

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

FILED³

In the Matter of the Application)
Of Callaway Electric Cooperative)
And the City of Fulton, Missouri for)
Approval of a Written Territorial Agreement)
Designating the Boundaries of each)
Electric Service Supplier within Portions of)
Callaway County, Missouri.)

JAN 2 2007

Case No. **Missouri Public
Service Commission**

JOINT APPLICATION

COME NOW Callaway Electric Cooperative ("Callaway") and the City of Fulton, Missouri ("Fulton"), hereinafter referred to collectively as "Applicants," by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission ("Commission"), pursuant to 4 CSR 240-2.060(1), 4 CSR 240-3.130, and Sections 394.312 and 416.041 RSMo. (2000), for an order approving Applicants' Territorial Agreement, respectfully state as follows:

1. **The Applicants** – Callaway is a Chapter 394, RSMo. 2000, cooperative corporation organized and existing under the laws of Missouri and has its principal office at 503 Truman Road Fulton, Missouri. It is engaged in the retail sale and distribution of electricity in portions of Missouri, including in rural areas surrounding the City of Fulton in Callaway County. Callaway has no pending or final judgments or decisions against it from any state or federal agency or court which involve customer service or rates within the three years immediately preceding the filing of this Joint Application. No annual report or assessment fees are overdue by Callaway.

2. Fulton is a political subdivision of the Home Rule Class organized and existing under Chapter 82, RSMo.2000, and has its principal office at 4th and Market Streets, Fulton Missouri 65251. It owns, operates and maintains an electric distribution system within its corporate limits to serve the residents and inhabitants of the city. Fulton has no pending or final

judgments or decisions against it from any state or federal agency or court which involve customer service or rates within the three years immediately preceding the filing of this Joint Application. No annual report or assessment fees are overdue by Fulton.

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

For Fulton:

Mr. Andrew J. Sporleder
Andereck, Evans, Milne,
Peace & Widger, L.L.C.
700 E. Capitol Ave.
PO Box 1438
Jefferson City, MO 65102
573-634-3422
573-634-7822 (fax)
ASporleder@aempb.com

Mr. Robert W. Craghead
Mayor
City of Fulton
4th and Market Streets
Fulton, MO 65251

For Callaway:

Mr. Andrew J. Sporleder
Andereck, Evans, Milne,
Peace & Widger, L.L.C.
700 E. Capitol Ave.
PO Box 1438
Jefferson City, MO 65102
573-634-3422
573-634-7822 (fax)
Asporleder@aempb.com

Mr. Thomas W. Howard
Manager
Callaway Electric Cooperative
503 Truman Road,
Fulton, Missouri 65251

4. **The Territorial Agreement** - Subject to the terms and conditions of an Agreement, known as the "Territorial Agreement" between Callaway and Fulton, Applicants have specifically designated the boundaries of the exclusive electric service area of Callaway for service to new structures in portions of Callaway County, Missouri, 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. A metes and bounds description of the five tracts of land comprising the exclusive service area and a map depicting the service area are a part of the Agreement and are incorporated by reference into this Application and made part hereof for all purposes. The Territorial Agreement only establishes an exclusive service territory for Callaway

in five tracts of land within Callaway County, Missouri. It does not require transfer of any facilities or customers between the Applicants, so no list of all persons whose utility service would be changed by the agreement, as required by 4 CSR 240-3.130(1)(E) is included.

5. **Good Standing**— A certificate of Good Standing from the Missouri Secretary of State in regard to Callaway is attached as **Appendix B** and is incorporated by reference and made a part hereof for all purposes. The City of Fulton, Missouri, is a political subdivision of the State of Missouri incorporated on March 14, 1859.

6. **Authority to Serve in Proposed Areas** - Callaway has statutory franchise authority in the areas it proposes to serve.

7. **Other Electric Suppliers** – To Applicants' knowledge and belief there are no other electric suppliers serving in the immediate area covered by the Territorial Agreement.

8. **Agreement is in the Public Interest** - The Territorial Agreement is in the public interest because it establishes exclusive service obligations for new structures as between the Joint Applicants in the described area. The establishment of exclusive service territories will prevent future duplication of electric service facilities and will also allow electric service customers within the area to know with certainty the supplier of their electric service. It makes most effective use of past investment in substation and distribution facilities while avoiding the necessity of duplicate investment. Neither party is subject to the jurisdiction of the Commission for purposes of certificate authority or for rate regulation.

9. **Scope of Agreement** - Each Applicant will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Agreement.

10. **Authority to Enter into Agreement** – Each Applicant has authorized their respective representative to execute and enter into the Agreement. Resolutions for each Applicant are attached hereto as **Appendix C** and are incorporated by reference and made a part hereof for all purposes.

