

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

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

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

STAFF’S RECOMMENDATION

Introduction

Before the Commission in EO-2022-0332 and EO-2022-0190 is the question of whether to approve a territorial agreement (“TA”) between Co-Mo Electric Cooperative, Inc. (“Co-Mo”) and Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri”).¹ The TA encompasses approximately 216 acres which were annexed into the city of Boonville and approximately 19,800 additional acres which were not annexed. Staff recommends approval of the application subject to conditions.

The TA now before the Commission for approval in EO-2022-0332 is the subject of a stipulation and agreement between Co-Mo and Ameren Missouri filed in File No. EO-2022-0190. Co-Mo filed that case following an annexation by which the City of Boonville expanded its boundaries approximately 216 acres into a “rural area”²

¹ Co-Mo and Ameren Missouri may together be referred as “the parties.”

² Staff does not believe that whether property was or is in a “rural area” is now material in this case. The distinction important in this case is between *annexed* and *non-annexed* territory. However, unless otherwise stated “rural area” means “any area of the United States not included within the boundaries of any city, town, or village having a population in excess of 1600 inhabitants.” Section 394.020(3), RSMo.

where Co-Mo and Ameren Missouri had previously shared service area authority.³ Following the parties failure to reach a TA per Section 386.800.2, RSMo, Co-Mo filed a Section 386.800.3, RSMo service boundary case in EO-2022-0190 on January 18, 2022, seeking approval of designated service boundaries inside the approximately 216 acres. Ameren Missouri initially contested Co-Mo's service boundary request. The parties, however, then resolved the dispute with a stipulation and agreement. The agreement was a territorial agreement, and so they jointly asked for TA approval in their EO-2022-0190 case. In response, the Commission opened file EO-2022-0322, where the parties filed a joint application seeking approval of the TA reached in the EO-2022-0190 case. The TA now before the Commission encompasses both the annexed 216 acres now within the city limits of Boonville and an additional approximately 19,800 non-annexed acres.

Section 394.312, RSMo 2016, gives the Commission jurisdiction over the territorial agreement. Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission per Chapters 386 and 393, RSMo. Co-Mo is a rural cooperative. Although the Commission has only limited jurisdiction over rural electrical cooperatives, because the Commission has jurisdiction over all territorial agreements, Co-Mo is subject to the Commission's jurisdiction in this case.⁴

³ Co-Mo had service authority because the property was in a "rural area," and Ameren had co-extensive service authority per a CCN.

⁴Section 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. . . ."

Legal Standards

Section 394.312, RSMo, is the general statute applying to all TA's. It contemplates two standards: one where, except for an unresolved boundary dispute, the parties have otherwise reached a TA; and one which is applicable where the parties have reached a TA including an agreement on boundaries. Where the parties have a boundary dispute, then—but only with their mutual consent—the Commission will designate the boundaries of the electric service areas. In that instance, the Commission “shall base its final determination regarding such petitions upon a finding that the commission’s designation of electric service areas *is in the public interest*” (emphasis added). Section 394.312.5, RSMo, on the other hand, concerns the approval of territorial agreements where “the matter is resolved by a stipulation and agreement.” In that instance, the Commission “may approve the application if it determines that approval of the territorial agreement in total is not detrimental to the public interest.” The case before the Commission involves a TA where the boundary dispute has been resolved. Co-Mo and Ameren Missouri have reached a territorial agreement containing no contested issues for the Commission’s resolution. No party has intervened in the case. Accordingly, the only Section 394.312, RSMo, issue before the Commission is whether the agreement in total is not detrimental to the public interest.

The Section 394.312, RSMo, RSMo’s “not detrimental” standard is the final gateway for approval of the TA covering all approximately 20,000 acres. But the TA as to the annexed 216 acres must first pass through an additional, preliminary gateway. Section 386.800.2, RSMo, covers the special situation where a municipality annexes territory to include areas where another electric supplier is not providing permanent

service but a rural electric cooperative can do so per the statute's capability requirements.⁵ In that event, Section 386.800. RSMo, gives the rural electric an opportunity to compete to continue to service the annexed area. But as to the annexed property, this statute imposes standards for approval additional to the "not detrimental" standard set out in Section 394.312, RSMo. The statute states:

Any municipally owned electric utility may extend, pursuant to lawful annexation, its electric service territory to include areas where another electric supplier currently is not providing permanent service to a structure. If a rural electric cooperative has existing electric service facilities with adequate and necessary service capability located in or within one mile outside the boundaries of the area proposed to be annexed, a majority of the existing developers, landowners, or prospective electric customers in the area proposed to be annexed may, anytime within forty-five days prior to the effective date of the annexation, submit a written request to the governing body of the annexing municipality to invoke mandatory good faith negotiations under section 394.312 to determine which electric service supplier is best suited to serve all or portions of the newly annexed area. In such negotiations the following factors (the "factors") shall be considered, at a minimum:

- (1) The preference of landowners and prospective electric customers;
- (2) The rates, terms, and conditions of service of the electric service suppliers;
- (3) The economic impact on the electric service suppliers;
- (4) 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;
- (5) Avoiding the wasteful duplication of electric facilities;
- (6) Minimizing unnecessary encumbrances on the property and landscape within the area to be annexed; and
- (7) Preventing the waste of materials and natural resources.⁶

⁵ 2. "Any municipally owned electric utility may extend, pursuant to lawful annexation, its electric service territory to include areas where another electric supplier currently is not providing permanent service to a structure. If a rural electric cooperative has existing electric service facilities with adequate and necessary service capability located in or within one mile outside the boundaries of the area proposed to be annexed. . . ."

⁶ Section 386.800.2, RSMo, contemplates a scenario where the parties reach a TA for the annexed territory without petitioning the Commission for a decision on a dispute. That scenario requires the parties to consider the seven factors. The Commission's considering now whether the parties have considered the seven factors may seem odd. But because of the public's active participation and expressed interest and concerns in the local public hearing

The statute covers both the situations where the municipality owns an electric utility; and where, instead, a regulated utility provides the municipal area with service. This case involves the latter. Boonville does not own an electric utility. Ameren Missouri provides that service. Section 386.800.3, RSMo states:

In the event an electrical corporation rather than a municipally owned electric utility lawfully is providing electric service in the municipality, all the provisions of subsection 2 of this section shall apply equally as if the electrical corporation were a municipally owned utility, except that if the electrical corporation and the rural electric cooperative are unable to negotiate a territorial agreement pursuant to section 394.312 within forty-five days, then either electric service supplier may file an application with the commission for an order determining which electric service supplier should serve, in whole or in part, the area to be annexed.

On July 1, 2022, Ameren Missouri and Co-Mo filed a Joint Application for Approval of Territorial Agreement. On September 12, the parties filed a Joint Submission of Legal Descriptions. On October 19, the parties filed a Joint Submission of Addendum to Territorial Agreement. On October 24, the Commission ordered Staff to file a recommendation no later than October 31. This deadline has been extended to November 23.

