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2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Prehearing Conference
8 May 31, 2007
9 Jefferson City, Missouri
Volume 1

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12 In the Matter of the Application)
of Thomas A. Marshall for Change)
13 of Electric Service Provider from)
SEMO Electric Cooperative to) Case No. EO-2007-0309
14 Sikeston Board of Municipal)
Utilities)

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BENJAMIN H. LANE, Presiding,

REGULATORY LAW JUDGE

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22 REPORTED BY:

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

2 JUDGE LANE: Good morning, ladies and
3 gentlemen. It's May 31st, 2007, about 9:12 a.m. My name
4 is Benjamin Lane. I'm the Regulatory Law Judge assigned
5 to hear this matter. Our court reporter this morning is
6 Kellene Feddersen. And we are in Case No. EO-2007-0309,
7 which is captioned in the matter of the application of
8 Thomas A. Marshall for change of electric service provider
9 from SEMO Electric Cooperative to Sikeston Board of
10 Municipal Utilities.

11 As explained to the parties in the order
12 setting this prehearing conference, I expect there to be
13 two or three major things that we can accomplish today.
14 The first thing is to identify issues that may remain,
15 whether they be factual or whether they be legal, that may
16 or may not require a hearing in this case.

17 The second thing is, as a main -- it's a
18 major objective of all prehearing conferences, is to
19 provide an opportunity for the parties to pursue
20 settlement discussions. And I may take a more active role
21 than usual in this case as far as suggesting areas that
22 may provide a basis for the parties to compromise and
23 settle since we appear to be so tantalizingly close to a
24 settlement in this matter.

25 And the third thing would be, thinking

1 ahead, if the case does not settle, to a procedural
2 schedule and which would incorporate a list of issues, and
3 again, that's something that the parties can discuss.
4 Just looking a little bit further on down the line.

5 I know the attorneys have entered -- have
6 made their entries of appearance before we went on the
7 record either orally and by written forms, but again, for
8 the sake of the record, let's go ahead and have everyone
9 enter their appearances orally. Mr. Marshall, you're
10 here, and you are representing yourself; is that correct?

11 MR. MARSHALL: Yes, sir.

12 JUDGE LANE: How about Staff?

13 MR. BAKER: Blane Baker appearing on behalf
14 of the Staff of the Missouri Public Service Commission,
15 P.O. Box 360, Jefferson City, Missouri 65102.

16 JUDGE LANE: Office of Public Counsel?

17 MR. MILLS: On behalf of Office of the
18 Public Counsel and the public, my name is Lewis Mills. My
19 address is Post Office Box 2230, Jefferson City, Missouri
20 65102.

21 JUDGE LANE: The SEMO Electric Cooperative?

22 MR. WIDGER: Yes. My name is Rod Widger.
23 I serve as General Counsel for SEMO Electric. I'm with
24 the firm of Andereck, Evans, Milne, Widger & Johnson. Our
25 address is 1111 South Glenstone, Springfield, Missouri

1 65804.

2 JUDGE LANE: Thank you very much. And the
3 Sikeston Board of Municipal Utilities?

4 MR. ROBISON: My name is James Robison.
5 I'm with the firm of Robison & Robison. Our address is
6 521 Greer Street, Sikeston, 63801, and I'm counsel for the
7 Sikeston Board of Municipal Utilities.

8 JUDGE LANE: Thank you very much,
9 gentlemen, for taking care of that detail.

10 As indicated in the order, this is not an
11 evidentiary hearing, of course, and anything that's said
12 during the course of these proceedings is not evidence and
13 cannot be introduced into evidence, should there be a
14 hearing, absent some independent source of proof. So
15 that's designed to encourage full and open and frank
16 discussion on the issues.

17 Typically at this point I would -- after
18 having outlined the things that could be achieved, I would
19 leave the room and allow the parties to discuss the matter
20 among themselves. We have this -- we have this room
21 reserved for, I believe, 'til noon, so we have plenty of
22 time to meet and confer here.

23 Typically I would leave, but in this
24 particular case I have a couple of questions of the
25 attorneys for all of the parties just to kind of get the

1 ball rolling and maybe to highlight some issues and gain a
2 greater insight into what the position of all the parties
3 is, what the positions are.

4 So let me go ahead and get that -- and get
5 that ball rolling by briefly summarizing where we are in
6 this case, and if anyone has any comments or questions or
7 disagrees with that, please feel free to jump in.

