

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

In the Matter of the Joint Motion of Lewis )  
County Rural Electric Cooperative Association )  
and Union Electric Company d/b/a Ameren )  
Missouri for Approval of a First Addendum to )  
the Parties' Territorial Agreement designating )  
the Boundaries of each electric service )  
Supplier within portions of Scotland County )

**File No. EO-2022-0102**

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, through counsel, and states as follows.

1. On October 6, 2021, Lewis County Rural Electric Cooperative Association (Lewis County) and Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) (collectively Applicants) filed a *Joint Motion for Approval of First Addendum* (Application) requesting approval of their *Addendum No. 1 to the Territorial Agreement*.<sup>1</sup>

2. In their Application, Applicants request Commission approval to incorporate into Lewis County's territory in Scotland County, Missouri a five acre parcel that is within Ameren Missouri's service territory, but is surrounded by territory Lewis County serves. There are currently no structures on the parcel receiving electric service. The Applicants state that Lewis County has facilities within this parcel to serve it.<sup>2</sup>

3. Attached to Applicants' Application is an exemplar Ameren Missouri tariff sheet showing the proposed changed boundary<sup>3</sup> and a statement from the parcel owner<sup>4</sup> stating that it does not object to the Applicants' request.

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<sup>1</sup> Application, Appendix D.

<sup>2</sup> Application, §9.

<sup>3</sup> Application, Appendix G.

<sup>4</sup> Application, Appendix E.

4. The Commission approved the Applicants' *Territorial Agreement*<sup>5</sup> on July 21, 2000, in Case No. EO-2000-0630, designating the boundaries of the Applicants' exclusive electric service areas within Scotland County.

5. On November 19, 2021, Applicants moved for a waiver from the requirements of 20 CSR 4240-4.017 in this current case. Staff does not oppose this request.

6. On November 22, 2021, the Commission ordered Staff to file a recommendation regarding the Application by December 22, 2021.

7. Lewis County is a rural electric cooperative, organized under Chapter 394, RSMo, providing electric service to its members in Scotland County. While this Commission does not regulate rural electric cooperatives, the Commission has jurisdiction over territorial agreements between electric corporations, such as Ameren Missouri, and rural electric cooperatives.<sup>6</sup>

8. Staff reviewed the Applicants' filing and submits its recommendation in the accompanying *Memorandum*. Staff finds that the Applicants followed the amendment procedure in their *Territorial Agreement*. Staff further finds that Lewis County being the electric provider to this parcel makes the most efficient use of existing facilities and prevents a duplication of facilities. Staff finds that the Applicants' request is not detrimental to the public interest.

**THEREFORE**, Staff recommends that the Commission determine that the Applicants' request is not detrimental to the public interest and approve their *Addendum No. 1 to the Territorial Agreement*. If approved, Staff further recommends that the

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<sup>5</sup> Application, Appendix C.

<sup>6</sup> §394.312.4., RSMo.

Commission order Ameren Missouri to file a revised tariff sheet reflecting the change in its service area.

Respectfully submitted,

**/s/ Karen E. Bretz**

Karen E. Bretz

Deputy Counsel

Missouri Bar No. 70632

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Missouri Public Service Commission

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**CERTIFICATE OF SERVICE**

I certify that the foregoing has been emailed to counsel of record on this 22nd day of December, 2021.

**/s/ Karen E. Bretz**

**MEMORANDUM**

TO: Missouri Public Service Commission Official Case File  
File No. EO-2022-0102

FROM: Alan J. Bax – Associate Engineer, Industry Analysis Division

/s/ Alan J. Bax      12-22-21  
Engineering Analysis Dept. / Date

/s/ Karen Bretz      12-22-21  
Staff Counsel’s Office / Date

SUBJECT: Staff Memorandum Recommending Approval of Application

DATE: December 22, 2021

**STAFF RECOMMENDATION**

Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Joint Motion (“Application”) of Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) and Lewis County Rural Electric Cooperative Association (“Lewis County”), collectively referred to as the Joint Applicants, of the First Addendum to their Territorial Agreement (“TA”), finding the transaction is not detrimental to the public interest, pursuant to Sections 394.312 and 416.041 RSMo 2016, as well as 20 CSR 4240-2.060 and 20 CSR 4240-3.130.

**OVERVIEW**

On October 6, 2021, Ameren Missouri and Lewis County filed an Application with the Commission requesting approval to allow Lewis County to be the exclusive electric service provider to a five acre tract of land located in the SE ¼ of the SW ¼ of Section-26 Township-64 North, Range-11 West in Scotland County, Missouri, per the terms of the First Addendum to their TA. The Joint Applicants’ TA, dated March 30, 2000, was filed with the Commission on April 7, 2000, in Case No. EO-2000-0630, and was approved by the Commission in a *Report and Order* filed July 21, 2000. In this Application, the Joint Applicants assert that Lewis County 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, which would prevent an otherwise necessary duplication of facilities.

