

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 13th day of December, 2023.

In the Matter of the Joint Application of Union)
Electric Company, d/b/a Ameren Missouri, and)
Consolidated Electric Cooperative for an Order) **File No. EO-2024-0144**
Approving an Addendum to a Territorial)
Agreement Regarding Service to Customers in)
Audrain County, Missouri)

**REPORT AND ORDER APPROVING ADDENDUM
TO TERRITORIAL AGREEMENT**

Issue Date: December 13, 2023

Effective Date: December 23, 2023

On October 27, 2023,¹ Union Electric Company d/b/a Ameren Missouri and Consolidated Electric Cooperative ("Cooperative") (collectively, "Joint Applicants"), jointly filed an application seeking Commission approval of an addendum ("Addendum No. 1") to an existing territorial agreement. The territory subject to Addendum No. 1 concerns two customers located wholly within the service territory of Ameren Missouri in Audrain County, Missouri. The application also requested a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017 and expedited treatment per Commission Rule 20 CSR 4240-2.080(14).²

On April 25, 1997, Joint Applicants entered into a territorial agreement ("Territorial Agreement"), which was approved by the Commission on August 13, 1997, in File No. EO-97-493. Paragraph 9 of the Territorial Agreement allows the Joint Applicants to agree,

¹ Unless otherwise noted, all date references are to the year 2023.

² *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 7 (filed October 27, 2023).

on a case-by-case basis and through an addendum to the Territorial Agreement, to allow a structure to receive service from one party though the structure is located in the electric service territory of the other.

Addendum No. 1 would allow Cooperative to serve two structures within the electric service territory of Ameren Missouri, both single-family homes under construction. The first home (“Location 1”) has a physical address of 11370 Audrain Road 929, Mexico, Missouri. The second home (“Location 2”) has a physical address of 19570 Highway FF, Mexico, Missouri. The customers impacted by Addendum No. 1 are receiving temporary service from Cooperative and have submitted affidavits expressing their desire to receive permanent electric service from Cooperative. Because the customers are not yet receiving permanent service, Addendum No. 1 does not require transfer of any facilities or customers between Joint Applicants. Accordingly, no changes of suppliers are requested in the application. So that the customers may receive permanent service as soon as possible, the application requests the Commission expedite its decision on the application.

Joint Applicants state in their application that approval of Addendum No. 1 would not be detrimental to the public interest.

Generally, the establishment of exclusive service territories and service rights within a given geographic area prevents future duplication of electric service facilities, resulting in economic efficiencies and future cost savings, and benefit[s] public safety and community aesthetics. In this case, allowing Cooperative to provide service to Locations 1 and 2, even if they are in [Ameren Missouri]’s service territory, accomplishes these goals. The Cooperative maintains existing service lines closer to Locations 1 and 2 than the Company’s service lines. Additionally, if Company were to extend service to Locations 1 and 2, it would not only be duplicating facilities, but would have to be adjacent to the Cooperative’s existing facilities to do so

and would require extensive new overhead line construction at a significant cost to the homeowner at Locations 1 and 2.³

On November 1, the Commission issued an *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation*. No parties applied to intervene.

The Staff of the Commission (Staff) filed its *Staff Recommendation* on November 29. In it, Staff agrees with Joint Applicants that approval of Addendum No. 1 is not detrimental to the public interest in that it makes the most efficient use of the existing electric facilities and prevents an otherwise necessary duplication of facilities if Ameren Missouri were to provide electric service to Locations 1 and 2. Staff recommends Commission approval of Addendum No. 1. Staff also agrees with Joint Applicants that good cause exists to support waiver under Commission Rule 20 CSR 4240-4.017(1)(D) of the 60-day notice requirement.

No party filed a response to the *Staff Recommendation*.

FINDINGS OF FACT

1. Ameren Missouri is a Missouri corporation, organized and existing under the laws of Missouri, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103. Ameren Missouri is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission.⁴

³ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 7 (filed October 27, 2023).

⁴ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, pp. 3-4 (filed October 27, 2023).

2. Cooperative is a cooperative corporation, organized and existing under the laws of Missouri, with its principal office at 3940 East Liberty, Mexico, Missouri 65265. Cooperative is engaged in the distribution of electric energy and service to its members in all or part of seven Missouri counties.⁵ Cooperative has no final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates that have occurred within three years immediately preceding the filing of the application.⁶ Cooperative is not required to file annual reports or pay assessment fees.⁷

3. Joint Applicants entered into a territorial agreement (“Territorial Agreement”), which was approved by the Commission on August 13, 1997, in File No. EO-97-493.⁸ The Territorial Agreement allows the Joint Applicants to agree, on a case-by-case basis and through an addendum to the Territorial Agreement, to allow a structure to receive service from one party though the structure is located in the electric service territory of the other.⁹

4. Two structures – single-family homes under construction at Mexico, Missouri physical addresses of 11370 Audrain Road 929 and 19570 Highway FF

⁵ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 4 (filed October 27, 2023); *Staff Recommendation, Official Case File Memorandum*, p. 2 (filed November 29, 2023).