Recommendations

Staff concludes that the application satisfies all requirements set out in 386.800.3, and 394.312, RSMo. On June 1, 2022, the Commission provided notice to other service

and because this is a case of first impression under Section 386.800, RSMo, the Staff will endeavor to address all its apparent mandates. The Staff believes that Section 386.800.2's mandate that the parties consider the seven factors in reaching a TA would be legally meaningless if it was not legally enforceable by the Commission. Similarly, the "consideration" mandate would be meaningless if the statute did not also require the Commission to determine whether the parties had complied. The General Assembly is not deemed to have done a meaningless act and is presumed in enacting a statute to have intended a logical result. *Murray v. Missouri Highway and Transportation Commission*, 37 S.W.3d 228, 233 (Mo. Banc, 2001). Thus, as to the 216 annexed acres: Although this is no longer a Section 386.800.3, RSMo, case where the *Commission* itself must consider the seven factors in resolving a dispute, the Commission must still, per the Section 386.800.2 requiring the *parties* to consider those factors, review the TA and the record and make a determination that the parties did so.

providers in the area, the County Commissioners serving Cole, Cooper and Moniteau Counties, media entities in those counties, and members of the General Assembly serving those counties. That notice provided for intervention and set an intervention deadline. No person or entity has requested intervention. The Commission held a local public hearing on September 15, 2022. No person or entity identifying itself as a landowner or prospective customer in the annexed 216 acres appeared and provided sworn testimony. As of the time of the application, the 216 acres had only one owner, Troy Thurman of Thurman Construction Company, Inc., a developer, who was also the only utility customer. His service provider preference was Co-Mo.⁷ The Staff concludes that because all statutory and regulatory notice requirements have been satisfied with respect to the annexed 216 acres, the customer preference factor has been satisfied.

Staff has reviewed all the filings in both cases. With respect to the 216 acres, the verified application filed in EO-2022-0190 expressly sets out the seven Section 386.800.2, RSMo, factors to be considered in negotiation of a Section 386.800, TA and states that if approved, the application will not be detrimental to the public interest because it is consistent with the preference of Mr. Thurman and with all other factors specified in Section 386.800.2(1)-(7), RSMo. Additionally, with respect to the 216 acres, the verified pleadings state that granting the application will eliminate the duplication of facilities and provide cost and safety benefits by establishing that Co-Mo will be the sole provider of retail electric service in the subject property [the 216 acres], which is planned to consist of approximately four hundred and forty-six residential structures once completed. Co-Mo's verified application states that it has the ability to provide adequate

⁷ Application filed in EO-2022-0190,

service to the subject area; and as a part of the verified application, Co-Mo provided a map and accompanying detail showing its service facilities within one-mile of the area proposed to be annexed which Staff has reviewed.⁸ The verified application states that there will be no detrimental short-term (or other) impact on Co-Mo's customer/members and Co-Mo expects long-term benefits to the Cooperative's customer/members provided by the planned density and load factor from the subject property. No entity or person has intervened and no substantial evidence of record refutes the conclusion that with respect to the 216 annexed acres, the TA was negotiated with due consideration for the seven Section 386.800.2 factors. As stated in Staff's Official Memorandum filed in this case and David Buttig's filed rebuttal testimony,⁹ the parties together with the Commission's Staff have given detailed consideration to the seven factors in the course of the TA negotiations and the final resolution of the Section 386.800.3 dispute in EO-2022-0190. The Staff concludes, on the basis of the filings in both files captioned above, that with respect to the 216 annexed acres, the TA negotiations have given thorough and sufficient consideration to all seven Section 386.800 factors and is not detrimental to the public interest.

With respect to the remaining non-annexed 19,800 acres, the Section 386.800.2 seven factors do not apply, and the only question is whether the TA is detrimental to the public interest as to those acres. Following due notice issued in EO-2022-0332, no person or entity intervened and filed a verified pleading placing at issue whether the TA application was "detrimental to the public interest." The verified application for TA approval states that the TA will require no changes in Ameren Missouri's operations

⁸ Application, Appendix D, EO-2022-0190.

⁹ EFIS Item No. 66, EO-2022-0190.

or certifications. It states that the TA is not detrimental to the public interest because it resolves the EO-2022-0190 disputes by establishing certain exclusive service territories for new structures for the two electric suppliers within the areas covered by the TA and also minimizes a duplication of utilities facilities in such areas. The verified application states that the TA requires no transfer of any facilities or customers between applicants. The parties have, however, received recent communications, not of record, that contrary to the assertions of the verified pleadings, the TA, indeed, may transfer one or two customers from Ameren to Co-Mo. While Staff believes that the parties should be required to correct their pleadings, it is Staff's conclusion that the presence of this customer(s) does not impeach the conclusion that the TA as a whole is not detrimental to the public interest. The Staff, accordingly, concludes that the TA as a whole is not detrimental to the public interest and recommends its approval; and recommends that the Commission issue a Report and Order Approving the TA with the following further orders:

- 1) That the parties amend their verified pleadings as may be necessary to address any change of customer service; or file other pleadings explaining why no such amendment is required;

- 2) That the parties shall either a) notify any customer whose service might be changed of that customer's rights and provide the Commission Staff with an exemplar of such notice prior to issuance; or b) file a pleading with the Commission explaining why no such notice is necessary; and c) file amended tariffs with the Commission as described in detail in Staff's Official Memorandum. ,

Conclusion

The Staff concludes that the TA covering the 216 annexed acres was negotiated with sufficient consideration given to the Section 386.800.2 seven factors. Staff concludes that the TA as a whole and covering all approximately 20,000 acres containing both annexed and non-annexed territory is not detrimental to the public interest. The Staff recommends that the Commission approve the TA subject to the Staff's recommended conditions.

Respectfully submitted,

/s/ Paul T. Graham

Senior Counsel Missouri Bar No. 30416
Attorney for the Staff of the Missouri Public
Service Commission

P. O. Box 360 Jefferson City, MO 65102

(573) 522-8459 (Telephone)

(573) 751-9285 (Fax)

Paul.graham@psc.mo.

CERTIFICATE OF SERVICE

The undersigned certifies by his signature below that on November 23, 2022, he filed the above captioned pleading in the EFIS file of the Missouri Public Service Commission.

