

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

In the Matter of the Joint Application of Farmers')
Electric Cooperative and the City of Cameron for)
Approval of a Written Territorial Agreement)
Designating the Boundaries of Each Electric)
Service Supplier Within Portions of DeKalb County)

File No. EO-2018-0205

STAFF RECOMMENDATION FOR APPROVAL OF TERRITORIAL AGREEMENT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), through Staff Counsel's Office, in response to the Missouri Public Service Commission's ("Commission's") January 30, 2018, Notice of Application and Order Directing Filing directing the Staff to file a recommendation no later than March 1, 2018 to the Joint Application of Farmers' Electric Cooperative ("Farmers'") and the City of Cameron ("Cameron") for Approval of a Written Territorial Agreement Designating the Boundaries of Each Electric Service Supplier Within Portions of DeKalb County. In response the Staff states as follows:

1. On January 30, 2018, Farmers' and Cameron pursuant to Sections 394.312 and 416.041, RSMo. 2016 and Commission Rule 4 CSR 240-2.060 filed a Joint Application for a "Territorial Agreement" between Farmers' and Cameron specifically designating boundaries of the exclusive electric service area of Farmers' to serve new structures in a particular parcel/tract of property in the corporate limits of Cameron, which is in DeKalb County, as set out in a metes and bounds description in Appendix B and in a map which is Exhibit A to Appendix B.

2. The Joint Applicants assert the Territorial Agreement is in the public interest in that it establishes exclusive service territories for new structures for the two electric suppliers, minimizes duplication of utility facilities, promotes economic

efficiencies, benefits public safety, and benefits the aesthetics of the community. The Territorial Agreement asserts that the arrangement is in the public interest because it establishes exclusive service territories for new structures for the two electric suppliers to avoid unnecessary and wasteful duplication of electrical facilities, and permits them to most effectively avail themselves of prior investment and planning for serving the public. The terms of the Territorial Agreement do not include any request for an exchange of either electric facilities or current customers/members. There is one affected customer. Its statement of no objection to the Territorial Agreement is attached as Appendix C.

3. Cameron, inclusive of the parcel/tract of property in question, is not a “rural area” as defined by Section 394.020(3) RSMo. 2016, and minus a Territorial Agreement, or some other circumstance, such as a change of supplier of electric energy by the Commission for a reason other than a rate differential, pursuant to Section 394.315.2 RSMo. 2016, cooperatives are limited to serving new structures in rural areas, pursuant to Section 394.030 RSMo. 2016.

4. Section 394.312.3 RSMo. 2016 requires that the territorial agreement be in the public interest, except as provided in Section 394.312.5 RSMo. 2016 which addresses when a stipulation and agreement is submitted by all the parties. Finally, in *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo.App. W.D. 1989), there was a verified application, there were no adverse parties, and the Western District Court of Appeals held that the requirement for a hearing contained in the statute was met when the opportunity for a hearing was provided and no proper party requested the opportunity to present evidence.

5. The initial term of the Agreement is thirty-five (35) years from and after the effective date.¹ Thereafter, the Agreement shall be automatically renewed for successive terms of ten (10) years commencing on the anniversary of the effective date unless Farmers' or Cameron advises the other party in writing of its intent to terminate the Agreement at least one (1) year in advance of any such renewal date.

WHEREFORE the Staff recommends that the Commission approve the Joint Application and Territorial Agreement as being in the public interest.

Respectfully submitted,

/s/ Steven Dottheim

Steven Dottheim
Chief Deputy Staff Counsel
Missouri Bar No. 29149

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Attorney for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail on counsel for the parties of record to this case, on this 1st day of March, 2018.

/s/ Steven Dottheim

¹ The term "effective date" means 12:01 a.m. of the date on which the Commission's Report and Order approving the Agreement is effective pursuant to the terms of such Report and Order, unless a writ of review or other proceeding is taken challenging the Report and Order, in which case there shall be no effective date of the Agreement until Farmers' and Cameron both execute a document which establishes an effective date for the purposes of the Agreement.

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2018-0205 – In the Matter of the Joint Application of
Farmers' Electric Cooperative and the City of Cameron for Approval of a
Written Territorial Agreement Designating the Boundaries of Each
Electric Service Supplier Within Portions of DeKalb County

FROM: Noumvi G. Ghomsi – Operations Analysis Department / Engineering
Analysis Unit

| | |
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| <u>Dan Beck</u> <u>3/1/2018</u> Manager - Engineering Analysis Unit / Date | <u>Steve Dottheim</u> <u>3/1/2018</u> Staff Counsel's Office / Date |
|--|--|

SUBJECT: Staff Memorandum Recommending Approval of Territorial Agreement

DATE: March 1, 2018

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the December 27, 2017 Territorial Agreement (“TA”) between Farmers’ Electric Cooperative, Inc. (“Farmers”) and the City of Cameron, Missouri (“Cameron” or “the City”) (collectively, “Joint Applicants”), which would allow Farmers’ to serve new structures in a particular parcel/tract of property in the corporate limits of Cameron, which is in DeKalb County, finding the TA to be in the public interest, pursuant to Sections 394.312 and 416.041 RSMo. 2016, 4 CSR 240-2.060, and 4 CSR 240-3.130. Cameron, inclusive of the parcel/tract of property in question, is not a “rural area” as defined by Section 394.020(3) RSMo. 2016, and minus a TA, or some other circumstance, such as a change of supplier of electric energy by the Commission for a reason other than a rate differential, pursuant to Section 394.315.2 RSMo. 2016, cooperatives are limited to serving new structures in rural areas, pursuant to Section 394.030 RSMo. 2016.

