

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Co-Mo)
Electric Cooperative for Approval of) **File No. EO-2022-0190**
Designated Service Boundaries Within)
Portions of Cooper County, Missouri)

ORDER DIRECTING NOTICE, JOINING NECESSARY PARTY, AND ESTABLISHING DEADLINE FOR INTERVENTION AND DIRECTING RESPONSE

Issue Date: January 20, 2022

Effective Date: January 20, 2022

On January 18, 2022, 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, that would otherwise be served by Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) (Application). In its Application, Co-Mo seeks an order approving designated service boundaries pursuant to §386.800.3, RSMo (as amended in 2021). Although Ameren Missouri did not join in the Application, it is a necessary party to a full and fair adjudication on this matter.

The law requires the Commission to rule on an application no later than 120 days from the application's filing date, unless otherwise ordered by the Commission for good cause shown,¹ and provides the right to a hearing.² The right to a hearing signifies a contested case.³ A contested case is a formal hearing procedure, but it allows for waiver

¹ Section 386.800.3, RSMo (as amended in 2021).

² Section 386.800.3, RSMo (as amended in 2021).

³ Section 536.010(4), RSMo 2016.

of procedural formalities⁴ and a decision without a hearing,⁵ including by stipulation and agreement.⁶ The Commission's rules of discovery are set forth at 20 CSR 4240-2.090.

The Commission will order notice to Ameren Missouri, elected officials, and to the news media; add Ameren Missouri as a party to this case, set a deadline for intervention, and direct Ameren Missouri to respond.

THE COMMISSION ORDERS THAT:

1. Union Electric Company d/b/a Ameren Missouri is made a party to this case.
2. The Commission's Data Center shall send, by certified mail, a copy of this

notice and order and a copy of the Application to Ameren Missouri at:

Union Electric Company d/b/a Ameren Missouri
Legal Department
P.O. Box 66149, Mail Code 1310
1901 Chouteau Avenue
St. Louis MO 63166-6149

3. The Commission's Public Information Office shall make notice of this order available to the members of the General Assembly representing Cooper County, Missouri, and to the newspapers serving that county.

4. Any party wishing to intervene shall do so by filing a pleading no later than February 3, 2022, with:

Morris L. Woodruff, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

5. Ameren Missouri shall file its response to the Application no later than February 9, 2022.

⁴ Sections 536.060 and 536.063(3), RSMo 2016.

⁵ Sections 536.060, RSMo 2016.

⁶ Commission Rule 20 CSR 4240-2.115.

6. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

Ross Keeling, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 20th day of January, 2022.

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

In the Matter of the Application of Co-Mo)
Electric Cooperative for Approval of) Case No. _____
Designated Service Boundaries Within)
Portions of Cooper County, Missouri)

APPLICATION

COMES NOW Co-Mo Electric Cooperative (“Cooperative”), by and through its undersigned counsel, and for its Application to the Missouri Public Service Commission (“Commission”), pursuant to RSMo 386.800.3 and the applicable provisions of 20 CSR 4240-20.045, for an order Approving Designated Service Boundaries, respectfully states as follows:

- 1) **The Applicant.** Cooperative is a rural electric cooperative organized and existing under the laws of Missouri with its principal office at 29868 Hwy 5, Tipton, MO 65081. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri counties. Cooperative has no pending action or final judgments or decisions against it from any state or federal agency or court that involve its customer service or rates within the three years immediately preceding the filing of this Application. Cooperative has no overdue annual report or assessment fees. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for Cooperative is attached hereto and marked **Appendix A**.