8 Mr. Marshall has filed an application for a
9 change of electric service providers from SEMO, the
10 provider that he has had for some 55 years, to the
11 Sikeston Board of Municipal Utilities. Mr. Marshall used
12 to live well outside the city limits of Sikeston, but over
13 the years the City has expanded to the north, and the
14 expansion eventually culminated sometime around 1999 with
15 Sikeston annexing the property on which his house and his
16 outbuildings stand.

17 He continued to use SEMO for his electrical
18 service to his residence. However, he has the Sikeston
19 Board of Municipal Utilities providing electric service to
20 some other structures on his property. I'm not sure if
21 those are grain silos or some type of farm-related --
22 farm-related structures.

23 We asked for -- the Commission asked for
24 recommendation from its Staff as to whether the
25 application should be granted, and Staff's recommendation,

1 in accordance with the answer -- well, we joined Sikeston
2 and SEMO as parties, and they both filed responses.
3 Basically Sikeston says, we are ready, willing and able to
4 provide electric service to Mr. Marshall should his
5 application be granted.

6 And SEMO's position was, in its initial
7 filing was that although we don't quibble with the facts
8 stated in his application, we do not believe that he has
9 stated a legally sufficient reason why granting his
10 application would be in the public interest, which is the
11 applicable statutory standard.

12 We asked for a recommendation from Staff.
13 Its recommendation was very similar. Said that after
14 investigating the matter, they were unable to identify any
15 facts which could allow the Commission to have permis--
16 would allow the Commission to make a finding that granting
17 the application would be in the public interest.

18 The prehearing conference was scheduled,
19 and about a week or a week and a half after the prehearing
20 conference was scheduled, SEMO filed a pleading requesting
21 an order of the Commission granting Mr. Marshall a change
22 in electric providers. The only proviso that SEMO put on
23 its consent to such an arrangement was essentially that
24 the Commission ascertain whether it has the authority to
25 settle a case like this by consent or by settlement of the

1 parties, including the two electric suppliers and the
2 customer and then any other parties that are present.

3 MR. WIDGER: May I jump in there?

4 JUDGE LANE: Absolutely.

5 MR. WIDGER: That's not an absolutely
6 accurate characterization. I hope that's not what I said.
7 I presume that the Commission does have authority to do
8 this by consent, and that would be our position here. I
9 was not posing that as a question that needed a
10 determination.

11 JUDGE LANE: Okay. So you were saying,
12 assuming that this is true, and for the purposes of the
13 motion, that was your position, then?

14 MR. WIDGER: Right, that where a change of
15 supplier is not justified by some allowable reason other
16 than rates, we may nevertheless still consent to a change
17 of suppliers, and that that's within the Commission's
18 authority to allow such a change. And it takes that --
19 takes that order of the Commission in order to qualify the
20 Sikeston utility to serve.

21 JUDGE LANE: Well, let's talk about that
22 statute for a minute, Section 394.315.2.

23 MR. ROBISON: Judge, this is Jim Robison.
24 There's another issue, and I apologize for maybe not being
25 as up to speed as the other attorneys who probably do more

1 pure utility work, but in a case called Union Electric v.
2 City of Jackson, it's a 1990 district decision, and
3 somebody may be able to tell me immediately that that case
4 has been overruled. I didn't find any indication that it
5 had been overruled. And it resolved an issue like this on
6 a jurisdictional question.

7 Jackson -- the city annexed two residents'
8 houses, and then Union Electric obtained an injunction to
9 preclude the City of Jackson from supplying utility
10 services to those two cities, and the trial court was
11 reversed in that regard. And as I read the Court of
12 Appeals opinion, it's saying that Public Service
13 Commission approval before a change of suppliers in an
14 annexation situation is not required.

15 MR. WIDGER: Jim, this is Rod. Yeah, that
16 was really overcome by subsequent legislation, because at
17 that time it was not clear that the cities were under the
18 anti-flipflop laws. So there was a legislative change
19 which came after that case and because of that case.

20 MR. ROBISON: Do you know the citation of
21 that statute?

22 MR. WIDGER: I don't have that in front of
23 me, but it -- and I'm not at my office.

24 MR. ROBISON: I mean, I -- I assume there
25 was probably an answer, but I haven't found it.

1 MR. WIDGER: Yeah. No. The state of the
2 law has changed such that the cities were not exempt from
3 the laws that kept a supplier from taking the services of
4 another supplier.

