

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Joint Application of Osage)
Valley Electric Cooperative Association and The)
City of Rich Hill, Missouri for Approval of a Written) **File No. EO-2022-0073**
Territorial Agreement Designating the Boundaries)
of Each Electric Service Supplier Within The City of)
Rich Hill, Bates County, Missouri)

ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF RECOMMENDATION

Issue Date: September 10, 2021

Effective Date: September 10, 2021

On September 9, 2021,¹ Osage Valley Electric Cooperative Association (Osage Valley) and the City of Rich Hill, Missouri (Rich Hill) (collectively, “Applicants”) filed a Joint Application for Approval of Territorial Agreement (“Joint Application”). The territory concerned is in Bates County, Missouri. The law requires the Commission to rule on an application no later than 120 days from the application’s filing date,² and provides the right to a hearing.³ The right to a hearing on a territorial agreement signifies a contested case.⁴ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities⁵ and a decision without a hearing,⁶ including by stipulation and agreement.⁷ This notice does not require any party to file an answer.⁸ The Commission’s rules of discovery are set forth at 20 CSR 4240.2.090.

¹ All date references will be to 2021 unless otherwise stated.

² Section 394.312.4, RSMo 2016.

³ Section 394.312.5, RSMo 2016.

⁴ Section 536.010(4), RSMo 2016.

⁵ Sections 536.060(3) and 536.063(3), RSMo 2016.

⁶ Section 536.060, RSMo 2016.

⁷ Section 394.312.5, RSMo 2016; 20 CSR 4240-2.115.

⁸ Section 536.067(2)(d), RSMo 2016.

The Commission will order notice delivered to other electric service providers, to elected officials and to news media in Bates County, Missouri. The Commission will also set a deadline for intervention and direct the filing of a staff recommendation.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send a copy of this order and the Joint Application to the other electric service providers in Bates County, and to the County Commission of Bates County, Missouri.
2. The Commission's Public Information Office shall make notice of this order available to the members of the General Assembly representing Bates County, Missouri, and to the news media serving that county.
3. Applications to intervene shall be filed no later than October 1, 2021.
4. The Commission's Staff shall file a recommendation regarding the Joint Application no later than November 8, 2021.
5. This Order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 10th day of September, 2021.

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

In the Matter of the Joint Application of Osage)
Valley Electric Cooperative Association and)
The City of Rich Hill, Missouri for Approval of a)
Written Territorial Agreement Designating the) File No. _____
Boundaries of each Electric Service Supplier)
Within the City of Rich Hill, Bates County,)
Missouri)

JOINT APPLICATION FOR APPROVAL OF TERRITORIAL AGREEMENT

COME NOW Osage Valley Electric Cooperative Association (“Osage Valley”) and the City of Rich Hill, Missouri (“Rich Hill”) (collectively, Applicants), by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission (the "Commission"), pursuant to 4 CSR 240-2.060, 4 CSR 240-3.130, and RSMo. §394.312, §91.025 and §416.041, for an order approving Applicants' Joint Application for Approval of Territorial Agreement (Agreement), respectfully state as follows:

Applicants

1. Osage Valley is a rural electric cooperative organized and existing under the laws of Missouri with its principal office at 1321 Orange St, Butler, Missouri 64730. Osage Valley is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri counties. Osage Valley has no pending action or final judgments or decisions against it from any state or federal agency or court that involve its customer service or rates within the three years immediately preceding the filing of this Joint Application. Osage Valley has no overdue annual report or assessment fees. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary was filed with the Commission in Case No. EO-2021-

0339 and is incorporated herein by reference.

2. Rich Hill is a Missouri fourth class municipality existing pursuant to §79.010 RSMo, with its principal office and place of business at Rich Hill City Hall, 120 N. 7th, Rich Hill, 64779. Rich Hill is engaged in the business of providing electrical services to customers in its municipal service area. Rich Hill has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or its rates, which have occurred within the three years immediately preceding the filing of this Joint Application. Rich Hill has no overdue annual report or assessment fees.

Correspondence and Communication

3. Correspondence, communications, and orders in regard to this Joint Application should be directed to:

Sarah E. Carnes
Lauber Municipal Law
250 NE Tudor Rd.
Lee's Summit, MO 64086
816-525-7881 ext. 6 (telephone)
816-525-7881 (fax)
e-mail: scarnes@laubermunicipal.com

Megan E. Ray
Andereck, Evans, Lewis, Figg,
& Battagler, LLC
3816 S. Greystone Ct., Ste. B
Springfield, MO 65804
417-864-6401 (telephone)
417-864-4967 (fax)
e-mail: mray@lawofficemo.com

The Territorial Agreement

4. **The Agreement.** Subject to the terms and conditions of an Agreement known as the "Contract for Purchase and Sale of Distribution Facilities" between Osage Valley Electric Cooperative Association and the City of Rich Hill (the "Agreement"), the Applicants have specifically designated the boundaries of the exclusive electric service area of Osage Valley for service to persons at existing and new structures in the entirety

of the municipal limits of Rich Hill, Missouri, and have provided for the transfer of City customers both within the corporate boundaries of the City and outside the municipal limits, all of which is more particularly described in the Agreement. Applicants have attached a copy of the Agreement to this Application as **Appendix A**, which is incorporated by reference into this Application and made a part hereof for all purposes. The purpose of this Agreement is to allow Osage Valley to purchase Rich Hill's electric facilities and provide electrical service to six hundred ninety-six (696) locations in Bates County. The list of affected customers is attached to the previously filed Joint Application for Change of Electric Supplier in Case No. EO-2022-0009 as Exhibit A, and is incorporated herein by reference.

