

**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,)
and Three Rivers Electric Cooperative,) File No. EO-2020-0315
for an Order Approving a Territorial Agreement)
in Cole and Osage Counties, Missouri.)

**APPLICATION FOR AUTHORITY TO SELL OR TRANSFER ASSETS
AND APPLICATION FOR APPROVAL OF A TERRITORIAL AND EXCHANGE
AGREEMENT**

Under the authority of and in compliance with Section 393.190.1, RSMo, 20 CSR 4240-2.060, and 20 CSR 4240-10.105, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), a Missouri corporation, seeks an order authorizing it to sell, transfer, and otherwise dispose of a portion of the Company's franchise, works, or system to Three Rivers Electric Cooperative, ("TREC" or "Cooperative"). In addition, under the authority of and in accordance with Sections 393.106, 394.312 and 394.315 RSMo, 20 CSR 4240-2.060, 20 CSR 4240-3.130, and 20 CSR 4240-3.140, Ameren Missouri and TREC (collectively, "Applicants") jointly seek an order authorizing the transfer to Ameren Missouri of 270 customers currently receiving retail service from Three Rivers, and the transfer to Three Rivers of 258 customers currently receiving retail service from Ameren Missouri.¹ Additionally, the Applicants jointly seek an order establishing exclusive service territories for the Applicants in portions of the Missouri counties of Cole and Osage. In support of their respective requests, the Applicants state as follows:

INTRODUCTION

1. Applicants have concluded discussions in order to clarify any ambiguous rights and obligations in areas where their service territories border and/or overlap. The Applicants have

¹ These customer counts are based on the time of filing and are subject to change over time.

designated the boundaries of their respective exclusive electric service territories, which will become effective upon the completion of this transaction. These designated boundaries are more particularly described in the Territorial and Exchange Agreement ("Agreement") included as Appendix 1² to this *Application for Authority to Sell or Transfer Assets and Application for Approval of a Territorial and Exchange Agreement* ("Application"). The Agreement is incorporated by reference into this *Application* and made a part hereof for all purposes.

2. Sections 393.190.1, 394.312, 393.106 and 394.315 RSMo. require approval by the Commission of transfers of regulated utility assets, changes of suppliers, and territorial agreements, all of which are contemplated by this pleading. Company and Cooperative together request approval of the *Agreement* as well as the change of suppliers contemplated therein, in accordance with 20 CSR 4240-3.130(1) and 20 CSR 4240-3.140(1), respectively. Additionally, Company requests approval of its request to transfer assets contemplated in the attached *Agreement* pursuant to 20 CSR 4240-10.105. Accordingly, this *Application* is divided into the following sections:

- I. 20 CSR 4240-2.060(1), (A) through (M) (General Application Requirements)
- II. 20 CSR 4240-4.017 (Waiver of 60-Day Notice Requirement)
- III. 20 CSR 4240-3.130(1), (A) through (E) (Service Territory Agreement)
- IV. 20 CSR 4240-3.140(1), (A) through (I) (Change of Supplier)
- V. 20 CSR 4240-10.105(1), (A) through (F) (Transfer of Utility Assets)

The information required by these rules is discussed in more detail below.

² Appendix 1, the Agreement, has attached Exhibits that are lettered rather than numbered (e.g., Exhibit A, Exhibit B, etc.). References to the Agreement will always be made in conjunction with that agreement.

I. 20 CSR 4240-2.060(1), (A) through (M)

Paragraph (A) –Applicants

3. Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, organized and existing under the laws of the State of Missouri, in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103. Company is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. Company is a subsidiary of Ameren Corporation.

4. Cooperative is a corporation organized and existing under the laws of the State of Missouri and has its principal office at 1324 E. Main, Linn, Missouri 65051. Cooperative is organized under Chapter 394 RSMo as a rural electric cooperative corporation engaged in the distribution of electric energy and service to its member/owners in Missouri.

Paragraph (B) – Articles of Incorporation; Paragraph (E) – Fictitious Name; Paragraph (G) – Information Previously Submitted; Paragraph (H) – Character of Business³

5. Company previously submitted to the Commission a certified copy of its Articles of Incorporation (See Case No. EA-87-105). Company previously submitted its Fictitious Name Registrations with the Missouri Secretary of State's Office in File No. EA-2019-0181. A certified copy of Company's Certificate of Corporate Good Standing is attached hereto as Appendix 2. These documents are incorporated by reference and made a part of this *Application* for all purposes.

