

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

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| In the Matter of the Joint Application of |) | |
| Co-Mo Electric Cooperative and Union |) | |
| Electric Company d/b/a Ameren Missouri |) | <u>File No. EO-2022-0332</u> |
| For an Order Approving a Territorial |) | |
| Agreement in Cooper, Cole, and |) | |
| Moniteau Counties, Missouri |) | |

STAFF MOTION TO SUSPEND FILING REQUIREMENTS OF JUNE 1, 2022 ORDER

COMES NOW Staff of the Missouri Public Service Commission, through the undersigned counsel, and for its Motion to Suspend Filing Requirements of June 1, 2022 Order (“Motion”), states as follows:

1. On January 18, 2022, in File No. **EO-2022-0190**, Co-Mo Electric Cooperative (“Co-Mo”) filed an application for approval of designated service boundaries within portions of Cooper County, Missouri, to allow Co-Mo to serve a new development recently annexed into the City of Boonville, Missouri. Said application was filed pursuant to §386.800.3, RSMo (as amended in 2021).

2. Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) was made a party to case number **EO-2022-0190** by Commission order issued on January 20, 2022.

3. On May 12, 2022, Co-Mo, Ameren Missouri, and Staff filed a Joint Motion to Suspend Procedural Schedule in Case No. **EO-2022-0190**, on the basis that an agreement in principle had been reached which would resolve that case. In response, on May 13, 2022, the Commission issued an Order Suspending the Procedural Schedule, Canceling the Evidentiary Hearing, and Directing Filing.

4. On May 27, 2022, Co-Mo and Ameren Missouri filed a Stipulation and Agreement (“Stipulation”) in Case No. **EO-2022-0190**. Attached to the Stipulation as an Appendix was a Territorial Agreement (“TA”) between Co-Mo and Ameren Missouri.

5. On May 31, 2022, the Commission *sua sponte* (apparently acting through its regulatory law judge (“RLJ”)) opened File No. **EO-2022-0332** (the instant case) and had the TA from Case No. **EO-2022-0190** filed in Case No. **EO-2022-0332**.

6. On June 1, 2022, the RLJ, acting pursuant to delegation of authority, issued an order on behalf of the Commission in Case No. **EO-2022-0332** ordering Staff to file a recommendation on the TA no later than June 15, 2022.

7. Article 3 of the TA provides in part that:

This agreement concerns only the properties identified herein by the Cooperative and the Company. For the purposes of this Agreement, the Exclusive Service Area of Cooperative, as between the parties under this Agreement, shall be the area in Cooper County, Missouri depicted on Exhibit A attached hereto and incorporated herein. **The Parties [*i.e.*, Co-Mo and Ameren Missouri] agree to prepare an addendum to Exhibit A and to file the same with the Commission containing a metes and bounds description of said area which, upon its filing with the Commission, shall become a part hereof as if fully set forth herein.** (Emphasis added)

8. Article 4 of the TA provides in part that:

This agreement concerns only the properties identified herein by the Cooperative and the Company. For the purposes of this Agreement, the Exclusive Service Area of Company, as between the parties under this Agreement, shall be the areas in Cooper, Cole, and Moniteau Counties, Missouri depicted on Exhibit B attached hereto and incorporated herein.

The Parties agree to prepare an addendum to Exhibit A [sic] and to file the same with the Commission containing a metes and bounds description of said areas which, upon its filing with the Commission, shall become a part hereof as if fully set forth herein. (Emphasis added)

9. Finally, Article 8, section 8.3, of the TA provides in part that:

Company and Cooperative agree to undertake all actions reasonably necessary to implement this Agreement. **Company and Cooperative will cooperate in presenting a Joint Application showing this Agreement, in total, not to be detrimental to the public interest.** (Emphasis added)

10. As shown by the foregoing, the TA itself contemplates that Co-Mo and Ameren Missouri will file a Joint Application for approval of the TA and will file metes and bounds descriptions of the territories to be served by each. However, neither a Joint Application nor metes and bounds legal descriptions have yet been filed.

11. §386.800.3, RSMo, under which Case No. **EO-2022-0190** was filed, provides that “The commission shall issue its decision by report and order no later than one hundred twenty days from the date of the application **unless otherwise ordered by the commission for good cause shown.**” (Emphasis added) As discussed earlier herein, the parties filed a motion to suspend the **EO-2022-0190** procedural schedule, and the Commission granted the motion. Therefore, the 120 day deadline in **EO-2022-0190** is no longer a concern.

12. §394.312.4, RSMo, which governs applications for approval of territorial agreements, provides that “Unless otherwise ordered by the commission for good cause shown, the commission shall rule on such applications not later than

one hundred twenty days **after the application is properly filed** with the secretary of the commission.” (Emphasis added) As discussed above, no application for approval of the TA has been filed in either **EO-2022-0190** or **EO-2022-0332**. Therefore, the 120 day deadline in **EO-2022-0332** has not yet been triggered and should not yet be a concern.

13. Staff cannot meaningfully begin its examination of the TA – much less prepare and file a recommendation concerning the TA – until after Co-Mo and Ameren Missouri file an application for approval of the TA and metes and bounds descriptions of the territories to be served by Co-Mo and Ameren Missouri under the TA, filings which are contemplated by the very terms of the TA itself. Furthermore, as discussed above, until an application for approval of the TA is properly filed, the 120 day statutory timeline(s) are not even implicated.

14. Based on all of the above, Staff requests that the Commission issue an order suspending all filing requirements set forth in its order issued by delegation of authority on June 1, 2022, in Case No. **EO-2022-0332** (including the filing of a Staff recommendation), until after Co-Mo and Ameren Missouri file an application for approval of the TA and metes and bounds descriptions of the territories to be served by Co-Mo and Ameren Missouri under the TA. Once such application and legal descriptions are properly filed with the Commission and the 120 day statutory timeline is triggered, then the Commission can issue an order allowing Staff the normal length of time to submit a recommendation.

WHEREFORE, Staff requests that the Commission issue an order suspending all filing requirements set forth in its order issued on June 1, 2022 (including the filing of a Staff recommendation), until after Co-Mo and Ameren Missouri file an application for

approval of the TA and metes and bounds descriptions of the territories to be served by Co-Mo and Ameren Missouri under the TA, and for such further orders as to the Commission seem meet and proper.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 13th day of June, 2022.

/s/ Jeffrey A. Keevil