

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 14th day of September, 2023.

In the Matter of the Application of Osage Valley Electric Cooperative Association & the City of Harrisonville, Missouri for Approval of a Written Territorial Agreement Designating the Boundaries of Each Electric Service Supplier Within the City of Harrisonville, Cass County, Missouri.)
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File No. EO-2023-0439

REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT

Issue Date: September 14, 2023

Effective Date: October 14, 2023

This order approves a new territorial agreement between the Osage Valley Electric Cooperative Association (Osage Valley) and the City of Harrisonville, Missouri (Harrisonville) (collectively referred to as the “Applicants”). The proposed Agreement concerns a service area within Harrisonville and Cass County, Missouri. Subject to the terms of the territorial agreement, the Applicants state that they have specifically designated the boundaries of the exclusive electric service area of each electric service supplier for service of new structures in portions of Cass County. The Applicants state that the impetus for the agreement is a request by the Missouri Department of Transportation to serve new facilities to be installed within the city limits of Harrisonville. Harrisonville desires Osage Valley to provide electric service to those facilities because Osage Valley has facilities in the area, and doing so would prevent duplication of services.

Procedural History

On June 27, 2023, the applicants filed a Joint Application (Joint Application) for approval of their Territorial Agreement (Agreement) pursuant to 20 CSR 4240-2.060,

20 CSR 4240-3.130, and Sections 394.312 and 416.041, RSMo. The Applicants did not file a request for waiver of notice required by Commission Rule 20 CSR 4240-4.017, pursuant to 20 CSR 4240-4.017(1)(D), which requires that an applicant file a notice at least 60 days before filing their application. The parties filed affidavits and verifications stating that they had no contact with the Commission regarding issues likely to be substantive to the case during the preceding 150 days, but neither party requested a waiver of the notice required by the Commission rule.

On July 3, 2023, the Commission issued an order directing the parties to correct the deficiency in their application no later than August 2, 2023; directing the Staff of the Commission (Staff) to file a recommendation or a status report no later than August 3, 2023; and setting the deadline for applications to intervene at July 23, 2023. The Commission received no applications to intervene or other objections, and Staff filed its recommendation timely on August 3, 2023, recommending that the Commission approve the parties' application, and acknowledging that the parties had not yet satisfied the 60-day notice requirement.

On August 21, the Commission issued a second notice of deficiency to the parties explaining that it would not take action on the application until the parties requested a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017. And on September 5, 2023, the parties filed a motion for waiver of the sixty-day notice requirement.

Findings of Fact

1. Harrisonville is a municipality organized under the laws of the State of Missouri. Harrisonville owns, operates and maintains an electric distribution system within its city limits and primarily serves the residents located within the city limits, as specified

in Section 91.025, RSMo (Supp. 2022). Its principal office is located at 300 East Pearl Street, Harrisonville, Missouri 64701.

2. Osage Valley is a rural electric cooperative organized under Chapter 394, RSMo, to provide electric service to its members in all or parts of seven Missouri counties, including Cass County, in which lies the parcels that are the subject of the Joint Application. Its principal office is located at 1321 Orange Street, Butler, Missouri 64730.

3. Subject to the approval of the Commission pursuant to Section 394.312, RSMo, the Applicants have entered into an agreement (styled "Territorial Agreement") that modifies their existing electric service boundaries.

4. The subject area of the Agreement (Service Area) has been annexed into the city limits of Harrisonville, and there are no other electric service providers in the Service Area. Service to structures within the Service Area is currently being provided by Osage Valley.

5. Under the Agreement, Osage Valley shall have the exclusive right, as between Harrisonville and Osage Valley, to provide permanent service to all structures now located within the Service Area, and all new structures that may be built therein.

6. Osage Valley has existing facilities in the area and its provision of electric service will preclude an otherwise duplication of facilities should Harrisonville need to extend its facilities in order to provide electric service to the two new metering points illustrated in the Agreement.

7. Neither Harrisonville nor Osage Valley have had any communication with the Commission about the subject of the application within one hundred fifty days before filing the application.

8. No persons have sought intervention or requested a hearing, nor have the Applicants responded to Staff's Recommendation.

9. The filing parties filed verified declarations stating that each party has had no communication with the office of the Commission within the prior one hundred fifty days regarding any substantive issue likely to be in the case and delaying the filing for sixty days would cause harm.

Conclusions of Law

A. Under Section 394.312, RSMo, the Commission has jurisdiction over territorial agreements between municipally owned utilities and rural electric cooperatives, thus the Applicants are subject to the Commission's jurisdiction in this case.¹

B. Under Sections 394.312.5, RSMo, the Commission may approve the territorial agreement's service area designation if the territorial agreement in total is not detrimental to the public interest.

C. Under Section 394.312.5, RSMo, the Commission must hold an evidentiary hearing on a proposed territorial agreement unless an agreement is made between the parties and no one requests a hearing.

D. Commission Rule 20 CSR 4240-4.017.1 requires that any person intending to file a case before the Commission file notice of the intended filing at least sixty days before the case is filed. Commission Rule 20 CSR 4240-4.017.1(D) provides that the Commission may waive the sixty-day notice filing requirement for good cause, including the affirmation of the parties that they have not had contact with the office of the

¹ Section 394.312.4, RSMo, states, in relevant part: "[B]efore becoming effective, all territorial agreements entered into under the provision of this section, including any subsequent amendments to such agreements, or the transfer or assignment of the agreement or any rights or obligation of any party to an agreement, shall receive the approval of the public service commission by report and order. . . ."

Commission about the application within one hundred fifty days before filing the application.

E. Since an agreement has been reached and no hearing has been requested, none is necessary for the Commission to make a determination.²

Decision

It is the Commission's decision that the Agreement as a whole is not detrimental to the public interest. Based on the representations of the parties, the Commission will waive application of the sixty-day notice requirements of Commission Rule 20 CSR 4240-4.017(1) pursuant to 20 CSR 4240-4.017(1)(D). The Commission will approve the Agreement.

THE COMMISSION ORDERS THAT:

1. The Agreement, filed on June 27, 2023, is approved.
2. Harrisonville and Osage Valley are granted a waiver of the sixty-day notice requirement of Commission Rule 20 CSR 4240-4.017.
3. Harrisonville and Osage Valley are authorized to perform the Agreement, and all acts and things necessary to performance.
4. This order shall be effective on October 14, 2023.
5. This file shall be closed on October 15, 2023.



BY THE COMMISSION

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

Nancy Dippell
Secretary

² *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).

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

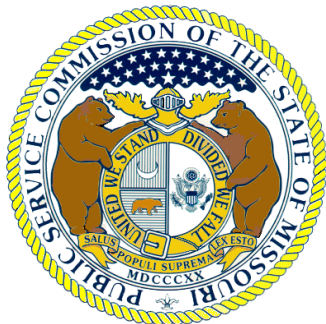
Keeling, Regulatory Law Judge

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 14th day of September, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 14, 2023

File/Case No. EO-2023-0439

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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.