6. Cooperative previously submitted to the Commission a certified copy of its Articles of Incorporation (See Case No. EO-2004-0217). A certified copy of the Cooperative's Certificate

³ Paragraphs (C), (D), and (F) do not apply to the Applicants.

of Corporate Good Standing is attached hereto as Appendix 3.

Paragraph I – Correspondence and Communication

7. Correspondence and Communication -- Correspondence, communications, orders and decisions in regard to this *Application* should be directed to:

For Company

Tom M. Byrne
Sr. Director Regulatory Affairs
Ameren Missouri
1901 Chouteau Avenue
PO Box 66149, MC 1450
St. Louis, MO 63166-6149
(314)554-2514 (phone)
(314)554-4014 (fax)
tbyrne@ameren.com

For Cooperative

Roger Kloeppe
General Manager
Three Rivers Electric Cooperative
1324 E. Main
Linn, MO 65051
(573)644-9000 (phone)
(573)644-9055 (fax)
rkloeppe@threeriverselectric.com

Paragraph (K) – Actions, Judgments, and Decisions; Paragraph (L) – Fees⁴

8. Company has no final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates that have occurred within three years of the date of this *Application*. By the nature of its business, Company has, from time-to-time, pending actions in state and federal agencies and courts involving customer service or rates. Company has no annual report or assessment fees overdue to this Commission.

9. Cooperative has no final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates that have occurred within three years of the date of this *Application*.

Paragraph (M) – Affidavit

10. Affidavits in support of this *Application* by authorized individuals are included as Appendices 4 and 5 for the Company and the Cooperative, respectively.

⁴ Paragraph (J) does not apply to the Applicants.

II. 20 CSR 4240-4.017

11. Ameren Missouri requests a variance from the 60-day notice requirement of 20 CSR 4240-4.017, which states, in relevant part:

Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case...

Pursuant to 20 CSR 4240-4.017(1)(D), waivers of the 60-day notice requirement may be granted for good cause shown. The rule further provides that good cause includes "a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case..."⁵ As indicated in the Affidavit attached to this *Application*, the Company nor Cooperative has not had communications with the office of the Commission (as defined by 20 CSR 4240-4.015(10)) regarding any substantive issue likely to be in this case during the preceding 150 days. Accordingly, the Company has established good cause for a waiver from the 60-day requirement of 20 CSR 4240-4.017(1). No other public utility will be affected by granting the Company a waiver from this requirement.

III. 20 CSR 4240-3.130(1), (A) through (E)

Paragraph (A) –Agreement and Description of Property

11. As previously noted, the Agreement is included as Appendix 1 to this *Application*. A metes and bounds description of the area to be transferred to the Cooperative is shown in Exhibit B of the Agreement, and is incorporated by reference into this *Application* and made a part hereof for all purposes. A metes and bounds description of the area to be transferred

⁵ Pursuant to the Commission's *Order Waiving 60-Day Notice Requirement* issued on August 1, 2017, in File No. WM-2018-0023, the examples of good cause provided in the rule are not exclusive, and the Commission may find that good cause has been established by other circumstances.

to the Company is shown in Exhibit D of the Agreement, and is incorporated by reference into this *Application* and made a part hereof for all purposes. A depiction of the exclusive service area of Company is part of Exhibit E of the Agreement, and is incorporated by reference into this *Application* and made a part hereof for all purposes. Company will provide an electronic map upon request of the Commission or Commission Staff. The Agreement only establishes electric service territories for the Applicants in Cole and Osage counties; it does not affect, in any way, the rights or service areas of any other electric service provider.

Paragraph (B) – Other Electric Suppliers

12. The Company and Cooperative have statutory authority to provide service in the areas they each propose to serve under the Agreement. No other electric supplier provides electric service in the area sought to be certificated.

Paragraph (C) – Illustrative Tariff

13. Due to the Agreement, Ameren Missouri is proposing Tariff revisions as contained in Appendix 6, an exemplar tariff, to this *Application*. As an electric cooperative, Three Rivers is not required to provide an illustrative tariff.

