

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 25<sup>th</sup> day of September, 2024.

In the Matter of the Application of the City of Butler )  
and Osage Valley Electric Cooperative for )  
Approval of a First Addendum to the Parties' )  
Territorial Agreement Designating the Boundaries )  
of Exclusive Service Areas within Portions of Bates )  
County )

**File No. EO-2025-0031**

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

Issue Date: September 25, 2024

Effective Date: October 5, 2024

On July 24, 2024,<sup>1</sup> City of Butler (“Butler”) and Osage Valley 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 a parcel of land located wholly within the service territory of the City of Butler in Bates County, Missouri.

On September 9, 2022, Joint Applicants entered into a territorial agreement (“Territorial Agreement”), which was approved by the Commission on February 1, 2023, in File No. EO-2023-0126. Paragraph 15 of 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.

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<sup>1</sup> Unless otherwise noted, all date references are to the year 2024.

Addendum No. 1 would allow Cooperative to serve a billboard to be installed on a parcel located on the east side of Interstate 49 that lies within the city limits of Butler, Missouri in Bates County. Cooperative has an existing line routed along Interstate 49 and is able to provide electric service to the new billboard more economically and efficiently than Butler. Butler does not have facilities in the immediate vicinity and would need to extend duplicative facilities in providing service to the billboard. Because the billboard is 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.

Joint Applicants state in their application that approval of Addendum No. 1 would not be detrimental to the public interest because the Agreement prevents duplication of electric service facilities.<sup>2</sup>

On July 25, 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 September 5. In it, Staff agrees with Joint Applicants that approval of Addendum No. 1 is not detrimental to the public interest in that it prevents an otherwise necessary duplication of services if Butler were to provide electric service to the billboard. Staff recommends Commission approval of Addendum No. 1.

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

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<sup>2</sup> *Joint Application*, p. 3 (filed July 24, 2024).

## FINDINGS OF FACT

1. Butler is a Missouri city of the 3<sup>rd</sup> Class organized and existing under the laws of Missouri with its principal office located at 22 W. Ohio, P.O. Box 420, Butler, Missouri 64730. Butler is engaged in the business of providing electric and water utility services to the citizens of Butler within city limits.<sup>3</sup>

2. Cooperative is a rural electric cooperative organized and existing pursuant to Chapter 394, RSMo, with its headquarters located at 1321 N. Orange Street, Butler, Missouri 64730. Cooperative is engaged in the distribution of electric energy and service to its members in all or part of seven Missouri counties.<sup>4</sup> 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.<sup>5</sup> Cooperative is not required to file annual reports or pay assessment fees.<sup>6</sup>

3. Joint Applicants entered into a territorial agreement (“Territorial Agreement”), which was approved by the Commission on February 1, 2023, in File No. EO-2023-0126.<sup>7</sup> 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.<sup>8</sup>

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<sup>3</sup> *Joint Application*, p. 1 (filed July 24, 2024).

<sup>4</sup> *Joint Application*, p. 1-2 (filed July 24, 2024); *Staff Recommendation*, p. 5 (filed September 5, 2024).

<sup>5</sup> *Joint Application*, p. 1-2 (filed July 24, 2024).

<sup>6</sup> *Staff Recommendation*, p. 5 (filed September 5, 2024).

<sup>7</sup> *Joint Application*, p. 5 (filed July 24, 2024).

<sup>8</sup> *Joint Application*, p. 5 (filed July 24, 2024).

4. The structure that is the subject of the First Addendum is a billboard on the east side of Interstate 49, which lies within the electric service area of Butler in Bates County under the terms of the Territorial Agreement.<sup>9</sup>

5. On July 24, Joint Applicants filed an application for Commission approval of an addendum to the Territorial Agreement – Addendum No. 1<sup>10</sup> – which would allow Cooperative to serve the structure. Addendum No. 1 is included in the application.

6. Cooperative has an existing line routed along Interstate 49 that has available capacity to provide electric service to the structure.<sup>11</sup> Butler does not have facilities in the immediate vicinity and would need to extend duplicative facilities in providing service to the billboard.<sup>12</sup>

7. No parties have objected to Joint Applicants' application.

8. No requests to intervene have been filed in this matter.

9. No party has requested an evidentiary hearing in this matter.

### **CONCLUSIONS OF LAW AND DECISION**

Section 394.312.1, RSMo 2016, authorizes territorial agreements between rural electric cooperatives and municipally owned utilities. Before becoming effective, territorial agreements must receive Commission approval by report and order.<sup>13</sup> The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party

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<sup>9</sup> *Staff Recommendation*, p. 6 (filed September 5, 2024).

