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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the)
Application of Union Electric)
Company d/b/a Ameren Missouri)
for Permission and Approval) File No.
and Certificates of Public) EA-2023-0286
Convenience and Necessity)
Authorizing It to Construct)
Renewable Generation Facilities)

Thursday, July 13, 2023
1:00 p.m. - 1:19 p.m.

Office of the Missouri Public Service Commission
200 Madison Street
Jefferson City, Missouri

Stenographically Reported by:
Jill Bleskey, CSR, CCR, RPR

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1 * * * * *

2 (Hearing commenced at 1:00 p.m.)

3 * * * * *

4 JUDGE SEYER: So let's go on the record.

5 Today is July 13th, 2023 and it's one o'clock p.m.

6 The Commission has set this time for a
7 prehearing conference for File Number EA-2023-0286
8 which is captioned as In the Matter of the
9 Application of Union Electric Company doing business
10 as Ameren Missouri for Permission and Approval and
11 Certificates of Public Convenience and Necessity
12 Authorizing it to Construct Renewable Generation
13 Facilities.

14 My name is Ken Seyer and I am the
15 regulatory law judge assigned to this case. Before
16 we go any further, let's have counsel for the parties
17 make their entry of appearance beginning with Ameren
18 Missouri.

19 MR. LOWERY: Thank you, Judge. James B.
20 Lowery, with JBL Law, LLC, 9020 South Berry Road,
21 Columbia, Missouri, 65210 appearing on behalf of
22 Ameren Missouri.

23 JUDGE SEYER: And for the Staff of the
24 Commission.

25 MR. GRAHAM: Paul Graham appearing on

1 behalf of the Staff of the Commission and I believe
2 my address is on file.

3 JUDGE SEYER: And for Office of Public
4 Counsel.

5 MS. MARTIN: Anna Martin for the Office of
6 the Public Counsel. I believe that my address is
7 also on file but if it not it is 200 Madison, Suite
8 650, Jefferson City, Missouri, 65101.

9 JUDGE SEYER: Okay. When Ameren Missouri
10 filed their application in this case they also filed
11 a motion for a protection -- protective order. The
12 deadline to file an objection to that motion was
13 yesterday. So I assume the other parties that are
14 present here today don't have any objection to that
15 protection order?

16 MR. GRAHAM: Staff does not object to it.
17 But Staff has observed that the Commission has been
18 cutting back on the scope of the confidential orders
19 that are being entered here. But it's Staff's
20 understanding that that's largely in the interest of
21 transparency for the public. And while we agree that
22 the public should be accorded maximum -- within the
23 limits that are placed by the Commission, maximum
24 accessibility to these records. But it really
25 doesn't affect the Staff's work in this case and so

1 we're not going to climb in on that.

2 JUDGE SEYER: All right.

3 MR. LOWERY: Judge, I would just point out
4 that it is identical -- the request is identical to
5 the request that was made in prior solar documents
6 the Company has filed and in the prior wind dockets,
7 all of which the Commission has granted because of
8 the sensitivity of folks, either other developers,
9 even some large customers, other contractors and so
10 on would be able to access that highly confidential
11 information. It could disadvantage the utility and
12 ultimately its rate payers because it would affect
13 the cost that we're paying for goods and services, et
14 cetera on these projects.

15 MR. GRAHAM: If I may, your Honor.

16 JUDGE SEYER: Go ahead.

17 MR. GRAHAM: Staff did review the motion
18 for protective order that Ameren filed in the
19 Boomtown case. And counsel, Mr. Lowery, is correct,
20 it looks to me like the motion that was filed there
21 was substantially the same, if not identical to the
22 one filed here. I bring that up because I did note,
23 in looking at this, that the order which the
24 Commission entered in response to Ameren's motion in
25 the Boomtown case did circumscribe more narrowly the

1 scope of the confidentiality protection than I
2 believe was protected -- than I believe was requested
3 by the Company.

4 MR. LOWERY: I'll be honest, I don't
5 recall there being any difference. But we were
6 satisfied with the protective order that was issued
7 in that case, Judge.

