

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

In the matter of the Application of Black River)
Electric Cooperative and the City of) **Case No: EO-2015-0096**
Fredericktown, Missouri for Approval of an)
Addendum to an Approved Territorial Agreement)

**STAFF'S RECOMMENDATION FOR APPROVAL OF
ADDENDUM TO APPROVED TERRITORIAL
AGREEMENT**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and for its recommendation in this matter files Staff’s Recommendation for Approval of Addendum to an Approved Territorial Agreement (“Joint Application”) filed by Black River Electric Cooperative (“Black River”) and the City of Fredericktown, Missouri (“City”), (collectively referenced as the “Applicants”) to revise the Applicants’ Territorial Agreement (“TA”) in accordance with Addendum No. 2 (“Addendum”). Staff has reviewed the Application and recommends the Commission approve it, finding that with the Addendum the TA still is not detrimental to the public interest pursuant to Sections 91.025 and 394.312 RSMo (Supp. 2014), 4 CSR 240-2.060, and 4 CSR 240-3.130. In support of Staff’s recommendation, Staff states as follows:

1. On October 13, 2014, Black River and the City filed their Joint *Application* requesting that the Commission approve addendum number two to their existing territorial agreement¹ that would allow Black River, rather than the City, to provide electrical service to 137A Commercial Drive, Fredericktown, Missouri, 63645, a

¹ The original territorial agreement was approved by the Commission in a *Report and Order* dated October 19, 2011 in Case No. EO-2012-0047. Before approving the original territorial agreement, the parties entered into Addendum No. 1, which is included in the Report and Order in EO-2012-0047.

property owned by West Main Properties, LLC (“West Main”), that otherwise lies in an area exclusively serviced by the City per the terms of the parties’ territorial agreement.

2. On October 14, 2014, the Commission issued an *Order* directing Staff to file a recommendation on the Application by November 13, 2014. This filing complies with that Order.

3. As explained in Staff’s *Memorandum*, attached hereto as Appendix A and incorporated herein by reference, Staff recommends the Commission issue an order in this case that approves the Addendum to the territorial agreement.

4. Section 394.312 RSMo authorizes territorial agreements to displace competition to provide retail electric service, as between rural electric cooperatives, electrical corporations and municipally owned utilities. All territorial agreements entered into under the provisions of this section, including any subsequent amendments to such agreements shall receive approval by the Public Service Commission by Report and Order. The Commission may approve territorial agreements, original and amended, “if it determines that approval of the territorial agreement in total is not detrimental to the public interest.” RSMo 394.312.5.

5. Staff has reviewed the Joint Application, which includes notarized statements from Black River Electric Cooperative, the Mayor of the City of Fredericktown Missouri, and the manager of West Main Properties, LLC acknowledging that Black River is the desired electric service provider for the new commercial building located at 137A Commercial Drive, Fredericktown, Missouri. Black River has facilities that are much closer to the property as compared to the City’s current facilities, and the cost to the City would be much greater than Black River’s which already has facilities

located on this same parcel of land serving adjacent commercial buildings. Thus, approval of this Addendum allows for better use of resources by avoiding the result of having multiple electric service providers on the same property. With that in mind, Staff has determined that with approval of the Addendum the territorial agreement as further amended by the Addendum still is not detrimental to the public interest. Moreover, approval of the Addendum will not change any of the other terms or conditions of the territorial agreement or change the boundaries of the exclusive electric service territories of either Black River or the City. Therefore Staff recommends that the Commission approve Addendum No. 2.

Respectfully submitted,

/s/ Cydney D. Mayfield

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Attorney for Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by First Class United States Mail, postage prepaid, on this **13th day of November, 2014**, to all counsel of record.

/s/ Cydney D. Mayfield

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2015-0096 – In the Matter of the Application of Black River
Electric Cooperative and the City of Fredericktown, Missouri for
Approval of an Addendum to An Approved Territorial Agreement

FROM: Alan J. Bax - Tariff, Safety, Economic and Engineering Analysis

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| <u>/s/ Daniel I. Beck 11/13/14</u> Energy Department / Date | <u>/s/ Cydney Mayfield 11/13/14</u> Staff Counsel's Office / Date |
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SUBJECT: Staff Memorandum Recommending Approval of Joint Application

DATE: November 13, 2014

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Joint Application (“Application”) of Black River Electric Cooperative (“Black River”) and the City of Fredericktown, Missouri (“City”), (collectively referenced as the “Applicants”) to revise the Applicants’ Territorial Agreement (“TA”) in accordance with Addendum No. 2 (“Addendum”). Approval of the Addendum would authorize Black River to provide electric service to 137A Commercial Drive, Fredericktown, Missouri, 63645, a property owned by West Main Properties, LLC (“West Main”), that otherwise lies in an area exclusively serviced by the City per the terms of the TA. Staff has reviewed the Application and recommends the Commission approve it, finding that the transaction is not detrimental to the public interest pursuant to Sections 91.025 and 394.312 RSMo (2000), 4 CSR 240-2.060, and 4 CSR 240-3.130.