- 2) **Correspondence and Communication.** Correspondence, communications, and orders in regard to this Application should be directed to:

Megan E. Ray
Andereck, Evans, Lewis, Figg & Battagler, LLC
3816 S. Greystone Ct., Ste. B
Springfield, MO 65804
417-864-6401 (telephone)
417-864-4967 (fax)

e-mail: mray@lawofficemo.com
Attorney for Cooperative

- 3) **Written Request by Developer.** On December 3, 2021, Cooperative received a notice letter from Troy Thurman of Troy Thurman Construction Company, Inc., who is the owner and developer of the subject property that is adjacent to the city of Boonville, Missouri and subject to an annexation request by Mr. Thurman. The subject property is known as “Fox Hollow.” Mr. Thurman also is a member of Cooperative. The notice letter put Ameren Missouri, Cooperative, and the city of Boonville on notice that Mr. Thurman wished to invoke the provisions of RSMo 386.800 and further that Mr. Thurman preferred that Cooperative be the electric provider of choice to the subject property. The letter is attached hereto as **Appendix B** and is incorporated herein by reference. As required by RSMo 386.800.2, a “majority of the existing developers, landowners, or prospective electric customers in the area proposed to be annexed,” within forty-five days prior to the effective date of the annexation, submitted a written request to Cooperative to serve the area to be annexed. The entirety of the subject property is solely owned by Troy Thurman Construction Company and no other electric supplier currently is providing permanent service to any structure within the subject property. The request was mailed by owner/developer on November 30, 2021 to the city of Boonville, Ameren Missouri, and Cooperative. The letter was received by Cooperative on December 3, 2021. The city of Boonville approved its annexation and rezoning ordinance, Ordinance 4575, on December 6, 2021 with an effective date of January 18, 2022. See **Appendix C**.
- 4) **Other Electric Suppliers.** To Cooperative’s knowledge and belief, there are no other electric suppliers currently serving any structures on the subject property. However, Ameren Missouri provides electric service within the city of Boonville. Cooperative also currently

provides electric service to structures within the city of Boonville as a result of past annexations into areas historically served by Cooperative.

- 5) **Fee.** Pursuant to RSMo 386.800.9, Cooperative agrees to pay any fee charged by the Commission. In anticipation that an initial filing fee is contemplated, if not specifically required by an existing Commission rule, Applicant notes that 20 CSR 4240-3.130 relating to territorial agreements specifies an initial filing fee of five hundred dollars (\$500). Accordingly, Applicant is submitting same along with this Application.
- 6) **Service Capability.** Attached as **Appendix D** is a map and accompanying detail showing Cooperative's existing electric service facilities with adequate and necessary service capability located within one mile of the boundaries of the area proposed to be annexed, as required by RSMo 386.800.2.
- 7) **Good Faith Negotiations.** After receiving the developer/owner's request (**Appendix B**), Cooperative engaged in good faith negotiations, pursuant to RSMo 386.800.2, to attempt to negotiate a Territorial Agreement under RSMO 394.312 with Ameren Missouri.
- 8) **Factors Considered.** RSMo 386.800 requires the following factors to be considered, at a minimum, in negotiating a territorial agreement, as well for purposes of the Commission's subsequent review in making its determination under this statute:
 - a) The preference of landowners and prospective electric customers;
 - b) The rates, terms, and conditions of service of the electric service suppliers;
 - c) The economic impact on the electric service suppliers;
 - d) Each electric service supplier's operational ability to serve all or portions of the annexed area within three years of the date the annexation becomes effective;
 - e) Avoiding the wasteful duplication of electric facilities;

- f) Minimizing unnecessary encumbrances on the property and landscape within the area to be annexed; and
 - g) Preventing the waste of materials and natural resources.
- 9) **Forty-Five Days.** RSMo 386.800.3 prescribes a 45-day time period in which Cooperative and Ameren Missouri had to negotiate a Territorial Agreement, after which either electric service supplier may file an Application with the Commission for an Order determining which electric service supplier should serve the area to be annexed. Cooperative and Ameren Missouri were unable to reach a consensus in negotiating a Territorial Agreement regarding the subject property. Accordingly, Cooperative is filing this Application.
- 10) **Rules and Regulations.** Pursuant to RSMo 386.800.3, this Application shall be made pursuant to the rules and regulations of the Commission governing applications for certificates of public convenience and necessity, which tracks the familiar statutory language found in RSMo 394.312.4 respecting the filing requirements for Commission review of territorial agreements. While not specifically required under RSMo 386.800.3, as a courtesy and consistent with RSMo 394.312.4, Applicant is serving a copy of this Application on Ameren Missouri.
- 11) **Name and address of all residents and landowners.** The name and address of all residents and landowners of the subject property, as required by 20 CSR 4240-20.045, are stated in Paragraph 3, above, and in **Appendix B**.
- 12) **The legal description of the subject property.** See the deed attached as **Appendix E**, incorporated herein by reference.
- 13) **A plat of the proposed service area.** See **Appendix F**, incorporated herein by reference.

