

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

PROCEDURAL CONFERENCE

In the Matter of the Application)
of Sullivan Development)
Properties LLC for Change) File No. EO-2024-0251
of Electric Supplier)

WEDNESDAY, JULY 10, 2024
2:00 P.M.

Jefferson City, MO 65101
via WebEx

VOLUME 1

KAROLIN WALKER, Presiding
REGULATORY LAW JUDGE

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TRANSCRIBED BY: MELISSA EICKEN

1 LAW JUDGE WALKER: Okay. It's
2 2:00 o'clock. I'm going to go ahead and start the
3 prehearing conference on the record. It's July 10th,
4 2024. It's 2:00 o'clock. This is a procedural
5 conference for EO-2024-0251 in the matter of the
6 application of Sullivan Development Properties, LLC,
7 for a change of electric supplier. My name is Karolin
8 Walker, and I am the regulatory law judge in this
9 matter, and we're going to start by having attorneys
10 give their entries of appearance. The complainant's
11 attorneys, if you're here, can you introduce
12 yourselves? Okay. Are there any attorneys for
13 Ameren? How about the City of Farmington?

14 MR. REID: Scott Reid for the City of
15 Farmington.

16 LAW JUDGE WALKER: Okay. Staff counsel.

17 MR. GRAHAM: Paul Graham for the staff of
18 the Missouri Public Service Commission.

19 LAW JUDGE WALKER: Okay. Anyone I missed?
20 All right. According to 20 CSR 4240-2090 Section 6,
21 we rule on procedural and substantive issues. This
22 procedural conference is to just have a discussion to
23 figure out where we are in this case. We're not here
24 to address outside lawsuits of any kind or federal
25 agencies or issues and any issues that aren't relevant

1 to the alleged complaint. So far we don't have a
2 hearing date. And I don't think we have any pending
3 motions. Does anybody have any questions before we
4 start?

5 Okay. The reason I asked for the
6 procedural conference is because now the opinions are
7 in from the City of Farmington, from staff, and from
8 Ameren, and they all agree, and looking at the case, I
9 see that there could be a judgment as a matter of law.
10 I'm kind of interested to know if anyone has
11 considered filing a motion for summary determination,
12 so. I -- I just want to let the parties -- I would
13 like you to tell me what your position is, where you
14 stand right now.

15 MR. REID: I can go ahead and speak for the
16 City of Farmington. As we've indicated in our
17 response, the City of Farmington is willing to serve
18 Mr. Sullivan if and when he files an appropriate and
19 annexation petition and that gets approved by the City
20 of Farmington. The city is not interested in pursuing
21 a territorial agreement for this particular customer.
22 And, so that's where we stand on everything is, if --
23 if Mr. Sullivan would annex into the City of
24 Farmington, we'll be happy to provide service to them
25 and the city is not interested in a territorial

1 agreement.

2 LAW JUDGE WALKER: Okay. Thank you.

3 MR. REID: Thanks.

4 LAW JUDGE WALKER: You're -- let's see.

5 You're muted, Mr. --

6 MR. HOLTHAUS: Can you hear me now?

7 LAW JUDGE WALKER: Yes.

8 MR. HOLTHAUS: Sorry about that.

9 LAW JUDGE WALKER: Go ahead.

10 MR. HOLTHAUS: Ameren's position is much
11 the same as the city's. We believe whether or not the
12 city can serve applicant hinges on whether they go
13 through the application process with the City of
14 Farmington. If they do, then Ameren believes there's
15 no question the City of Farmington has the right to
16 serve. If they don't, then we believe the applicant
17 has to take service from Ameren.

18 LAW JUDGE WALKER: Okay. Is there counsel
19 for the complainant on this call?

20 MR. GRAHAM: Your Honor, is that Kevin
21 Kellogg?

22 LAW JUDGE WALKER: I think so.

23 MR. GRAHAM: Can you hear me?

24 LAW JUDGE WALKER: Yep.

25 MR. GRAHAM: Am I muted? Can you hear me?

1 This is Paul Graham.

2 LAW JUDGE WALKER: No. I can hear you.

3 MR. GRAHAM: I'm confused. Is Mr. Kellogg,
4 did he just speak or is he not here? Is he the
5 representative for the -- for the complainant?

6 LAW JUDGE WALKER: I don't see him, and he
7 is listed on the pleadings as the attorney --

8 MR. GRAHAM: Well --

9 LAW JUDGE WALKER: -- for -- he's listed
10 himself as the attorney for the defendant. I think he
11 means Sullivan Development Properties.

12 MR. GRAHAM: Okay. I -- I ask because he
13 sent around an e-mail yesterday. I have it in front
14 of me, and I -- I decided I wouldn't give him legal
15 advice, but I thought that he would be probably
16 contacting you. He says in this e-mail that I have in
17 front of me that he's stuck in a trial today.

