

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2024-0161, In the Matter of the Application of
Mathew Gibreal, Trevor King, and Tyler Watts for Change in
Electric Supplier to Osage Valley Electrical Cooperative from
Evergy Missouri West, Inc. d/b/a Evergy Missouri West.

FROM: Brodrick Niemeier, Industry Analysis Division – Engineering Analysis Dept.
Coty King, Industrial Analysis Division – Engineering Analysis Dept.

/s/ Brodrick Niemeier 2/16/2024
Brodrick Niemeier, Engineering Analysis Dept. / Date

/s/ Coty King 2/16/2024
Coty King, Engineering Analysis Dept. / Date

SUBJECT: Staff Memorandum Recommending Approval of Application(s)

DATE: February 16, 2024

STAFF RECOMMENDATION

Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Application(s) of Mr. Gibreal, Mr. King, and Mr. Watts for Change in Electric Service Supplier (“Application”) at 21500, 21520, and 21600 South Knight Road, from Evergy Missouri West (“EMW” or “Company”) to Osage Valley Electric Cooperative, Inc. (“Osage Valley” or “Co-Op”), concluding that the Application meets the minimum standard for public interest for

reasons other than a rate differential pursuant to 393.106.2 and 394.315.2, RSMo (2021)¹ and 20 CSR 4240-3.140.²

OVERVIEW

On November 7, 2023, Trevor King filed an application with the Commission requesting a change of electric supplier from EMW to Osage Valley. On November 13, 2024, and December 1, 2024, Matthew Gibreal and Tyler Watts, respectively, each also filed an application with the Commission requesting a change of electric supplier from EMW to Osage Valley at 21500, 21520, and 21600 South Knight Road. The customers indicated they are building new homes in Peculiar and have waited for 8 months for electric service to be provided by EMW. In their individual Applications they state that they put in a work order and they have called weekly for months. The customers have made no mention of rate-differentials being a contributing factor, either in their Applications or in communications with Staff.

1 Section 394.315.2 states, in relevant part, that "...Once a rural electric cooperative, or its predecessor in interest, lawfully commence supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential and the commission is hereby given jurisdiction over rural electric cooperatives to accomplish the purpose of this section. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction."

2 Section 393.106.2 states, in relevant part, that "...Once an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction."

EMW is current on its filing of annual reports and payments of its assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against EMW 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 separate applications discussed below filed by Messrs. King, Gibreal, and Watts (File Nos. EO-2024-0161, EO-2024-0166, and EO-2024-0181) were consolidated by the Commission by Order issued January 24, 2024, with File No. EO-2024-0161 being denominated the lead file number. In the Order Consolidating Files, Staff was directed to file a single recommendation encompassing all three applications.

In a phone call on December 28, 2023, Staff and Mr. King discussed the issues listed in the application filed on November 7, 2023. On this call, Mr. King discussed his conversations with EMW and explained that he was looking to set up electricity last spring. Mr. King reports that after about eight months he received a call from EMW saying that EMW was the only option.³ EMW contacted Mr. King about a month after the application was filed. Before that, Mr. King states that he called Evergy multiple times and had submitted multiple work orders to the Planning Department. On the call he claimed to have received confirmation of the work orders being submitted via email, but did not hear anything from the Company until after he filed his Application with the Commission. ** [REDACTED]

³ In response to Staff data request 9 in EO-2024-0161, EMW reported that it initially spoke to Mr. King on June 30, 2023 and acknowledged other phone calls followed. However, Evergy does not have a record of those calls.

[REDACTED]

[REDACTED] . **4 Mr. King also said that he believed EMW would need to put at least one pole in an Osage Valley customer's front yard to construct the extension, which Mr. King expects the neighbor would fight about. He then reached out to Osage Valley and requested power from Osage Valley. Osage Valley was responsive, but indicated that it would need Commission approval due to a franchise agreement between City of Peculiar and EMW.⁵

In a phone call on December 29, 2023, Staff and Mr. Gibreal discussed the issues listed in the Application filed on November 13, 2023. On this call Mr. Gibreal discussed how he first contacted Osage Valley about a year ago about electricity. He was told that he was outside Osage Valley's service area, despite his neighbors being Osage Valley members, and that he needed to contact EMW. He then contacted EMW in March 2023, but was unaware of any work being done until after he submitted his Application.⁶ Mr. Gibreal claims he has suffered several thousand dollars in construction delays such as idle contractor time, generator fuel costs, and construction loan interest. Mr. Gibreal also claims his neighbors, served by EMW, have frequent outages that are long, as EMW crews always fixed that circuit last due to its isolation.

