

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

In the Matter of the application of	)	
Nickie Hertzog for a Change of Electric	)	File No. EO-2012-0343
Supplier.	)	

**Osage Valley Electric Cooperative Association  
Partial Opposition to Staff Motion for Extension of Time**

Osage Valley Electric Cooperative Association submits the following Partial Opposition to Staff’s August 7, 2012 Status Report and Motion for Extension for Additional Time. Osage Valley has no objection to an extension if Staff has a legitimate need for additional time to complete its factual investigation. Osage Valley does object to Staff being granted an extension in order to have a decision in a separate case, to which Osage Valley is not a party, in order to formulate and file its recommendation in this case. Staff has not provided any reasoning supporting such a request, and it should be denied. In support, Osage Valley states as follows:

1. On August 7, 2012 Staff filed a Status Report and Motion for Extension for Additional Time.
2. In its Status Report and Motion for Extension Staff stated it needed additional time to continue its investigation of this case. Staff also stated that the Commission’s decision in the Application of Thomas Chaney for Change of Electric Supplier, Case No. EO-2011-0391 (the “*Chaney*” case), is “pertinent” to Staff’s position and recommendation in this case. Staff failed to provide any facts or reasoning supporting this proposition.

3. This case was initiated on April 13, 2012. The Order Directing Notice originally called for a staff recommendation by May 29, 2012.

4. On May 23, 2012 Staff requested its first extension to file a staff recommendation until it had an opportunity to review Applicant's response to data requests, and Osage Valley's response to the Application. Osage Valley was contacted by Staff, and consented to the first extension request, which the Commission granted. Staff was given until July 30 to file its staff recommendation.

5. On July 30, 2012 Staff requested its second extension to file a staff recommendation because it needed additional time to contact Applicant. Staff stated it anticipated contacting Applicant, and filing its response during the week of August 6. Osage Valley was contacted by Staff, and consented to the second extension request, which the Commission granted. Staff was given until August 7 in which to contact Applicant and file its Staff recommendation.

6. Staff's August 7, 2012 3<sup>rd</sup> extension request asks for an extension until August 27, 2012. Osage Valley was not contacted by Staff, was not given any reason by Staff, and had no prior opportunity to consent thereto.

7. Although the 3<sup>rd</sup> extension request stated Staff needed additional time to continue its investigation, Staff failed to state any reason why it needed additional time to complete its factual investigation. Specifically Staff failed to state whether it had successfully contacted the Applicant, as the Commission's July 31 Order gave Staff until August 7 in which to do.

8. Staff's 3<sup>rd</sup> extension request states that the *Chaney* case has "similar" issues to this case, that the Commission's decision in *Chaney* is "pertinent" to Staff's

position and recommendation in the instant case, and Staff needs additional time to consider any Commission decision in the *Chaney* case. Osage Valley respectfully suggests that Staff's request is inappropriate for two reasons: First, Staff is responsible to provide the Commission a Staff Recommendation based upon the specific facts of this case; Second, it appears to Osage Valley that the Staff has made a determination that the result in this case will be pre-determined by any decision rendered by the Commission in *Chaney*.

9. In cursorily reviewing the *Chaney* proceeding, it appears that Staff initially filed a recommendation on July 20, 2011 to deny the *Chaney* change of supplier request. It also appears from subsequent summary determination filings, as well as directed list of facts and law filings made in *Chaney*, that *Chaney* involves a different set of facts from those presented here.

10. *Chaney* has been pending since June of 2011. This case has been pending since April of 2012. Staff has had ample time to have informed the Commission and parties to this case that this case should be controlled by any decision rendered in *Chaney*. There have been no motions to join or consolidate any aspect of either case. Had the appropriate filing or motion been made, the parties would have had a meaningful opportunity to respond. Instead Staff has simply assimilated its unilateral conclusion that the cases are similar into its 3<sup>rd</sup> extension request. It is not within Staff's purview to decide its staff recommendation can wait until *Chaney* is decided. It is not within Staff's purview to decide the decision in this proceeding should await a decision in *Chaney*.

11. Osage Valley has been aware that *Chaney* was pending. Osage Valley has not agreed or consented to any portion or aspect of this proceeding being delayed for any

reason, that any decision herein should await any decision in *Chaney*, or would be controlled by any decision in *Chaney*.

Wherefore, Osage Valley Electric Cooperative Association opposes the request for extension on the grounds that Staff's Recommendation should await a decision in *Chaney*, or that resolution of this case should await a decision in *Chaney*.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed this 8<sup>th</sup> day of August, 2012, to PSC Staff, the Office of the Public Counsel, and Roger Steiner.

/s/Craig S. Johnson  
Craig S. Johnson