<sup>10</sup> *Joint Application* (filed July 24, 2024).

<sup>11</sup> *Staff Recommendation*, p. 6 (filed September 5, 2024).

<sup>12</sup> *Staff Recommendation*, p. 6 (filed September 5, 2024).

<sup>13</sup> Section 394.312.4, RSMo 2016.

requests such a hearing.<sup>14</sup> The Commission may approve the application if it determines that approval of the territorial agreement, in total, is not detrimental to the public interest.<sup>15</sup>

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 unnecessary duplication of facilities if Butler were to provide electric service to the structure. Accordingly, the Commission will approve Addendum No. 1.

To avoid any delay in providing service, the Commission finds it is reasonable to make this order effective in less than 30 days.

**THE COMMISSION ORDERS THAT:**

1. *Addendum Number 1 to the Territorial Agreement Between the City of Butler and Osage Valley Electric Cooperative, Inc.* (Appendix B to *Joint Application*, filed July 24, 2024), attached to this Order, is approved.
2. This order shall be effective on October 5, 2024.
3. This case shall close on October 6, 2024.

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<sup>14</sup> *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

<sup>15</sup> Section 394.312.5, RSMo 2016.



**BY THE COMMISSION**

*Nancy Dippell*

Nancy Dippell  
Secretary

Hahn, Ch., Coleman, Holsman  
and Mitchell CC., concur.  
Kolkmeier, C., absent.

Fewell, Regulatory Law Judge

ADDENDUM NO. 1  
TO THE  
TERRITORIAL AGREEMENT

Between

THE CITY OF BUTLER, MISSOURI

And

OSAGE VALLEY ELECTRIC COOPERATIVE, INC.

## **ADDENDUM NO. 1 TO THE TERRITORIAL AGREEMENT**

This Addendum No. 1 to the Territorial Agreement ("Addendum") is made and entered into as of the 2<sup>nd</sup> day of July 2024, by and between THE CITY OF BUTLER, MISSOURI, (hereinafter "City") and OSAGE VALLEY ELECTRIC COOPERATIVE, INC. (hereinafter "Cooperative").

WITNESSETH:

WHEREAS, City and Cooperative are authorized by law to provide electric service within certain areas of Missouri, including portions of Bates County; and

WHEREAS, Section 394.312, RSMo., provides that competition to provide retail electrical service as between rural electric cooperatives such as Cooperative and municipalities such as City may be displaced by written territorial agreements; and

WHEREAS, City and Cooperative entered into a Territorial Agreement dated September 9, 2022, involving the provision of retail electric service to customers within certain tracts in Bates County, Missouri (hereinafter, the "Territorial Agreement"); and

WHEREAS, the provisions of the Territorial Agreement authorize City and Cooperative to subsequently agree in writing to amendments to the agreement subject to the approval of the Missouri Public Service Commission ("Commission"); and

WHEREAS, the provisions of the Territorial Agreement are incorporated by reference within this Addendum; and

WHEREAS, this Addendum does not require any customer of either City or Cooperative to change its supplier;



NOW, THEREFORE, City and Cooperative, in consideration of the mutual covenants and agreements contained herein, the adequacy and sufficiency of which are hereby acknowledged, agree as follows:

1. **Definitions.** Unless otherwise defined in this Addendum, capitalized terms shall have the same meaning as ascribed to them in the Territorial Agreement.
2. **Effective Date** - Effective date of this Addendum shall be the effective date of the order issued by the Commission pursuant to Section 394.312 RSMo. approving this Addendum.
3. **Structures to Be Served-** The only New Structures to be served under this Addendum are those to be constructed or erected within and upon the Parcels listed in **Exhibit A**, attached hereto. The Parcels are located within the City's service territory.
4. **Party to Serve Structures-** From and after the Effective Date, Cooperative shall serve the Parcels and structures constructed or erected within and upon said Parcels and property shall be added to Cooperative's Exclusive Service Area by Exhibit A to this Addendum. The Addendum will have no effect whatsoever upon electric service by City or Cooperative to any Structure other than those constructed or erected within and upon the Parcels.
5. **Justification for Addendum-** This Addendum will promote efficiencies in providing services to the City of Butler as it requires no duplication of electric service facilities as the Cooperative presently has facilities located on the parcels from which it could provide electric service, and the City does not have facilities located in the immediate vicinity of the property from which it could provide electric service. This Addendum and addition of the parcels to the exclusive service area of Cooperative will bring efficiencies and savings to the City of Butler and the landowner. Both parties agree that the Addendum is in the public interest.

