

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

In the Matter of the Joint Application of )  
Union Electric Company, d/b/a Ameren Missouri, )  
And Farmers' Electric Cooperative, Inc., for an )  
Order Approving an Addendum to a Territorial )  
Agreement Regarding Service to Customers in )  
Livingston and Daviess Counties, Missouri. )

**File No. EO-2020-0060**

## STAFF RECOMMENDATION

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through Staff Counsel’s Office, and submits its Memorandum Recommendation that the Missouri Public Service Commission (“Commission”) approve, in part, the Joint Request For Waiver, Motion For Expedited Treatment, And Application For Approval Of Addendum No. 3 To An Approved Territorial Agreement (“Joint Request”) filed by Union Electric Company, d/b/a Ameren Missouri, and Farmers’ Electric Cooperative, Inc. on September 4, 2019. Attached In support thereof, Staff states as follows:

1. More specifically Ameren Missouri and Farmers' request an Order of the Commission approving Joint Addendum No. 3 to their previously executed Territorial Agreement (originally entered into on May 11, 1998) in accordance with Article 8 of that Territorial Agreement as well as Sections 393.106 and 394.312 RSMo., a waiver of the 60-day notice requirement of 20 CSR 4240-4.017(1), and a further request for expedited treatment, under 20 CSR 4240-2.080(14). Ameren Missouri and Farmers' note in Paragraphs 2 and 17 of their Joint Request that Section 394.312 RSMo. requires the submission to, and approval by, the Commission of territorial agreements and their addendums. There are other requests of Ameren Missouri and Farmers' in their Joint Request noted below.

2. On September 9, 2019, the Commission issued an Order Directing Notice, Setting Intervention Deadline And Directing Staff Recommendation. The Commission directed the filing of a Staff recommendation no later than October 18, 2019.

3. In Paragraph 14 of the Joint Request, Ameren Missouri and Farmers' assert that Addendum No. 3 to the Territorial Agreement is not detrimental to the public interest and in fact is beneficial to the public interest. They state therein that allowing Farmers' to serve the two particular locations in Ameren Missouri's service territory prevents future duplication of electric service facilities, resulting in economic efficiencies and future cost savings, and benefits public safety and community aesthetics. They relate that Farmers' facilities are closer than Ameren Missouri's facilities to the two locations, which comprise new structures, and Ameren Missouri's facilities would have to cross over Farmers' existing facilities. The customers who are presently receiving temporary service from Farmers' at the structures in question have submitted affidavits in support of the Joint Request.

4. The conclusion the Staff Memorandum Recommendation that Amanda Coffey ("Appendix A") reaches is, in part, similar to that reached by Ameren Missouri and Farmers': the Third Addendum to the Territorial Agreement approved by the Commission in Case No. EO-98-0511 is not detrimental to the public interest under Section 394.312 RSMo. and actually is in the public interest.

5. A review of Section 394.312 reveals that the standard under Section 394.312.3 RSMo. is in the public interest and the standard under Section 394.312.5 RSMo. is not detrimental to the public interest. Section 394.312.3 RSMo. speaks to a situation where the parties cannot agree upon the boundaries of the electric service areas

that are to be set forth in the agreement. By mutual consent of the parties they may petition the Commission to designate the boundaries of the electric service areas. Section 394.312.3 RSMo. states the Commission shall hold evidentiary hearings and base its final determination regarding such petitions upon a finding that the Commission's designation of electric service areas is in the public interest. Although Section 394.312.5 RSMo. says the Commission shall hold evidentiary hearings, it is referring to where under Section 394.312.3 RSMo. the parties cannot agree upon the boundaries of the electric service areas that are to be set forth in the agreement. Section 394.312.5 RSMo. ultimately speaks to a situation where the parties reach an agreement.<sup>1</sup> The Commission may approve the territorial agreement upon which the parties can agree if it determines that "approval of the territorial agreement in total is not detrimental to the public interest." Section 394.312.4 RSMo. provides for addendums to territorial agreements. 20 CSR 240-3.130(1)(D) requires that applications for Commission approval of territorial agreements shall include an explanation as to why the territorial agreement is not detrimental to the public interest.

6. Section 393.106 RSMo. is not applicable in this case because it only applies if an electrical corporation has commenced supplying retail electric energy to a structure for which a change of electric service providers/suppliers is desired for a reason other than a rate differential and it is in the public interest. In this instance, the two structures for which service is sought are new, so no service changes will be required for any existing structure. Section 394.312.5 RSMo. is the applicable statutory section.

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<sup>1</sup> *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo.App. W.D. 1989); the requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence.

7. Ameren Missouri and Farmers' request a waiver, for good cause shown, of the filing with the Secretary of the Commission of the 60-day notice requirement prior to filing a case, pursuant to 20 CSR 4240-4.017(1)(D). Ameren Missouri and Farmers' filed verified declarations that neither had any communications with the office of the Commission regarding any substantive issue likely to be in the case during the preceding 150 days. Staff has no objection to the Commission granting Ameren Missouri and Farmers' a waiver, for good cause shown, from the 60-day notice requirement, pursuant to 20 CSR 4240-4.017(1)(D).

8. Staff has no objection to the Commission granting Ameren Missouri and Farmers' expedited treatment, pursuant to 20 CSR 4240-2.080(14), which they seek in their Joint Request.

9. "Section V. Other Requested Findings and Orders" at pages 8-9, containing paragraph 16 of Ameren Missouri's and Farmers' Joint Request, asks for five (5) "Findings and Orders" that do not appear elsewhere in Ameren Missouri's and Farmers' Joint Request. Ameren Missouri and Farmers provide no citation to statute, rule, case law, or any other authority or explanation as to why these "Findings and Orders" are requested in an Order from the Commission. Such unexplained requests are not unusual in territorial agreement and addendum filings and are varied. The utilities may believe that no explanation is necessary. Staff does not believe that the provision of no explanation for the granting of such "Findings and Orders" warrants the issuance of such "Findings and Orders" by the Commission.