8 JUDGE SEYER: Okay. The initial notice
9 issued by the Commission also set yesterday as the
10 deadline to intervene. And there are four
11 applications to intervene that were filed. Do the
12 parties present have any objection to those
13 applications?

14 MR. GRAHAM: Staff does not.

15 MR. LOWERY: Company does not.

16 MS. MARTIN: OPC does not.

17 JUDGE SEYER: Okay. Then I don't know if
18 it's -- if I can assume that the Intervenors wouldn't
19 object to the other Intervenors' applications but I
20 think I will probably grant those applications prior
21 to the lapse of ten days just to get those people
22 into the case and be able to start processing the
23 case.

24 MR. LOWERY: Judge, just for
25 clarification. Maybe you said it. If you did, I

1 apologize. But you are also granting or going to
2 grant the protective order motion?

3 JUDGE SEYER: Right. In some form or
4 fashion, yes.

5 MR. LOWERY: Okay. Thank you.

6 JUDGE SEYER: There also is your motion,
7 Ameren Missouri's motion for an adoption of a
8 procedural schedule and motion for expedited
9 treatment. And I would assume Mr. Graham wants to be
10 heard on that.

11 MR. GRAHAM: Well, --

12 MR. LOWERY: And Judge, would you mind if
13 I just give a little bit of context for it as well
14 briefly?

15 JUDGE SEYER: Sure.

16 MR. LOWERY: And I'm not going to argue
17 the merits of it. But we filed that in part because,
18 you know, the Judge -- your Honor, you issued an
19 order that the Staff file a recommendation by
20 August 18th. And we filed that in part because we
21 really didn't think disposing or processing this case
22 via Staff recommendation was really the most
23 efficient way to proceed because, you know, we
24 anticipate that there will be some issues.

25 I mean, I'll be of course very happy if we

1 get to rebuttal testimony, assuming that's where we
2 go, and the parties say yes, we are completely on
3 board with the application. But my anticipation was
4 there'll be some issues to deal with. And so we
5 filed it partly with the idea that let's go ahead and
6 get a procedural schedule in place that calls for
7 testimony, sets dates for hearing and so on rather
8 than having a recommendation that may get delayed or
9 we have a recommendation made and then we have to
10 later put a procedural schedule in place.

11 And we've also been in discussions with
12 Staff about that. And I -- my sense is that we -- I
13 think we probably will reach agreement on tweaking
14 it. So I'm not actually advocating that you adopt it
15 today. What I would suggest is once we're done with
16 the on the record portion that you allow the parties,
17 which we traditionally do, to sit down and talk about
18 it, see if we can reach agreement. If for some
19 reason we can't, if you require say by next
20 Wednesday, I'm just throwing out a date, that we file
21 a joint schedule or we file separate schedules and
22 then you can decide. But I'm not advocating that you
23 adopt that schedule as adopted -- or as proposed
24 today.

25 JUDGE SEYER: Right. And I was not -- I

1 don't know that I even have the authority to order a
2 procedural schedule today. But yes, that was
3 actually what I kind of had in mind was a week, maybe
4 ten days, --

5 MR. LOWERY: Okay.

6 JUDGE SEYER: -- maybe the end of next
7 week to give you time to file a joint proposed
8 procedural schedule.

9 So having said all that, Mr. Graham, do
10 you want to be heard on that? Or do you -- or does
11 your objection that you filed speak for itself?

12 MR. GRAHAM: Well, we did file an
13 objection. As far as the objection speaking for
14 itself, well, I did have some things that I wanted to
15 say here today.

16 THE COURT: Okay.

17 MR. GRAHAM: I'm in substantial agreement
18 with many of the things that Mr. Lowery said. I did
19 want to begin and invoke Boomtown. It's my
20 understanding that the triennial IRP from Ameren is
21 due on or around October the 1st of this year. And
22 on the basis of what happened in Boomtown where a
23 final round of testimony was filed in that case that
24 I think alluded in many respects to the updated IRP
25 that had come in in that timeframe and the timeframe

1 of that case, Staff found itself flatfooted, on its
2 back foot, and not able to respond to what we felt
3 was a substantial reboot and resetting of the case at
4 that point in time.