⁶ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 5 (filed October 27, 2023); *Staff Recommendation, Official Case File Memorandum*, p. 2 (filed November 29, 2023).

⁷ *Staff Recommendation, Official Case File Memorandum*, p. 2 (filed November 29, 2023).

⁸ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 1 (filed October 27, 2023).

⁹ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 2 (filed October 27, 2023).

(“Locations 1 and 2,” respectively) – lie within the electric service area of Ameren Missouri in Audrain County under the terms of the Territorial Agreement.¹⁰

5. On October 27, Joint Applicants filed an application for Commission approval of an addendum to the Territorial Agreement – Addendum No. 1¹¹ – which would allow Cooperative to serve Locations 1 and 2.¹² Addendum No. 1 is included in the application.

6. Cooperative has existing facilities currently routed on Locations 1 and 2 that have available capacity to provide electric service to the structures on those two parcels.¹³ Cooperative’s facilities are closer to Locations 1 and 2 than those of Ameren Missouri. If Ameren Missouri were to extend service to Locations 1 and 2, extensive new overhead line construction, at a significant cost to the homeowners of Locations 1 and 2, would be necessary and would be duplicating Cooperative’s existing facilities.¹⁴

7. The owners of Location 1 and the owners of Location 2 have signed affidavits requesting that Cooperative provide permanent electric service to their structures at those locations.¹⁵

8. No parties have objected to Joint Applicants’ application.

¹⁰ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 6 (filed October 27, 2023).

¹¹ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, Appendix 2: *Addendum Number 1 to Territorial Agreement Between Union Electric Company d/b/a Ameren Missouri and Consolidated Electric Cooperative* (filed October 27, 2023).

¹² The physical address of Location 1 is stated in Addendum No. 1 as 11370 Audrain Road, Mexico, Missouri, whereas the physical address is stated in Joint Applicants’ application as 11370 Audrain Road 939, Mexico, Missouri. However, the metes and bounds description of Location 1 is also included in Addendum No. 1.

¹³ *Staff Recommendation, Official Case File Memorandum*, p. 3 (filed November 29, 2023).

¹⁴ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, p. 7 (filed October 27, 2023).

¹⁵ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, Appendix 11 and Appendix 12 (filed October 27, 2023).

9. No requests to intervene have been filed in this matter.
10. No party has requested an evidentiary hearing in this matter.
11. With their application, Joint Applicants filed verified declarations that they had no communication with the Commission regarding substantive issues likely to arise in this file within 150 days before filing its application.¹⁶

CONCLUSIONS OF LAW AND DECISION

Section 394.312.1, RSMo 2016, authorizes territorial agreements between rural electric cooperatives and electrical corporations. Before becoming effective, territorial agreements must receive Commission approval by report and order.¹⁷ The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests such a hearing.¹⁸ The Commission may approve the application if it determines that approval of the territorial agreement, in total, is not detrimental to the public interest.¹⁹

No parties oppose approval of the proposed Addendum No. 1 to the Territorial Agreement, and no requests to intervene have been filed. No evidentiary hearing is required.

The Commission finds that approval of Addendum No. 1 is not detrimental to the public interest in that it makes the most efficient use of the existing electric facilities and prevents an otherwise necessary duplication of facilities if Ameren Missouri were to provide electric service to Locations 1 and 2. Accordingly, the Commission will approve Addendum No. 1.

¹⁶ *Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement*, Appendix 3 and Appendix 4 (filed October 27, 2023).

¹⁷ Section 394.312.4, RSMo 2016.

¹⁸ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

¹⁹ Section 394.312.5, RSMo 2016.

The Commission will grant Joint Applicants' request for waiver of the 60-day case filing notice requirement under 20 CSR 4240-4.017. The Commission finds good cause exists for waiver based on Joint Applicants' verified declarations that they had no communication with the Commission regarding substantive issues likely to arise in this file within 150 days before filing their application.

So that the customers may obtain permanent service as soon as possible, the Commission will grant the request for expedited treatment. Therefore, the Commission finds it reasonable to make this report and order effective in less than 30 days.

THE COMMISSION ORDERS THAT:

1. *Addendum Number 1 to Territorial Agreement Between Union Electric Company d/b/a Ameren Missouri and Consolidated Electric Cooperative (Appendix 2 to Joint Request for Waiver, Motion for Expedited Treatment, and Application for Approval of Addendum No. 1 to an Approved Territorial Agreement, filed October 27, 2023), attached to this Order, is approved.*

2. No later than January 22, 2024, Union Electric Company d/b/a Ameren Missouri shall file revised tariff sheets that reflect the change in its certificated electric service area in Audrain County resulting from this Order.

3. No ratemaking determinations are made as part of this Order.

4. The sixty-day notice of case filing requirement is waived for good cause found pursuant to 20 CSR 4240-4.017(1)(D).

5. This order shall be effective on December 23, 2023.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

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

Seyer, Regulatory Law Judge

Appendix 2

ADDENDUM NUMBER 1 TO TERRITORIAL AGREEMENT BETWEEN UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI AND CONSOLIDATED ELECTRIC COOPERATIVE

This Addendum No. 1 is entered into between Union Electric Company d/b/a Ameren Missouri ("Company"), and Consolidated Electric Cooperative, ("Cooperative"), hereafter referred to collectively as "Parties."