11. **Application Fee** - The Commission's fee required by 4 CSR 240-3.130(3) is submitted herewith.

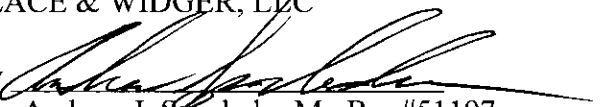
WHEREFORE, Applicants respectfully request that the Public Service Commission of Missouri issue its order:

(a) Finding that the designation of electric service area is not detrimental to the public interest and approving the Applicants' Territorial Agreement;

(b) Authorizing Applicants to perform in accordance with the terms and conditions of the Agreement, Appendix A to this Joint Application.

Respectfully submitted,

ANDERECK, EVANS, MILNE,
PEACE & WIDGER, LLC

By 

Mr. Andrew J. Sporleder Mo Bar #51197

Andereck, Evans, Milne,
Peace & Widger, L.L.C.

700 E. Capitol Ave.

PO Box 1438

Jefferson City, MO 65102

573-634-3422

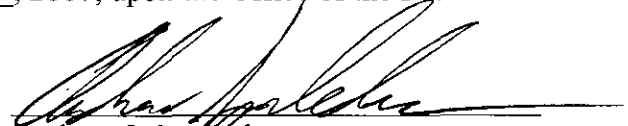
573-634-7822 (fax)

ASporleder@aempb.com

ATTORNEYS FOR CALLAWAY
ELECTRIC COOPERATIVE &
CITY OF FULTON, MISSOURI

Certificate of Service

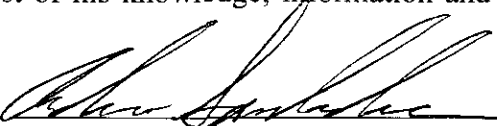
The undersigned certifies that a true and correct copy of the foregoing application was served by hand delivery this 2nd day of January, 2007, upon the Office of the Public Counsel and the Office of the General Counsel.


Andrew J. Spofeder

VERIFICATION

STATE OF MISSOURI)
) SS
COUNTY OF COLE)

On the 2 day of Jan, 2007, before me appeared Andrew J. Sporleder, to me personally known, who being by me first duly sworn, states that he is the attorney for Callaway Electric Cooperative and is authorized to file this application with the Missouri Public Service Commission and to execute the Application and this Verification on Callaway Electric Cooperative's behalf, and acknowledged that he has read the Joint Application of the City of Fulton, Missouri and Callaway Electric Cooperative for Approval of a Territorial Agreement and that the facts stated therein are true and correct to the best of his knowledge, information and belief.


Andrew J. Sporleder

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.

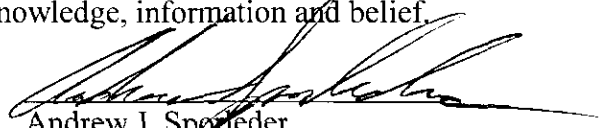

Notary Public

ORNA MICKELIS
Notary Public - Notary Seal
STATE OF MISSOURI
County of Callaway
My Commission Expires: 12/31/2007


VERIFICATION

STATE OF MISSOURI)
) SS
COUNTY OF CALLAWAY)

On the 2 day of Jan, 2007, before me appeared Andrew J. Sporleder, to me personally known, who being by me first duly sworn, states that he is the attorney for the City of Fulton, Missouri, and is authorized to file this application with the Missouri Public Service Commission and to execute the Application and this Verification on the City of Fulton, Missouri's behalf, and acknowledged that he has read the Joint Application of the City of Fulton, Missouri and Callaway Electric Cooperative for Approval of a Territorial Agreement and that the facts stated therein are true and correct to the best of his knowledge, information and belief.


Andrew J. Sporleder

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.


Notary Public

ORNA MICKELIS
Notary Public - Notary Seal
STATE OF MISSOURI
County of Callaway
My Commission Expires: April 16, 2007

APPENDIX A

24
100 Ac.

EXHIBIT

tabbies

A

19

Tract 5

Tract 1

Tract 4

Tract 3

Tract 2

1
80.63 Ac.

4
25.38 Ac.

3
113 Ac.

25
1.001
4 Ac.

23.014
0.57 Ac.
23.015
0.53 Ac.
23.018
0.48 Ac.

23.012
1.4 Ac.
23.016
1.8 Ac.

23.001
0.9 Ac.
23.008
2.23 Ac.

23.009
3.73 Ac.
23.010
3.5 Ac.

23.007
3.54 Ac.
23.006
2.76 Ac.

23.011
3.8 Ac.
32.008

23.005
2.97 Ac.
32.007 32.006

23.003
9.81 Ac.
32.005

32.009 32.015

32.005
1.15 Ac.

