

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 18th day of May, 2023.

In the Matter of the Joint Application of)
Union Electric, d/b/a Ameren Missouri, and)
Callaway Electric Cooperative for an Order) **File No. EO-2023-0256**
Approving an Addendum to a Territorial)
Agreement Regarding Service to)
Customers in Callaway County, Missouri)

**REPORT AND ORDER APPROVING ADDENDUM
TO AN EXISTING TERRITORIAL AGREEMENT**

Issue Date: May 18, 2023

Effective Date: May 28, 2023

This order approves an addendum to an existing territorial agreement between Union Electric Company, d/b/a Ameren Missouri and Callaway Electric Cooperative. The territory concerned is a single-family home located wholly within Callaway County, Missouri.

Findings of Fact

1. Callaway Electric Cooperative (CEC) is organized under Chapter 394 RSMo to provide electric service to its members located in all or part of two Missouri counties, including Callaway County, in which lies the subject territory.¹

¹ Staff Memorandum, filed April 28, p. 2 of 5.

2. On March 22, 2002, Joint Applicants entered into a territorial agreement (Territorial Agreement), which was approved by the Commission in File No. EO-2002-458 on July 28, 2002.²

3. Article 10 of the existing Territorial Agreement allows the Joint Applicants to agree, on a case-by-case basis and through an addendum to the Territorial Agreement, to allow a structure to receive service from one party even though the structure is located in the electric service territory of the other.³

4. On February 9, 2023,⁴ Ameren Missouri and CEC (Joint Applicants) filed an application for approval of an addendum (Joint Addendum No. 1) to their existing Territorial Agreement.⁵

5. Joint Addendum No. 1 would allow CEC to be the exclusive electric service provider to a new structure being built in Callaway County, Missouri.⁶

6. The Joint Applicants assert that CEC currently has adequate facilities installed on this parcel of land capable of providing the level of electric service that is anticipated and/or has been requested by the property owner, which would prevent an otherwise necessary duplication of facilities.⁷

7. The Joint Applicants' existing Territorial Agreement created exclusive electric service areas for Ameren Missouri and CEC, as between them, within Callaway and Montgomery Counties in Missouri. The parcel that is the subject of this application is

² Joint Application for Approval of Territorial Agreement Addendum, filed February 9, para. 1.

³ Joint Application for Approval of Territorial Agreement Addendum, filed February 9, para. 1.

⁴ All dates hereafter refer to 2023 unless otherwise stated.

⁵ Joint Application for Approval of Territorial Agreement Addendum, filed February 9.

⁶ Staff Memorandum, filed April 28, p. 1 of 5.

⁷ Staff Memorandum, filed April 28, p. 2 of 5.

located within the exclusive service territory of Ameren Missouri per the terms of the existing Territorial Agreement.⁸

8. CEC has an existing distribution line routed along the borderline of the subject property that is capable of being conveniently tapped in providing the requested electric service to the new home.⁹

9. Ameren Missouri does not have comparable facilities in the immediate vicinity of the subject property.¹⁰

10. The application includes a statement from the property owner expressing their desire that CEC be the provider of electric service to the property.¹¹

11. The Joint Applicants requested expedited treatment to enable CEC to provide permanent service to this property in a timely manner.¹²

12. On April 28, Staff filed its recommendation that the Commission approve the Joint Addendum No. 1 to the existing Territorial Agreement.

13. Staff further recommended the Commission order Ameren Missouri to file revised illustrative tariffs that reflect the corresponding change in its certificated electric service area in Callaway County, Missouri as identified in Schedule AJB-2 of Staff's Memorandum.¹³

14. Staff's recommendation was the only response to the Joint Applicants' application.

15. No responses or objections to Staff's recommendation were received.

⁸ Staff Memorandum, filed April 28, p. 3 of 5.

⁹ Staff Memorandum, filed April 28, p. 3 of 5.

¹⁰ Staff Memorandum, filed April 28, p. 3 of 5.

¹¹ Joint Application for Approval of Territorial Agreement Addendum, filed February 9, Appendix 10.

¹² Joint Application for Approval of Territorial Agreement Addendum, filed February 9, para. 17.

¹³ Staff Memorandum, filed April 28, p. 5 of 5.