OVERVIEW

On January 30, 2018, Farmers' and Cameron filed their Joint Application requesting approval of their TA. The TA states that Farmers' and Cameron desire to promote the orderly development of retail electrical service within one parcel/tract of property in Cameron to avoid unnecessary and wasteful duplication of electrical facilities and to most effectively utilize prior investment and planning to serve the public, which has a municipally-owned electric utility, and an exclusive electric service area served by Farmers'. The terms of the TA apply only to the Joint Applicants; these terms have no effect on any other electric energy service provider in the area. The terms of the TA do not include any request for an exchange of electric facilities or current customers/members. Thus, the Joint Applicants will continue serving all their current customers/members even if these customers are located in the exclusive service territory of the other electric service provider, should the TA be approved by the Commission. The Joint Application asserts that the TA is in the public interest because it will prevent future duplication of electric service facilities, promote economic efficiencies, and benefit the public safety and aesthetics of the community. The Joint Application notes that the electric service customer, the managing member of Midwest Mass Investments LLC, at 2108 E US HWY 36, Cameron, Mo, the location of the affected one parcel/tract of land, is in favor of the TA, and its statement of no objection is attached to the Joint Application.

On January 30, 2018, the Commission issued a *Notice of Application and Order Directing Filing* in which the Commission established a deadline of February 13, 2018,

for any party desiring to intervene in this case and also directed Staff to file a recommendation by March 1, 2018. No party intervened in this case.

Farmers' is a rural electrical cooperative organized under Chapter 394 RSMo. 2016 to provide electric service to its members in all or parts of ten (10) Missouri counties, including DeKalb County, in which lies the property that is the subject of the Application. Although the Commission has limited jurisdiction over rural electric cooperatives, Farmers' is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo. 2016.

Cameron is a city of the third class organized, established, and existing pursuant to Sections 77.010 and 78.430 RSMo. 2016 that provides electric service to customers in areas that do not include the parcel/tract that is the subject of the Joint Application. Although the Commission has limited jurisdiction over municipalities, Cameron is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo. 2016.

Neither Farmers' nor the City is required to file annual reports or pay assessment fees to the Commission. Further, neither Farmers' 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 from the filing date of this Joint Application.

TERRITORIAL AGREEMENT

The TA asserts it is in the public interest pursuant to Section 394.312¹ RSMo. 2016, because it establishes exclusive service territories for new structures for the two electric suppliers to avoid unnecessary and wasteful duplication of electrical facilities, and most effectively avail themselves of prior investment and planning for serving the public. No existing customer's utility service will be changed by the TA. The TA establishes service obligations that take best advantage of available electric facilities..

CONCLUSION

For the reasons stated above, Staff is of the opinion that the Commission should approve the Joint Application, finding that this TA between Farmers' and Cameron, dated December 27, 2017, is in the public interest, pursuant to Sections 394.312.3² and 416.041 RSMo. 2016, 4 CSR 240-2.060, and 4 CSR 240-3.130. Therefore, Staff recommends that the Commission approve the Joint Application, which will establish an exclusive electric energy service area for Farmers', as between Farmers' and Cameron, for the one parcel/tract. Approval of the TA allows Farmers' and Cameron to most efficiently and effectively use their existing facilities in the applicable areas and best plan for future expansion thereby limiting duplicative facilities. This TA has no effect on other electric service providers present in the affected areas of the Joint Application.

¹ More specifically Section 394.312.3 RSMo. Except as provided in Section 394.312.5 RSMo. 2016 which addresses when a stipulation and agreement is submitted by all the parties, the standard is not detrimental to the public interest.

² *Id.*; In *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo.App. W.D. 1989), there was a verified application, there were no adverse parties, and the Western District Court of Appeals held that the requirement for a hearing contained in the statute was met when the opportunity for a hearing was provided and no proper party requested the opportunity to present evidence.

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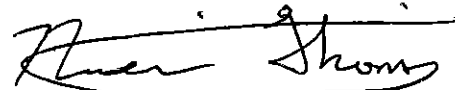
Case No. EO-2018-0205

AFFIDAVIT OF NOUMVI GHOMSI

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

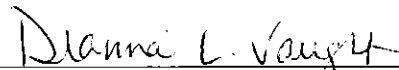
COMES NOW, Noumvi Ghomsi and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached Staff Recommendation in Memorandum form; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



Noumvi Ghomsi

Subscribed and sworn to be this 1st day of March, 2018..



Notary Public

