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INTRODUCTION TO HEARINGS

Rate Cases in Missouri

Chairman Robert S. Kenney
Missouri Public
Service Commission

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RATE CASES IN MISSOURI

- There are three parts to a rate case:
- The first part begins with the opening of the case and ends when a procedural schedule is adopted. (Preliminary)
- The second part runs from the adoption of the procedural schedule to the end of the evidentiary hearing. (Main)
- The third part begins with the completion of the evidentiary hearing and ends with the approval of new tariffs. (Post-Hearing)



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RATE CASES IN MISSOURI

- The **Preliminary Case Sequence** involves various preliminary case activities, including
 - Notice
 - Suspension
 - Intervention
 - Setting the test year
 - True-up determination



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RATE CASES IN MISSOURI

- The **Preliminary Case Sequence** involves various preliminary case activities, including:
 - The initial prehearing conference;
 - Submission of a proposed procedural schedule;
and
 - Adoption of a procedural schedule.



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RATE CASES IN MISSOURI

- A general rate case in Missouri may be initiated in any of three ways.
 - By far the most common is the “file-and-suspend” method in which a utility company files proposed tariffs calling for a general rate increase.
 - The other two ways are by complaint or by motion of the Commission.



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RATE CASES IN MISSOURI

- A **proposed** tariff sheet has its issue date and its **proposed** effective date at the bottom.
- A proposed tariff sheet will **automatically** become effective on the designated effective date unless some action is taken to prevent it.
- The proposed effective date is referred to as the **operation of law date**.
- By statute, a proposed tariff sheet must be filed with an effective date at least thirty days after the date of filing.



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RATE CASES IN MISSOURI

- In addition to the proposed tariffs that initiate a “file-and-suspend” general rate case, the utility must file a number of other items specified by PSC rule, including:
 - Direct testimony supporting the requested increase;
 - (Sometimes) a depreciation study.
 - Included in the company’s direct testimony is its Accounting Schedules.



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RATE CASES IN MISSOURI

- Not long after the initiation of the rate case, the RLJ will issue a *Suspension Order and Notice*.
- This order sets the schedule for the rest of the Preliminary Case Sequence.
- It suspends the proposed tariffs for 120 days plus six months.
- This period, plus the 30-day notice period provided by the initial proposed effective date, makes the 11-month Missouri rate case timeline.



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- Additionally, the *Suspension Order and Notice*
 - Sets a deadline for intervention requests;
 - Sets a deadline for test-year recommendations;
 - Sets a deadline for true-up recommendations;
 - Sets a deadline for local public hearing recommendations;
 - Sets an initial prehearing conference;
 - Sets a deadline for a joint proposed procedural schedule;
 - Sets the evidentiary and true-up hearings;
 - Directs the utility to notify its customers of hearing dates, times and locations by billing insert;
 - Prescribes the form of that notification;
 - Directs notification of affected political subdivisions, members of the General Assembly and the media.



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- Additionally, the *Suspension Order and Notice*
 - Authorizes Staff to file an overearnings complaint if supported by its audit.
- Generally, the PSC also gives notice of the rate case to all of the parties in the company's last rate case.
- The suspension of the tariffs, of course, resets the operation of law date.



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➤ **Intervention:**

- The PSC's intervention rule is permissive.
- Commission Rule 4 CSR 240-2.075 allows intervention on a showing that the applicant has an interest which is different from that of the general public and which is subject to a possible adverse effect by the outcome of the case.
- Intervention can also be granted on the grounds that it is in the public interest.



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RATE CASES IN MISSOURI

- **The Main Case Sequence Includes:**
 - Filing of non-company revenue requirement direct testimony;
 - Filing of non-company rate design direct testimony;
 - Filing of rebuttal testimony by all parties.
 - A technical / settlement conference;
 - Filing of surrebuttal testimony by all parties;
 - Filing by Staff of the reconciliation;
 - Filing of a list of contested issues;
 - Filing of a list and order of witnesses, order of opening and order of cross-examination;
 - Filing of position statements; and
 - The evidentiary and true-up hearings.



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RATE CASES IN MISSOURI

- **Prefiled Testimony:**
- Unlike the courts and other administrative tribunals, the PSC relies on prefiled testimony, reserving the hearing itself for cross-examination, questions from the bench, and redirect based on questions from the bench.
- Prefiled testimony is in written form, is filed well before the hearing date and, is served on all other parties.
- Although “filed,” it does not become part of the record until offered and admitted at the evidentiary hearing.