** [REDACTED]

[REDACTED] . **7

He said Osage Valley was better because it was local and it did not take crews as long to arrive

4 EO-2024-0161: Confidential Staff Data Request 10

5 EMW is franchised with Peculiar as the main supplier of electricity for most of the City. Osage Valley does also have a franchise agreement, as some houses served by the Co-Op have been annexed, including those surrounding the three properties in this case, and territorial agreements between EMW and Osage Valley grant certain sections of Peculiar to Osage Valley to serve.

6 According to EMW's Confidential Application: ** [REDACTED]

[REDACTED] . **

7 EO-2024-0166: Confidential Staff Data Request 8

and fix outages. Mr. Gibreal also mentioned he did not expect any other houses to be built in the area. Mr. Gibreal, like Mr. King, cited poles being placed in neighbors' yards as an issue. He also alluded to duplication by complaining about how poles would be on both sides of the road.

In a phone call on January 17, 2024, Staff and Mr. Watts discussed the issues listed in Mr. Watts' Application, filed December 1, 2023. On this call, Mr. Watts explained how he first made contact with EMW sometime in March 2023 to establish service. He did not receive a call back until late May when EMW wanted to know the planned location of his house. Mr. Watts provided this information to EMW via email on June 9th. He never reached out to Osage Valley himself as he had been in contact with Mathew Gibreal who informed him of the situation, but Osage Valley did contact Mr. Watts after his application was submitted. Mr. Watts is currently digging out a foundation for his house, but indicated that he would have preferred to start 1½ months ago with power already established for the builders.

In Osage Valley's Response, filed December 13th, to Mr. King's Application, Osage Valley indicated its ability to provide service for of Messrs. Gibreal, King, and Watts if ordered to. The Co-Op has taken no position on whether or not the Commission should approve the Application.

In EMW's Response, filed on December 13, 2023, EMW stated it ** [REDACTED]

[REDACTED]

[REDACTED] . **8

**

. **9 10

In previous Change of Provider Cases, the Commission has identified ten factors¹¹ when considering the "...meaning of 'public interest' for a change of supplier." These ten factors, along with Staff's analysis are:

(1) Whether the customer's needs cannot adequately be met by the present supplier with respect to either the amount or quality of power;

Messrs. Gibreal, King, and Watts currently do not have power at the build sites, and thus their power cannot be assessed for quality or amount.

(2) Whether there are health or safety issues involving the amount or quality of power;

Staff is not aware of electrical safety issues with the current situation.

(3) What alternative a customer has considered, including alternative with the present supplier;

Mr. Gibreal contacted Osage Valley in late 2022 about requesting a service line for a future house, but was later told that he would have to contact EMW as it was currently the sole service provider for the area. He, and Messrs. King and Watts have been in contact with EMW since March 2023. When they could not receive a time frame for connection of electric service, they individually contacted Osage Valley for their electric needs.

(4) Whether the customer's equipment has been damaged or destroyed as a result of a problem with the electric supply;

9 From Paragraph 7 of Evergy Missouri West's Response

10 According to Mr. King during a phone call with Staff, he is only waiting on better weather this spring to begin construction, and mentioned having already performed some earthwork on the site.

11 Case No. EO-2017-0277.

Staff is not aware of any claims of damaged equipment as a result of the electric service provided.

(5) The effect the loss of the customer would have on the present supplier;

As these three individuals are not yet customers or members, neither EMW nor Osage Valley would be significantly harmed by their loss. Further, ** [REDACTED]

[REDACTED] . **12

Staff notes that Everygy has made some investment into the project in the form of drafting construction plans and requesting permitting for the project, but permitting approval has yet to be granted and construction has yet to begin. Instead, whichever supplier that serves them will receive the positive effects of increased customer base.

(6) Whether the change in supplier would result in a duplication of facilities, especially in comparison with the alternatives available from the present supplier, a comparison that should include;

- (i) The distance involved and cost of any new extension, including the burden on others – for example, the need to procure private property easements, and**
- (ii) The burden on the customer relating to the cost or time involved, not including the cost of the electricity itself.**

Approval of the Application would not result in duplication of any facilities as Osage Valley already has distribution lines on the customers' properties. As seen in Attachment 1, two of the properties have preexisting Osage Valley lines along half of their perimeters while the third property is located between these two and has lines running along

12 In response to Staff Data Request 12 in EO-2024-0161, EMW indicates ** [REDACTED]

one side of his property.¹³ Osage Valley already has facilities on site and connection costs are shared with new members, limiting the costs borne by existing members in this situation. Osage Valley has estimated the price of each of its extensions to be approximately \$5,500 per customer, for an assumed 500-foot overhead line extension.¹⁴

In contrast, if this Application is not approved, Evergy will need to construct a line extension, (confidential Attachment 2) ** [REDACTED]

[REDACTED]

[REDACTED] . ** 15

Evergy plans to construct a <0.5 mile extension to connect the new customers, EMW plans to distribute the extension distance between all three new customers, which are allowed up to 0.25 miles of line extension at no cost according to EMW's tariffs.¹⁶ EMW estimates the costs of the line extension to be \$120,011.¹⁷ EMW has offered these three customers connection at no cost, consistent with EMW's line extension policy.

