, Jefferson City Missouri, 65102.

23 JUDGE WOODRUFF: Thank you. And for Office of  
24 Public Counsel?

25 MR. MILLS: On behalf of the Office of Public

1 Counsel and the public, my name is Lewis Mills. My  
2 address is Post Office Box 2230, Jefferson City, Missouri,  
3 65102.

4 JUDGE WOODRUFF: Thank you. For MEG?

5 MS. LANGENECKERT: Here on behalf of Missouri  
6 Energy Group, Lisa C. Langeneckert from the law firm of  
7 Sandberg, Phoenix & Von Gontard, 515 North 6th Street,  
8 Suite 1500, St. Louis, Missouri, 63101.

9 JUDGE WOODRUFF: Thank you. And for the  
10 Consumers Council?

11 MR. COFFMAN: Appearing on behalf of the  
12 Consumers Council of Missouri and appearing on behalf of  
13 AARP, John B. Coffman, 871 Tuxedo Boulevard, St. Louis,  
14 Missouri, 63119.

15 JUDGE WOODRUFF: All right. I don't believe  
16 there's anyone here from Laclede. They had contacted and  
17 asked to be excused today, and I granted that. Charter  
18 Communications?

19 MR. COMLEY: Good morning, Judge Woodruff. On  
20 behalf of Charter Communications, Inc., let the record  
21 reflect the entry of Mark W. Comley, Newman, Comley &  
22 Ruth, 601 Monroe, Suite 301, Jefferson City, Missouri.  
23 And also representing Charter Communications, although not  
24 appearing today, is John C. Dodge, Davis, Wright, Tremain,  
25 LLP, 1919 Pennsylvania Avenue Northwest, No. 200,

1 Washington, D.C, 20006.

2 JUDGE WOODRUFF: Thank you. For MIEC?

3 MS. VUYLSTEKE: For the Missouri Industrial  
4 Energy Consumers, Diane Vuylsteke of the law firm Bryan  
5 Cave, 211 North Broadway, Suite 3600, St. Louis, Missouri,  
6 63102.

7 JUDGE WOODRUFF: Okay. And AARP was  
8 Mr. Coffman. For the unions?

9 MS. SCHRODER: Sherrie Schroder. Can you guys  
10 hear me?

11 JUDGE WOODRUFF: I can. Yes.

12 MS. SCHRODER: All right. Sherrie Schroder,  
13 Hammonds & Shinnars, 773 Carondelet, Suite 200, St. Louis,  
14 Missouri, 63105. Mike Evans is also appearing for the  
15 unions, but is not here today.

16 JUDGE WOODRUFF: All right. For Missouri ACORN?

17 MR. GLICK: Tom Glick from -- Tom Glick from  
18 Danna McKittrick, 7701 Forsyth, Suite 800, Clayton,  
19 Missouri, 63105.

20 JUDGE WOODRUFF: Thank you. For the Missouri  
21 Retailers Association?

22 MR. SCHWARTZ: Judge, Tim Schwartz and Jim  
23 Deutsch from the law firm of Blitz, Bardgett & Deutsch  
24 here in Jefferson City, and Mr. Sam overfelt. We have  
25 provided the court reporter with our address and phone

1 numbers and so forth.

2 JUDGE WOODRUFF: Thank you. MUDGE MUCK (ph.) is  
3 also a party. Let the -- also asked to be excused from  
4 the hearing -- or from the pre-hearing, and that will be  
5 granted. MDNR?

6 MS. WOODS: Shelley Woods, Assistant Attorney  
7 General, Post Office Box 899, Jefferson City, Missouri.  
8 65102, appearing on behalf of the Missouri Department of  
9 Natural Resources.

10 JUDGE WOODRUFF: Thank you. The Midwest Energy  
11 Association?

12 MR. WOODSMALL: Thank you, your Honor.  
13 Appearing on behalf of Midwest Energy Users Association,  
14 David Woodsmall and Stu Conrad from Finnegan, Conrad &  
15 Peterson. I've already entered my address into the  
16 record.

17 JUDGE WOODRUFF: Thank you. And for the NRDC?  
18 Is anyone here for Natural Resources Defense Counsel?

19 All right. Well, we're here to get started  
20 today on the coming up of the procedural schedule to  
21 revolve this case. By previous order, I asked you to give  
22 me an agreed-upon schedule by the 10th of September. So,  
23 hopefully, you'll be able to work that out today.

24 I know there's several issues that will be  
25 coming up today involving test year and true-up. Based on

1 the filings that we've already seen, it looks like there's  
2 no disagreement about the test year. It will be ending on  
3 March 31st of 2009.

4 But there was some disagreement about the  
5 true-up dates. I believe the company wanted February  
6 28th. Staff said January 31st. And one of the parties  
7 suggested January 1st.

8 If the parties can reach some kind of consensus  
9 on that today, that would be great. If not, tee it up for  
10 the Commission in your proposed procedural schedule, and  
11 the Commission will make a decision on -- on the true-up,  
12 although that may also affect, I assume, your proposed  
13 procedural schedule. So work it out as best you can, I  
14 guess. And if you can't, we'll -- we'll make the decision  
15 for you.

16 Also, we need to know a schedule for local  
17 public hearings or suggested dates for local public  
18 hearings and location. Again, that was ordered in the  
19 previous -- previous order to -- and we get the  
20 recommendations by September 10th. And we'll need a  
21 recommendation about the -- the notice to be given to the  
22 -- to the public.