**WHEREFORE** Staff submits its Memorandum Recommendation that the Commission approve the Third Addendum to the Territorial Agreement between Ameren

Missouri and Farmers as not detrimental to the public interest, pursuant to Section 394.312.5 RSMo., and Staff has no objection to the Commission granting Ameren Missouri a waiver, for good cause shown, from the 60-day notice requirement prior to filing a case pursuant to 20 CSR 4240-4.017(1)(D), or expedited treatment, pursuant to 20 CSR 4240-2.080(14).

Respectfully submitted,

**/s/ Steven Dottheim**

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**Attorney for the Staff of the  
Missouri Public Service Commission**

### **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 18<sup>th</sup> day of October, 2019.

**/s/ Steven Dottheim**

## **MEMORANDUM**

**TO:** Missouri Public Service Commission Case File Case No. EO-2020-0060,  
Union Electric Company d/b/a Ameren Missouri and Farmers' Electric  
Cooperative, Inc. Joint Request for Waiver, Motion for Expedited Treatment,  
and Application for Approval of Addendum No. 3 to an Approved Territorial  
Agreement

**FROM:** Amanda Coffey, Engineering Analysis

/s/ Daniel I. Beck / 10-18-19                      /s/ Steven Dottheim / 10-18-19  
Engineering Analysis / Date                      Staff Counsel's Office / Date

**SUBJECT:** Staff Report and Recommendation on Union Electric Company d/b/a  
Ameren Missouri and Farmers' Electric Cooperative, Inc. Joint Request for  
Waiver, Motion for Expedited Treatment, and Application for Approval of  
Addendum No. 3 to an Approved Territorial Agreement

**DATE:** October 18, 2019

### **SUMMARY OF RECOMMENDATION**

Staff has reviewed the Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") and Farmers' Electric Cooperative, Inc. ("Farmers'") Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 3 ("Third Addendum") to an Approved Territorial Agreement<sup>1</sup> ("Agreement"). Based on its review, Staff recommends the Missouri Public Service Commission ("Commission") approve the Third Addendum, finding that it is not detrimental to the public interest, the necessary standard for Commission approval under Section 394.312 RSMo.

### **DISCUSSION**

In Case No. EO-98-511, Ameren Missouri and Farmers' (the "Applicants") requested and received Commission approval of the Agreement which designated specific areas in which each provides electric service exclusive of the other. With this Agreement, the Applicants sought to limit the duplication of facilities necessary to provide electric service to the entire area considered in the Agreement, allowing them to most efficiently and effectively utilize their respective installed facilities.

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<sup>1</sup> Territorial Agreement filed in Case No. EO-98-511 on May 11, 1998.

Article 8 of the Agreement outlines a case-by-case exception procedure for such times when it is in the best interest to allow a structure to receive service from one party even though the structure is located in the electric service area of the other party. Since the Agreement has been in effect, the Applicants have utilized this exception procedure to request and receive approval for two additional addendums<sup>2</sup> to the Agreement, allowing Farmers' to provide service to a customer, Beetsma Farms, Inc., that is in Ameren Missouri's territory in order to prevent duplication of facilities and allow for the most efficient use of the available electric facilities.

At the request of two customers whose new structures (a modular home and a cabin) are located in Ameren Missouri's territory but the customers wish to be served by Farmers', the Applicants have filed a Joint Request for Approval of the Third Addendum to their Agreement requesting the Commission find that the exclusive provision of electric service by Farmers' to structures located at 26060 112<sup>th</sup> Street, Winston, Missouri 64689 and 2280 Highway DD, Ludlow 64656, Missouri, respectively, is not detrimental to the public interest. The provision of service by Farmers' requires less new construction of electrical facilities as Farmers' has existing electric facilities in closer proximity to the locations. Additionally, if Ameren Missouri were to extend service to these locations, it would have to cross over Farmers' existing facilities to do so.

Staff agrees that limiting the amount of new construction of electrical facilities by allowing Farmers' to utilize its existing electric facilities is in the public interest and is not aware of any other filings that affect or will be affected by this filing of Ameren Missouri and Farmers'. Therefore, Staff agrees that provision of service by Farmers' to the locations requested is not detrimental to the public interest and recommends the Commission approve the Third Addendum.

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<sup>2</sup> Addendum No. 1 was approved by the Commission on October 9, 2013 in Case No. EO-2014-0044  
Addendum No. 2 was approved by the Commission on May 30, 2018 in Case No. EO-2018-0278

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Union Electric Company d/b/a Ameren	)	Case No. EO-2020-0060
Missouri and Farmers' Electric Cooperative,	)	
Inc. for an Order Approving an Addendum to	)	
a Territorial Agreement Regarding Service to	)	
Customers in Livingston and Daviess	)	
Counties, Missouri	)	

**AFFIDAVIT OF AMANDA COFFER**

STATE OF MISSOURI     )  
                                      )  
COUNTY OF COLE     )     ss.

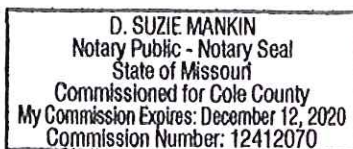
**COMES NOW** Amanda Coffe and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation* in Memorandum form and that the same is true and correct according to her best knowledge and belief.


Further the Affiant sayeth not.

  
AMANDA COFFER

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 18<sup>th</sup> day of October, 2019.



  
Notary Public