While the cost to the customers if the Application(s) was granted (i.e. the customers receive service from Osage Valley) is more than if the Application(s) were denied (i.e. the customers receive service from EMW). Staff recommends the Commission find the public interest is served by granting of the Applications which will prevent further duplication of services ** [REDACTED] . **

13 Response to Staff Data Request 7 in EO-2024-0161.
14 Response Staff Data Request 6 to Osage Valley in EO-2024-0166 and EO-2024-0181 and Response to Staff Request 8 in EO-2024-0161.
15 EO-2024-0166: Evergy Missouri West Confidential response to Staff Data Request 9.
16 P.S.C. Mo. No 1 1st Revised Sheet No. R-53
17 Evergy Missouri West response to Staff Data Request 9 in EO-2024-0166.

(7) The overall burden on the customer caused by the inadequate service including any economic burden not related to the cost of electricity itself and any burden not considered with respect to factor 6(ii) above;

The burden to the customers is that there are no electrical services to the site, which is causing a delay in the construction. Mr. Gibreal claims to have suffered thousands of dollars in delays due to not having power on site.

(8) What efforts have been made by the present supplier to solve or mitigate problems;

All three customers have been periodically requesting electric service for several months from EMW, but have received few updates from the Company.¹⁸

** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] . **19,20

As of December, Mr. King had not started construction but claims that he has requested power since April 2023, and will begin construction when the weather improves this spring.

** [REDACTED]
[REDACTED] . **21 According to EMW, Mr. Gibreal, and Mr. Watts have not sent the Company a request for temporary site power yet either,²² though in their applications the potential customers claim that they have been requesting power for months.

18 Applications in EO-2024-0161, EO-2024-0166, and EO-2024-0181.
19 EO-2024-0166: Confidential Response to Staff Data Request 1
20 EO-2024-0181: Confidential Response to Staff Data Request 1
21 EO-2024-0161: Confidential Response to Staff Data Request 1
22 EO-2024-0181: Public Response to Staff Data Request 1 and EO-2024-0166: Public Response to Staff Data Request 1

(9) The impact the Commission’s decision may have on economic development on an individual or cumulative basis;

No party has discussed the potential for positive or negative impact to economic development resulting from the approval of Mr. Gibreal, Mr. King, and Mr. Watts Application(s). Economic development is not a significant factor in this Change of Supplier request given the Mr. Gibreal, Mr. King, and Mr. Watts have not expressed plans for future development.

(10) The effect the granting of authority for a change of suppliers might have on any territorial agreements between the two suppliers in question, or on the negotiation of territorial agreements between the electric service suppliers.

Staff is aware of several Territorial Agreements between EMW and Osage Valley concerning the City of Peculiar.²³ These Territorial Agreements designate certain areas of the City of Peculiar to be served exclusively by Osage Valley.

CONCLUSION

Staff recommends the Commission approve the Applications of Mr. Gibreal, Mr. King, and Mr. Watts. Staff recommends the Commission find the public interest is served by granting of the Applications which will prevent further duplication of services ** [REDACTED] [REDACTED]. ** Osage Valley already has distribution lines on the customers’ properties²⁴ thus approval of the Applications will prevent further duplication of services. The customers do reside within Peculiar, MO which grants Evergy a franchise agreement to serve

23 EO-2024-0603, EO-2025-0448, EO-2006-024, and EO-2021-0339
24 EO-2024-0161: Osage Valley’s response to Staffs Data Request 7

electricity within the city limits, but Osage Valley is also franchised with Peculiar and already serves in the area surrounding the properties.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Trevor)
King for Change of Electric Supplier from)
Evergy Missouri West, Inc. d/b/a Evergy)
Missouri West to Osage Valley Electric)
Cooperative)

File No. EO-2024-0161

AFFIDAVIT OF BRODRICK NIEMEIER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW BRODRICK NIEMEIER, 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.

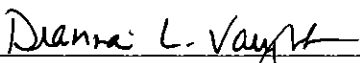
Further the Affiant sayeth not.



BRODRICK NIEMEIER

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 15th day of February 2024.



Notary Public

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 18, 2027 Commission Number: 15207377

Data Response Display - EO-2024-0161 - 0007.0

Request Summary ▼

Submission No.

EO-2024-0161

Request No.

0007.0

Requested Date

12/1/2023

Due Date

12/21/2023

Issue

General Information & Miscellaneous

Other General Info & Misc.