23 The other thing I wanted to talk about today is  
24 the interim rate increase request in the tariff that is  
25 scheduled to go into effect on October 1st. If you

1 watched the agenda yesterday, the Commissioners discussed  
2 that. They suggested that we have a -- oral arguments on  
3 September 14th. Does anyone have any objection to doing  
4 that on September 14th? Mr. Byrne?

5 MR. BYRNE: Not from the company, your Honor.

6 JUDGE WOODRUFF: Okay. I'll -- I'll do an  
7 order, then, scheduling that. The Commissioners are  
8 particularly interested in knowing whether we will, in  
9 fact, need to have an evidentiary hearing, whatever  
10 decision they decide to make on that -- on the interim  
11 rate increase. So that's something that be prepared to  
12 discuss that at the oral argument.

13 While the issues be -- is there any need for a  
14 separate audit on those -- on those costs related to the  
15 interim rate increase?

16 Anything anyone wants to bring up with the  
17 interim rate increase? Mr. Mills, you look like you want  
18 to say something.

19 MR. MILLS: Yes. Judge, I think before the  
20 parties can assess whether or not -- and what would be  
21 done at -- whether or not an evidentiary hearing was  
22 necessary and what would be done there, we would need some  
23 guidance from the Commission on what standard the  
24 Commission would intend to apply.

25 There's been historical emergency -- near

1 emergency standard that everyone is familiar with. If the  
2 Commission has some intention of changing that, then I  
3 think it would be -- it would be hard to fashion a  
4 worthwhile evidentiary hearing if we don't know the  
5 evidentiary standard.

6 So I think before you -- before the Commission  
7 would schedule an evidentiary hearing, I think it would be  
8 helpful for them to tell us what evidentiary standard they  
9 intend to apply.

10 JUDGE WOODRUFF: That's certainly something that  
11 could be brought up at the oral argument. The Commission  
12 needs guidance on this, also. And I have no idea what the  
13 Commission is wanting to do on this.

14 So that's kind of the idea of the -- of the oral  
15 argument is to -- to lay out for the Commission how they  
16 should be proceeding on this.

17 MR. BYRNE: Your Honor, would -- would we have  
18 all day September 14th? Is that a full day that we could  
19 have for oral argument if need be, or is there a  
20 limitation on it?

21 JUDGE WOODRUFF: I believe the Commissioners  
22 indicated they would like to start in the afternoon.

23 MR. BYRNE: Okay.

24 JUDGE WOODRUFF: So we'll -- we'll have to limit  
25 ourselves a little bit on the amount of time.

1                   MR. LOWERY: And, your Honor, based on the  
2 comment that you just made in response to Mr. Mills'  
3 question, I take it that you don't have any expectation  
4 the Commission is going to be making any decision about a  
5 standard, so to speak, until after that oral argument? In  
6 fact, part of the issue or part of the discussion that  
7 they expect to take place at that oral argument is for the  
8 parties to give some perspective on that and so on?

9                   JUDGE WOODRUFF: Yes.

10                  MR. LOWERY: Thank you.

11                  JUDGE WOODRUFF: Looking at it myself, I think  
12 -- Mr. Mills indicated that that is a very key point as to  
13 what standard we would apply. And it may be on that --  
14 which, if the Commission were to decide that emergency  
15 standard is -- still be applied, then maybe that decides  
16 the case.

17                  I -- again, that's something for the parties to  
18 -- to tell us about. Ms. Vuylsteke?

19                  MS. VUYLSTEKE: Judge Woodruff, I take it from  
20 your comment and from what the Commission said at agenda  
21 that this is intended only for argument by the attorneys  
22 and that the Commission does not intend for -- for any  
23 witnesses to appear, although the Commission's decision  
24 about what standard to apply could be informed by the  
25 testimony of regulatory witnesses.

1           I just wanted to make sure that we're not  
2 surprised and that nobody intends to bring any witnesses.  
3 If they do, we certainly -- you know, we've already  
4 submitted the affidavit of Mike Gorman, and he certainly  
5 would be available to deal with the threshold issue of  
6 what standard should apply on a technical basis while we  
7 -- I would obviously deal with the legal issues.

8           I just don't -- I want to make sure if we don't  
9 bring our witness, nobody's going to bring any witnesses,  
10 and it's just going to be the lawyers.

11           JUDGE WOODRUFF: That is the intent is to hear  
12 arguments from the attorneys, not to take evidence at  
13 these proceedings. If we do need to have an evidentiary  
14 hearing, that will be scheduled separately, whenever that  
15 maybe.

16           Okay. Anything else anyone wants to bring up  
17 while we're on the record? All right. I'm not hearing  
18 anything. So at this point, the on-the-record portion of  
19 this proceeding is adjourned. And I'll leave you to your  
20 -- to your discussions.

21           (The proceedings were concluded at 10:14 a.m.  
22 on September 3, 2009.)

23

24

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## 1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI )  
 )ss.  
4 COUNTY OF OSAGE )

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,  
7 Certified Court Reporter #0538, and Registered  
8 Professional Reporter, and Notary Public, within and for  
9 the State of Missouri, do hereby certify that I was  
10 personally present at the proceedings as set forth in the  
11 caption sheet hereof; that I then and there took down in  
12 stenotype the proceedings had at said time and was  
13 thereafter transcribed by me, and is fully and accurately  
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and  
17 seal on September 6, 2009.

18

19

20

21 \_\_\_\_\_  
Monnie S. Mealy, CSR, CCR #0539  
22 Registered Professional Reporter

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