5 And so I've come here today simply to --
6 among other things, to throw out a caution -- or
7 throw out -- I don't want to call it a warning. Just
8 give folks a heads up that we will have this
9 procedural order but it -- on the basis of the
10 triennial IRP and any testimony that comes in after
11 that from the Company. If Staff feels like it's now
12 responding to a new and different case we will file
13 motions for appropriate relief in that respect. And
14 I have to say, so that it has been said on the
15 record, that we will do that without respect to any
16 contracts or any deadlines with respect to contracts
17 or a contract which Ameren may have in place now that
18 contemplates that a CCN will be issued, a favorable
19 CCN will be issued and that a favorable CCN will be
20 issued by on or around February 1st or some date.

21 So I'm not asking for any kind of ruling
22 on what I'm saying here or anything like that, I just
23 don't want anybody to feel blindsided later on after
24 we've set this procedural schedule if the Staff comes
25 in and asks for relief along the lines that I've

1 described. Otherwise, I'm in substantial agreement
2 with what Mr. Lowery has said.

3 JUDGE SEYER: Okay.

4 MR. LOWERY: Your Honor, if I might, just
5 one minor thing just because -- since -- and I
6 appreciate Mr. Graham's candor and being up front
7 about Staff's position on that so I do appreciate
8 that. I will say, however, that the IRP, the change
9 in preferred plan and the support for that was filed
10 about a month before the Boomtown case was filed, it
11 wasn't filed in the middle of the Boomtown case, just
12 for the record. And terms of temporally what
13 happened, there was no change in the IRP made in the
14 Boomtown case.

15 JUDGE SEYER: Okay. You're saying a month
16 before the application was filed?

17 MR. LOWERY: It was filed on June 22. And
18 if my memory serves, your Honor, we filed the
19 Boomtown case on July 14th, or very close. Almost a
20 year ago today, as a matter of fact. But I do
21 appreciate --

22 MR. GRAHAM: I'm not going to reply
23 further on that, your Honor. If it becomes an issue
24 I will do my homework and go into that and argue it
25 all over the place.

1 MR. LOWERY: Fair enough. Fair enough.

2 JUDGE SEYER: I would expect no less.

3 MR. LOWERY: I don't either.

4 MR. WILLIAMS: Judge, this is Nathan
5 Williams. I'm appearing on behalf of Public Counsel
6 as well. I think the parties are aware of this so I
7 just want to make sure the Commission is. Because
8 Ameren's asking for four certificates in this case.
9 I think that's clear from the Court's opinion in the
10 StopAquila Dot Org case. There are commonalities of
11 fact and we're not arguing that the cases should be
12 split or anything like that. But I want to make a
13 point that there are four certificates because there
14 are four locations involved.

15 MR. LOWERY: We agree with that, your
16 Honor. We are asking for four certificates.

17 JUDGE SEYER: Let me ask you this though.
18 Why -- why have this in one combined case?

19 MR. LOWERY: Well, I think there's not --
20 that's not a difficult question to answer. I mean,
21 if you look at our testimony and you look at the
22 evidence and justification bases that, you know,
23 let's just line up with the Tartan factors even
24 though they're only guidelines and the Commission's
25 legal duty is to discern if it's necessary or

1 convenient for public service. Just look at the
2 Tartan factors, the evidence, the justification, the
3 analyses, et cetera that support those are
4 essentially the same for all of the projects.

5 There's some project details that are different.

6 But this way we don't have four
7 applications, 16 pieces of testimony, probably two or
8 300 DRs instead of 50 or 75 DRs, four evidentiary
9 hearings where we would really be rehashing -- you
10 know, I would say 80 or 90 percent of the case we
11 would be rehashing all of the same things, all of the
12 same evidence and arguments and issues, et cetera.

