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Attorney for Cooperative

- 3) **Written Request by Developer.** On October 28, 2024, Cooperative received a notice letter from Joe Warren, Managing Member of Elk Valley, LLC, which is the owner of the subject property. The letter put The Empire District Electric Company d/b/a Liberty (“Liberty”), Cooperative, and the City of Ozark on notice that Mr. Warren, on behalf of Elk Valley, LLC, wished to invoke the provisions of RSMo 386.800 and further that Cooperative be the electric service provider of choice to the subject property. The letter is attached hereto as **Appendix A** and is incorporated herein by reference. As required by RSMo 386.800.2, a “majority of the existing developers, landowners, or prospective electric customers in the area proposed to be annexed,” within forty-five days prior to the effective date of the annexation, submitted a written request to Cooperative to serve the area to be annexed. The entirety of the subject property is solely owned by Elk Valley, LLC. The landowner’s request letter was mailed on October 28, 2024 to the City of Ozark and Liberty and was emailed to Cooperative. The effective date of the annexation of the subject property is November 4, 2024. See **Appendix B**.
- 4) **The Subject Property.** A legal description of the subject property is included in **Appendix B** (*as Exhibit A thereto*) and incorporated herein by reference. The property consists of approximately 26 acres and is located at 1505 S. 17th Street, Ozark, Missouri and is situated at the northeast corner of the intersection of South Street and Highway 65.
- 5) **Other Electric Suppliers.** To Cooperative’s knowledge and belief, there are no other electric suppliers currently serving the subject property, although Liberty has service locations nearby.

- 6) **Fee.** Pursuant to RSMo 386.800.9, Cooperative agrees to pay any fee charged by the Commission.
- 7) **Service Capability.** Attached as **Appendix C** is a map and accompanying detail showing Cooperative's existing electric service facilities with adequate and necessary service capability located within one mile of the boundaries of the subject property, as required by RSMo 386.800.2.
- 8) **Franchise.** On January 6, 2025, the Board of Aldermen for the City of Ozark approved a franchise agreement allowing Cooperative to provide retail electric service within the city limits of Ozark. See **Appendix D**.
- 9) **Good Faith Negotiations.** After receiving the owner's request (**Appendix A**), Cooperative engaged in good faith negotiations, pursuant to RSMo 386.800.2, to attempt to negotiate a Territorial Agreement under RSMO 394.312 with Liberty.
- 10) **Factors Considered.** RSMo 386.800 requires the following factors to be considered, at a minimum, in determining the service provider of the subject property:
 - a) The preference of landowners and prospective electric customers;
 - b) The rates, terms, and conditions of service of the electric service suppliers;
 - c) The economic impact on the electric service suppliers;
 - d) Each electric service supplier's operational ability to serve all or portions of the annexed area within three years of the date the annexation becomes effective;
 - e) Avoiding the wasteful duplication of electric facilities;
 - f) Minimizing unnecessary encumbrances on the property and landscape within the area to be annexed; and
 - g) Preventing the waste of materials and natural resources.

- 11) **Forty-Five Days.** RSMo 386.800.3 prescribes a 45-day time period in which Cooperative and Liberty had to negotiate a Territorial Agreement, after which either electric service supplier may file an Application with the Commission for an Order determining which electric service supplier should serve the area to be annexed. Cooperative and Liberty were unable to reach a consensus in negotiating a Territorial Agreement regarding the subject property. This Application follows.
- 12) **Rules and Regulations.** Pursuant to RSMo 386.800.3, this Application shall be made pursuant to the rules and regulations of the Commission governing applications for certificates of public convenience and necessity (20 CSR 4240-20.045), and as such, a feasibility study for the subject property is attached as **Appendix E.**
- 13) **Name and address of all residents and landowners.** The name and address of all residents and landowners of the subject property, as required by 20 CSR 4240-20.045, are stated in Paragraph 3, above, and in **Appendix A.**
- 14) **A plat of the proposed service area.** See **Appendix F,** incorporated herein by reference.
- 15) **Public Interest.** This Application, if approved, is not detrimental to the public interest because:
- a) It eliminates the duplication of facilities and provides cost and safety benefits by establishing that Cooperative shall be the sole provider of retail electric service on the subject property which is planned to consist of approximately 12 commercial structures/parcels once completed;
 - b) Cooperative has the ability to provide adequate service to the subject property and all planned construction thereon;

- c) There will be no detrimental short-term economic (or other) impact on Cooperative's customers/members and positive long-term benefits to the Cooperative's customers/members provided by the planned density and load factor from the subject property are expected.

WHEREFORE, Applicant respectfully requests that the Public Service Commission of Missouri issue its Order finding that the exclusive provision of electric service by Cooperative to the subject property is not detrimental to the public interest.

Respectfully submitted,



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**Attorney for White River Valley
Electric Cooperative, Inc.**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on February 19, 2025, to the following:

Office of the Public Counsel
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov


Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounsel@psc.mo.gov



VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF Taney)

Being first duly sworn, Rick Johnson states as follows: that he is the Vice President / Chief Engineering Officer of White River Valley Electric Cooperative, Inc.; that he has read the foregoing application; that the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief; and that Megan E. McCord of Friel, McCord & Smiley, LLC is authorized by White River Valley Electric Cooperative, Inc. to make this filing and represent it in this matter.



Rick Johnson

Subscribed and sworn to before me this 13th day of February 2025.





Notary Public