ST HWY H

SILVER DR

Tract 5

Fulton

BUSINESS 54

RED MAPLE LN

ST HWY NN

25.001
0.55 Ac.
26
0.04 Ac.
31
0.73 Ac.

35
47.79 Ac.

29.008
5 Ac.

Legend

Corporate Limits Lots (lines)

Property Ownership Map
Callaway County Missouri
Ronald Craighead, Assessor



APPENDIX B

STATE OF MISSOURI



Robin Carnahan
Secretary of State

CORPORATION DIVISION CERTIFICATE OF GOOD STANDING

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

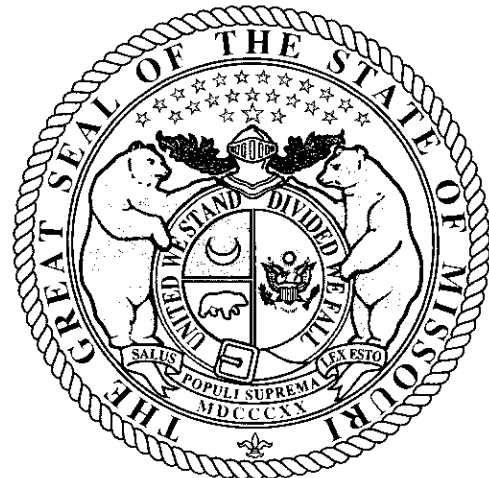
CALLAWAY ELECTRIC COOPERATIVE
Q00060007B

was created under the laws of this State on the 10th day of October, 1936, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 2nd day of January, 2007

Robin Carnahan

Secretary of State



Certification Number: 9302354-1 Reference:

Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

APPENDIX C

RESOLUTION NUMBER 2851


A RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF FULTON, MISSOURI, TO SIGN ALL NECESSARY DOCUMENTS TO EXECUTE A TERRITORIAL AGREEMENT WITH CALLAWAY ELECTRIC COOPERATIVE ESTABLISHING TERRITORIAL RIGHTS TO FIVE TRACTS OF LAND FOR RETAIL ELECTRICAL SERVICE.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FULTON, MISSOURI, AS FOLLOWS:

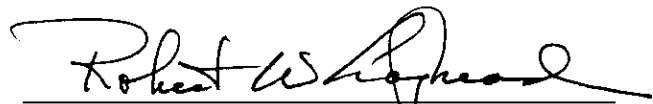
SECTION ONE: That the Council hereby authorizes the Mayor to sign all necessary documents to execute a Territorial Agreement with Callaway Electric Cooperative establishing territorial rights to five tracts of land for retail electrical service. A copy of said unexecuted Territorial Agreement is attached hereto marked Exhibit "A" and incorporated herein by reference as if fully set out at this point.

SECTION TWO: That this Resolution shall be in full force and effect after its passage by the Council and approval by the Mayor.

READ THREE TIMES AND PASSED THIS 19th DAY OF December, 2006.


Robert W. Craghead
President of the Council

APPROVED THIS 19th DAY OF December, 2006.


Robert W. Craghead
Mayor

ATTEST:


Carolyn L. Laswell, CMC/MRCC
City Clerk

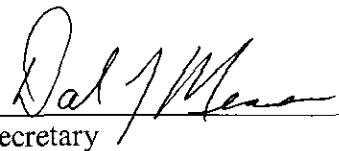
I, David Means, do hereby certify that: I am the secretary of Callaway Electric Cooperative (hereinafter called the "Cooperative"), the following is a true and correct copy of a resolution duly adopted by the board of directors of the Cooperative at the regular meeting held on November 21, 2006 and entered in the minute book of the Cooperative; the meeting was duly and regularly called and held in accordance with the bylaws of the Cooperative, and said resolution has not been rescinded or modified.

RESOLVED, that the proposed Territorial Agreement between Callaway Electric Cooperative and the City of Fulton, Missouri, substantially in the form presented to this meeting, be and the same are hereby approved; and

BE IT FURTHER RESOLVED, that the President, General Manager and Attorney are authorized and directed to act according to their best judgment to carry out the intentions of this resolution, said authority to include making such changes to the Territorial Agreement and Applications to the Public Service Commission as may be needed for the approval of said applications and so as to comply with any Order issued by the Public Service Commission.

BE IT FURTHER RESOLVED that the officers, general manager, staff, and general counsel are hereby authorized to take such actions and execute such documents as are in their judgment necessary or appropriate to carry out the intent of this resolution including but not limited to filing an application with the Missouri Public Service Commission for approval of the territorial agreement between the Cooperative and the City of Fulton, Missouri.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Corporation this 21st day of November, 2006.


Secretary