OVERVIEW

On October 13, 2014, the Applicants filed an Application requesting approval of Addendum No. 2 to their TA. The original TA was approved by the Commission in a *Report and Order* dated October 19, 2011 in Case No. EO-2012-0047. On October 14, 2014, the Commission issued an *Order* directing Staff to file a recommendation on the Application by November 13, 2014.

Black River is a rural electric cooperative organized under Chapter 394 RSMo (2000) to provide electric service to its members in all or parts of ten Missouri counties, including Madison County, in which lies the property that is the subject of the Application. Although the Commission has limited jurisdiction over rural electric cooperatives, Black River is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo (2000).

The City is a municipal electric utility authorized to provide electric service to customers that lie primarily within its corporate limits as well as, in certain circumstances, structures outside these boundaries per Section 91.020 RSMo (2000). The City is subject to the jurisdiction of the Commission in this case pursuant to Section 91.025 RSMo (2000).

Neither Black River nor the City is required to file annual reports or pay assessment fees to the Commission. Further, neither Black River nor the City have pending or final unsatisfied judgments against it from any state or federal court involving customer service or rates within three years of the date of filing this Application.

DISCUSSION

In Case No. EO-2012-0047, the Applicants requested and received Commission approval of a TA that designated specific areas in Madison County, Missouri, in which, as between them, each provides electric service exclusive of the other. A map depicting the exclusive service area boundary of the City, per the terms of the TA, is attached hereto as AJB Schedule-1 and incorporated by reference herein. The exclusive service area of the City lies within the outlined boundary; the area shown outside this outlined boundary is the exclusive service area of Black River. The location of West Main is indicated on the left side of boundary line near the center of the document. With this TA, the Applicants, in part, sought to limit the duplication of facilities necessary to provide electric service to the entire territory considered in the TA. This TA has allowed the Applicants to most efficiently and effectively utilize their respective installed facilities.

Even with the successful effect that this TA has had on system planning within the respective boundaries, exceptions can occur where an alternate course of action is more efficient and effective. Such an exception is the subject of the current Application. West Main desired to receive electric service to a new structure on their property at 137A Commercial Drive, an address within corporate limits of Fredericktown, Missouri. Because Black River had previously served load on this property, Black River has sufficient facilities to serve West Main already in place. Black River also currently serves the structures adjacent to West Main as illustrated on the map attached to the Application. Black River and the City proceeded to discuss the possibility of allowing Black River to provide electric service to West Main, as contemplated by Section 9 of the TA, which was included in the Application.

Section 9 of the TA provides a process that ultimately may allow a new structure to be served by either Black River or the City, despite that particular structure being located in an area to be served exclusively by the other per the terms of the TA. Addendum No. 2 to the TA between Black River and the City, dated September 23, 2014, and attached as Appendix 2 to the Application, is an agreement that would allow Black River to provide permanent electric service to West Main should the Commission approve it. Black River retained facilities utilized to provide service previously at this location and these facilities are capable of providing the desired service to West Main. Thus, approval of this Addendum allows for the most efficient use of the available electric facilities in this area of Madison County, Missouri. The Application includes notarized statements from Black River, the City and West Main acknowledging that Black River is the desired electric service provider for the new structure at 137A Commercial Drive, Fredericktown, Missouri. No additional changes to the terms of the TA are being sought other than requesting approval of Addendum No. 2.

CONCLUSION

For the reasons stated above, Staff is of the opinion that approval of this Application is not detrimental to the public interest pursuant to Section 394.312 RSMo (2000), 4 CSR 240-2.060 and 4 CSR 240-3.130. Therefore, Staff recommends that the Commission approve the Application of Black River and the City for Addendum No. 2 to their TA, which would allow Black River to provide electric service to a new structure on property owned by West Main.

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

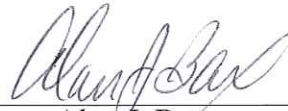
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AFFIDAVIT OF ALAN J. BAX

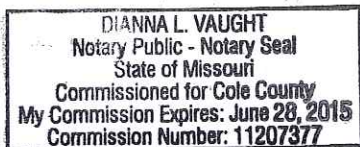
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Alan J. Bax, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was given by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



Alan J. Bax

Subscribed and sworn to before me this 13th day of November, 2014.





Notary Public

Exhibit B

**City of Fredericktown and
Black River Electric Cooperative
Proposed Service Agreement**

— SERVICE AREA BOUNDARY