5 MR. ROBISON: Okay.

6 JUDGE LANE: Well, and that's kind of what
7 I wanted to get at next, Section 394.315.2. One of the
8 positions of the parties, it seems to me upon reading that
9 statute that it's designed to protect not only the
10 interests of the general public but also the interests of
11 the stakeholders, that is in not causing a utility to lose
12 a customer without the proper finding being made or
13 consent. Would everyone agree with that?

14 MR. MILLS: Yes.

15 MR. WIDGER: Yeah. That's the history of
16 that. It came out of the mid '80s when customers could
17 change for no reason at all.

18 JUDGE LANE: Any other thoughts on that?

19 MR. ROBISON: Actually, what the Court of
20 Appeals in that City of Jackson case said was that it was
21 designed to prevent competition.

22 MR. BAKER: I'm not sure it allows change
23 by consent, is my only problem with that statement.

24 JUDGE LANE: Okay. Nevertheless, we do
25 have a situation where all the key stakeholders who could

1 be economically affected by this, who are Mr. Marshall,
2 SEMO and BMU, they are all in agreement that a change in
3 his electric supplier from SEMO to BMU should be granted,
4 correct?

5 MR. ROBISON: Correct.

6 MR. WIDGER: Yes.

7 JUDGE LANE: All right. Now, Mr. Mills,
8 I'd like to ask you, as the Public Counsel whose statutory
9 mandate is to represent and protect the interests of the
10 public in any proceeding before the Commission, at this
11 point you have not -- your office has not expressed any
12 opposition to the relief requested by three of the parties
13 in this matter, and you've had -- been given opportunities
14 to do so. What do you have -- are you taking an official
15 position here?

16 MR. MILLS: I am, and I appreciate the
17 opportunity this morning to give you that position. From
18 the outside, from a purely pragmatic and practical point
19 of view, given the fact that the customer wants this
20 change and neither of the suppliers object to it, to me it
21 would be bureaucratic obstructionist at its worst to find
22 some way to try and stop that.

23 I think we ought to be trying to find a way
24 to make that change happen given the position of the
25 suppliers and the customer. And I think there's a couple

1 of ways you can do it. One, you can read 394.315 in the
2 way that you just said, which is that it's designed to
3 protect the right of a utility or a municipal or a
4 cooperative to continue to serve a customer that it's been
5 serving for years. I don't see anything in the statute
6 that prevents a utility from waiving that right and
7 voluntarily giving up a customer, which is the situation
8 that we have here.

9 Another way around it would be simply to
10 find that because the customer and the affected utilities
11 all consent to this change, that by definition it's in the
12 public interest. There is no interest that will be
13 harmed, and the interests of the customer and the
14 interests of the utilities are served, so it is almost by
15 definition in the public interest.

16 And I think the Commission could approach
17 it either of those ways and give Mr. Marshall the relief
18 he seeks.

19 JUDGE LANE: Thank you very much for
20 explaining that, and that helps a lot, I mean, as far as
21 possible approaches to this. And I've been thinking about
22 it, too, even without briefing and so forth.

23 Let me throw a couple of other things into
24 the mix. Commission Rule 4 CSR 240-3.140(1)(h) provides
25 that verified statements from the current and requested

1 electrical suppliers indicating their mutual agreement to
2 a change in a given customer's electrical supplier are
3 required to be filed along with the application whenever
4 such agreement exists.

5 Doesn't that indicate that the mere fact
6 that the current and requested providers, the fact that
7 they mutually agree to a change in supplier is a relevant
8 factor in the public interest equation since it's required
9 to be filed? Anybody have any thoughts on that? I mean,
10 why would you have such a filing requirement if it was
11 totally irrelevant?

12 MR. MILLS: I think it is relevant, and I
13 think it indicates just exactly what you said it
14 indicates.

15 MR. ROBISON: I don't see any problem with
16 that logic.

17 MR. WIDGER: The effect of that is it
18 becomes a mini territorial agreement.

19 MR. BAKER: I think that's relevant.

20 JUDGE LANE: All right. And to follow up
21 on another point, I think made by Mr. Mills, and again,
22 this is something that I've been thinking about, SEMO's
23 motion expressly stated that the reason it withdrew its
24 objections, resolved its differences with Mr. Marshall
25 through mutual agreement and now actually supports his

1 application was to relieve the parties of the burdens of
2 additional participation in this proceeding, including an
3 evidentiary hearing, matters like that.

