

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

In the Matter of the Joint Application of)
Co-Mo Electric Cooperative and Union)
Electric Company d/b/a Ameren) Case No. EO-2022-0332
Missouri for an Order Approving a)
Territorial Agreement in Cooper, Cole,)
and Moniteau Counties, Missouri)

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

**PUBLIC COUNSEL’S RESPONSE
TO PROPOSED TERRITORIAL AGREEMENT**

The Office of the Public Counsel (“Public Counsel”) offers this response to raise two concerns regarding the proposed territorial agreement between Co-Mo Electric Cooperative (“Co-Mo”) and Union Electric Company d/b/a Ameren Missouri (“Ameren”). The first concern is that the electric service provider for 19,800 Missouri acres across Cooper, Cole, and Moniteau Counties, is being determined for no reason other than to convince Ameren to drop its opposition to a landowner’s request for electric service from Co-Mo on a 216-acre development in Cooper County. This is a questionable rationale for determining the electric service provider for 31 square miles of private property.

Public Counsel is also concerned the landowners in the other 19,800 acres at issue are not aware of the proposal to determine their electric provider. The Commission’s order regarding notice of the territorial agreement and the local public hearing provided, ““The Commission’s Public Policy and Outreach

Department shall provide a copy of this order to news media serving Cooper, Cole, and Moniteau Counties in Missouri, members of the General Assembly representing residents of those counties.”¹

Public Counsel questions whether sufficient notice reached any landowner within the 19,800 acres. Even if a landowner did see the Commission’s order, the order itself included no information that would put a landowner on notice that the agreement would affect their right to a particular service provider. The entirety of the order before the ordered clause states:

On July 29, 2022, the Commission’s Staff (Staff) filed a motion requesting that the Commission hold a local public hearing. In support of its proposition Staff states that it was contacted by the Boonslick Community Development Corporation, a non-profit corporation, and Staff has determined that the Cooper County, Missouri, community would benefit from a local public hearing. Union Electric Company d/b/a Ameren Missouri filed a response opposing Staff’s Motion. Co-Mo Electric Cooperative (Co-Mo) also filed a response opposing Staff’s motion, but ask that, if granted, the Commission not order it to mail notice to all landowners. The Office of the Public Counsel filed a response in support of a public hearing along with a supporting email from the City of Boonville and letter from the Boonslick Community Development Corporation.

After considering the benefits and detriments, the Commission will hold a virtual local public hearing so concerned persons or entities may provide comments to the Commission about Ameren Missouri and Co-Mo’s proposed territorial agreement. The Commission will establish a time and date for a public hearing and provide for notice to the public through local media and the county commissions for the effected counties. The virtual public hearing will include a question-and-answer session. Participants who wish to make comments to the Commission during the formal portion of the hearing will be asked to identify themselves for the record.²

¹ Amended Order Setting and Providing Notice of a Virtual Local Public Hearing, August 26, 2022, EFIS No. 17, p.3.

² *Id.*

There is no indication in the record to suggest any landowner received direct notice of the proposal, nor is there any indication to suggest any local media published notice of the territorial agreement, or that media published notice sufficient to put landowners on notice. Landowners may have reason to contest the territorial agreement, but are simply unaware of it.

Often times, as occurred in EO-2022-0190 regarding the initial 216-acre tract, landowners within the service territory of both a public utility and a rural electric cooperative prefer one provider to the other. This landowner preference could be based on a number of reasons, including but not limited to the following:

- Rate differential;
- Cost to the landowner to extend the utility's facilities;
- The route across the landowner's property that would be required to extend service;
- How quick a provider may be able to provide service;
- The location where the landowner intends to build a structure;³ and
- Preference for either a rural electric cooperative or a for-profit electric company.

Through the proposed territorial agreement, however, the decision to request a provider based on the above criteria, or any other criteria, would be

³ For example, assume Landowner A owns a 200-acre farm with Ameren facilities to the immediate north, and Co-Mo facilities to the immediate south. Landowner A wishes to build a structure with electricity on the far north of their property, and doing so would only require a 100' connection to an Ameren line. However, under the terms of the agreement, Landowner A can no longer petition Ameren to be its provider, and must now get service from Co-Mo, which would require a line that crosses the entire property from the south.

taken away from all landowners in an area that is equivalent to 31 square miles, and for areas where no development has been identified. This is all being done to satisfy a disagreement over a 216-acre development.

Public Counsel recommends two possible solutions to this concern. First, the Commission direct Ameren and Co-Mo to each provide direct mailed notice to every landowner within the proposed service areas designated for that provider. As this territorial agreement involves only rural areas, the number of landowners that would need to be notified is less than if this involved notice in an urban area. This notice should include an explanation of which provider would have the exclusive right to serve their property, and provide an opportunity for the landowners to submit comments to the Commission before the Commission makes a decision on the territorial agreement.

Alternatively, Public Counsel recommends the Commission reject the territorial agreement, grant Co-Mo the authority to serve the 216 acres in Cooper County, and determine the provider of the other 19,800 acres if, and when, landowners request service in those areas. Should a landowner seek electric service on their property, the landowner can request service from the provider of their choice, taking into consideration the landowner's needs, electric facilities available at the time, and other considerations specific to the landowner, the utility, and the property. This approach would address both of Public Counsel's concerns with the 19,800 acres and lack of notice raised above.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to the Proposed Territorial Agreement.

Respectfully submitted,

/s/ Marc Poston

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 2nd day of December 2022.

/s/ Marc Poston