16. The Joint Applicants requested the Commission make certain findings:
 - a. CEC will have the exclusive right to furnish electric service at the location indicated in Joint Addendum No. 1.
 - b. Joint Applicants' respective service responsibilities beyond the boundaries of the Territorial Agreement will remain unaffected by the terms of Joint Addendum No. 1.
 - c. As stated in the Territorial Agreement, each Joint Applicant will retain their respective rights to serve the remaining existing customers within the exclusive electric service area of the other unless specifically modified by existing or future Commission-approved addendums.
 - d. Ameren Missouri's certificates of public convenience and necessity will not be impaired, except as specifically limited by the Territorial Agreement and its Commission-approved addenda.¹⁴

17. No party responded or objected to the Joint Applicant's request that the Commission make certain findings as described above.

18. Neither Ameren Missouri nor CEC has had any communications with the office of the Commission regarding any substantive issue likely to be in this case during the preceding 150 days.¹⁵

Conclusions of Law

A. Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission under Chapters 386 and 393, RSMo.¹⁶

¹⁴ Joint Application for Approval of Territorial Agreement Addendum, filed February 9, para. 18.

¹⁵ Joint Application for Approval of Territorial Agreement Addendum, filed February 9, para. 3.

¹⁶ Staff Memorandum, filed April 28, p. 2 of 5.

B. The Commission has limited jurisdiction over rural electric cooperatives, such as CEC, as specified in part in Chapter 394, RSMo. For the purpose of this case, CEC is subject to the jurisdiction of the Commission for purposes of certain territorial agreements.

C. Section 394.312, RSMo requires approval by the Commission for territorial agreements and their addendums between electrical corporations and rural electric cooperatives.

D. Pursuant to subsection 394.312.5, RSMo, the Commission may approve the application if it determines that approval of the territorial agreement in total is not detrimental to the public interest.

E. Section 394.312.5, RSMo, requires an evidentiary hearing unless the matter is resolved between the parties.

F. No party has requested a hearing, thus the Commission may make a determination without an evidentiary hearing.¹⁷

Decision

Based upon the verified pleadings and Staff's recommendation, the Commission finds that the parties have agreed to Joint Addendum No. 1 and no person has objected nor requested a hearing. The Commission concludes that Joint Addendum No. 1 to the existing Territorial Agreement, in total, is not detrimental to the public interest and will be approved.

Due to the request for expedited treatment, the Commission finds it reasonable to make this order effective in less than 30 days. The Commission further finds good cause

¹⁷ *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

to waive Commission Rule 20 CSR 4240-4.017(1) in that the Joint Applicants have had no contact with the Commission regarding the application in the 150 days immediately preceding the filing of the application.

THE COMMISSION ORDERS THAT:

1. The application is approved. Joint Addendum No. 1 to the existing Territorial Agreement is approved. A copy of the addendum is attached to this order and incorporated by reference. The signatories are ordered to comply with the terms of the Joint Addendum No. 1.

2. Ameren Missouri and CEC are authorized to do such other acts and things, including making, executing, and delivering any and all documents that may be necessary, advisable, or proper to effect the terms and conditions of the First Addendum and to implement the authority granted by the Commission in this order.

3. The Commission makes no rate-making determinations in connection with its approval of Joint Addendum No. 1.

4. As requested by the Joint Applicants, the Commission will order the statements in Finding of Fact 16 supra:

- a. CEC shall have the exclusive right to furnish electric service at the location indicated in Joint Addendum No. 1.
- b. Joint Applicants' respective service responsibilities beyond the boundaries of the Territorial Agreement shall remain unaffected by the terms of Joint Addendum No. 1.
- c. As stated in the Territorial Agreement, each Joint Applicant shall retain their respective rights to serve the remaining existing customers within the exclusive electric service area of the other unless specifically modified by existing or future Commission-approved addendums.

d. Ameren Missouri's certificates of public convenience and necessity shall not be impaired, except as specifically limited by the Territorial Agreement and its Commission-approved addenda.

5. Commission Rule 20 CSR 4240-4.017(1) is waived for the purposes of this proceeding.

6. Ameren Missouri shall file revised illustrative tariffs that reflect the corresponding change in its certificated electric service area in Callaway County, Missouri as identified in Schedule AJB-2 of Staff's Memorandum no later than June 16, 2023.

7. This order shall become effective on May 28, 2023.



BY THE COMMISSION

A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, and
Kolkmeier CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).