4 My question to you is, doesn't public
5 policy favor the resolution of controversies in uncertain
6 legal and factual issues through compromise and settlement
7 rather than litigation? Couldn't that be a public
8 interest factor in and of itself, the fact that by
9 granting the application you avoid the wasted time and
10 expense of litigating a matter over which all the parties
11 are essentially in agreement?

12 MR. ROBISON: I certainly agree with that.

13 MR. MILLS: Me, too.

14 JUDGE LANE: Okay. One other thing that I
15 wanted to -- that I've been thinking about, and again, I'm
16 just mentioning these because I'm going to be leaving here
17 pretty soon. I'm just throwing these out to plant seeds
18 for discussion.

19 One additional thing as I was thinking
20 about this is, suppose that SEMO and the Board of
21 Municipal Utilities had decided to resolve this case by
22 means of a territorial agreement. Now, Staff indicated
23 that was a possibility. Statute permits it. Yet there is
24 no territorial agreement in place that was submitted to
25 the Commission for approval.

1 Assuming for a moment they had decided to
2 resolve the matter in that way rather than by -- rather
3 than by the consent of SEMO, would Staff be opposing this?
4 Would Staff be saying that such a territorial agreement
5 would be against the public interest, would not be in the
6 pubic interest?

7 MR. BAKER: I think Staff would have to
8 look at the territorial agreement and at the terms therein
9 and decide that. But if it met statutory requirements, I
10 don't see -- I don't see any reason why we would oppose
11 that.

12 JUDGE LANE: Okay. Thank you very much for
13 expressing that. I wanted to say, I have reviewed some
14 recent pleadings from Staff in territorial agreement
15 cases, and they are cases in which they were attempting to
16 prevent a duplication of facilities from occurring in the
17 first place by means of a territorial agreement, and
18 here's what they said: That establishing exclusive
19 service areas would assist emergency responders in
20 identifying which electric service provider to notify if
21 any emergency event involves electric facilities.

22 Now, given that Mr. Marshall has two
23 electric suppliers on his same piece of property for
24 structures that are not that far apart, isn't that a
25 possible -- isn't that a possible reason that it would be

1 in the public interest to approve this so that emergency
2 responders would know who's supplying the power to what
3 building on the same piece of property?

4 MR. BAKER: Yes.

5 MR. MILLS: Sure.

6 JUDGE LANE: I mean, that strikes me as
7 another possible reason that it might be in the public
8 interest to approve this, because it just seems to me that
9 you -- this is a somewhat unique situation where the city
10 just grew up around him. In his petition he states that
11 he's surrounded on all four sides by property owners who
12 are being served by the City, and he's literally an island
13 out there with one line running in to his property.

14 And I could see -- it seems logical to me,
15 there's no record evidence of this, but it seems logical
16 to me that emergency responders might have a problem
17 there. So again, I just want to throw that out as a
18 possibility.

19 Also, I would think that efficient
20 engineering design, if you were to redo this from ground
21 zero, you would not -- I don't think you would have this
22 where you have one guy on an island with a line running
23 out to him and he's surrounded by suppliers, you know,
24 customers of another supplier.

25 MR. WIDGER: Well, that happens more than

1 you might think. It's not real common there at Sikeston.
2 In fact, I don't believe that SEMO has any other customer
3 inside the city limits of Sikeston, except maybe a
4 billboard sign or something.

5 JUDGE LANE: Is that right, Mr. Widger?

6 MR. WIDGER: That was me speaking.

7 JUDGE LANE: I'm sorry. Is that correct,
8 to the best of your knowledge, then, that in Sikeston this
9 isn't an issue, but it could be an issue in other towns?

10 MR. WIDGER: Yes.

11 MR. ROBISON: Judge, we're not aware of any
12 SEMO services within the city limits. We have had long
13 years of experience, though, with dual systems because
14 Union Electric served a portion of Sikeston for many
15 years, and it was a nightmare, a problem with duplicate
16 poles, duplicate wires. And finally about 1991 or
17 thereabouts Union Electric just came and said, make us an
18 offer.

19 MR. McSPADDEN: We've been involved with
20 two or three territorial agreements with Ameren or Union
21 Electric since then, Judge, and you know, we -- the only
22 reason that we didn't contact SEMO initially when we
23 annexed this area is that -- is my fault because I thought
24 actually that UE served that whole area. And we did
25 initiate the process with UE, but they were caught up in

1 some other territorial swaps with the coops statewide at
2 that time. So we never have brought that to a formal
3 petition, you know, for territorial change.