On October 15, 2022, the Commission issued a *Notice of Deficiency* in which the Commission identified that the Joint Applicants had neither provided a 60 day notice of its intent to file their Application, as required by 20 CSR 4240-4.017, nor had they requested a waiver from such requirement, available per 20 CSR 4240-4.017(D). The Joint Applicants addressed this deficiency in a Motion filed on November 19, 2021, which requested a waiver from filing the required 60-day notice requirement.

On November 22, 2021, the Commission issued an *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation* (“*Order*”), in which the Commission directed its Data Center to provide a copy of this *Order* and Application to the County Commission of Scotland County, Missouri and also directed its Public Information Office to provide the same documents to members of the General Assembly representing Scotland County, Missouri, and to news media that serve Scotland County, Missouri. The *Order* also set an intervention period until December 7, 2021, for any party desiring to intervene in this case, and directed Staff to file a Recommendation on the Application no later than December 22, 2021.

Lewis County is organized under Chapter 394 RSMo 2016 to provide electric service to its members located in all or parts of seven Missouri counties, including Scotland County, in which lies the property identified in the Application. The Commission has limited jurisdiction over rural electric cooperatives, such as Lewis County, as specified in part in Chapter 394 RSMo 2016. For the purpose of this case, Lewis County is subject to the jurisdiction of the Commission under Section 394.312.4 RSMo 2016.<sup>1</sup>

Rural electric cooperatives, such as Lewis County, are not required to pay assessment fees or to file annual reports with the Commission. Staff is not aware of any unsatisfied judgments or decisions against Lewis County in any state or federal agency or court involving customer service or rates within the last three years that would have bearing on the immediate Case. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

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<sup>1</sup> Section 394.312.4 RSMo 2016 states in relevant part, “The provisions of sections 386.310 and 393.106 and sections 394.160 and 394.315 to the contrary notwithstanding, before becoming effective, all territorial agreements entered into under the provisions of this section, including any subsequent amendments to such agreements...shall receive the approval of the public service commission by report and order...”

Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393 RSMo 2016. Ameren Missouri is current on filing its annual reports and payments of its assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against Ameren Missouri in any state or federal agency or court involving customer service or rates that would have bearing on the immediate Case. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

### **DISCUSSION**

The Joint Applicants filed their TA, dated March 30, 2000, with the Commission on April 7, 2000 in Case No. EO-2000-0630. The TA was approved by the Commission in its *Report and Order* issued on July 21, 2000. This TA created exclusive electric service areas for the Joint Applicants, as between them, within all or parts of seven counties located in Northeast Missouri in which Lewis County provides electric service to its members. A portion of these exclusive service areas were located in Scotland County, Missouri, in which lies the five acre parcel of land that is the subject of the current Application. The exclusive service territories of the Joint Applicants in Scotland County, per the terms of the TA, is illustrated on the map that's attached to this Recommendation as Attachment AJB-1. The five acre parcel that is the subject of this Application is located in the SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section-26, Township-64 North, Range-11 West near the town of Rutledge, Missouri.

Section 8 of the TA, which is entitled "Case-By-Case Exception Procedure", contains the protocol that the Joint Applicants must follow should circumstances arise, like the current situation that is the focus of the Application, in which the best course of action would otherwise conflict with the explicit terms of the TA. The five acre parcel that is the subject of the Application lies within the exclusive service territory of Ameren Missouri per the terms of the TA. However, Lewis County has facilities installed on this parcel capable of providing the requested electric service to new structures anticipated to be constructed on the property. Ameren Missouri does not have comparable facilities in the immediate vicinity. Therefore, having Lewis County be the electric service provider to this parcel not only makes the most efficient use of existing facilities

but also prevents an otherwise duplication of facilities required for Ameren Missouri to provide electric service.

The Joint Applicants filed their Application per the procedure contained in Article 8 of their TA. The Application includes a statement from the property owner consenting to Lewis County being the provider of electric service to structures built on this parcel. In addition, the Application provides specific reasons in justifying the Joint Applicants' request that Lewis County should be the electric service provider to this parcel, which is required by 394.315.4 RSMo 2016 and 20 CSR 4240-3.130. The Application also includes an aerial view of the property location, as well as a proposed revision to the applicable section of Ameren Missouri's tariff reflecting the resultant change to its certificated electric service area should the Application be approved by the Commission.

### **CONCLUSION**

As described above, Staff recommends that the Commission approve the request of the Joint Applicants' First Addendum to their TA, which would allow Lewis County to be the exclusive electric service provider to a five-acre parcel located in the SE ¼ of the SW ¼ of Section-26, Township-64 North, Range-11 West, in Scotland County, Missouri, per the terms of their "Addendum No. 1 to the Territorial Agreement", attached to their Application as Appendix D. The Staff recommends the Commission determine that this request of the Joint Applicants is not detrimental to the public interest pursuant to Section 394.312 and 416.041 RSMo 2016, 4 CSR 240-2.060 and 4 CSR 240-3.130, as it allows the most efficient use of the existing electric facilities installed in this area and prevents an otherwise necessary duplication of facilities if Ameren Missouri provides the desired electric service.

In recommending approval of this request, Staff suggests the Commission note that no ratemaking determinations are being made as a part of its Order in this case. In addition, Staff recommends the Commission order Ameren Missouri to file revised illustrative tariffs that reflect the corresponding change in its certificated electric service area as identified in the Application.

