

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

In the Matter of the Joint Application by the )  
City of Poplar Bluff, Missouri and Ozark )  
Border Electric Cooperative for Approval of ) **File No. EO-2022-0264**  
Minor Modifications and Extension of a )  
Territorial Agreement Involving Three Areas )  
In Butler County, Missouri )

**STAFF RECOMMENDATION**

**COMES NOW** Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and respectfully states as follows:

1. In its *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation* issued in File No. EO-2022-0264 on March 30, 2022, the Commission ordered Staff to file a recommendation in that case no later than May 19, 2022. Subsequently, on May 23, 2022, the Commission issued an *Order Granting Extension of Time to File Staff's Recommendation* in which it ordered Staff to file its recommendation regarding parties' joint application no later than June 17, 2022.

2. Attached hereto and incorporated herein by reference is Staff's Recommendation, in which Staff recommends the Commission approve the Amended Joint Application of Ozark Border Electric Cooperative and The City of Poplar Bluff, Missouri (collectively the "Joint Applicants").

**WHEREFORE**, Staff respectfully requests the Commission issue an order approving the Joint Applicants' Amended Joint Application for approval of a territorial agreement and for such further orders as the Commission deems meet and proper.

Respectfully submitted,

**/s/ Eric Vandergriff**

Eric Vandergriff

Legal Counsel

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Counsel for the Staff of the  
Missouri Public Service Commission

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 17<sup>th</sup> day of June, 2022.

**/s/ Eric Vandergriff**

**MEMORANDUM**

**TO:** Missouri Public Service Commission Official Case File  
Case No. EO-2022-0264 – In the Matter of the Joint Application of the  
City of Poplar Bluff, Missouri and Ozark Border Electric Cooperative for  
Approval of Minor Modifications and Extension of a Territorial Agreement  
in Certain Areas of Butler County Missouri

**FROM:** Alan J. Bax, Industry Analysis Department/Engineering Analysis Division

<u>/s/ Alan J. Bax / 06-17-2022</u>	<u>/s/ Eric Vandergriff / 06-17-2022</u>
Associate Engineer	Legal Counsel
Engineering Analysis Department	Staff Counsel’s Office

**DATE:** June 17, 2022

**SUBJECT:** Staff Memorandum Recommending Approval of Joint Application

**STAFF RECOMMENDATION**

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) grant the Joint Application, as Amended, (“Application”) of the City of Poplar Bluff, Missouri (“City”) and Ozark Border Electric Cooperative (“Ozark Border”), collectively referenced as the Applicants (“Applicants”). Further, Staff recommends the Commission order that the City and Ozark Border continue to operate their respective electric systems in the distinct, defined areas of Butler County, Missouri as set forth in the terms of their Application, concluding that the Application is not detrimental to the public interest, pursuant to Sections 394.312 and 416.041 RSMo (2020), 20 CSR 4240-2.060, and 20 CSR 4240-3.130.

**OVERVIEW**

On March 20, 2022, the Applicants filed a Joint Application requesting approval of their New Territorial Agreement (“New TA”), a document that purportedly contained only was approved by the Commission in Case No. EO-98-143. The Applicants agree the

New TA will allow them to continue to specifically designate the boundaries of three distinct areas, identified as Zones 1, 2 and 3, within Butler County, Missouri in which the City and Ozark Border will be the exclusive electric service providers. There are no other electric service providers in this area of Butler County.

The Applicants assert that the New TA is not detrimental to the public interest as it will reduce the likelihood of duplication of electric services and provide certainty regarding the electric service provider in the New TA's designated and defined areas. In addition, the New TA includes a procedure in which the Applicants agree to transfer electric service to the City from Ozark Border in advance of the City annexing properties within Zone 1 and/or Zone 2 as designated and illustrated in the New TA.

### **Motion of Extension**

On May 19, 2022, Staff filed for an extension in which to file its recommendation. The Commission authorized Staff's request for an extension in its *Order Granting Extension of Time to File Staff's Recommendation*, filed on May 23, 2022.

The Applicants filed a *Joint Motion for Leave to File an Amended Joint Application* ("Amended Application") on June 3, 2022, following discussions with Staff Counsel and Technical Staff regarding the errors and/or omissions regarding the original Joint Application. In its *Order Granting Leave to File Amended Application*, filed on June 3, 2022, the Commission granted the Applicants' request to file an Amended Joint Application.