4 But UE does serve several other customers
5 of that -- of Highway 61 north of town. So I was assuming
6 that Mr. Marshall was a UE customer. Never asked him, but
7 I just assumed that he was, and he was included in the
8 area that I had petitioned them to consider a territorial
9 change with. If I had known that SEMO was -- had that
10 line running in from east to his property, they would have
11 been included in that original petition that -- original
12 request I should say with Ameren.

13 MR. WIDGER: This is Widger again. There's
14 no harm from that kind of thing because the annexation
15 sets the legal rights of the parties. The fact is that
16 right now basically SEMO has an isolated service, and SEMO
17 has no way of making its service in that area more
18 profitable or efficient because we cannot add new
19 customers in the annexed territory.

20 JUDGE LANE: That's correct, yeah, by law.
21 Okay. That's interesting to know kind of some of the
22 history there because I was wondering. If you remember,
23 in some of the earlier Commission orders, I asked Staff to
24 specifically look into that issue of annexation because
25 that was one of the things that could have been done at

1 the time of the annexation back in '99, and it wasn't
2 done, and that helps explain what happened there. I kind
3 of wondered about that.

4 MR. MILLS: Can the person speaking for BMU
5 identify themselves for the record?

6 MR. McSPADDEN: Yes. Wayne McSpadden. I'm
7 the operations manager for BMU.

8 THE REPORTER: Could you spell your name,
9 please.

10 MR. McSPADDEN: My last name is M-c-S, as
11 in Sam, p-a-d-d-e-n.

12 MR. BAKER: Your Honor, I'd like to clarify
13 Staff's position, if I could. We are not trying to oppose
14 this or obstruct this change of supplier. Our only
15 concern is that the statutory requirements are met. And
16 the points you've brought up as being in the public
17 interest, you know, we're just concerned that we get those
18 facts in the record that we can give our recommendation,
19 you know, based on facts that the Commission can decide
20 this.

21 We're not trying to -- you know, I don't
22 think we would oppose a change of supplier. We just want
23 to make sure that the statutory requirements are met for
24 this.

25 JUDGE LANE: Yeah, and I understand that,

1 and thanks for explaining that. I don't -- it didn't
2 appear to me that you were being obstructionist just to be
3 a stick in the mud, just wanting to make sure the
4 statutory requirement's met. And there's a number of ways
5 that that can be done, either by introduction of a
6 verified pleading containing, you know, something on some
7 of the matters that we've discussed today. Could possibly
8 be determined by a judgment on the pleadings after that
9 had been done since we would be dealing strictly with a
10 question of law, which is based on the undisputed facts
11 before the Commission, has the public interest standard
12 been met? That's a legal question, and particularly
13 amenable to resolution on the pleadings.

14 Or you could read the statute to, as
15 Mr. Mills suggested and as I suggested just before that,
16 read the statute that its designed to protect the right of
17 a utility to keep a customer without having them being
18 picked off by somebody else, so that you're looking at the
19 stakeholders involved, their economic interest as well as
20 the interests of the public at large. So that's one way
21 to do it.

22 And then, of course, maybe to find that, as
23 I suggested, the mere fact that they are all in agreement,
24 the current supplier, the requested supplier, the
25 customer, and OPC for that matter, whose job it is to

1 represent the public interest, they're all in agreement
2 that this ought to be done. Nobody is opposing that. And
3 so by definition it would be in the public interest.

4 MR. WIDGER: This is Widger again. I agree
5 with what Lewis said particularly when he came to his
6 first option there. My sense on this is that -- and I'm
7 almost looking at principles and precedent. I'm looking
8 at what will the next case look like. What I want out of
9 this is what the Staff did in terms of upholding a high
10 standard for a mandated change of supplier, you've got to
11 find that our service was terribly lousy and we couldn't
12 improve it, but I am in favor of the low standard for
13 allowing Commission approval where there's consent.

14 JUDGE LANE: Okay. And I think that's an
15 interesting perspective because typically these things are
16 contested, and, you know, one utility may be dragged
17 kicking and screaming, especially if it involves multiple
18 customers. Here, of course, we've only got one. So a
19 lower standard for public interest you're suggesting might
20 be in order when there's consent.

21 In other words, basically all you'd have to
22 do is show that it's not against the public interest, plus
23 just some minor -- you know, some minor benefit to get you
24 over the statutory threshold. Is that -- does that
25 comport with your -- with your position?

1 MR. WIDGER: Yeah. I think that, as Lewis
2 expressed, the fact that three parties are in agreement,
3 we essentially are the public interest for this particular
4 case.