/s/ Paul T. Graham

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2022-0332 – In the Matter of the Joint Application of
Co-Mo Electric Cooperative, Inc. and Union Electric Company d/b/a
Ameren Missouri for an Order Approving a Territorial Agreement in
Cooper, Cole and Moniteau Counties, Missouri

Missouri Public Service Commission Official Case File
Case No. EO-2022-0190 – In the Matter of the Application of
Co-Mo Electric Cooperative, Inc. for Approval of Designated Service
Boundaries Within Portions of Cooper County, Missouri

FROM: Alan J. Bax – Engineering Analysis Dept., Industry Analysis Division

/s/ Alan J. Bax 11/23/22 /s/ Paul J. Graham 11/23/22
Engineering Analysis Dept. / Date Staff Counsel’s Office / Date

SUBJECT: Staff Memorandum Recommending Approval of Joint Application

DATE: November 23, 2022

STAFF RECOMMENDATION

Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Joint Application of Co-Mo Electric Cooperative Inc. (“Co-Mo”) and Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”), (collectively referenced as the “Joint Applicants”), that includes the Joint Applicants’ Territorial Agreement (“TA”) ¹, as amended. Approval of the TA would designate certain, distinct areas in Cooper, Cole and Moniteau Counties, as described in the TA, as being exclusive service areas of Ameren Missouri per the terms of the TA. Likewise, distinct areas in Cooper County, Missouri would be designated as

¹ This TA was included within a Stipulation and Agreement filed in Case No. EO-2022-0190. Approval of the TA would also resolve the outstanding issues remaining in that Case.

exclusive service areas of Co-Mo.² Staff recommends that the Commission conclude that this Joint 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 May 27, 2022, the Joint Applicants filed their Joint Application requesting Commission approval of their accompanying TA. The TA was filed with the Commission within a Stipulation and Agreement (“S&A”) as a means of resolving outstanding issues remaining between Co-Mo and Ameren Missouri in relation to Case No. EO-2022-0190. Terms of the TA would designate areas in Cooper, Cole and Moniteau Counties as being exclusive service territories of Ameren Missouri should the Commission approve the Joint Application. In addition, specific areas located in Cooper County, Missouri, as described in the TA, would be designated as exclusive service territories of Co-Mo. On May 31, 2022, the Commission filed a *Notice Opening File*, which created a new case (EO-2022-0332) in which to examine this proposed TA, separate from EO-2022-0190.

Co-Mo is a rural electric cooperative organized under Chapter 394 RSMo (2020) to provide electric service to its members in all or parts of nine Missouri counties, including Cole, Cooper and Moniteau Counties, in which lie the properties that are the subject of the Joint Application. The Commission has limited jurisdiction over cooperatives. For the purposes of this case, Co-Mo is subject to the jurisdiction of the Commission under Section 386.800 and 394.312 RSMo (2020).

² The Fox Hollow Subdivision is included in these areas designated to be exclusively served by Co-Mo should the TA be approved by the Commission.

As a rural electric cooperative, Co-Mo is not required to file annual reports or pay assessment fees. Further, Staff is not aware of any pending or final unsatisfied judgments against Co-Mo from any state or federal court involving customer service or rates within three years of the date of filing this Joint Application.

Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393 RSMo 2020. Ameren Missouri is current in regard to filing required 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. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

DISCUSSION

The Joint Applicants initially filed this TA as part of a Stipulation and Agreement (“S&A”) in File No. EO-2022-0190. Co-Mo, citing the recently revised Missouri State Statute 386.800.3 RSMo (2022)³, filed an application seeking to be the exclusive electric service provider to a newly proposed 216-acre residential development located in Cooper County, Missouri that was recently annexed into the city limits of Boonville, MO. Historically, due to annexation, this development would have been in the exclusive electric

³ 386.800.3 states in pertinent part, “In the event an electrical corporation rather than a municipally owned electric utility lawfully is providing electric service in the municipality, all the provisions of subsection 2 of this section shall apply equally as if the electrical corporation were a municipally owned electric utility, except that the if the electrical corporation and the rural electric cooperative are unable to negotiate a territorial agreement pursuant to section 394.312 within forty-five days, then either electric service supplier may file an application with the commission for an order determining which electric service supplier should serve...”

service territory of Ameren Missouri via a franchise agreement between the City of Boonville and Ameren Missouri. However, as provided in 386.800.3 RSMo (2022), following a period of time in which Co-Mo and Ameren failed to reach a compatible territorial agreement, Co-Mo filed its request with the Commission in January 2022. Subsequently, Ameren Missouri challenged Co-Mo's assertion that the newly revised statute applied to this particular situation. Staff supplied Rebuttal Testimony⁴ in File No. EO-2022-0190 (Schedule_AJB-1), which included its assessment of certain requirements identified and listed in Paragraph 2 of this recently revised Missouri State Statute (386.800.2 RSMo (2022))⁵. Ultimately, on May 27, 2022, Ameren Missouri and Co-Mo filed a Stipulation and Agreement in EO-2022-0190 as a means to resolve outstanding issues remaining in this Case, which included the proposed TA.

⁴ Rebuttal Testimony of David T. Buttig PE, EFIS Item No. 66, EO-2022-0190. Mr. Buttig gave extensive consideration to Section 386.800.2's seven factors applicable to the 216-acre portion of the approximately 20,000 acres included in the proposed TA, upon which Staff concludes that the evidence supports the conclusion that per the statute's mandate, Section 386.800.2, these factors were "considered" by the parties in their negotiations.

- ⁵ (1) The preference of landowners and prospective electric customers;
- (2) The rates, terms, and conditions of service of the electric service suppliers;
- (3) The economic impact on the electric service suppliers;
- (4) 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;
- (5) Avoiding the wasteful duplication of electric facilities;
- (6) Minimizing unnecessary encumbrances on the property and landscape within the area to be annexed;
- (7) Preventing the waste of materials and natural resources.

On May 31, 2022, the Commission opened a new file, EO-2022-0332 to assess the merits of the TA. The TA, unlike the previous request made by Co-Mo regarding a proposed 216-acre development in Cooper County, Missouri, identified parcels in Cole and Moniteau Counties as well as additional parcels in Cooper County that totaled over 20,000 acres. The TA, as initially filed, was deficient in that the Joint Applicants had not included required legal metes and bounds descriptions of the parcels. It was not until October 19, 2022, that the Joint Applicants provided the TA, as amended, which reflected the results of a survey (including legal metes and bounds descriptions) of the respective parcels, and correctly illustrated the proposed exclusive electric service areas of Ameren Missouri and Co-Mo respectively should their Joint Application be approved by the Commission.

Along with the documents previously filed in conjunction with EO-2022-0190, Staff has also reviewed the proposed TA, as amended, along with the subsequent survey results provided, and has verified that the Joint Applicants have addressed the requirements specified in 20 CSR 4240-2.060 and 20 CSR 4240-3.130 regarding TA submissions. The Joint Applicants assert that the TA will remain in effect in perpetuity, but nonetheless retain the right to terminate the TA at any time, as described in Article 9. Article 7 contains an exception procedure, which would allow a new structure to be served by Ameren Missouri or Co-Mo despite this structure being built on a property that is within the exclusive service territory of the other company. Such exceptions must be filed with and approved by the Commission.

