

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Sullivan)
Development Properties, LLC for Change of)
Electric Supplier)

File No. EO-2024-0251

STAFF’S STATUS REPORT AND RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), through counsel, and provides the Commission with its status report and recommendation for this file.

Introduction

On March 18, 2024,¹ Sullivan Development Properties, LLC (“Sullivan”) filed an Application for Change of Electric Service Provider (the “Application”). The Application requested an order authorizing Sullivan to change suppliers of electric services from Union Electric Company, d/b/a Ameren Missouri (“Ameren”) to Farmington, Missouri City Light and Water (“Farmington”). The subject property is located at 259 Kenwood Drive, Farmington, Missouri 63640 (the “Sullivan Property”).

The Application alleged that Ameren could not provide service at a reasonable cost; that Ameren had stated that “it would cost a few hundred thousand dollars to get service to the property,” which, according to the Application, was residential property, and that Farmington has “established service roughly 60 feet away and is willing to serve the location.” The Application further alleged that Sullivan had “[c]ontacted [the] current provider multiple times to establish service and they refused.” It further alleged that the

¹ All date references will be to 2024 unless otherwise indicated.

“current provider refuses to give permission to applicant to allow Farmington City Light and Water to provide service.”

After the Commission issued a Notice of Deficiency and Sullivan filed an Amended Application on March 20, on April 3 the Commission issued its Order Directing Notice, Adding Parties, and Directing Responses to Application (Order). This Order added Ameren and Farmington as parties, directed them each to file responses to the Application no later than May 3, and ordered the Staff to file a recommendation or request for extension of time to file a recommendation no later than May 23.

Ameren and Farmington both filed responses to the Application on May 3. Farmington’s response stated the following:

- The Sullivan property and structure in question were outside the city limits of Farmington;
- It was Farmington’s belief and understanding that the Sullivan structure had never received electrical service from any electrical service provider;
- Farmington was willing and able to provide electric service to Sullivan provided Sullivan annexed its property to the City of Farmington;
- Farmington was unable to serve the Sullivan property because it is located outside the city limits of Farmington;
- Farmington was willing and able to provide service to the Sullivan property “only upon Sullivan annexing its property into the city limits of Farmington, Missouri”;
- As of Farmington’s pleading, Sullivan had not requested annexation.

Farmington prayed that the Commission deny Sullivan's application, or, alternatively, stay the Application until such time as Sullivan completed annexation of the property into the city limits of Farmington.

Ameren's response stated the following:

- The applicant's property falls within its service territory, granted by a Commission-issued Certificate of Convenience and Necessity;
- Ameren stated that it "understood" that the Sullivan property was not within the city limits of Farmington;
- Extending Ameren's electrical service to the Sullivan property would necessitate a primary line extension and extensive tree trimming at "some cost" to Applicant";
- Ameren denied that the Sullivan property was "currently residential" but acknowledged that it had been in the past;
- Ameren "encouraged Applicant to speak to Farmington City Light and Water regarding obtaining service";
- Ameren stated that Farmington was "currently without authority to provide electric service" to the Sullivan property and acknowledged that Ameren was "currently obligated to serve" the Sullivan property;
- Ameren stated that it "would change its position, however, if Farmington were to lawfully annex" the Sullivan property.

Ameren asked the Commission to deny the application.

The Staff has promulgated data requests ("DRs") concerning the costs for Farmington and for Ameren to service the subject property. The due dates for responses

for some DRs fall after the May 23 deadline for Staff recommendation. Staff has also reached out to counsel and inquired of the status of matters.

Section 386.800.1, RSMo, specifies when a municipally owned electric utility may provide electricity to any structure located outside of the municipality's corporate boundaries:

No municipally owned electric utility may provide electric energy at retail to any structure located outside the municipality's corporate boundaries after July 11, 1991, unless:

- (1) The structure was lawfully receiving permanent service from the municipally owned electric utility prior to July 11, 1991;
- (2) The service is provided pursuant to an approved territorial agreement under Section 394.312;
- (3) The service is provided pursuant to lawful municipal annexation and subject to the provisions of this section; or
- (4) The structure is located in an area which was previously served by an electric corporation regulated under this chapter, and chapter 393, and the electrical corporation's authorized service territory was contiguous to or inclusive of the municipality's previous corporate boundaries, and the electric corporation's ownership or operating rights within the area were acquired in total by the municipally owned electrical system prior to July 11, 1991.

Discussion and Recommendation

Based upon its investigation, review of the pleadings, and review of the law, as things now stand Staff does not see a pathway for the Commission to grant the Application. Given allegations of material facts that do not appear to be in actual genuine dispute, the statute appears to prohibit such an Order. Facts material to the statute will have to change for Sullivan to get service from Farmington. Staff, however, has been in communication with the parties and finds that quite clearly there is no disagreement that

Sullivan should receive service at a reasonable cost. It is Staff's understanding that annexation is under ongoing discussion.

As stated above, Staff has outstanding DRs that require responses. More DRs may be required. Given the status of discovery and discussions between the parties, it is Staff's recommendation that the Commission order Sullivan, Ameren, and Farmington to confer and file a status report with the Commission. Consistent with that recommendation, it is also Staff's request that the Commission suspend its Order requiring Staff to state when it expects to be able to file a Staff recommendation until after such time as the parties have filed their status report.

WHEREFORE, Staff prays the Commission to accept this status report and recommendation as compliant with the Commission's Orders; to Order the parties to confer and file a status report or other appropriate pleadings by a date to be determined by the Commission; and otherwise to suspend its Orders requiring Staff to file a recommendation.

Respectively Submitted,

/s/ Paul T. Graham

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 23rd day of May, 2024.

/s/ Paul T. Graham