

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 30th day of May, 2024.

In the Matter of the Application of Howard Electric Cooperative and the City of Fayette, Missouri for an Order Approving a Territorial Agreement within a Portion of Howard County, Missouri.)
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File No. EO-2024-0247

REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT

Issue Date: May 30, 2024

Effective Date: June 29, 2024

On March 11, 2024,¹ Howard Electric Cooperative and the City of Fayette, Missouri, (collectively, Joint Applicants), jointly filed an application seeking Commission approval of a territorial agreement. The application also requested a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017 and requested expedited treatment of their application.

On March 20, the Commission issued an *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation*. No applications to intervene were received.

Staff recommends that the Commission find that the territorial agreement is not detrimental to the public interest and that the Commission approve the territorial agreement. Staff also recommends that the Commission waive the 60-day notice requirement. No party filed a response to Staff's recommendation nor to the Amended Application.

¹ Unless otherwise noted, all dates refer to the year 2024.

FINDINGS OF FACT

1. Howard Electric Cooperative (Howard) is organized under Chapter 394 RSMo to provide electric service to members located in all or parts of four Missouri counties, including Howard County. Howard is subject to the jurisdiction of the Commission under Section 394.312(5), RSMo.²

2. Fayette is a political subdivision of the 4th Class organized under the laws of the State of Missouri, Fayette owns, operates and maintains an electric distribution system within its city limits and primarily serves the residents with the city limits.

3. The territorial agreement specifically designates the boundaries of exclusive electric service areas for both Howard and Fayette, within Howard County, Missouri within and around the city of Fayette. The territorial agreement does not include an exchange of customers or facilities between the Joint Applicants. There are no other known electric service providers in the area. Under the territorial agreement, each applicant will continue to have service responsibilities outside of the boundaries specified in the territorial agreement, and the territorial agreement does not impair each applicant's ability, in the provision of electric service, to build generation, transmission, or distribution facilities within the exclusive service area of the other applicant. The territorial agreement allows each of the applicants to serve customers located in the exclusive service territory of the other on a case-by-case basis, provided that each agree and the Commission grants the specific request.³

² Section 394.312(5) states, "The commission shall hold evidentiary hearings to determine whether such territorial agreements should be approved or disapproved, except that in those instances where the matter is resolved by a stipulation and agreement submitted to the commission by all the parties such hearings may be waived by agreement of the parties. The commission may approve the application if it determines that approval of the territorial agreement in total is not detrimental to the public interest."

³ *Staff Recommendation, Official Case File Memorandum*, pp. 3-4 (filed February 9).

4. No parties have filed a response to Joint Applicants' Amended Application.
5. No applications to intervene have been filed in this matter.
6. No party has requested an evidentiary hearing in this matter.
7. With their Amended 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.

CONCLUSIONS OF LAW

A. Howard Electric Cooperative is a rural electric cooperative organized under Chapter 394, RSMo, to provide electric service to its members in Missouri.

B. Fayette is a political subdivision of the 4th class organized under the laws of the State of Missouri which owns, operates and maintains an electric distribution system serving residents located within its city limits.

C. 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.⁴

D. The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests such a hearing.⁵ The Commission may approve the application if it determines that approval of the territorial agreement, in total, is not detrimental to the public interest.⁶

E. Commission Rule 20 CSR 4240-4.017(1) requires that any person intending to file a case before the Commission file notice of the intended filing at least 60 days

⁴ Section 394.312.4, RSMo 2016.

⁵ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

⁶ Section 394.312.5, RSMo 2016.

before the case is filed. Commission Rule 20 CSR 4240-4.017(1)(D) provides that the Commission may waive the 60-day notice filing requirement for good cause, including the affirmation of the parties that they have not had contact with the Commission about the application within 150 days before filing the application.

DECISION

No existing customers of either Howard Electric Cooperative or Fayette will be affected by this territorial agreement. No parties oppose approval of the agreement, and no requests to intervene have been filed. No party has requested a hearing; therefore, none is necessary for the Commission to make a determination on the application.

The Commission finds that approval of the territorial agreement is not detrimental to the public interest in that it prevents future installations of duplicative electric service facilities, thus enhancing public safety and community aesthetics. Accordingly, the Commission will approve the territorial agreement.

The Commission will grant Joint Applicants' request for waiver of the 60-day case filing notice requirement under Commission Rule 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.

THE COMMISSION ORDERS THAT:

1. The territorial agreement between the Joint Applicants, is approved.
2. The 60-day notice of case filing requirement is waived for good cause found pursuant to 20 CSR 4240-4.017(1)(D).
3. This order shall be effective on June 29, 2024.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

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

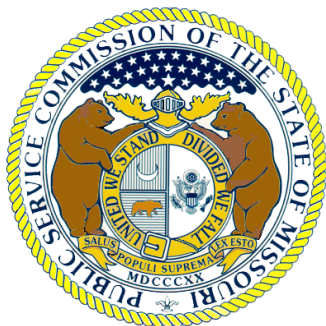
Karolin S. Walker, Regulatory Law Judge

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 30th day of May 2024.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

May 30, 2024

File/Case No. EO-2024-0247

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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.