Contrary to the verified pleadings made by the Joint Applicants, a few properties may experience a change of electric service suppliers if the Commission approves the TA. Despite what may be precluded by Section 2.3 of the TA in regard to potentially switching electric service providers, prospective customers/members could utilize the exception procedure should this situation occur, Staff recommends the Commission order Ameren and/or Co-Mo submit the following should the TA be approved:

- a. Provide the prospective customers/members with notice of their rights to request that they remain with their current service providers, and,
- b. Provide a copy of such exemplar notice to Staff.

Staff concurs with the Joint Applicants that the Commission should approve the TA as amended and order Ameren and/or Co-Mo to provide the prospective customers/members with notice as discussed above. Although the terms of the TA, as amended, have been questioned by certain Cooper County officials during the local public hearing, concerted efforts have been made by the Joint Applicants in finalizing the terms of the proposed amended TA. Staff believes the proposed TA, as amended, represents a reasonable compromise that was apparently unachievable prior to May 27, 2022. The Joint Applicants also assert that approving the amended TA will resolve the outstanding issues that remain associated with File No. EO-2022-0190. In addition to certain notifications mentioned above, should the Commission approve the proposed TA, as amended, Staff also recommends that the Commission Order Ameren Missouri to file revised tariff sheets that reflect the Ameren Missouri territorial boundaries per the terms of the proposed TA.

CONCLUSION

Staff recommends that the Commission approve the Joint Application, concluding that the proposed TA, as amended, which was filed on October 19, 2022, is not detrimental to the public interest pursuant to Section 394.312 and 416.041 RSMo (2020). The Joint Applicants addressed the requirements specified in 20 CSR 4240-2.060 and 20 CSR 4240-3.130. Commission approval of the Joint Application would allow Ameren Missouri and Co-Mo to be the exclusive electric service provider in their respective illustrated areas, as defined in the TA. Approving the Joint Application will also resolve the outstanding issues that remain between Ameren Missouri and Co-Mo in conjunction with File No. EO-2022-0190. Further, Staff recommends the Commission Order the Joint Applicants to notify certain affected customers/members who may be subject to a change in their respective electric service provider with their associated rights, which may include remaining with their current electric service provider. Staff also recommends the Commission Order Ameren Missouri to file revised tariff sheets that reflect the Ameren Missouri territorial boundaries per the terms of the proposed TA.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Joint Application of Co-Mo)
Electric Cooperative and Union Electric)
Company d/b/a Ameren Missouri for an Order)
Approving a Territorial Agreement in Cooper,)
Cole, and Moniteau Counties, Missouri)
)
)


File No. EO-2022-0332

AFFIDAVIT OF ALAN J. BAX

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

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.

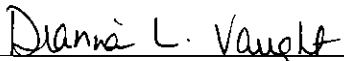


ALAN J. BAX

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 23rd day of November, 2022.

DIANNA L VAUGHT
Notary Public - Notary Seal
STATE OF MISSOURI
Cole County
My Commission Expires: July 18, 2023
Commission #: 15207377



Notary Public

Exhibit No.:
Issue: *Service Boundary Designation*
Witness: *David T. Buttig, PE*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *EO-2022-0190*
Date Testimony Prepared: *April 27, 2022*

MISSOURI PUBLIC SERVICE COMMISSION

INDUSTRY ANALYSIS DIVISION

ENGINEERING ANALYSIS DEPARTMENT

REBUTTAL TESTIMONY

OF

DAVID T. BUTTIG, PE

CO-MO ELECTRIC COOPERATIVE, INC.

CASE NO. EO-2022-0190

Jefferson City, Missouri
April 2022

** Denotes Confidential Information **

*** Denotes Highly Confidential Information ***

**TABLE OF CONTENTS OF
REBUTTAL TESTIMONY OF
DAVID T. BUTTIG, PE
CO-MO ELECTRIC COOPERATIVE, INC.
CASE NO. EO-2022-0190**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

EXECUTIVE SUMMARY2

ANALYSIS.....4

 Customer Preference 4

 Rates, Terms, and Conditions of Service 6

 Economic Impact..... 8

 Operational Ability..... 9

 Avoiding Wasteful Duplication 12

 Minimize Unnecessary Encumbrances 14

 Prevent Waste..... 15

CONCLUSION.....17

1 **REBUTTAL TESTIMONY**

2 **OF**

3 **DAVID T. BUTTIG, PE**

4 **CO-MO ELECTRIC COOPERATIVE, INC.**

5 **CASE NO. EO-2022-0190**

6 Q. Please state your name and business address.

7 A. My name is David T. Buttig, and my business address is 200 Madison Street,
8 Jefferson City, Missouri, 65101

9 Q. By whom are you employed?

10 A. I am a Professional Engineer employed by the Missouri Public Service
11 Commission ("Commission") in the Engineering Analysis Department, a member of
12 Commission Staff ("Staff").

13 Q. Please describe your educational background and work experience.

14 A. I graduated from the Missouri University of Science & Technology in May of
15 2012 with a Bachelor of Science Degree in Environmental Engineering. Before coming to work
16 at the Commission, I was employed by the Missouri Department of Natural Resources' Air
17 Pollution Control Program as an Environmental Engineer I and was promoted to an
18 Environmental Engineer II. I worked at the Air Pollution Control Program from February 2013
19 to July 2018. I began employment with the Commission in July 2018.

20 Q. Have you previously filed testimony before the Commission?

21 A. Yes. Please refer to Schedule DTB-r1, attached to this Rebuttal Testimony for a
22 list of cases I have filed testimony in with the Commission.

1 **EXECUTIVE SUMMARY**

2 Q. How did this case come before the Commission?

3 A. In August 2021, the Missouri Legislature approved an amendment to
4 RSMo 386.800. This revised statute allowed a way for an electric cooperative to serve new
5 customers in a city with a municipally owned electric utility or an electrical corporation lawfully
6 providing electrical service within a municipality. The revised statute states that if a rural
7 electric cooperative has existing facilities with adequate and necessary service capability
8 located in or within one mile outside the boundaries of an area proposed to be annexed, a
9 majority of the existing developers, landowners, or prospective customers in the area proposed
10 to be annexed may, anytime within forty-five days prior to the effective date of the annexation,
11 submit a written request to the governing body of the annexing municipality to invoke good
12 faith negotiations under section 394.312 to determine which electric service supplier is best
13 suited to serve all or portions of the annexed area.¹ If the municipality is lawfully served by an
14 electrical corporation rather than a municipally owned electric utility then all of the provisions
15 of RSMo 386.800.2 apply equally as if the electrical corporation were a municipally owned
16 electric utility, except that if the electrical corporation and the rural electric cooperative are
17 unable to negotiate a territorial agreement pursuant to section 394.312 within forty-five days,
18 then either electric service supplier may file an application with the Commission for an
19 order determining which electric service supplier should serve, in whole or in part, the area to
20 be annexed.²

¹ RSMo 386.800.2.

