

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

In the Matter of the Application of Co-Mo)
Electric Cooperative for Approval of)
Designated Service Boundaries Within) **File No.: EO-2022-0190**
Portions of Cooper County, Missouri)

**CLARIFICATION OF CO-MO’S POSITION RELATING TO THE LIST OF ISSUES,
ORDER OF OPENING STATEMENTS, LIST AND ORDER OF WITNESSES, AND
ORDER OF CROSS EXAMINATION FILED BY STAFF ON BEHALF OF ALL
PARTIES**

COMES NOW Co-Mo Electric Cooperative (Co-Mo), by and through undersigned counsel, and provides its Clarification of Position Relating to the List of Issues, Order of Opening Statements, List and Order of Witnesses, and Order of Cross Examination previously filed by staff on behalf of all parties:

Acceptance and Exceptions

Co-Mo accepts the List of Issues with the following exceptions:

A. Do the terms of Section 386.800.3, RSMo apply on the facts of this case?

Co-Mo respectfully asserts Issue A raises a question of law which has already been previously addressed by the Commission’s Order Denying Motion for Summary Determination issued April 6, 2022 (“Order”). The issue was thoroughly briefed by the parties. The Order states, “*Ameren Missouri’s Motion for Summary Determination claims Co-Mo fails to state a claim upon which relief can be granted because the subject statute does not apply on the facts presented in Co-Mo’s application, therefore the Commission has no authority to grant the relief applied for.*” (See Order at page 2). The Order goes on to say, “*After reviewing the pleadings of the parties, the Commission concludes that Ameren Missouri’s motion for summary determination should not be granted. Ameren Missouri has failed to show that Co-Mo’s application is foreclosed as a matter of law, and failed to show that its service territory is*

exclusive with respect to electric suppliers not regulated by the Commission. The Commission will deny Ameren Missouri's Motion for Summary Determination." For this reason, Co-Mo contends item A should not be an Issue considered or presented at Hearing.

I. In making its determination on Co-Mo's application for authority, may the Commission apply the "Tartan" factors or other considerations historically applied by the Commission in certificate of convenience and necessity cases, in addition to the factors set forth in subdivisions (1) through (7) of subsection 2 of Section 386.800, RSMo? If so, should the Commission do so?

J. Does the application of the "Tartan" factors or such other considerations historically applied by the Commission in certificate of convenience and necessity cases, in addition to the factors set forth in subdivisions (1) through (7) of subsection 2 of Section 386.800, RSMo favor Co-Mo, Ameren, or neither party?

Co-Mo again believes Issues I and J raise (a) question(s) of law not susceptible to consideration or determination through the hearing process for reasons to be further developed in Co-Mo's Statement of Position.

Co-Mo accepts all other submissions in the above reference Staff Pleading.

Respectfully submitted,

/s/ Shawn P. Battagler

Megan E. Ray #62037

Shawn Battagler #51360

Andreck Evans, L.L.C.

3816 S. Greystone Court, Suite B

Springfield, MO 65804

Telephone: 417-864-6401

Facsimile: 417-864-4967

Email: mray@lawofficemo.com

sbattagler@lawofficemo.com

Attorneys for Co-Mo Electric Cooperative

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on May 6, 2022, to the following:

Office of the Public Counsel
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

Wendy Tatro
Director and Assistant General Counsel
1901 Chouteau Ave., MC 1310
St. Louis, MO 63103
AmerenMOService@ameren.com

James B. Lowery
JBL Law, LLC
3406 Whitney Ct.
Columbia, MO 65203
lowery@jblawllc.com

Missouri Public Service Commission
Paul Graham
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Paul.Graham@psc.mo.gov

/s/ Shawn P. Battagler