

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

In the Matter of the Application of Osage )  
Valley Electric Cooperative for Approval of a )  
Change in Electric Suppliers for Certain )  
Customers within the City of Clinton for ) **File No. EO-2011-0137**  
Reasons in the Public Interest. )  
)

**STAFF RECOMMENDATION**

**COMES NOW**, the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and for its recommendation states as follows:

1. On November 9, 2010, Osage Valley Electric Cooperative (“Osage” or “Cooperative”) filed an Application with the Missouri Public Service Commission (“Commission”) seeking approval to transfer the electric service currently provided by Osage to structures on four properties within the City of Clinton to Kansas City Power & Light, the actual name of the entity to which it proposes service be transferred to is KCP&L Greater Missouri Operations Company (“GMO”).

2. On December 27, 2010, the Commission ordered Staff to file a pleading informing the Commission of a date by which Staff would file its recommendation.

3. Staff has reviewed and investigated the Cooperative’s *Application* and is presently able to file its *Recommendation*, which is incorporated herein as Exhibit A, the attached Memorandum prepared by Alan J. Bax.

4. The Cooperative is organized under Chapter 394, RSMo 2000 to provide electric service to its members located in parts of seven Missouri counties including Henry County, in

which the parcels of land that are the subject of this case are located; rural electric cooperatives such as Ozark are subject to the Commission's jurisdiction under Chapter 394, RSMo. 2000.

5. GMO is an electric corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo<sup>1</sup>.

6. Section 394.315, RSMo 2000, provides, in pertinent part:

Once a rural electric cooperative, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800, RSMo, and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction.

7. As stated in Exhibit A, the Staff recommends that Osage Valley Electric Cooperative's Application should be approved by the Commission as being in the public interest for reasons other than a rate differential, per Section 394.315.2, RSMo 2000 and 4 CSR 240-3.140. The electric facilities utilized by Osage in its provision of service to these properties were originally installed over 60 years ago. Significant investment will be required in the near future to rebuild/replace these facilities, an investment that is prohibitive given the associated revenue realized from these properties and the lack of potential for growth virtue of these properties being within the city limits of Clinton, Missouri, a "non-rural area." While not necessary to seek an order authorizing a change of electric service provider or for the Commission to grant such a request, Osage has received the consents of all affected property owners/tenants. Furthermore,

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<sup>1</sup> Statutory references are to RSMo. 2000, unless otherwise noted.

while not having officially endorsed this Application, GMO has stated it is “generally supportive of the proposed transaction.” Approving GMO to be the electric service provider to the existing structures on these properties will relieve Osage from having to uneconomically replace its facilities that are serving the structures on these properties and reduce the duplication of Osage’s facilities with those of GMO in the city of Clinton, Missouri.

8. For the foregoing reasons approval of the request to transfer the service provider to existing structures on four properties within the City of Clinton from Osage Valley Electric Cooperative to KCP&L Greater Missouri Operations Company is in the public interest for a reason other than a rate differential.

WHEREFORE, for the foregoing reasons discussed in detail in the Staff’s Memorandum, the Staff recommends the Commission issue an Order in which it approves Osage’s *Application* for Change in Electric Suppliers for Certain Customers within the City of Clinton for Reasons in the Public Interest.

Respectfully submitted,

/s/ Meghan McClowry

Meghan E. McClowry

Legal Counsel

Missouri Bar No. 63070

Attorney for the Staff of the  
Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-6651 (Telephone)

(573) 751-9285 (Fax)

Meghan.mcclowry@psc.mo.gov

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 20<sup>th</sup> day of January, 2011.

/s/ Meghan McClowry

## **MEMORANDUM**

TO: Missouri Public Service Commission Official Case File  
Case No. EO-2011-0137, In the Matter of the Application of Osage Valley  
Electric Cooperative for Approval of a Change in Electric Suppliers for Certain  
Customers within the City of Clinton For Reasons in the Public Interest

FROM: Alan J. Bax, Energy Department – Engineering Analysis

/s/ Daniel I. Beck 01/20/11                      /s/ Meghan McClowry 01/20/11  
Energy Department / Date                      General Counsel's Office / Date

SUBJECT: Staff Recommendation

DATE: January 20, 2011

## **BACKGROUND**

On November 9, 2010, Osage Valley Electric Cooperative (Osage or Cooperative) filed an Application with the Missouri Public Service Commission (Commission) seeking approval to transfer the electric service currently provided by Osage to structures on four properties within the City of Clinton, MO to Kansas City Power and Light (KCPL). The Application lists the addresses of the four properties, along with the name of the current owner/tenant and a general description of the structures currently located on each property. Osage states that it has to maintain 1.7 miles of three phase overhead lines, 1.3 miles of single phase overhead lines, and 0.7 miles of single phase underground line in order to serve the structures on these four properties. Much of this infrastructure was installed over 60 years ago and is in need of repair/replacement in order to maintain a reliable level of service. Osage asserts that the associated cost of this repair/replacement is not justified by the revenue generated from serving the structures on these properties. With the surrounding area currently being served by KCPL, Osage would prefer to transfer its electric service for these structures

on these properties to KCPL rather than incur the cost of repairing/replacing the aforementioned aging infrastructure.