² RSMo 386.800.3.

1 In order to comply with the revised statute, the owner of the property, the Troy Thurman
2 Construction Company, Inc. (“TTCCI”), notified both Co-Mo Electric Cooperative, Inc.
3 (“Co-Mo”) and Ameren of its decision to have Co-Mo serve the Fox Hollow subdivision.
4 Co-Mo’s application stated that the notification was mailed on November 30, 2021.³
5 Fox Hollow was then annexed by Boonville, MO with an effective date of January 18, 2022.⁴

6 In the time after notification by TTCCI, Co-Mo and Ameren were unable to agree upon
7 a territorial agreement in connection to the new Fox Hollow subdivision. As is written in the
8 statute, Co-Mo then proceeded to file this case with the Commission to have the Commission
9 decide which electric service provider would serve the Fox Hollow subdivision.

10 Q. Has the Commission heard a case involving the recently amended
11 RSMo 386.800?

12 A. Not to my knowledge.

13 Q. What is the purpose of your testimony?

14 A. I am presenting Staff’s review of Co-Mo’s application of designated service
15 boundaries within portions of Cooper County, Missouri. Staff reviewed the information
16 provided by Co-Mo and by Ameren Missouri in order to present a comparison of the two
17 companies according to the factors and filing requirements of RSMo 386.800.

18 Q. What is Staff’s recommendation to the Commission?

19 A. Both utilities are well suited to provide electric service to the Fox Hollow
20 subdivision. In considering the statutory factors, Staff’s analysis in this case concludes that only
21 three factors differentiate the two electric service providers: preference of landowner and

³ Application of Co-Mo Electric Cooperative, page 2.

⁴ Application of Co-Mo Electric Cooperative, Appendix C.

1 prospective customers, economic impact on the electric service supplier, and prevention of
2 wasteful duplication of services. Staff recommends that the Commission find that on balance,
3 the application of the seven factors favors Co-Mo's application and that awarding the service
4 area to Co-Mo would not be detrimental to the public interest.

5 **ANALYSIS**

6 Q. According to RSMo 386.800, what factors are to be considered in the review of
7 the application?

8 A. According to RSMo 386.800.2, the factors to be considered are (1) the
9 preference of landowners and prospective electric customers; (2) the rates, terms, and
10 conditions of service of the electric service suppliers; (3) the economic impact on the electric
11 service supplier; (4) each electric service supplier's operational ability to serve all or portions
12 of the annexed area within three years of the date the annexation becomes effective; (5) avoiding
13 the wasteful duplication of electric facilities; (6) minimizing unnecessary encumbrances on the
14 property and landscape within the area to be annexed; and (7) preventing the waste of materials
15 and natural resources.

16 Q. What area is in contention for designated service territory?

17 A. The territory to be decided in this case is the Fox Hollow subdivision. The legal
18 description of the territory is included with the Application of Co-Mo as Appendix E – Legal
19 Land Descriptions.

20 **Customer Preference**

21 Q. The first factor to be considered is the preference of landowners and prospective
22 electric customers. To your knowledge is there a preference?

1 A. According to the direct testimony of Troy Thurman schedule tt-02, TTCCI is the
2 sole owner and developer of the property of subject in this case. In the letter included in
3 schedule tt-02, the landowner, TTCCI, prefers that Co-Mo be the electric service provider for
4 the property. According to Mr. Thurman, his decision to choose Co-Mo as the electric service
5 provider was based on his professional interactions with Co-Mo and the anticipated
6 demographics of the residents to reside in the Fox Hollow subdivision. He anticipates that the
7 residents will be first time home buyers who are looking for residences that have high speed
8 data, video, and phone services. Through Co-Mo's subsidiary Co-Mo Connect, this could be
9 provided, and in Mr. Thurman's opinion, Co-Mo is the best choice.⁵

10 Q. Did TTCCI consider any other electric providers for the Fox Hollow
11 subdivision?

12 A. According to Co-Mo Data Request (DR) No. 0017 to Ameren Missouri
13 ("Ameren"), Ameren was made aware of the proposed subdivision on November 24, 2020 when
14 Mr. Thurman reached out to Ameren and requested a line be raised in order to accommodate
15 heavy equipment access. From this conversation Ameren became aware of the proposed
16 subdivision and expressed interest in the opportunity to serve the subdivision.

17 Mr. Thurman had multiple other conversations with both Co-Mo and Ameren to
18 ascertain what each electric service provider could provide for the subdivision. Ultimately,
19 Mr. Thurman chose Co-Mo Electric as his choice to serve the Fox Hollow subdivision and
20 notified both Co-Mo and Ameren of his decision.

⁵ Troy Thurman Direct Testimony, page 3, lines 18-23.

1 Q. So because of Mr. Thurman's preference for Co-Mo to serve Fox Hollow, this
2 factor favors Co-Mo?

3 A. Yes. That is correct.

4 **Rates, Terms, and Conditions of Service**

5 Q. How did Staff analyze the factor of rates, terms, and conditions?

6 A. Staff looked at the utility rates, terms, and conditions that each company would
7 apply to the customers if it were to provide the electric service. Staff also reviewed if the cost
8 of bringing service to Fox Hollow would affect the rates charged to current members/customers.

9 Q. If Co-Mo is to serve Fox Hollow, what will be the rates, terms, and conditions
10 for service?

11 A. Co-Mo witness Aaron Bradshaw states in his testimony that all new members-
12 owners of Co-Mo are subject to the same rates of all current member-owners and subject to the
13 same terms and conditions as are found in its bylaws and membership agreement.^{6,7} It is also
14 noted from Mr. Bradshaw's testimony that the rates of the current customers will not be affected
15 due to the construction of facilities to serve the Fox Hollow subdivision.⁸ Co-Mo's current
16 rates are included in the table below:

Co-Mo Residential Single Phase Service Rates⁹

Availability Charge up to 200 Amp Service	@ \$35.00 per month
Availability Charge over 200 Amp Service	@ \$41.00 per month
Demand Charge per kW ^a	@ \$2.00 per kW
All kWh	@ 7.72¢ per kWh

^a The billing demand shall be the highest amount of power demanded in any sixty (60) minute period during the month for which the bill is rendered. This is to be measured in kilowatts (kW).

⁶ Aaron Bradshaw Direct Testimony, Schedule AM-10.

⁷ Aaron Bradshaw Direct Testimony, page 14, lines 267-274.

⁸ Aaron Bradshaw Direct Testimony, page 15, lines 281-284.

⁹ Aaron Bradshaw Direct Testimony, Schedule AB-08.