Paragraph (D) – Public Interest

14. This Agreement is not detrimental to the public interest; in fact, the Agreement is beneficial to the public interest. The establishment of exclusive service territories within this geographic area will prevent future duplication of electric service facilities, will result in economic efficiencies and future cost savings, and will benefit the public safety and community aesthetics. The Agreement will also provide certainty for future customers regarding their electric service provider. Additionally, establishing these boundaries now will significantly lessen the chances of future disputes, which require resources and potential Commission intervention, to resolve.

Paragraph (E) – List of Persons and Structure Whose Service Will Be Changed

15. Approval of the proposed Agreement, which is attached hereto as Appendix 1, will require the exchange of customers between the Company and the Cooperative. A list of the customers and/or structures being transferred from the Company to the Cooperative is included as Exhibit A2 to the Agreement. A list of the customers and/or structures being transferred from the Cooperative to the Company is included as Exhibit C to the Agreement. Company and Cooperative have jointly provided notice to the impacted customers by letter three times, once on October 14, 2019, again on January 28, 2020, and again on February 5, 2020. In response to the correspondence, Company received three phone calls and Cooperative received 18 phone calls; these customers were provided with information regarding the proposed exchange. Additionally, Company and Cooperative jointly held an open house to answer customer questions on February 12, 2020, and 55 members of the public attended. At the open house, Company and Cooperative provided access to:

- High-level maps reflecting the proposed exchange;
- A means to confirm whether the attendee was, in fact, affected by the proposed exchange; and
- Resources to provide cost comparisons between the two electric service providers.

Copies of the letters and notice of the open house are included as Appendix 7 to this *Application*.

III. 20 CSR 4240-3.140(1), (A) through (I)

Paragraph (A) – Description of Structures and Street Addresses

16. Please see the Exhibits A and C to the Agreement attached as Appendix 1 to this *Application*.

Paragraph (B) and (C) –Suppliers Transferring and Receiving Customers

17. Company and Cooperative, described in Paragraphs 3 and 4 above, are both

currently serving addresses that will ultimately be served by the other if this *Application* and the associated Agreement are approved. Company is transferring to the Cooperative the customers and areas described in Exhibits A and B to the Agreement; Cooperative is transferring to the Company the customers and areas described in Exhibits C and D to the Agreement.

Paragraph (D) and (G) – Reasons for Changing Suppliers and Public Interest⁶

18. Company and Cooperative serve customers in adjacent areas in Cole and Osage counties. Over time, the customers served by each have become closer in proximity to each other, which was beginning to cause some confusion for both the electric suppliers and customers regarding who should provide electric service. In order to avoid further confusion and avoid unnecessary duplication of facilities, Applicants entered into discussions in how best to resolve potential issues. Company and Cooperative examined their respective service territories and negotiated an Agreement that in a relatively equal exchange of customers and load, and which aligns well with existing service territories. This arrangement will reduce the potential for duplicated facilities, ease customer confusion regarding electric suppliers, and establish clearer boundaries for the Applicants.

Paragraph H – Verified Statement of Agreement

19. Please see the verified statements supporting this *Application* by authorized personnel of the Company and the Cooperative included as Appendices 4 and 5, respectively. In addition, please see the executed Agreement included as Appendix 1 to this *Application*.

Paragraph I – List of Names and Addresses of All Customers

20. Please see Exhibit A to the Agreement for a listing of structures and customers being transferred from the Company to the Cooperative, and see Exhibit B to the Agreement for a

⁶ Paragraphs (E) and (F) do not apply to this situation.

listing of structures and customers being transferred from the Cooperative to the Company.

IV. 20 CSR 4240-10.105(1), (A) through (F)

Paragraph (A) – Brief Description of the Property Involved in the Transaction

21. The property being exchanged as a result of the Agreement includes all customer service equipment and distribution equipment and facilities as defined in the Agreement included as Appendix 1 to this *Application*. Those definitions are as follows:

- 1.3 **Customer Service Equipment** shall mean all lines or conductors with nominal voltage of 15,000 volts or less, phase to phase; all transformers, regulators, capacitors, poles, meters, equipment and installations connected thereto necessary for the distribution of electricity through said lines or necessary for the support of said lines; and all rights, privileges, easements, appurtenances and immunities in land on which such lines, conductors, poles, equipment and installations are located; provided, however, "Customer Service Equipment" shall not include poles and any structures supporting lines and conductors with nominal voltage of more than 15,000 volts regardless of whether such poles or structures also support lines and conductors with nominal voltage of 15,000 volts or less.
- 1.4 **Distribution Equipment and Facilities** shall mean the distribution equipment and facilities used by the Transferor to provide service not already included in the definition of Customer Service Equipment (including equipment and facilities necessary for the provision of power to street lights) that must be transferred to Transferee in order for the Transferee to provide service to affected customers, structures, and street lights and which the Transferor does not need to retain for the purposes of providing service outside of the transfers anticipated by this Agreement.

