

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of The City)
of Butler and Osage Valley Electric)
Cooperative for Approval of a First) **File No. EO-2023-0126**
Territorial Agreement Designating the)
Boundaries of Exclusive Service Areas)
Within Portions of Bates County)

ORDER DIRECTING NOTICE, SETTING DEADLINE FOR INTERVENTION, AND DIRECTING STAFF RECOMMENDATION

Issue Date: October 7, 2022

Effective Date: October 7, 2022

On October 5, 2022, the City of Butler (City) and Osage Valley Electric Cooperative (Osage Valley) (collectively, “Applicants”) filed a *Joint Application* for an order approving Applicant’s First Territorial Agreement. The Agreement covers an area outside the City within Bates County.

The law requires the Commission to rule on the application no later than 120 days from the application’s filing date, and provides the right to a hearing.¹ However, a hearing may be waived by agreement of the parties.² Applicants state in their Joint Application that they agree that there is no need to hold an evidentiary hearing.

The statutes provide that “notice of such filing shall be given to other electrical suppliers pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity.”³ No regulation contains any provision for notice with regard to certificates of public convenience and necessity.

¹ Section 394.312.4 and 5, RSMo 2016.

² Section 394.312.5, RSMo 2016. This notice does not require any party to file an answer. Section 536.067(2)(d), RSMo 2016. The Commission’s rules of discovery are set forth at 20 CSR 4240-2.090.

³ Section 394.312.4, RSMo 2016.

Therefore, the Commission will order notice delivered to elected officials and published in newspapers and other media serving Bates County. The Commission will also set a deadline for intervention and direct the filing of a staff recommendation. Finally, the Commission will direct notice to the parties in related change of electric service provider cases.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send a copy of this order to the county commissioners of Bates County, Missouri.

2. The Commission's Data Center shall send a copy of the *Joint Application* in this matter to all parties in the following Commission cases: EO-2023-0039, EO-2023-0040, EO-2023-0041, EO-2023-0042, EO-2023-0043, EO-2023-0044, EO-2023-0045, EO-2023-0046, EO-2023-0047, EO-2023-0048, EO-2023-0049, EO-2023-0050, EO-2023-0051, EO-2023-0063, and EO-2023-0064.

3. The Commission's Public Policy and Outreach Department shall make this notice available to the members of the General Assembly representing Bates County, Missouri and to the newspapers and other media serving that county.

4. Any person or entity wishing to intervene in this matter shall file an application to intervene no later than October 24, 2022.

5. The Staff of the Commission shall file a recommendation on the territorial agreement no later than November 7, 2022.

6. This order is effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large initial "M".

Morris L. Woodruff
Secretary

Kenneth J. Seyer, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 7th day of October, 2022.

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

In the Matter of the Application of The)
City of Butler and Osage Valley Electric)
Cooperative for Approval of a First)
Territorial Agreement Designating the) File No. _____
Boundaries of Exclusive Service Areas)
Within Portions of Bates County)

JOINT APPLICATION

COME NOW The City of Butler (City) and Osage Valley Electric Cooperative (Osage Valley) (collectively, Applicants), by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission (the "Commission"), pursuant to 4 CSR 240-2.060, 20 CSR 4240-3.130, and RSMo, §394.312 and §416.041, for an order approving Applicants' First Territorial Agreement (Agreement), respectfully state as follows:

The Applicants

1. City is a Missouri city of the 3rd Class organized and existing under the laws of Missouri with its principal office located at 22 W. Ohio, P.O. Box 420, Butler, Missouri 64730. City is engaged in the business of providing electrical and water utility services to the citizens of the City within city limits.

2. City has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding the filing of this Application. City has no overdue Commission annual reports or assessment fees.

3. Osage Valley is a rural electric cooperative organized and existing pursuant to Chapter 394, RSMo, with its headquarters located at 1321 N. Orange Street, Butler, Missouri 64730. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of

electric energy and service to its members within certain Missouri counties. Osage Valley has no pending or final judgments or decisions against it from any state or federal agency or court which involve its customer service or rates within the three years immediately preceding the filing of this Joint Application. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for Osage Valley was filed in Case No. EO-2021-0339 and is incorporated herein by reference.

Correspondence and Communication

4. Correspondence, communications, orders, and decisions in regard to this Application should be directed to:

Anthony Hernandez
Lauber Municipal Law, LLC
250 NE Tudor Road
Lee's Summit, Missouri 64086
Telephone: (816) 523-7881
Email: Ahernandez@laubermunicipal.com

Megan E. McCord, #62037
Friel, McCord & Smiley, LLC
P.O. Box 14287
Springfield, MO 65814
Telephone: 417-227-8405
Email: mmccord@reclawfirm.com

The Territorial Agreement

5. **The Service Areas.** Subject to the terms and conditions of the First Territorial Agreement between Osage Valley Electric Cooperative and the City of Butler (the "Agreement"), the Applicants have agreed to a boundary change affecting 29 parcels of land outside the City of Butler, as described in Paragraphs 1-4 and Exhibits 2, 3, and 5 of the First Territorial 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. As required by 20 CSR 4240-3.130(1)(A), 4 CSR 240-3.130(1)(A), maps and legal descriptions depicting the parcels affected by the First Territorial Agreement are a part of the Agreement and are incorporated by reference into this Application and made part hereof for all purposes. Each Applicant will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Territorial Agreement.