1 Q. If Ameren is to serve Fox Hollow, what will be the rates, terms, and conditions?

2 A. New customers would be subject to the same rates as the current customers and
3 subject to the same terms and conditions as currently ordered by the Commission and included
4 in Ameren's Tariff sheets.¹⁰ Ameren's current rates are included in the table below:

5 **Ameren's Residential Anytime Service¹¹**

Summer Rate (June through September)	
Customer Charge – per month	\$9.00
Low-Income Pilot Program Charge – per month	\$0.14
Energy Charge – per kWh	12.96¢
Winter Rate (October through May)	
Customer Charge – per month	\$9.00
Low-Income Pilot Program Charge – per month	\$0.14
Energy Charge – per kWh	
First 750 kWh	8.81¢
Over 750 kWh	5.91¢

6
7 Q. Does the analysis of rates, terms, and conditions favor either of the electric
8 service providers?

9 A. After this review, Staff concludes that this factor favors neither party. Neither
10 companies' rates, terms, nor conditions will be affected by serving Fox Hollow. The same rates,
11 terms, and conditions that are currently applied to members/customers will be applied to new
12 customers. Staff notes that there are both positives and negatives to be served by an electric

¹⁰ Co-Mo DR 23 to Ameren: Rate Schedule 1(M).

¹¹ Co-Mo DR 23 to Ameren: Rate Schedule 1 (M).

1 cooperative or by an electric corporation. Because of this, Staff would think that this factor
2 should have little to no weight when the Commission is making its decision.

3 **Economic Impact**

4 Q. How did staff analyze the economic impact on the potential electric service
5 supplier(s)?

6 A. Staff considered both the short-term and long-term effects serving Fox Hollow
7 would have on the companies.

8 Q. If Co-Mo is to serve Fox Hollow, what will be the economic impact to the
9 company?

10 A. Co-Mo states that adding Fox Hollow to its system is expected to add to the
11 density of its system with the full time residences. This would allow them to increase the total
12 electrical system load factor and reduce their fixed cost allocation on a per member basis.¹²
13 Co-Mo states that increasing its density will put downward pressure on future member rate
14 increases.¹³

15 Staff agrees with the assertions made by Co-Mo and described in the preceding
16 paragraph. Co-Mo has approximately 32,000 meters it serves in Cooper, Moniteau, Morgan,
17 Camden, Benton, Cole, Pettis, Saline, and Miller Counties. The addition of the customer density
18 would help to minimize any rate increases due to the additional concentrated load on the
19 northern edge on Co-Mo's service territory. Staff also notes that a higher customer density can
20 result in lower distribution costs.

¹² Ameren DR 40 to Co-Mo.

¹³ Aaron Bradshaw Direct Testimony, page 18, lines 346-349.

1 Q. If Ameren is to serve Fox Hollow, what will be the economic impact to the
2 company?

3 A. According to Ameren's 2021 FERC Form 1, Ameren's customer base has
4 1,083,208 residential customers and 167,688 customers in all other rate classes. Even with the
5 number of customers Ameren currently serves, the addition of the customers and its density
6 would still have a positive effect to Ameren. As with Co-Mo, additional customers and load
7 will help to minimize potential rate increases in the future by having more customers to spread
8 it out over. However, the effect would not be as great as it would be for Co-Mo due to the
9 smaller ratio of new customers to current customers. Ameren was unable to provide an analysis
10 on economic impact in response to Staff's data request.¹⁴

11 Q. Does the analysis of the economic impact to the companies favor either of the
12 electric service providers?

13 A. After this analysis, Staff concludes that this factor favors Co-Mo. Whereas both
14 companies could benefit from the additional customer base, the impact of added
15 members/customers and increased density would be greater for Co-Mo.

16 **Operational Ability**

17 Q. How did staff analyze the operational ability of the companies?

18 A. Staff took into consideration the companies' available load in the area, any
19 system upgrades required to serve all phases of the development within three years of the date
20 the annexation of Fox Hollow becomes effective, and the ability to comply with the builder's

¹⁴ Co-Mo DR 12 to Ameren.

1 timeline. Highly Confidential Schedule DTB-r2¹⁵ is a map of the area around Fox Hollow and
2 illustrates the location of the proposed Co-Mo line.

3 Q. Does Co-Mo have the operational ability to serve all or portions of the annexed
4 area within three years of the date the annexation becomes effective?

5 A. Co-Mo has stated in the direct testimony of Co-Mo witness Jon Schulte that
6 Co-Mo has obtained all necessary permits, franchises, and easements to serve the Fox Hollow
7 subdivision and completed the engineering studies and deployment plans. Co-Mo states that it
8 will be able to meet the construction timeline proposed by TTCCI.¹⁶

9 Through the three-tier cooperatively owned electric system of which Co-Mo is a part, it
10 has the distribution capacity on currently in-service distribution lines to serve the development.
11 Central Electric Power Cooperative (“CEPC”), the second tier of the system and of which
12 Co-Mo is a member, has the transmission and substation capacity on currently in-service
13 transmission and substation assets to serve the development. Associated Electric Cooperative,
14 Inc. (“AECI”), the third tier of the system and of which CEPC is a member, has the generation
15 capacity on currently in-service generation assets to serve the development.

16 Co-Mo’s plan is to serve the first two phases of the development from its existing
17 facilities that are currently serving adjacent parcels. It is Co-Mo’s plan to upgrade those
18 facilities which are to the north of Fox Hollow to increase its capacity. This line is on the south
19 side of Highway 98 to the north of Fox Hollow, and minimal work will be needed to connect
20 the subdivision. As the subdivision grows, Co-Mo has stated that they will need to bring

¹⁵ Highly Confidential Schedule DTB-r2 is the route map Co-Mo has included with the direct testimony of Aaron Bradshaw as Appendix H.

¹⁶ Jon Schulte Direct Testimony, page 6, lines 81-85.

1 additional facilities to the subdivision. *** [REDACTED]

2 [REDACTED] 17 ***

3 CEPC plans to construct a distribution substation along Highway U by 2025, after which the
4 planned substation will serve as the main feed for the subdivision.^{18, 19}

5 Staff inquired of Co-Mo as to whether the new substation being constructed was in
6 anticipation of the Commission's approval of Co-Mo to serve the Fox Hollow subdivision or
7 whether this project was planned before the subdivision. Co-Mo's response was as follows:
8 "The new substation has been in the works for a couple of years. Co-Mo has seen enough
9 member growth over the last year to trigger CEPC to begin right of way acquisition to
10 extend transmission line to the new substation site. This project is in Co-Mo's board certified
11 and Missouri Professional Engineer stamped Construction Work Plan. CEPC's board approved
12 the right of way acquisition with the intent to build a substation on August 23rd, 2021."²⁰
13 The current status of CEPC's right-of-way acquisition is unknown to Staff at this time.

14 Q. Does Ameren have the operational ability to serve all or portions of the annexed
15 area within three years of the date the annexation becomes effective?