**6. Condition Precedent - Regulatory Approvals –**

**6.1** This Addendum is conditioned upon receipt of approval by the Commission with no changes, or those changes which have been expressly agreed to by City and Cooperative. Either party reserves the right to file an application for rehearing or other pleading with the Commission prior to the effective date of a Commission order approving this Addendum if the party objects to the form or content of the Commission's order approving the Addendum. If neither party files such an application for rehearing or other pleading prior to the effective date of the Commission order approving the Addendum, it shall be presumed that the approval is satisfactory in form and content to both parties.

**6.2** City and Cooperative agree that they shall submit this Addendum to the Commission for its approval and shall submit therewith the verified statements and justification as required by the terms of the Territorial Agreement.

**6.3** City and Cooperative agree that Cooperative is authorized to commence providing electrical service to the property at any time on a temporary basis, pending approval by the Commission of this Addendum, in accordance with the terms of the Territorial Agreement. Nothing in this provision shall be deemed to limit City's ability to provide electrical service to the property on a permanent basis in the event the Commission disapproves or fails to approve the Addendum.

**7. Term** - The term of this Addendum shall be the same as that of the Territorial Agreement to which this Addendum relates. Nothing contained herein shall be construed to terminate this Addendum prior to expiration or termination of the Territorial Agreement, or to extend the provisions hereof beyond expiration or termination of the Territorial Agreement.

8. **Cooperation** - City and Cooperative agree to undertake all actions reasonably necessary to implement this Addendum. City and Cooperative will cooperate in presenting a joint application to the Commission demonstrating that this Addendum is in the public interest. Cooperative shall pay any costs assessed by the Commission for seeking administrative approval of this Addendum. All other costs, including but not limited to the attorney's fees of each party, will be borne by the respective party incurring the costs.
9. **Modifications** - Neither the provisions regarding service to the Structures described in the Addendum nor any provision of this Addendum shall be modified or repealed except by a signed writing of the parties which is approved by applicable regulatory authorities.
10. **Survival** - This Addendum shall inure to the benefit and be binding upon the parties, their respective successors, and assigns.
11. **Lack of Approval or Termination** - If the Commission or any other regulatory authority having jurisdiction does not approve this Addendum, or if the Condition Precedent is not fulfilled, this Addendum shall be nullified and of no legal effect between the parties, except as to providing authority for any temporary provision of electrical service undertaken by Cooperative during the period in which Commission approval was pending. If this Addendum is terminated pursuant to its terms, it shall thereafter be nullified and of no further legal effect except as may be necessary to govern disputes concerning situations existing prior to such termination. Further, if any part of this Addendum is declared invalid or void by a court or agency of competent jurisdiction, then the parties shall replace such provision as similarly as possible to the provision which was declared invalid or void so as to return each of them, as much as practical, to the status quo prior to the declaration.
12. **Termination** - This Addendum may be terminated by either party in the manner set forth in the Territorial Agreement for termination of the Territorial Agreement.

IN WITNESS WHEREOF, the parties have executed this Addendum on the date first above written.

THE CITY OF BUTLER, MO

By: *Joe W. King*  
Title: *Mayor*  
Attest: *Melochi Weaver*

OSAGE VALLEY ELECTRIC  
COOPERATIVE, INC.

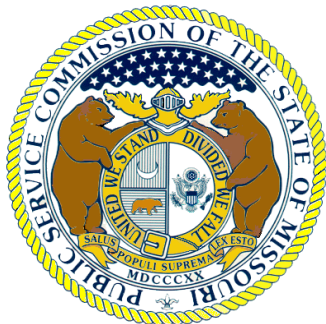
By: *[Signature]*  
Title: *General Manager / CEO*  
Attest: *Jana Rosier*

**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 25<sup>th</sup> day of September 2024.**



*Nancy Dippell*  
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**Nancy Dippell**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**September 25, 2024**

**File/Case No. EO-2025-0031**

**MO PSC Staff**

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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**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.