18 LAW JUDGE WALKER: Okay.

19 MR. GRAHAM: I guess I can forward this --
20 I guess I can -- the proper thing for me to do would
21 be rather than interpret it or read it -- or maybe
22 forward it, but the -- and you tell me what you want
23 to do in that regard, but. The long and short of it
24 is, is he reports the same thing you just heard and
25 that is that he's continuing to work on the question

1 of an annexation. I -- and, so I guess would it be --
2 any further than that, I would not want to say, but I
3 did want to speak up since it appeared that he had
4 just without ado had just not shown up to this
5 hearing. He did alert the parties yesterday, and he,
6 perhaps, thought that was sufficient that he would --
7 thought he was going to have a trial run over today
8 that he didn't expect to run over before. So there's
9 that.

10 I can also tell you, Your Honor, that
11 speaking for the staff of the commission, I do believe
12 I understand why you might think that a -- or why the
13 commission might think that this would be an
14 appropriate matter for a motion for summary
15 determination. I don't know that there are any
16 substantial issues of fact here that -- that you would
17 need to work through. I would only hesitate to go
18 down that route because -- well, it -- I guess it
19 might be the best thing for economy's purpose for the
20 commission, but it would be a lot of attorney time
21 that the various parties would have to put into that
22 exercise. And maybe -- maybe it's just a question of
23 where they're going to put their time, maybe into a
24 hearing or whether into a motion, but. I -- those
25 were my observations on what I took to be your

1 question which was whether this thing was ripe for
2 summary determination. It probably is.

3 LAW JUDGE WALKER: Okay. I -- I can't see
4 keeping this case before the commission. It's either
5 going to have to go to hearing or if somebody files a
6 motion for summary determination, and you know, then
7 it would be disposed that way. I'm not inclined to
8 make the staff file a report and a notice every month
9 and every (inaudible) while the annexation process
10 continues.

11 MR. GRAHAM: Well, Your Honor, this is Paul
12 Graham again. If I -- if I might make a suggestion on
13 that.

14 LAW JUDGE WALKER: Feel free.

15 MR. GRAHAM: I heard you say that you
16 hesitated asking staff to file a report every month or
17 so -- and I enthusiastically agree with you, but it's
18 not the staff's case. And -- and you might consider
19 having the parties, not the staff, but the parties
20 file regular reports on this since what seems to be up
21 in the air is the question of the annexation at this
22 point, so.

23 LAW JUDGE WALKER: Let me ask counsel for
24 the City of Farmington. How long does the annexation
25 take before -- after it's been filed generally?

1 MR. REID: I would say -- maybe just to be
2 kind of generous, maybe two months, but to my
3 knowledge, nothing that they have not filed. It was
4 my understanding that -- and I don't want to speak out
5 of hand or -- or misrepresent Mr. Kellogg's position,
6 but it is my understanding they were hoping that they
7 could get some kind of ruling that the city has to
8 provide service or that Ameren and the city have to
9 enter into some kind of territorial agreement to serve
10 Mr. Sullivan outside the city limits, and that was
11 maybe why they were not pursuing the annexation is
12 that they were hoping that they wouldn't have to do
13 that to get service from the City of Farmington. I
14 don't see any other way of doing it.

15 LAW JUDGE WALKER: Okay. Yeah. I think
16 it -- maybe Mr. Kellogg has a different opinion of the
17 law than everyone on this phone call. It's a shame he
18 didn't let me know he was going to show up.

19 MR. HOLTHAUS: Yeah. The e-mail you
20 received from Mr. Kellogg is news to me. I don't
21 think I -- Ameren received that.

22 LAW JUDGE WALKER: I -- I didn't receive
23 anything from him either, so.

24 All right. Well, I'm not going to take up
25 everyone's time. What I'm hearing is that everyone's

1 on the same page for the recommendation, and the
2 complainant's attorney may not be on the same page,
3 so. I'm not sure how to get a read on that. But I
4 think we're going to adjourn this call, and then find
5 out where Mr. Kellogg is and when he would might be
6 available to join us. If that's all right with anyone
7 else, does anyone have any questions or --

8 MR. REID: No.

9 LAW JUDGE WALKER: And if I receive a
10 motion for summary determination in the meantime, then
11 I would certainly rule on that motion.

12 MR. HOLTHAUS: Understood.

13 LAW JUDGE WALKER: All right. Thank you
14 very much.

15 MR. HOLTHAUS: Thanks.

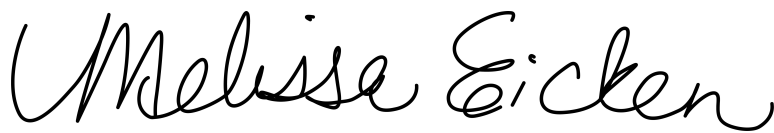
16 MR. GRAHAM: Thank you, Your Honor.

17 (Audio ended.)
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I, Melissa J. Eicken, Certified Court Reporter of Missouri, Certified Shorthand Reporter of Illinois and Registered Professional Reporter, do hereby certify that I was asked to prepare a transcript of proceedings had in the above-mentioned case, which proceedings were held with no court reporter present utilizing an open microphone system of preserving the record.

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Melissa J. Eicken, CCR, CSR, RPR

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