Requested From

Osage Valley Electric Cooperative (Electric) (Cooperative)
Megan E. McCord (mmccord@reclawfirm.com)

Requested By

MO PSC Staff (Other)
Eric Vandergriff (eric.vandergriff@psc.mo.gov)

Brief Description

Closest Osage Facilities

Description

What is the location of the closest Osage Valley electric facilities to the property? Please provide a map showing these facilities.
Data Request submitted by Brodrick Niemeier (brodrick.niemeier@psc.mo.gov).

Request Security

Public (DR)

Response Date

12/21/2023

Response

OVEC has lines along the south and east property boundaries of the subject property. See attached map.

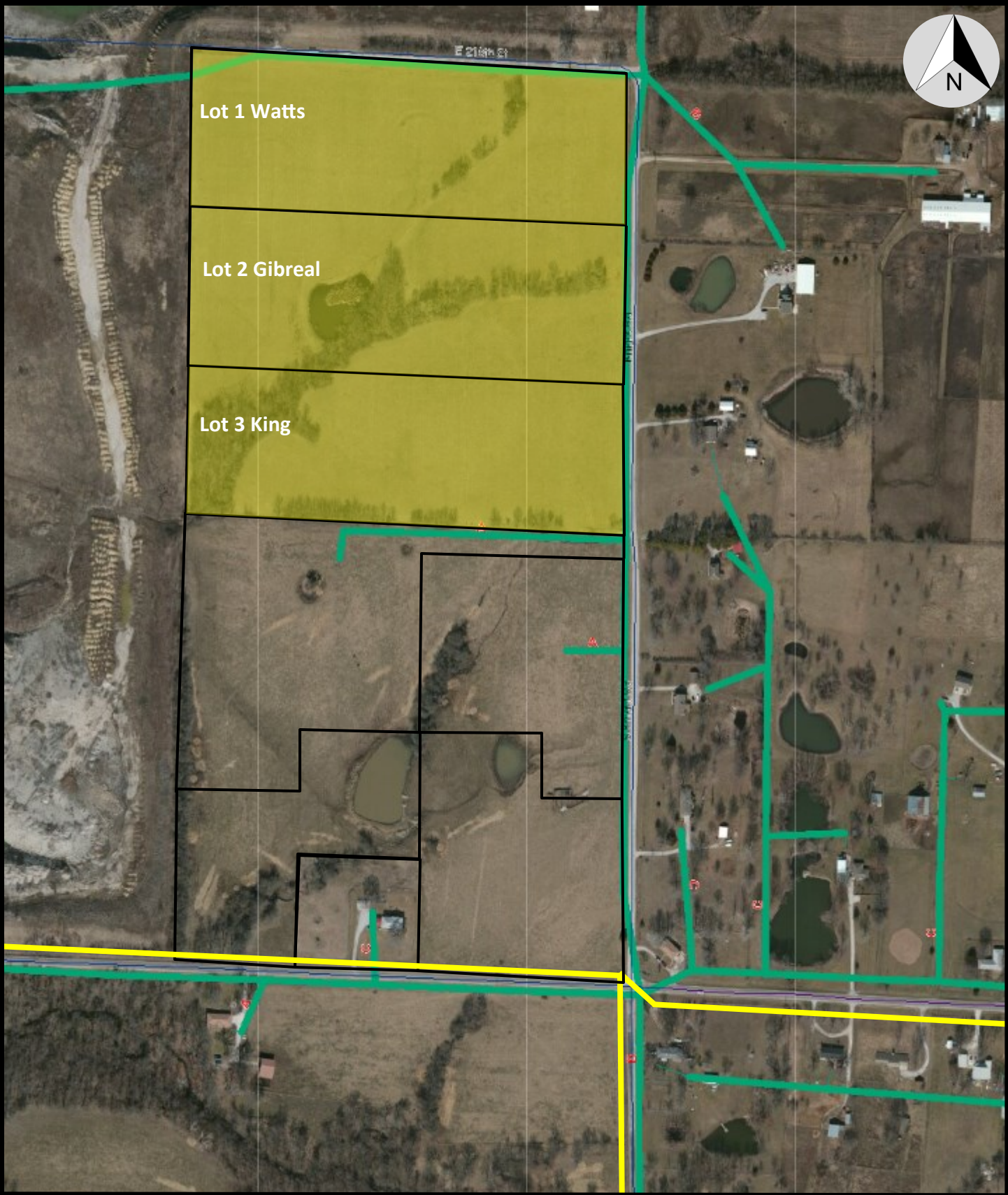
Objections**Response Security**



Public (DR)

Rationale

Attachments ▼

Name	Size	Security
Peculiar-Knight Road (2).pdf	287.02 KB	Public (DR)
Total: 1 file(s), 287.02 KB		



-  Osage Valley Overhead Electric Lines
-  Energy Overhead Electric Lines



PO Box 470
1321 N Orange Street
Butler MO 64730
660-679-3131

ATTACHMENT 2
HAS BEEN DEEMED
CONFIDENTIAL
IN ITS ENTIRETY