16 A. Ameren states that it has current franchises in the Cooper county area and has
17 facilities that abut the subdivision in two locations and a third across Pearre Lane. Ameren
18 would need to extend the line near Pearre Lane across Pearre Lane a distance of approximately
19 60 feet. In addition to the extension Ameren will also be upgrading 1,000 feet of single-phase
20 line to three-phase and replace the single-phase conductor.²¹ Ameren has a substation serving

¹⁷ Aaron Bradshaw Direct Testimony, Highly Confidential Schedule AB-07.

¹⁸ Staff DR No. 0004 to Co-Mo.

¹⁹ Jon Schulte Direct Testimony, page 7, lines 96-103.

²⁰ Staff DR No. 0005 to Co-Mo.

²¹ Staff DR No. 0026 to Ameren.

1 Boonville at the corner of Tisdale and Sonya Drives, which is within Boonville, MO. Ameren
2 has stated that it would be able to comply with the builder's construction schedule.²²

3 Q. Does the analysis of the operational ability of the companies favor either of the
4 electric service providers?

5 A. This factor favors neither company. While Ameren may require fewer system
6 upgrades to its system to serve all phases of the development and presumably on a faster
7 timeline, both providers are able to provide the needed electrical service within three years.
8 Because of the ability to serve all phases of the development within three years of annexation
9 by both companies, Staff concludes that the operational ability factor favors neither utility.

10 **Avoiding Wasteful Duplication**

11 Q. How did Staff analyze the avoidance of wasteful duplication of electric
12 facilities?

13 A. Staff analyzed the avoidance of wasteful duplication of electric facilities by
14 reviewing where each company currently has facilities and determining if any planned additions
15 would result in wasteful duplication.

16 Q. How would Co-Mo serving Fox Hollow avoid wasteful duplication of electric
17 facilities?

18 A. Co-Mo currently has facilities to the north of the subdivision along the south
19 side of Highway 98. This line currently serves a residential customer adjacent to the subdivision
20 that was part of the parcel prior to subdivision. Co-Mo also has facilities within a mile of the
21 southern edge of the subdivision and plans to extend its lines that distance in order to better

²² Co-Mo DR 15 to Ameren.

1 serve the subdivision as it grows beyond phase 3. This extension would require Co-Mo to cross
2 under one existing Ameren line. Co-Mo's current electric line to the north of the neighborhood
3 as well as the line approximately three-quarters of a mile south of the development are both
4 single-phase.²³ Co-Mo has plans to upgrade the line to the south to three-phase by May 2022.²⁴

5 Q. How would Ameren serving Fox Hollow avoid wasteful duplication of electric
6 facilities?

7 A. Ameren Missouri has distribution facilities on three sides of the subdivision, two
8 of which that are adjacent and the other being across Pearre Lane approximately 60 feet from
9 the property boundary. ** [REDACTED]

10 [REDACTED]²⁵ ** Ameren intends to convert 1,000 ft.
11 on single-phase line to three-phase line in order to provide for all phases of the development.²⁶

12 Q. Does the analysis of the avoidance of wasteful duplication of electric facilities
13 favor either of the electric service providers?

14 A. The prevention of wasteful duplication of electrical facilities factor slightly
15 favors Ameren. Both companies currently have facilities in the area around Fox Hollow.

16 ** [REDACTED]

17 [REDACTED]

18 [REDACTED] ** *** [REDACTED]

19 [REDACTED]

20 [REDACTED] ***

²³ Ameren DR 6 to Co-Mo.

²⁴ Ameren DR 5 to Co-Mo.

²⁵ Staff DR Nos. 0024 and 0025 to Ameren – Responses Confidential.

²⁶ Staff DR No. 0026 to Ameren – Supplemental Response.

1 **Minimize Unnecessary Encumbrances**

2 Q. How did Staff analyze the minimization of unnecessary encumbrances on the
3 property and landscape?

4 A. Staff analyzed the subject of encumbrances in light of the possible need for
5 easements, permits, and franchise agreements, and the requirements of local, state or federal
6 regulations.

7 Q. How would Co-Mo serving Fox Hollow minimize unnecessary encumbrances
8 on the property and landscape within the area to be annexed?

9 A. Co-Mo has received Missouri Department of Transportation (“MODOT”)
10 highway permits at the I-70 and Hwy 87 crossing for the line extension as well as all easements
11 to construct and upgrade the power line from Debo Rd. to the Fox Hollow subdivision. The city
12 of Boonville (“Boonville”) has granted Co-Mo a non-exclusive electric service franchise
13 agreement which was approved and passed on December 6, 2021 and is subject to the same tax
14 rate and conditions as Ameren.²⁷ This franchise agreement is for a twenty-year period
15 beginning December 1, 2021.

16 Q. How would Ameren serving Fox Hollow minimize unnecessary encumbrances
17 on the property and landscape within the area to be annexed?

18 A. Ameren stated that if it is the Fox Hollow electric supplier, there would be
19 virtually no effect on encumbrances on the property or landscape.²⁸ Ameren has also noted
20 that it has the authority it needs both from the Missouri Public Service Commission and the
21 City of Boonville to serve Fox Hollow. Beyond this authority, Ameren says that it requires no

²⁷ Aaron Bradshaw Direct Testimony, Schedule AB-04.

²⁸ Co-Mo DR 21 to Ameren.

1 further permits. Ameren states that the reserved easements on the recorded subdivision plat are
2 available to Ameren for electric infrastructure within the subdivision.^{29, 30} Ameren currently
3 has a franchise agreement with Boonville, which is still in place along with Co-Mo's.

4 Q. Does the analysis of the minimization of unnecessary encumbrances on the
5 property and landscape favor either of the electric service providers?

6 A. Staff's analysis does not reveal that this factor favors either party. Both
7 companies have obtained all the necessary permits, easements, and franchise agreements in
8 order to properly serve the Fox Hollow Subdivision.

9 **Prevent Waste**

10 Q. How did Staff analyze the prevention of waste of materials and natural
11 resources?

12 A. For this factor, Staff looked at the prevention of waste of materials and natural
13 resources from the perspective of the companies' electric generation from renewable sources.
14 Prevention of waste of materials and natural resources could encompass a broader view of
15 impacts, such as land use or energy efficiency measures; however, for the purposes of this
16 review, Staff focused on renewable generation.

17 Q. How would Co-Mo serving Fox Hollow prevent the waste of materials and
18 natural resources?

19 A. Co-Mo states in response to this factor that it purchases its power from CEPC,
20 which ultimately comes from AECI. AECI, in Co-Mo's opinion, has made a dedicated effort to
21 include and expand renewable energy in its generation mix while maintaining a reliable base

²⁹ Staff DR No. 0027 to Ameren.

³⁰ Co-Mo DR 14 to Ameren.

