

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 7th day of
August, 2019.

In the Matter of the Joint Motion of Farmers')
Electric Cooperative, Inc. and the City of)
Gallatin for Approval of a First Addendum)
for the Parties' Territorial Agreement)
Designating the Boundaries of each Electric)
Service Supplier within Portions of Daviess County)

FILE NO.: EO-2019-0396

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

Issue Date: August 7, 2019

Effective Date: September 6, 2019

This order approves the First Addendum to the Territorial Agreement between Farmers' Electric Cooperative, Inc., ("Farmers'") and the City of Gallatin ("Gallatin"), allowing Farmers' to provide retail electric service to a parcel of land (the "Holcomb Tract")¹ in the corporate limits of the City of Gallatin, Daviess County, Missouri.

Findings of Facts

1. Farmers' is a Chapter 394 rural electric cooperative that provides electrical service to its members. Its principal place of business is in Chillicothe, Missouri. Farmers' is authorized to conduct business in Missouri.

2. Gallatin is a fourth class Missouri city under Section 79.010, RSMo. Gallatin provides electrical, water and sewer service to customers in its municipal service area.

¹ The tract's legal description is set out in Parts 1.B, 1.C and 5.A of the *Amended Appendix C to Territorial Agreement* filed on July 15, 2019.

3. On February 18, 1997,² the Commission approved a territorial agreement between Farmers' and Gallatin.³ In doing so, the Commission found the agreement was not detrimental to the public interest because it would prevent facility duplication, promote efficiency and safety, reduce customer confusion, and allow both suppliers to rationally plan their distribution systems.⁴

4. The territorial agreement has an addendum procedure that allows the parties to amend their service areas on a case-by-case basis. This procedure sets a 45-day deadline for objections from the Commission's Staff or the Office of Public Counsel. Failure to object timely is deemed approval.

5. On June 17, 2019,⁵ Farmers' and Gallatin filed a Joint Motion for Approval of First Addendum, whose purpose was to add the Holcomb Tract to Farmers' service area. On July 15, an Amended Appendix C to Territorial Agreement was filed ("Amended Appendix C").⁶

5. Because Farmers' has existing electrical facilities alongside a portion of the Holcomb Tract, its inclusion in the Farmers' service area will require less new facility construction and promote safe and efficient service to the tract.

6. The First Addendum to the Territorial Agreement requires no customer to change electricity supplier.

8. On June 17, the Commission ordered notice to potentially interested persons and set July 2 as the deadline for intervention requests. None has been filed.

² File No. EO-97-181

³ Appendix B of the Joint Motion for Approval of First Addendum filed on June 17.

⁴ File No. EO-97-181, at 26.

⁵ All dates are in 2019, unless otherwise indicated.

⁶ The First Addendum to Territorial Agreement will be referred to as the "first addendum," and "first addendum" will refer collectively to Appendices A, B, and D of the joint motion filed on June 17, together with the amended Appendix C filed on July 15.

The Commission also directed Staff to file a recommendation regarding the joint application by July 17.

9. On July 17, Staff filed its recommendation that the Commission approve the First Addendum and authorize the parties to perform it.

10. Based on the information provided in the verified Joint Motion for Approval of First Addendum, the Amended Appendix C to Territorial Agreement filed on July 15 and Staff's recommendation, the Commission finds that the designation of the electric service area stated in the First Addendum is in the public interest and that the First Addendum in total is not detrimental to the public interest.

Conclusions of Law

A. Section 394.312, RSMo 2016, gives the Commission jurisdiction over retail electric service territorial agreements, including those between rural electric cooperatives and municipally owned utilities, and including any subsequent amendments to such agreements.⁷

B. Pursuant to subsections 394.312.3 and .5, RSMo 2016, the Commission may approve the designation of electric service areas if in the public interest and approve a territorial agreement in total if not detrimental to the public interest.

C. The Office of Public Counsel did not file a recommendation or objection within 45 days of the filing of the First Addendum and by the terms of the Territorial Agreement is deemed to have approved the First Addendum.

D. Section 394.312.5, RSMo 2016, provides the Commission must hold an evidentiary hearing on a proposed territorial agreement unless an agreement is made

⁷ Section 394.312.1 and .4, RSMo.

between the parties and no one requests a hearing. Since an agreement was made and no hearing was requested, the Commission may make a determination without an evidentiary hearing.⁸ Based upon the uncontroverted verified pleadings and Staff's recommendation, the Commission determines that all material facts are in accordance with its decision.

Decision

The Commission concludes the electric service area designation made in the First Addendum is in the public interest and the territorial agreement with its First Addendum, in total, is not detrimental to the public interest. The Commission will approve the First Addendum to the Territorial Agreement.

THE COMMISSION ORDERS THAT:

1. The First Addendum to Territorial Agreement as amended by the Amended Appendix C to Territorial Agreement filed on July 15, 2019, is approved.
2. Farmers' Electric Cooperative, Inc., and the City of Gallatin are authorized to perform the First Addendum and all legal acts and things necessary to performance.

⁸ *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

3. This order shall become effective on September 6, 2019.

BY THE COMMISSION



Morris L Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Graham, Regulatory Law Judge

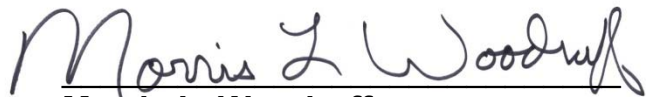
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 7th day of August 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 7, 2019

File/Case No. EO-2019-0396

**Missouri Public Service
Commission**

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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.