5 JUDGE LANE: Well, you're certainly part of
6 the public.

7 MR. ROBISON: Judge, this is Jim Robison
8 again. I can appreciate the concern about establishing
9 precedence. I don't think that's a problem in this case
10 because Mr. Marshall's house, as far as I know, is
11 absolutely the only residential structure in that entire
12 territory. It's essentially farmland around him.

13 MR. WIDGER: Jim, my sense of precedent was
14 not even applying to SEMO nor Sikeston at all, but other
15 places around the state.

16 JUDGE LANE: If you would, when you jump
17 in, if you would just identify yourself. Your voices are
18 coming across very similar on the speaker phone here.

19 Mr. Marshall, have you got anything to say
20 about any of this?

21 MR. MARSHALL: The only thing I want to say
22 is, as far as the service of SEMO, I have absolutely no
23 criticism. They've given me excellent service for all
24 these years. The only reason that I have both services
25 here on my place here where I live, and I'm a citizen of

1 Sikeston now since I've been annexed in, and all I would
2 like to have is the same amenities available to me as the
3 other people in Sikeston do.

4 JUDGE LANE. Are you suggesting --

5 MR. MARSHALL: As far as SEMO, though,
6 they've been excellent providers for me.

7 JUDGE LANE: Are you suggesting that it's
8 in the public interest for someone who has become a city
9 taxpayer recently, is paying taxes, to be able to take
10 advantage of a municipally owned and operated utility's
11 services?

12 MR. MARSHALL: Yes, sir,

13 JUDGE LANE: As a matter of accessibility
14 to local government, local control?

15 MR. MARSHALL: Right. Yeah.

16 JUDGE LANE: All right. Just wanted to
17 throw that out as well. Listen, I think I have -- I think
18 I have brought up some points that you can discuss
19 further. I'm going to be leaving here pretty soon or
20 right away. We're going -- we'll go off the record, but
21 please feel free to discuss this among yourselves.

22 If there are additional filings that you
23 feel are necessary to be made before the Commission could
24 adjudicate this matter on the verified pleadings and the
25 other pleadings in this case, please feel free to do that,

1 and we'll just sit tight. I will not order a procedural
2 schedule at this time because I think there's possibly
3 some more work that can be done here before you can get to
4 that point.

5 So has anybody else got any questions of
6 me?

7 MR. WIDGER: Judge, this is Widger again.
8 A question regarding what you just said. I mean, we're --
9 it's kind of awkward to spend money trying to give up a
10 customer. Would it be sufficient if we simply filed -- I
11 mean, if the parties each filed their last and final
12 statement of position and let the Commission decide this
13 thing? I mean, let them decide these issues.

14 I can state again what I just said, you
15 know, that we believe that where there's consent and no
16 obvious detriment to the public, the Commission should be
17 open and friendly to this kind of action, but I can put
18 that in writing.

19 MR. MILLS: How about a stipulation of
20 facts, could that get us somewhere, if we all agree that
21 there are -- that this reason, that reason, the other
22 reason are why this transfer is in the public interest?
23 Should be something we can put together in a couple of
24 pages and not take a whole lot of time over. Would that
25 aid the Commission in coming to a resolution?

1 JUDGE LANE: Well, I would think so, given
2 that one of the concerns that was expressed, that some of
3 the things we've been talking here today may make logical
4 sense but there's no record evidence of them. So I think
5 that would be very helpful to do that if everyone's in
6 agreement or --

7 MR. ROBISON: This is Jim Robison again. I
8 would certainly agree to that.

9 JUDGE LANE: Okay. Great. That's great.
10 I'm going to go ahead and take us off the record now.
11 Thank you very much for appearing and sharing your views.
12 This has been very helpful to me. And again, I appreciate
13 you coming. And Ms. Feddersen, thank you very much for
14 being here today. And unless there's anything further,
15 we're going to go off the record.

16 WHEREUPON, the recorded portion of the
17 prehearing conference was concluded.

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, and Notary Public within and for the State of
8 Missouri, do hereby certify that I was personally present
9 at the proceedings had in the above-entitled cause at the
10 time and place set forth in the caption sheet thereof;
11 that I then and there took down in Stenotype the
12 proceedings had; and that the foregoing is a full, true
13 and correct transcript of such Stenotype notes so made at
14 such time and place.

15 Given at my office in the City of
16 Jefferson, County of Cole, State of Missouri.

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
19 My commission expires March 28, 2009.
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