14) **Franchise.** As contemplated in RSMo 386.800.10(2), on December 6, 2021, the Boonville City Council approved a franchise agreement allowing Cooperative to operate within the city limits of Boonville. See **Appendix G.**

15) **Public Interest.** This Application, if approved, is not detrimental to the public interest because it is consistent with the preference of Mr. Thurman, all other factors specified in RSMo 386.800.2(1)-(7), and:

- a) It eliminates the duplication of facilities and provides cost and safety benefits by establishing that Cooperative shall be the sole provider of retail electric service on the subject property which is planned to consist of approximately four hundred and forty-six residential structures once completed;
- b) Cooperative has the ability to provide adequate service to the subject property and all planned construction thereon as demonstrated in **Appendix D** attached hereto;
- c) There will be no detrimental short-term economic (or other) impact on Cooperative's customer/members and long-term benefits to the Cooperative's customer/members provided by the planned density and load factor from the subject property are expected.

WHEREFORE, Applicant, pursuant to RSMo 386.800, respectfully requests that the Public Service Commission of Missouri issue its Order finding that the exclusive provision of electric service by Co-Mo Electric Cooperative to the subject property is not detrimental to the public interest.

Respectfully submitted,

/s/ Megan E. Ray

Megan E. Ray #62037

Andereck, Evans, Lewis, Figg
& Battagler, L.L.C.

3816 S. Greystone Court, Suite B
Springfield, MO 65804

Telephone: 417-864-6401
Facsimile: 417-864-4967
Email: mray@lawofficemo.com

Attorney for Co-Mo Electric Cooperative

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on January 18, 2022, to the following:

Office of the Public Counsel
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounsel@psc.mo.gov

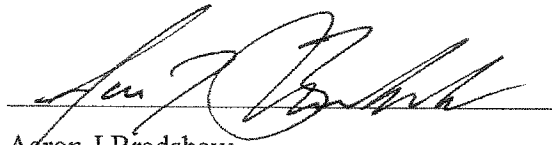
Wendy Tatro
Director and Assistant General Counsel
Ameren Missouri 1901 Chouteau Ave., MC 1310
St. Louis, MO 63103
AmerenMOService@ameren.com

/s/ Megan E. Ray

VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF Moniteau)

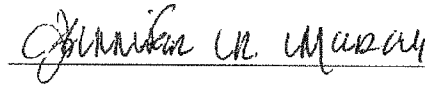
Being first duly sworn, Aaron Bradshaw states as follows: that he is the CEO / General Manager of Co-Mo Electric Cooperative; that he has read the foregoing application; that the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief; and, that Megan E. Ray of Andereck, Evans, Lewis, Figg & Battagler, L.L.C. is authorized by Co-Mo Electric Cooperative to make this filing and represent it in this matter.



Aaron J Bradshaw

Subscribed and sworn to before me this 18th day of January 2022.

JENNIFER R. MERCER Notary Public Notary Seal State of Missouri Commissioned for Moniteau County My Commission Expires: March 19, 2022 Commission Number: 14856236
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Notary Public

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 20th day of January, 2022.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

January 20, 2022

File/Case No. EO-2022-0190

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

Co-Mo Electric Cooperative, Inc.

Megan E Ray
3816 S Greystone Ct., Suite B
Springfield, MO 65804
mray@lawofficemo.com

Union Electric Company

Legal Department
1901 Chouteau Avenue
P.O. Box 66149, Mail Code 1310
St. Louis, MO 63166-6149
AmerenMOService@ameren.com

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

Sincerely,



**Morris L. Woodruff
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.