13 MR. WILLIAMS: Judge, Public Counsel
14 concurs that there's commonality of fact or we would
15 expect them to be based on feasibility and the --
16 more so the capability of the utility to financially
17 and to operate the facilities as well. I mean, there
18 are common facts. These would be -- I believe if
19 they were filed separately would be appropriate
20 proceedings to consolidate for purposes of hearing in
21 any event.

22 JUDGE SEYER: But is that not a
23 possibility that we could have four separate cases
24 all with an evidentiary hearing jointly held?

25 MR. LOWERY: I mean, anything's possible,

1 your Honor. I just don't really see why that would
2 be necessary or what the advantage -- and I can see a
3 lot of disadvantages to it. You know, as the
4 evidence in the Boomtown docket indicated, the
5 Commission's decision and then, you know, our
6 evidence in this case, the way renewable development
7 works in particular, when you have a particular need
8 -- and I'm not arguing the Staff may say we need it
9 or don't need it in this case, we know what the
10 Commission ruled in Boomtown.

11 But when you have a need for X solar
12 generation, let's say, as in this case, you know,
13 you're by definition -- unless it's a need for one
14 100 Megawatt project, you're by definition sort of
15 getting a portfolio for the project. It's not really
16 a situation where we have this need and we need this
17 generator at this location because the transmission
18 grid will not be supported properly or something.
19 It's a much different animal. And it seems, in the
20 interest of -- there is -- there's certainly no
21 prohibition in the statute or in the Commission's CCN
22 rules that I'm aware of or that anybody's raised that
23 would say that these need to be broken apart.

24 And I think we will -- for your own sake
25 and for the party's sake, I think we will create a

1 lot of inefficiency and duplicative paper, or maybe
2 it's electrons, by splitting them apart and we would
3 just end up in the same place with a lot more
4 administrative burden.

5 MR. GRAHAM: Your honor, I hesitate. But
6 the issues in this case will be neat and there will
7 be economic feasibility and I surmise that it will be
8 easier for the Company to talk in generalities about
9 four cases together than it will be about one case at
10 a time in addressing those particular issues. And
11 that the sharp edges of the issues as to whether
12 these programs are feasible and needed will become
13 sharply more defined if we're picking them up and
14 dealing with them in isolation one at a time. That
15 said, the Staff is not going to oppose the continued
16 handling of these four cases. But again, since
17 Counsel got into the issues I thought I would
18 respond.

19 JUDGE SEYER: Those were the issues that I
20 wanted to address today. Are there any other issues
21 that you'd like to take up today on the record?

22 MR. LOWERY: No. Other than, Judge, I
23 assume that you will, as part of adopting the
24 procedural schedule, however we -- what we jointly
25 file or whatever, that you will dismiss with Staff's

1 obligation to do the -- I'm sure Mr. Graham would
2 like that but I think it makes sense that that
3 obligation be dismissed as well at that time.

4 JUDGE SEYER: Yes, I can do that.

5 MR. LOWERY: Save you a little work.

6 MR. GRAHAM: Well, I'm not...

7 JUDGE SEYER: There may be other people in
8 the room though that need their jobs.

9 MR. GRAHAM: Yeah. We don't want to put
10 them out of their job, your Honor.

11 MR. LOWERY: My sense is they have plenty
12 to do, Judge, but --

13 JUDGE SEYER: That's my sense as well.

14 MR. LOWERY: -- I may be wrong.

15 MR. GRAHAM: Didn't want to presume on
16 your behalf.

17 MS. MARTIN: I don't know as many people
18 as the OPC has, you know, we have so much staff.

19 JUDGE SEYER: All right. We've got this
20 room for the rest of the afternoon. I am willing to
21 let you all use that, if you -- if it would be
22 helpful. But otherwise we'll go off the record and
23 -- well, let's just go off the record first.

24 (Hearing was concluded at 1:19 p.m.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
) ss.
CITY OF KANSAS CITY)

I, JILL A. BLESKEY, a Registered Professional Reporter, Certified Shorthand Reporter (IL), and Certified Court Reporter (MO), do hereby certify that the foregoing record was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of this action.

Jill A. Bleskey, RPR, CSR, CCR

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