

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 4th day of August, 2021.

In the Matter of the Joint Application of Evergy)
Missouri West, Inc., d/b/a Evergy Missouri West)
and the City of Higginsville for Approval of a) **File No. EO-2021-0388**
Written Territorial Agreement Designating the)
Boundaries of each Electric Service Supplier in)
Portions of Lafayette County, Missouri.)

REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT

Issue Date: August 4, 2021

Effective Date: September 3, 2021

This order approves the Territorial Agreement between Evergy Missouri West, Inc. d/b/a Evergy Missouri West (Evergy) and the City of Higginsville, Missouri (Higginsville) (“Joint Applicants”) that will make Higginsville the exclusive service provider for two parcels of land previously served by Evergy in an area immediately adjacent to Higginsville’s city limits in Lafayette County, Missouri.

Findings of Fact

1. Evergy is a Missouri corporation primarily engaged in the generation, transmission, distribution, and sale of electricity in western Missouri and eastern Kansas. Evergy is an “Electrical corporation” and “Public utility” under Section 386.020(15) and (43), RSMo and is subject to the jurisdiction, supervision and control of the Commission under Chapters 386 and 393, RSMo. Evergy’s principal office and place of business are at 1200 Main Street, Kansas City, Missouri 64105.

2. Higginsville is a fourth class Missouri city under Section 79.010, RSMo. Higginsville owns, operates and maintains an electric distribution system within its corporate limits to serve customers in its municipal service area.

3. Higginsville's Electric department is extending an electric 3-phase line near the junction of Interstate 70 and Missouri 13 Highway. As part of that extension, Higginsville sought to acquire two customers from Evergy.¹

4. On May 5, 2021,² the Joint Applicants filed a Joint Application for Approval of a Territorial Agreement. They filed an Amended Joint Application on June 29 and a Second Amended Joint Application on July 16.

5. The Territorial Agreement provides that Higginsville will acquire two customers in an area immediately adjacent to its city limits. The two parcels of land are currently served by Evergy.³ Higginsville prefers not to annex the area at this time, but, instead, to acquire just the two customers in the area. Both customers have agreed and signed a statement in favor of changing service providers to Higginsville.⁴

6. To facilitate this service, Evergy and Higginsville have agreed that Higginsville will serve as electric provider in the tract of land described in the Joint Application.⁵

¹ The Original Joint Application, Appendix B.

² All date references will be to 2021 unless otherwise indicated.

³ The original Joint Application, Facts, paragraph 4, states that Higginsville approached Evergy about acquiring two customers in an area adjacent to Higginsville.

⁴ The original Joint Application, Facts, paragraph 5, states that one of the customers "has been inactive for some time."

⁵ Original Joint Application, Facts, paragraph 4; and Appendix A. The original Joint Application states the tract is located in the East, NE ¼ of Section 35, Township 49N, Range 26W in Lafayette County, MO, being approximately 7.38 acres.

7. On May 6, the Commission issued notice to potentially interested persons, set a June 5 deadline for intervention requests, and set a June 20 deadline for recommendations from the Commission's Staff or any other party. On June 28, the Commission extended the deadline for Staff's recommendation to July 20. No intervention requests have been filed.

8. On July 20, Staff filed its recommendation that the Commission approve the Second Amended Application and associated Territorial Agreement and order Evergy to file compliance tariff sheets describing the modification to its service territory.

9. Based on the information provided in the verified Second Amended Joint Application filed on July 20 and Staff's recommendation, the Commission finds the Territorial Agreement establishes exclusive service territories for the two electric suppliers. It also minimizes a duplication of utility facilities for the tract. The establishment of exclusive service territories will prevent future duplication of electric service facilities, promote economic efficiencies and benefit the public safety and aesthetics of the community. The Commission finds that the designation of the electric service area stated in the Territorial Agreement is in the public interest and that the Territorial Agreement is not detrimental to the public interest.

Conclusions of Law

A. Section 394.312, RSMo, gives the Commission jurisdiction over electric service territorial agreements, including those between electrical corporations and municipally owned utilities.⁶

⁶ Section 394.312.1 and .4, RSMo.

B. Pursuant to subsections 394.312.3 and .5, RSMo, 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. Section 394.312.5, RSMo, provides the Commission must hold an evidentiary hearing on the proposed territorial agreement unless an agreement is made 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.⁷ Based upon the uncontroverted verified pleadings and Staff's recommendation, the Commission now determines that all material facts are in accordance with its decision.

Decision

The Commission concludes the electric service area designation made in the Second Amended Joint Application and associated Territorial Agreement is in the public interest and that the Territorial Agreement is not detrimental to the public interest. The Commission will approve the Territorial Agreement.

THE COMMISSION ORDERS THAT:

1. The Territorial Agreement as presented in the Second Amended Joint Application is approved.
2. Evergy and Higginsville are authorized to perform the Territorial Agreement and all legal acts and things necessary to performance.

⁷ *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. No later than October 3, 2021, Evergy shall file compliance tariff sheets describing the modification of its service territory which include a metes and bounds legal description of the affected parcels.

4. This order shall become effective on September 3, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

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

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 4th day of August, 2021.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 4, 2021

File/Case No. EO-2021-0388

**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.