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

In the Matter of the Joint Application of )  
Lewis County Rural Electric Cooperative )  
Association and Union Electric Company )  
d/b/a Ameren Missouri for Approval of a )  
First Addendum to the Parties' Territorial )  
Agreement Designating the Boundaries of )  
each Electric Service Supplier Within )  
Portions of Scotland County )  
)

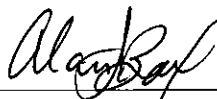
**File No. EO-2022-0102**

**AFFIDAVIT OF ALAN J. BAX**

STATE OF MISSOURI    )  
                                  ) ss.  
COUNTY OF COLE     )

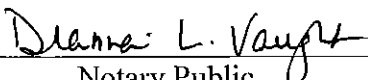
**COMES NOW ALAN J. BAX**, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation, in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

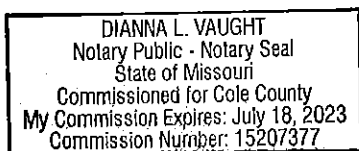
Further the Affiant sayeth not.

  
\_\_\_\_\_  
ALAN J. BAX

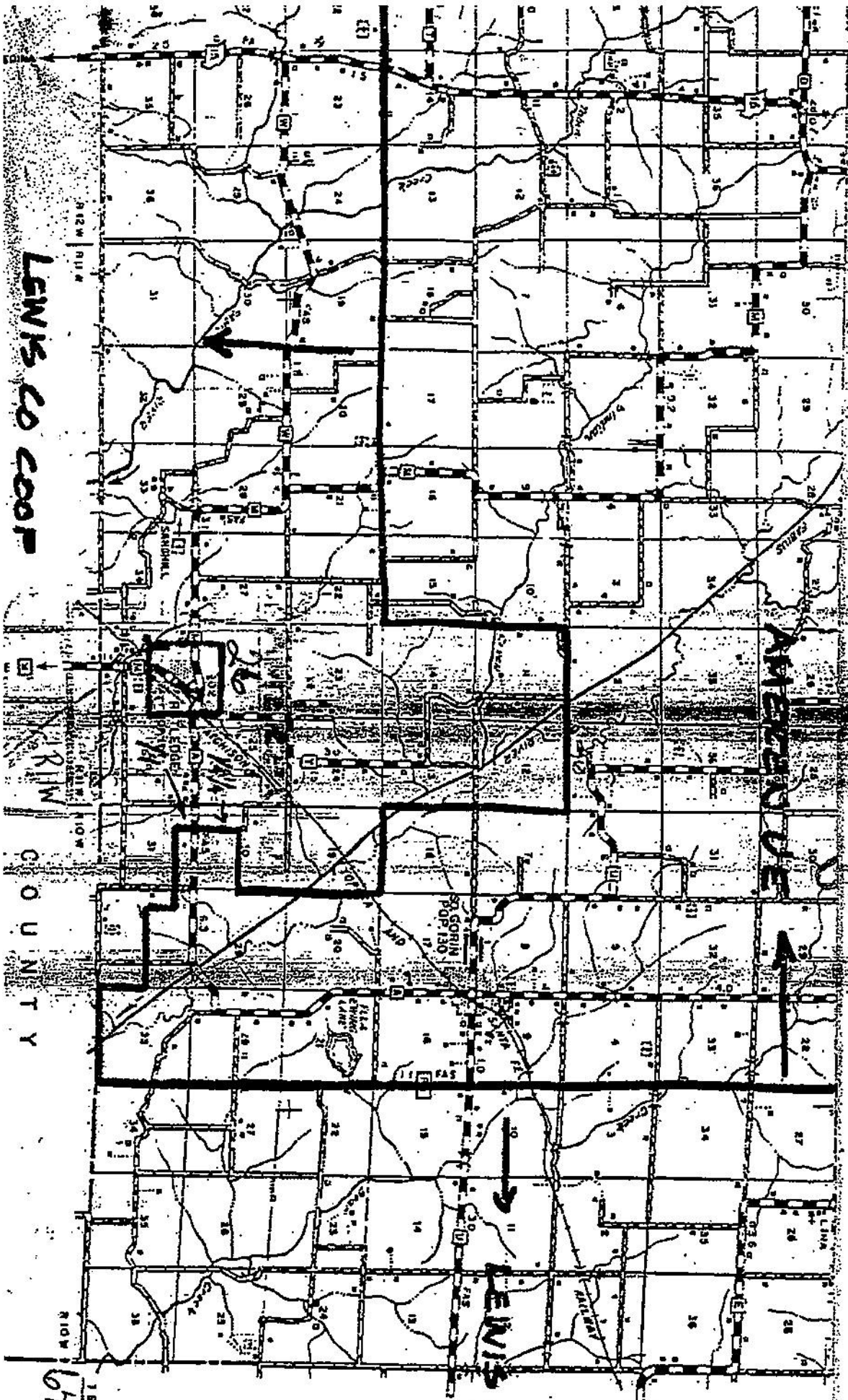
**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 22nd day of December, 2021.

  
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Notary Public







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