The exchange of this equipment as part of this transaction will promote a more seamless transition of customers from one electric supplier to the other. The Applicants anticipate that the customer service equipment and distribution equipment and facilities exchanged will be of relatively equal value and do not anticipate there will be any costs necessary to effectuate this transaction.

Paragraph (B) – Copy of the Contract or Agreement of Sale

22. Please see the Agreement attached as Appendix 1 to this *Application*.

Paragraph (C) – Verification of Proper Authority

23. Please see Appendices 4 and 5 to this *Application*.

Paragraph (D) – Not Detrimental to the Public Interest

24. The proposed transaction is not detrimental to the interests of the Company, the Cooperative, the impacted customers, or other ratepayers. Please see Paragraphs 14 and 18 for descriptions of why this is not detrimental to the public interest.

Paragraph (E) – Balance Sheet and Income Statement

25. Because the Cooperative is not subject to rate regulation by the Commission, this *Application* does not include a balance sheet or income statement showing the impact of the proposed purchase on the Cooperative.

Paragraph (F) – Statement of Tax Impact

26. Appendix 8 to this *Application* is a schedule showing the estimated property and sales tax impacts of the proposed transaction on the political subdivisions where the assets are located.

CONCLUSION

27. The Applicants request approval of the Agreement which they have negotiated in good faith, as described above. This Agreement clarifies any ambiguous rights and obligations in areas where their service territories border and/or overlap. The Applicants have designated the boundaries of their respective exclusive electric service areas, which will become effective upon the completion of this transaction. The Applicants request the Commission determine that this *Application* fulfills the requirements of 20 CSR 4240-2.060(1), 20 CSR 4240-3.130(1), 20 CSR 4240-140(1), and 20 CSR 4240-10.105(1) for the approval of this type of agreement so that the Agreement can be implemented.

WHEREFORE, Company and Cooperative, as Applicants, respectfully request that the Commission approve this *Application* and the subject Agreement, as well as such other relief as the Commission deems appropriate under the circumstances.

Respectfully submitted,

/s/ Paula N. Johnson

Paula N. Johnson, #68963
Director and Assistant General Counsel
Ameren Missouri
1901 Chouteau Avenue
St. Louis, MO 63103
(314) 554-3533 (phone)
(314) 554-4014 (fax)
AmerenMOService@ameren.com

for Union Electric Company
d/b/a Ameren Missouri

/s/ Andrew Sporleder

Andrew J. Sporleder, # 51197
Johnson & Sporleder, LLP
2420 Hyde Park Road, Suite C
Jefferson City, MO 65109
(573) 659-8734 (phone)
as@cjaslaw.com

for Three Rivers Electric Cooperative

APPENDICES TO APPLICATION

Appendix Number and Description

Appendix 1 - Territorial Agreement

- Exhibit A Customers/Structures Transferred from Company to Cooperative
- Exhibit B Metes and Bounds Descriptions of Territory Transferred from Company to Cooperative
- Exhibit C Customers/Structures Transferred from Cooperative to Company
- Exhibit D Metes and Bounds Descriptions of Territory Transferred from Cooperative to Company
- Exhibit E Map of geographic area assigned to Company and to Cooperative
- Exhibit F Three-Phase Lines Retained by Company and Cooperative

Appendix 2 - Company's Certificate of Corporate Good Standing

Appendix 3 - Cooperative's Certificate of Corporate Good Standing

Appendix 4 - Company's Affidavit in Support of Application

Appendix 5 - Cooperative's Affidavit in Support of Application

Appendix 6 - Company's Proposed Tariff Revisions

Appendix 7 - Copies of Correspondence Provided to Affected Customers

Appendix 8 - Property and Sales Tax Impacts

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the Staff of the Commission and the Office of the Public Counsel on this via electronic mail (e-mail) on this 27th day of May, 2020.

/s/ Paula N. Johnson
Paula N. Johnson