### **Jurisdiction**

Ozark Border is a rural electric cooperative organized under Chapter 394 RSMo (2020) to provide electric service to its members in all or parts of eleven Missouri counties,

including Butler County, in which lies the designated areas that are the subject of the Application. Although the Commission has limited jurisdiction over rural electric cooperatives, Ozark Border is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo (2020).

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 91.025, RSMo (2020). The City is subject to the jurisdiction of the Commission for the purpose of seeking approval of a Territorial Agreement per Sections 91.025 and 394.312 RSMo (2020).

Neither Ozark Border nor the City is required to file annual reports or pay assessment fees to the Commission. Further, Staff is not aware of either Ozark Border or the City having pending or final unsatisfied judgments against them from any state or federal court involving customer service or rates within three years of the date of filing this Application.

### **DISCUSSION**

Ozark Border and the City initially filed their Prior TA in August 1997, which was approved by the Commission on December 31, 1997, in Case No. EO-98-143. The Prior TA was approved for a twenty (20) year period. The Commission approved the Applicants' request for a five-year extension of this Prior TA in Case No. EO-2017-0358 on August 16, 2017. As this five-year extension period was nearing its date of expiration, the Applicants, citing the benefits experienced while operating under the terms of the Prior TA, filed for an additional thirty (30) year extension of this existing Territorial Agreement on March 20, 2022. Ozark Border and the City identified this filing

as containing a New TA, despite only attaching a copy of the Prior TA from 1997. The Applicants desired to maintain the terms of the Prior TA, along with a “three zone approach” as described in the Prior TA as follows:

Zone 1 – A blended service area with the City serving all new development

Zone 2 – A blended service area with Ozark Border serving all new development, and,

Zone 3 – An area exclusively served by Ozark Border

However, the Applicants noted that there were some minor modifications made to these Zonal areas, as some parcels previously classified as being located in Zone 2 were now located in Zone 1. There were no changes made to the area identified in Zone 3. The Applicants included a map with their initial Joint Application; however, the modifications to Zones 1 and 2 were not illustrated on this map, nor were the legal metes and bounds descriptions of Zones 1 and 2 updated to reflect their current status.

Staff requested the Applicants file a revised document that reflected the desired duration of thirty years and would distinctly/specifically illustrate the modifications made to Zone 1 and Zone 2 along with updating the corresponding legal metes and bounds descriptions. On June 3, 2022, Ozark Border and the City filed an Amended Application, which included the 2022 Territorial Agreement (2022 TA) in Appendix 2. Staff confirmed that its previous considerations have been addressed in the Joint Applicants' Amended Application. The Amended Application contains a copy of the Prior TA (Appendix 1 of the Amended Application), as the terms contained in the Prior TA are being included/continued within the 2022 TA. The legal metes and bounds descriptions for Zones 1 and 2 have been updated to reflect the modifications made by the

Joint Applicants. The original metes and bounds description of Zone 3 was maintained, as there were no changes made to its originally defined area. As said by the Joint Applicants, there were no customer exchanges being requested as a part of the 2022 TA. The 2022 TA also retained the sections containing the processes to follow upon new customers being added in the respective Zones, as well as determining the value of corresponding electrical facilities that may be transferred between the Joint Applicants. An accompanying authorization to pursue gaining Commission approval of the 2022 TA from Ozark Border's Board of Directors and the City Council of Poplar Bluff was attached to the Amended Application. The Joint Applicants had previously included the filing fee required by 20 CSR 4240 3.130 (3).

Staff agrees with the Joint Applicants that the Prior TA has served Ozark Border, Poplar Bluff and their respective members/customers well in this area of Butler County, Missouri. There are no other electric service providers in this area of Butler County, Missouri nor is there any anticipation of additional providers in the foreseeable future. Staff concurs with the Joint Applicants in seeking approval of their 2022 TA to maintain these prior successes in the operation of their respective electric systems.

### **CONCLUSION**

For the reasons stated above, Staff recommends the Commission should approve the Amended Application of Ozark Border and the City, concluding that the Joint Applicants' 2022 TA is not detrimental to the public interest, pursuant to Sections 394.312 and 416.041 RSMo (2020), 20 CSR 4240-2.060, and 20 CSR 4240-3.130. The Prior TA has served the Joint Applicants and their respective customers/members well for the past twenty-five (25) years. The 2022 TA, which

incorporates the same terms contained in the Prior TA, should provide an identical level of confidence and assurance for the foreseeable future.



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**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 16<sup>th</sup> day of June, 2022.

D. SUZIE MANKIN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: April 04, 2025  
Commission Number: 12412070

  
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Notary Public