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- **Prefiled Testimony:**
- Prefiled testimony is presented in the standard “question and answer” format, with numbered lines.
- It resembles a deposition transcript.
- Prefiled testimony is marked as an exhibit and offered at the hearing based on the foundation testimony of the witness.
- Prefiled testimony must be accompanied by the affidavit of the testifying witness.
- Three rounds of testimony: direct, rebuttal, and surrebuttal.



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- **Prefiled Testimony:**
- Direct Testimony includes all testimony and schedules asserting a party's case-in-chief, whether or not the party has the affirmative on any issue.
- Rebuttal Testimony includes all testimony and schedules responding to another party's case-in-chief.
- Surrebuttal Testimony includes—and is limited to—testimony and schedules responsive to another party's rebuttal testimony.
- “Schedule” refers to exhibits attached to prefiled testimony.



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RATE CASES IN MISSOURI

- **Prefiled Testimony:**
- Staff files a pair of reports rather than Direct Testimony:
 - The Revenue Requirement Report and
 - The Rate Design Report.
- With its Revenue Requirement Report, Staff also files its Accounting Schedules, which contain its audit results.



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- **Technical Conference:**
- The Technical Conference is generally held after Rebuttal Testimony is filed and before Surrebuttal Testimony.
- It is an opportunity for the technical experts of all parties to discuss the emerging issues.
- It generally lasts a week.
- Some issues will go away after the conference.



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- **Framing the Issues:**
- Shortly after Surrebuttal Testimony is filed, Staff prepares and files a list of contested issues on behalf of all the parties.
- A great deal of discussion goes on behind the scenes as to how the issues for decision should be stated.



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- **Framing the Issues:**
- At about the same time, Staff also prepares and files the Reconciliation.
- This is an accounting document that shows the value of each issue as a deduction in revenue requirement from the Company's case.
- The Reconciliation is a statement of the contested issues in monetary form.
- Note that the Rate Base value of contested issues generally does not appear on the Reconciliation.



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RATE CASES IN MISSOURI

- **Framing the Issues:**
- Shortly after the List of Issues and Reconciliation are filed, each party must file a Position Statement on each contested issue.
- This is intended to be a succinct, non-argumentative summary of each party's position, with citations to the pertinent pre-filed evidence.



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- **The Evidentiary Hearing:**
- The evidentiary hearing has four main parts:
 - Preliminary matters;
 - Opening statements;
 - Presentation of evidence; and
 - Closing matters.



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- Following the hearing, the **Post-Hearing Case Sequence** begins.
- This includes:
 - Two rounds of simultaneous briefs;
 - Commission deliberations; and
 - The Report and Order.



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- **Briefs:**
- Rather than hearing closing argument, the PSC will set a briefing schedule.
- The briefs are generally quite lengthy and include both citations to the evidence record and argument on each contested issue.
- Sometimes, the PSC will also order Proposed Findings of Fact and Conclusions of Law.



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- **Deliberations:**
- The Commission conducts its deliberations publicly during the Case Discussion segment of its weekly Agenda meeting.
- This allows counsel immediate feedback on the effectiveness of his or her presentation.



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- **Report and Order:**
- The Commission's decision in a rate case is called a Report and Order.
- It includes detailed findings of fact and conclusions of law on each contested issue.
- It generally rejects the utility's suspended tariffs and directs the filing of new tariffs in compliance with the order.



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- Other **Post-Hearing Case Sequence** events occur after the Report and Order is issued.
- These include:
 - Applications for Rehearing;
 - Compliance Tariffs; and
 - Request for Expedited Treatment.



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RATE CASES IN MISSOURI

- **Application for Rehearing:**
- The PSC Law requires that a party file an Application for Rehearing with the PSC in order to perfect the right to appeal.
- The Application for Rehearing must include every issue to be raised on appeal.
- It must be filed *before* the Report and Order becomes effective.



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- **Compliance Tariffs:**
- The new tariffs filed in compliance with the Report and Order are called Compliance Tariffs.
- They are filed with a 30-day effective date.
- They are generally accompanied by a Motion for Expedited Treatment requesting that they be approved for service beginning on the day the Report and Order becomes effective.



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- Upon the Commission's denial of the pending Applications for Rehearing, the rate case is over.
- Judicial review and appeal occur in almost every rate case because of the large amount of money at stake.
- The courts remand rate cases to the PSC from time-to-time.



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Questions?



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