1 load. Up to 25% of the electricity utilized by Co-Mo members is being generated by wind and
2 hydro facilities.³¹ AECI utilizes federal dams in Missouri, Oklahoma, and Arkansas to provide
3 its hydropower. AECI also has 1,240 megawatts of contracted wind energy through various
4 wind farms in Missouri, Kansas, and Oklahoma.

5 Q. How would Ameren serving Fox Hollow prevent the waste of material and
6 natural resources?

7 A. Ameren did not respond to the portion of Co-Mo's data request that
8 concerned these issues.³² But it is Staff's knowledge that Ameren currently has a range of
9 renewable energy generators it utilizes. Ameren has the Keokuk Hydro-Electric Generation
10 Station on the Mississippi river that consists of 15 separate generators with nameplate ratings
11 of 7.2 to 8.8 megawatts. Ameren has wind resources through a power purchase agreement of
12 102.3 megawatts with Pioneer Prairie Wind Farm I LLC, operates the 400 megawatt
13 High Prairie Renewable Energy Center, and operates the 298.4 megawatt Atchison County
14 Renewable Energy Center. Ameren also operates the Maryland Heights Renewable Energy
15 Center which burns methane gas produced by the IESI Landfill in three 4.9-megawatt gas
16 turbines. Ameren's solar resources include the 5.7 megawatt O'Fallon Renewable Energy
17 Center, the 1 MW Lambert solar facility, the 1.8 megawatt BJC Solar Facility, and the
18 6 megawatt Montgomery County facility.

19 Q. Does the analysis of the prevention of waste of materials and natural resources
20 favor either of the electric service providers?

³¹ Ameren DR 47 to Co-Mo.

³² Co-Mo DR 23 to Ameren.

1 A. Staff's analysis does not reveal that this factor favors either utility.
2 Both companies have a diverse portfolio for generation to include renewable energy
3 generation sources.

4 **CONCLUSION**

5 Q. Please summarize Staff's analysis of the companies per RSMo 386.800.

6 A. Both Co-Mo and Ameren are well suited to serve the Fox Hollow subdivision.
7 Staff has laid out the current information it has received to review this case and has come to the
8 following conclusions. Co-Mo is the preferred electric supplier of the property owner for the
9 reasons previously mentioned. The current and future members/customers of both companies
10 will not be negatively affected by serving Fox Hollow. The current rates, terms, and conditions
11 either ordered by the Commission or approved of by the Board will be applied to the new
12 members/customers as they are to current members/customers. Both would benefit both in the
13 short-term and long-term from the added customer density. However, because of Co-Mo
14 smaller member size, this project could have a greater impact to them as compared to Ameren.
15 Both companies are able to have the operational ability to serve the Fox Hollow subdivision
16 within three years of Fox Hollow's annexation into Boonville. ** [REDACTED]

17 [REDACTED]
18 [REDACTED] **

19 However Ameren would not need to add as much three-phase line as Co-Mo and
20 additionally Co-Mo would need to cross a currently in place Ameren line. Both companies have
21 all of the needed easements, permits, and franchise agreements to provide electrical service to
22 Fox Hollow.

1 Q. What is the Commission's authority in this case?

2 A. The Commission must weigh each statutory factor as applied to the utilities and
3 make a finding that the awarding of the service area is not detrimental to the public interest.

4 Q. What is Staff's recommendation?

5 A. The initial consideration is whether awarding the service area would be
6 detrimental to the public interest. Staff concludes that an application of the seven factors
7 disqualifies neither utility at the threshold. Moving then to a comparison of the two utilities per
8 the seven statutory factors: (1) the preference of landowners and prospective electric customers;
9 (2) the rates, terms, and conditions of service of the electric service suppliers; (3) the economic
10 impact on the electric service supplier; (4) each electric service supplier's operational ability to
11 serve all or portions of the annexed area within three years of the date the annexation becomes
12 effective; (5) avoiding the wasteful duplication of electric facilities; (6) minimizing unnecessary
13 encumbrances on the property and landscape within the area to be annexed; and (7) preventing
14 the waste of materials and natural resources.

15 In considering the statutory factors, Staff's analysis in this case concludes that only three
16 factors differentiate the two electric service providers: preference of landowner and prospective
17 customers, economic impact on the electric service supplier, and prevention of wasteful
18 duplication of services. Staff recommends that the Commission finds that on balance, the
19 application of the seven factors favors Co-Mo's application and that awarding the service area
20 to Co-Mo would not be detrimental to the public interest.

21 Q. Does this conclude your rebuttal testimony?

22 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF DAVID T. BUTTIG, PE

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

COMES NOW DAVID T. BUTTIG, PE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of David T. Buttig, PE*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



DAVID T. BUTTIG, PE

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 27th day of April 2022.

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



Notary Public

DAVID T. BUTTIG, PE

PRESENT POSITION:

I am a Professional Engineer in the Engineering Analysis Department, Industry Analysis Division, of the Missouri Public Service Commission.

EDUCATIONAL BACKGROUND AND WORK EXPERIENCE:

I received my Bachelor of Science Degree in Environmental Engineering from the Missouri University of Science & Technology in May of 2012. In February of 2013 I began employment with the Missouri Department of Natural Resources in the Air Pollution Control Program as an Environmental Engineer I. In February of 2014, I was promoted to an Environmental Engineer II within the Air Pollution Control Program. I began employment with the commission as an engineer in July of 2018. I am a licensed professional engineer in the State of Missouri.

SUMMARY OF CASE INVOLVEMENT:

Case Number	Utility	Type	Issue
EA-2019-0010	Empire District Electric Company	Staff Report	Certificate of Convenience and Necessity
GR-2019-0077	Ameren Missouri (Gas)	Staff Report Rebuttal Testimony	Depreciation
GE-2020-0009	Summit Natural Gas of Missouri	Memorandum	Waiver Request
WR-2020-0264	Raytown Water Company	Staff Memorandum	Depreciation
WA-2021-0116	Missouri American Water Company	Staff Memorandum	Depreciation
GR-2021-0108	Spire Missouri	Staff Report Rebuttal Testimony	Depreciation
EE-2021-0423	Evergy	Staff Memorandum	Waiver Request

Case Number	Utility	Type	Issue
ER-2019-0335	Ameren	Staff Report Surrebuttal Testimony	Depreciation
SA-2021-0074	Missouri American Water Company	Staff Recommendation	Depreciation
GR-2021-0241	Ameren	Staff Report Surrebuttal Testimony	Depreciation
WA-2021-0425/ SA-2021-0426	Confluence River	Staff Recommendation	Depreciation
WM-2021-0412/ SM-2021-0413	Confluence River	Staff Recommendation	Depreciation

SCHEDULE DTB-r2

HAS BEEN DEEMED

HIGHLY CONFIDENTIAL

IN ITS ENTIRETY