Hatcher, Senior Regulatory Law Judge

**ADDENDUM NO. # 1 TO TERRITORIAL AGREEMENT BETWEEN
UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI AND
THE CALLAWAY ELECTRIC COOPERATIVE**

This Addendum No. # 1 is entered into between Union Electric Company d/b/a Ameren Missouri ("Company"), and Callaway Electric Cooperative ("Cooperative"), hereafter referred to collectively as "Parties."

WHEREAS, the Parties have entered into a Territorial Agreement dated on or about March 25, 2002 ("Territorial Agreement"), which establishes exclusive service areas for each Party;

WHEREAS, said Territorial Agreement was approved by the Missouri Public Service Commission ("Commission") by Report and Order issued on July 28, 2002 in Case No. EO-2002-458;

WHEREAS, Article 10 of the Territorial Agreement permits the Parties to agree on a case-by-case basis by an Addendum to the Territorial Agreement to allow a structure to receive service from one party though the structure is located in the exclusive electric service territory of the other;

WHEREAS, Company and Cooperative have not entered into any prior Addendums;

WHEREAS, Lucas and Miranda McCray have requested electric service to a structure with a legal description of STR-49-9, Fulton, Missouri, a location within the designated exclusive service territory of Company;

WHEREAS, as demonstrated in Exhibit A, the Cooperative has facilities physically closer than those of Company the structure, making it more economic for Cooperative to serve this structure;¹

NOW, THEREFORE, Company and Cooperative, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. Both Parties desire and consent to Cooperative providing electric service to the structure legally described as STR 22-49-9 by the Callaway County Recorder of Deeds through the case-by-case addendum procedure contained Article 10 of the Territorial Agreement. Notwithstanding the boundaries described in the Territorial Agreement, Cooperative shall have the right to serve the structure.

¹ Cooperative already has services lines near the structure. The Company would need to overbuild Cooperative's existing overhead system to provide service to Customer, which would not be in the public interest. It is more cost effective for the Customer for Cooperative to extend service to the structure than for the Company to do so.

2. A metes and bounds description of the area encompassing the structure to be transferred is attached hereto as Exhibit B.

3. The exclusive territories of the Parties, as described in the Territorial Agreement, are not modified by this Addendum. In executing this Addendum, its terms shall be interpreted in light of the Territorial Agreement, including, but not limited to, the definitions, principles, and procedures set forth therein.

4. Since this Addendum is subject to the approval of the Commission, the Parties agree to undertake all actions reasonably necessary to obtain said approval. In addition, each Party has the right to initiate temporary service, as defined by RSMo. Section 393.106, at its own expense, until the Commission approves or disapproves the Addendum.

5. THIS ADDENDUM SHALL BE DEEMED APPROVED BY THE COMMISSION STAFF OR THE OFFICE OF THE PUBLIC COUNSEL IF SAID PARTIES DO NOT SUBMIT A PLEADING OBJECTING TO THE ADDENDUM WITHIN FORTY-FIVE (45) DAYS OF THE FILING THEREOF.

6. If the Commission rejects this or any portion of this Addendum, then the entire Addendum shall be nullified and shall have no legal effect. Further, if all or part of this Addendum is declared invalid or void by a Court or other agency with competent jurisdiction, then this Addendum shall be deemed invalid and void.

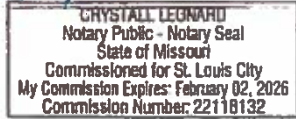
IN WITNESS WHEREOF, the parties have executed this Addendum this 7 day of

FEBRUARY, 2023

UNION ELECTRIC COMPANY d/b/a AMEREN
MISSOURI

By: [Signature]
Title: VP DIVISION OPS

ATTEST: [Signature]
[Signature]



CALLAWAY ELECTRIC COOPERATIVE

By: [Signature]
Title: CEO/General Manager

ATTEST:
[Signature]

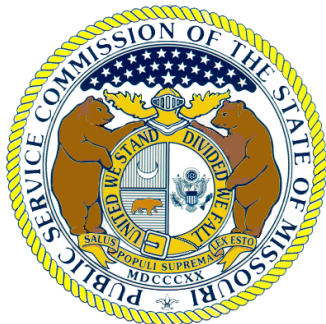


STATE OF MISSOURI

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 18th day of May, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

May 18, 2023

File/Case No. EO-2023-0256

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

Sincerely,



**Nancy Dippell
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.