On November 10, 2010, the Commission issued an Order and Notice that directed any interested party desiring to intervene in this Case to apply by November 30, 2010. Timely applications were received from Mr. Robert A. Robinson, owner of two of the four properties that are the subject of this case, and Kansas City Power & Light – Greater Missouri Operations Company (GMO). In its Application to Intervene, GMO identifies itself as the “real party in interest,” in lieu of KCPL.<sup>1</sup>

On December 27, 2010, the Commission issued an Order granting the intervention requests of Mr. Robinson and GMO. This same Order also directed GMO and the Staff of the Missouri Public Service Commission (Staff) to file a recommendation no later than January 10, 2011, this date was then extended to January 20, 2011.

The Cooperative is organized under Chapter 394 RSMo 2000 to provide electric service to its members located in parts of seven Missouri counties, including Henry County, in which lie the properties and particular structures that are the subject of this case. Rural electric cooperatives, such as Osage, are subject to the jurisdiction of the Commission as specified in part by Chapter 394 and Section 386.800 RSMo 2000. For the purpose of this case, the Cooperative is subject to the jurisdiction of the Commission under Section 394.315.2 RSMo 2000.<sup>2</sup>

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<sup>1</sup> The confusion is likely attributable to the fact that both Kansas City Power and Light Company and Kansas City Power & Light – Greater Missouri Operations Company represent themselves to the public and do business under the service mark “KCPL.”

<sup>2</sup> Section 394.315.2 states, in relevant part, “...the public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for reasons other than a rate differential...”

GMO is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo 2000. GMO is authorized to provide electricity in and around the area that is the subject of this Application.

### **DISCUSSION**

The facilities utilized in Osage's provision of service to the structures on these four properties were initially installed over 60 years ago. At that time, these properties were located outside the City of Clinton, MO. The general area encompassing these four properties was subsequently annexed into the City of Clinton, MO. Osage was thus precluded from adding additional customers in this area, effectively rendering these electrical facilities as a stranded investment. Rural electric cooperatives, such as Osage, may generally serve customers in rural areas only, defined as areas not included within the boundaries of a city, town, or village having a population not greater than 1,500 inhabitants.<sup>3</sup> Osage believes it will need to rebuild/replace these electric facilities in the near future to continue providing reliable service to the structures on these four properties. The cost of this anticipated rebuild/replacement is prohibitive, given the associated revenue, and the absence of potential for growth.

Consequently, Osage contacted GMO and the owner/tenants of these properties regarding its intention to file an application with the Commission requesting to change electric service providers to these properties. Osage desired to gain their approval prior to filing this Application. GMO has facilities running parallel along the majority of the route utilized by Osage. Osage asserts to have worked out a reasonable arrangement with GMO

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<sup>3</sup> Section 394.020.3 RSMo 2000.

that would allow the change to occur without a service interruption, an arrangement to which Osage believes GMO concurs.

In seeking approval from the affected property owners/tenants, Osage was unable to gain approvals from Mr. Robinson and Ms. Pam Cochran prior to filing its request. Mr. Robinson consistently voiced his opposition to Osage regarding a potential change in electric service providers, concerned about the possibility that GMO's electric facilities, currently routed along the east side of 8<sup>th</sup> Street, would in the future be moved to the west side, fronting his properties. Osage persuaded GMO to send a letter to Mr. Robinson, in which GMO attempted to assure Mr. Robinson that they had no current or future plans to install facilities along the west side of 8<sup>th</sup> St. fronting his property. In his Application to Intervene, Mr. Robinson noted receipt of this letter and that it did not alleviate his concerns.

Subsequent to filing of its Application, Osage reported to have reached agreements with both Mr. Robinson and Ms. Cochran, who then filed consent forms with the Commission on December 27 and 29, 2010, respectively. Thus, Osage has now received the consent of all affected property owners/tenants regarding their desire to transfer electric service to these properties to GMO. While not officially acknowledging its approval, Staff would note that GMO stated it "generally supported the relief sought" in its Application to Intervene, based upon its "current understanding of the proposed transaction."

#### **STAFF RECOMMENDATION**

The Staff recommends that Osage Valley Electric Cooperative's Application, requesting to change electric service providers for the structures located on four properties located within the City of Clinton, MO, to Kansas City Power & Light – Greater Missouri Operations should be approved by the Commission as being in the public interest for reasons



other than a rate differential, per Section 394.315.2, RSMo 2000 and 4 CSR 240-3.140. The electric facilities utilized by Osage in its provision of service to the structures on these properties were originally installed over 60 years ago. Significant investment will be required in the near future to rebuild/replace these facilities, an investment that is prohibitive given the associated revenue realized from providing service to the structures located on these properties and the lack of potential for growth virtue of these properties being within the city limits of Clinton, MO, a “non-rural area.” While not necessary to acquire in order to seek and/or approve a change of electric service provider request, Osage has received the consent of all affected property owners/tenants. Furthermore, while not having officially endorsed this Application, GMO has stated it is “generally supportive of the proposed transaction.” Approving GMO to be the electric service provider to these properties will allow removal of Osage’s otherwise duplicative facilities.

Osage Valley Electric Cooperative is not required to file annual reports or pay assessment fees with the Commission. Further, it does not have pending or final unsatisfied decisions against it from any state or federal court involving customer service or rates within three years of the date of this filing.

GMO is current on its required annual report filings and assessment fees. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