The purpose of this First Territorial Agreement is to allow the City to continue to lawfully provide electrical service to 28 parcels of land outside the city limits of Butler, Missouri and to allow Osage Valley to serve a parcel of land located outside of the city limits regardless of any potential future annexations.

6. **No Changes of Suppliers.** The Agreement does not require transfer of any facilities or customers between the Applicants, so no list of structures and persons whose utility service would be changed by the Agreement, as required by 20 CSR 4240-3.130(1)(E), is included.

7. **Other Electric Suppliers.** To Applicants' knowledge and belief, there are no other electric suppliers serving in the areas covered by this Agreement.

8. **Public Interest.** The Agreement is not detrimental to the public interest and the proposed change in electric service area designation is in the public interest, because the Agreement prevents duplication of electric service facilities.

9. **Hearing.** The City and Osage Valley agree that, pursuant to Section 394.312(5) RSMo, there is no need to hold an evidentiary hearing on the Agreement.

WHEREFORE, Applicants respectfully request that the Commission issue its report and order: (a) finding that the designation of electric service areas is not detrimental to the public

interest and approving the Applicants' First Territorial Agreement; and (b) authorizing Applicants to perform in accordance with the terms and conditions of the Agreement.

Respectfully submitted,

ATTORNEYS FOR THE CITY:



Anthony Hernandez, # 69129
Lauber Municipal Law, LLC
250 NE Tudor Road
Lee's Summit, Missouri 64086
Telephone: (816) 525-7881
Email: Ahernandez@laubermunicipal.com

ATTORNEYS FOR OSAGE VALLEY
ELECTRIC COOPERATIVE:



Megan E. McCord #62037
Friel, McCord & Smiley, LLC
P.O. Box 14287
Springfield, MO 65814
Telephone: 417-227-8405
Email: mmccord@reclawfirm.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on October 4, 2022, to the following:

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounselfservice@psc.mo.gov

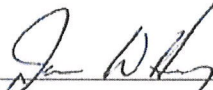


Megan E. McCord

VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF BATES)

Being first duly sworn, Jim Henry states as follows: that he is the Mayor of the City of Butler and that he has read the foregoing application and the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief and that attorney Anthony Hernandez of Lauber Municipal Law, LLC is authorized by the City of Butler to make this filing and represent the City in this matter.



Jim Henry

Subscribed and sworn to before me this 9th day of September 2022.

Corey N. Snead NOTARY PUBLIC, NOTARY SEAL STATE OF MISSOURI Bates County COMMISSION # 15636199 MY COMMISSION EXPIRES: JUNE 16, 2023
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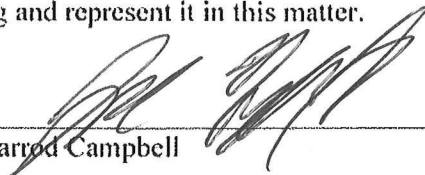


Notary Public

VERIFICATION

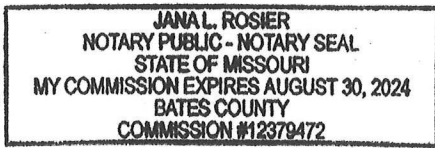
STATE OF MISSOURI)
) ss
COUNTY OF Bates)

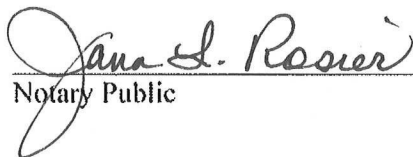
Being first duly sworn, Jarrod Campbell states as follows: that he is the Manager of Osage Valley Electric Cooperative; that he has read the foregoing application; that the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief; and, that Megan E. McCord of Friel, McCord & Smiley, LLC is authorized by Osage Valley Electric Cooperative to make this filing and represent it in this matter.



Jarrod Campbell

Subscribed and sworn to before me this 27th day of September 2022.





Notary Public

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 7th day of October, 2022.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 7, 2022

File/Case No. EO-2023-0126

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
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Jefferson City, MO 65102
staffcounsel@psc.mo.gov

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Brian and Anna Shrock
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Chance and Shanya Hedrick
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County of Bates, Missouri
County Commission Clerk
1 N. Delaware
Bates County Courthouse
Butler, MO 64730
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David Crist
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James and Cathy Loomis
70 NE Cedar Drive
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Janet Castrogiovanni
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Butler, MO 64730

Kathy Castrogiovanni
131 Kelly Drive
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Matt and Karen Cochran
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Butler, MO 64730

Wayne and Jenny Vermillion
1359 NE Kelly Drive
Butler, MO 64730

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large, prominent "M" and "W".

**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.