WHEREAS, the Parties have entered into a Territorial Agreement dated on or about April 25, 1997 ("Territorial Agreement"), which establishes exclusive service areas for each Party;

WHEREAS, said Territorial Agreement was approved by the Missouri Public Service Commission ("Commission") by Report and Order issued on August 13, 1997 and effective on August 26, 1997 in Case No. EO-97-493;

WHEREAS, Paragraph 9 of the Territorial Agreement permits the Parties to agree on a case-by-case basis by an Addendum to the Territorial Agreement to allow a structure to receive service from one party though the structure is located in the exclusive electric service territory of the other;

WHEREAS, Company and Cooperative have not entered into any prior Addendum to the Territorial Agreement;

WHEREAS, Derek & Kyleigh Miller have requested electric service to a structure with a physical address of 11370 Audrain Road, Mexico, Missouri, a location within the designated exclusive service territory of Company ("Miller Structure");

WHEREAS, as demonstrated in Exhibit A, the Cooperative has facilities physically closer than those of Company the structure, making it more economic for Cooperative to serve the Miller Structure;¹

WHEREAS, Heath & Rebekah Hudson have requested electric service to a structure with a physical address of 19570 Highway FF, Mexico, Missouri, a location within the designated exclusive service territory of Company ("Hudson Structure"); and

¹ Cooperative already has services lines adjacent to the structure. The Company would need to build approximately 0.5 miles of overhead system to provide service to Customer, which would not be in the public interest. It is more cost effective for the Customer for Cooperative to extend service to the structure than for the Company to do so.

WHEREAS, as demonstrated in Exhibit B, the Cooperative has facilities physically closer than those of Company the structure, making it more economic for Cooperative to serve this structure;²

NOW, THEREFORE, Company and Cooperative, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. Both Parties desire and consent to Cooperative providing electric service to the Miller Structure with a physical address of 11370 Audrain Road, Mexico, Missouri through the case-by-case addendum procedure contained in Paragraph 9 of the Territorial Agreement. Notwithstanding the boundaries described in the Territorial Agreement, Cooperative shall have the right to serve the structure.

2. A metes and bounds description of the area encompassing the Miller Structure to be transferred is attached hereto as Exhibit C.

3. Both Parties desire and consent to Cooperative providing electric service to the Hudson Structure with a physical address of 19570 Highway FF, Mexico, Missouri through the case-by-case addendum procedure contained in Paragraph 9 of the Territorial Agreement. Notwithstanding the boundaries described in the Territorial Agreement, Cooperative shall have the right to serve the structure.

4. A metes and bounds description of the area encompassing the Hudson structure to be transferred is attached hereto as Exhibit D.

5. The exclusive territories of the Parties, as described in the Territorial Agreement, are not modified by this Addendum. In executing this Addendum, its terms shall be interpreted in light of the Territorial Agreement, including, but not limited to, the definitions, principles, and procedures set forth therein.

6. Since this Addendum is subject to the approval of the Commission, the Parties agree to undertake all actions reasonably necessary to obtain said approval. In addition, each Party has the right to initiate temporary service, as defined by RSMo. Section 394.315, at its own expense, until the Commission approves or disapproves the Addendum.

² Cooperative already has services lines adjacent to the structure. The Company would need to build in excess of 0.5 miles of overhead system to provide service to Customer, which would not be in the public interest. It is more cost effective for the Customer for Cooperative to extend service to the structure than for the Company to do so.

7. THIS ADDENDUM SHALL BE DEEMED APPROVED BY THE COMMISSION STAFF OR THE OFFICE OF THE PUBLIC COUNSEL IF SAID PARTIES DO NOT SUBMIT A PLEADING OBJECTING TO THE ADDENDUM WITHIN FORTY-FIVE (45) DAYS OF THE FILING THEREOF.

8. If the Commission rejects this or any portion of this Addendum, then the entire Addendum shall be nullified and shall have no legal effect. Further, if all or part of this Addendum is declared invalid or void by a Court or other agency with competent jurisdiction, then this Addendum shall be deemed invalid and void.

9. This Addendum may be executed in several counterparts, and each of which so executed shall be deemed to be an original and such counterparts together shall be but one and the same instrument.

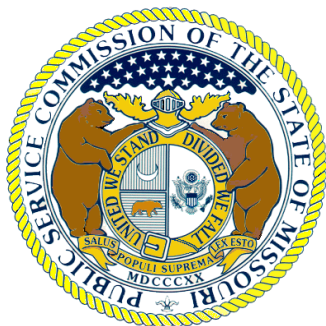
(remainder of page intentionally left blank -- signatures follow on next page)

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 13th day of December 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 13, 2023

File/Case No. EO-2024-0144

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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.