5. **Service Areas.** A diagram of the properties, Rich Hill's existing lines and Osage Valley's existing lines, is attached to the previously filed Joint Application for Change of Electric Supplier in Case No. EO-2022-0009 as Exhibit B, and is incorporated herein by reference. All relevant properties are located within incorporated rural areas of Bates County, Missouri. Rich Hill currently provides electrical service to six hundred ninety-six (696) locations in Bates County. (See Joint Application for Change of Electric Supplier in Case No. EO-2022-0009, Exhibit A.)

6. **Authority to Serve in Proposed Areas.** Osage Valley is authorized to serve the incorporated rural areas of Bates County, Missouri under § 394.080.1(4), RSMo. This Joint Application for Approval of a Territorial Agreement is being filed due to the municipal statute, § 91.025(2), RSMo., requiring a change of supplier to be permitted only in the context of municipal annexation (which does not apply here) or pursuant to a territorial agreement and not merely through an application for a change of supplier

alone.

7. **Change of Supplier.** The Agreement establishes exclusive service territory for Osage Valley in Rich Hill, withdraws and replaces Rich Hill electric utility services to its citizens, and displaces competition for a period of years as between Osage Valley and Rich Hill. It requires transfer of all Rich Hill facilities and customers from Rich Hill to Osage Valley. A list of all affected customers is attached as Exhibit A to the Joint Application for Change of Electric Supplier in Case No. EO-2022-0009 and is incorporated herein by reference.

8. **Other Electric Suppliers.** To Applicants' knowledge and belief, there are no other electric suppliers serving in the areas covered by this Agreement.

9. **Public Interest.** The Agreement is not detrimental to the public interest. It is affirmatively in the public interest because it will ensure reliable electric service for the City of Rich Hill. The change also achieves operational efficiencies and reduces utility duplication. Thus, the proposed change of supplier is in the public interest for reasons other than a rate differential.

10. **Scope of Agreement.** Osage Valley will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Agreement. This Agreement does not bind or detrimentally affect non-parties.

11. **Application Fee.** The Commission's fee required by 4 CSR 240-3.130 is submitted herewith.

WHEREFORE, Applicants respectfully request that the Commission issue its report and order:

Finding that the designation of electric service areas is not detrimental to the public interest and approving the Applicants' Contract for Purchase and Sale of Distribution Facilities to the extent that it stands as a Territorial Agreement;

- (a) Approving the previously filed Joint Application for Change of Supplier for customers from Rich Hill to Osage Valley, pursuant to that contract for reasons in the public interest other than rate differential;
- (b) Granting Applicants full administrative authority to perform in accordance with all of the terms and conditions of their Agreement, presented as **Appendix A** to this Joint Application; and
- (c) Ordering all further relief and actions as necessary or convenient to implement said agreement.

Respectfully submitted,

/s/ Megan E. Ray
Megan E. Ray, #62037
Andereck, Evans, Lewis, Figg & Battagler, LLC
3816 S. Greystone Ct., Ste. B
Springfield, MO 65804
(417) 864-6401 (telephone)
(417) 864-4967 (fax)
Email: mray@lawofficemo.com
ATTORNEYS FOR OSAGE VALLEY
ELECTRIC COOPERATIVE

/s/ Sarah E. Carnes
Sarah E. Carnes, #66576
Lauber Municipal Law, LLC
250 NE Tudor Rd.
Lee's Summit, MO 64086
(816) 525-7881 ext. 6 (telephone)
(816) 525-7881 (fax)
Email: scarnes@laubermunicipal.com
ATTORNEY FOR THE CITY OF RICH HILL

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Joint Application was served by electronic mail or U.S. Mail, postage prepaid, this 9th day of September, 2021 upon the following:

Office of the Public Counsel
Hampton Williams
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounsel@psc.mo.gov

/s/ Megan E. Ray

Megan E. Ray


STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 13th day of September, 2021.**





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 13, 2021

File/Case No. EO-2022-0073

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

City of Rich Hill, Missouri
Sarah E Carnes
250 NE Tudor Rd.
Lee's Summit, MO 64086
scarnes@laubermunicipal.com

County of Bates, Missouri
County Commission Clerk
1 N. Delaware
Bates County Courthouse
Butler, MO 64730
bates@sos.mo.gov

Evergy Missouri West
Legal Department
P.O. Box 418679
One Kansas City Place, 1200
Main Street
Kansas City, MO 64105

Missouri Public Service Commission
Curtis Stokes
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
curtis.stokes@psc.mo.gov

Osage Valley Electric Cooperative
Megan E Ray
3816 S Greystone Ct., Suite B
Springfield, MO 65804
mray@lawofficemo.com

Butler Electric Distribution
206 E. Mill St.
Butler, MO 64730

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.