

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 1st day of December, 2021.

In the Matter of the Joint Application of Osage)
Valley Electric Cooperative Association and The)
City of Rich Hill, Missouri for Approval of a Written) **File No. EO-2022-0073**¹
Territorial Agreement Designating the Boundaries)
of Each Electric Service Supplier Within The City)
of Rich Hill, Bates County, Missouri)

**REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT AND
GRANTING APPLICATION TO CHANGE ELECTRIC SUPPLIER**

Issue Date: December 1, 2021

Effective Date: December 31, 2021

On July 9, 2021,² the City of Rich Hill (Rich Hill) and Osage Valley Electric Cooperative (“Joint Applicants”) filed a Joint Application for Change of Electric Supplier in EO-2022-0009; and on September 9, 2021, the joint applicants filed a Joint Application for Approval of Territorial Agreement in EO-2022-0073.³

In their change of electric supplier application, the joint applicants asked for leave to transfer electric service for all six hundred ninety-six properties served by Rich Hill over to Osage Valley. Approval would allow Rich Hill to discontinue all its customer service and allow Osage Valley to take over and provide that service. The properties are in Bates County. Along with the service change, Osage Valley will purchase Rich Hill’s electric system. The structures now served by Rich Hill are located both within and outside the

¹ Consolidated with File EO-2022-0009 on October 22, 2021.

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

³ Hereinafter, references to “joint applications” or “joint applicants” will refer, respectively, to the applications and/or applicants in both files unless otherwise indicated.

corporate boundaries of the city. Exhibit A, attached to the change of electric supplier application in File No. EO-2022-0009, lists the affected customers, and that file includes a diagram depicting Rich Hill and Osage Valley's current electric facilities inside and immediately outside the Rich Hill city limits.

Rich Hill conducted a citizen ballot initiative, and the April 2021 ballot results are reflected in File No. EO-2022-0009. Rich Hill, through negotiations and a citizen vote, has committed to have Osage Valley provide its electric service, and Rich Hill terminated its wholesale power purchase contract with Evergy Missouri West (Evergy) on July 27, 2021. Rich Hill had been Evergy's customer for many years. When Rich Hill notified Evergy of its intention not to renew their existing contract, Rich Hill requested proposals from both Osage Valley and Evergy to purchase its electric system and provide service in Rich Hill. On September 9, the joint applicants submitted a territorial agreement dated July 21, 2021, in File No. EO-2022-0073 (Agreement). The agreement contained the list of customers that would be transferred to and served by Osage Valley, described the facilities to be transferred, and provided for final customer meter readings on or before July 27.

On September 10, the Commission issued its Order Directing Notice, Setting Intervention Deadline and Directing Staff Recommendation in File EO-2022-0073. On October 22, the Commission consolidated Files EO-2022-0073 and EO-2022-0009. The Commission's Staff (Staff) filed its Recommendation on November 8. Staff concluded that the Commission should find that the joint applicants' territorial agreement designating Osage Valley as the electric service provider within the city limits of Rich Hill, Missouri, is not detrimental to the public interest. Staff recommended the Commission approve the territorial agreement making Osage Valley the exclusive electric service provider for

current and future structures within the city limits of Rich Hill in Bates County, Missouri. There have been no requests for intervention, and no one has objected to the applications or Staff's recommendation.

FINDINGS OF FACT

1. Osage Valley is a Chapter 394 rural electric cooperative organized and existing under the laws of Missouri with its principal office at 1312 Orange St., Butler, Missouri 64730. Osage Valley is engaged in the distribution of electric energy and service to its members within certain Missouri counties. Osage Valley has no pending actions or final judgments or decisions against it from any state or federal agency or court that involve its customer service or rates within the three years immediately preceding the filing of the joint applications. Osage Valley is not required to file annual reports or pay assessment fees.

2. Rich Hill is a Missouri fourth class municipality existing pursuant to Section 79.010 RSMo,⁴ with its principal office and place of business at Rich Hill City Hall, 120 N. 7th, Rich Hill, Missouri 64880. Rich Hill is engaged in the business of providing electrical services to customers in its municipal service area. Rich Hill has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or its rates which have occurred within three years immediately preceding the filing of the joint applications. Rich Hill is not required to file annual reports or pay assessment fees.

3. Rich Hill has requested that Osage Valley purchase its electric system and provide service to all 696 properties in order to ensure reliable electric service now and in the future as well as to achieve operational efficiencies for the electric suppliers and

⁴ All references to the Missouri Revised Statutes will be to the 2016 issue.

reduce utility duplication in affected area. The structures now served by Rich Hill are located both within and outside the corporate boundaries of the city.

4. The joint applicants filed and requested approval of a territorial agreement between them on September 9. The territorial agreement is contained within Appendix A of the joint application, File EO-2022-0073. Appendix A is titled “Contract for Purchase and Sale of Distribution Facilities between the City of Rich Hill, Missouri and Osage Valley Electric Cooperative Association dated July 21, 2021.” Exhibit A of Appendix A identifies the physical addresses of the properties involved. Exhibit B of Appendix A describes the electric distribution facilities to be transferred as follows: “All electric power lines, transmission lines, distribution lines, and all appurtenances thereto in City’s municipal electric power system.” Exhibit C of Appendix A is the Bill of Sale between the parties. Exhibit D of Appendix A is a diagram showing the boundaries of Rich Hill as of the effective date.⁵

5. Under Section 394.080.1(4), RSMo, Osage Valley is currently authorized to serve the incorporated rural areas of Bates County, Missouri, including all areas within the boundaries of Rich Hill included in the territorial agreement and all areas otherwise now served by Rich Hill outside the corporate boundaries of the city.

6. A copy of the results of the election wherein the Rich Hill property owners or tenants consented to the sale of Rich Hill’s electric utility facilities in a vote of April 6, 2021, is attached to the File EO-2022-0009 joint application.

⁵ Defined in the agreement as “the latest of: (i) with respect to all matters requiring approval by the Missouri Public Service Commission (“Commission”), the date on which an order issued by the Commission pursuant to Sections 91.025, 386.310, 386.800, 394.080, 394.160, 394.312, or 394.315, RSMo. 2020, approving this Agreement becomes a Final Order, and (ii) with respect to all other matters, shall be upon the later of the date of execution of this Agreement or the voter approval date. In no event shall this Agreement take effect prior to July 28, 2021.

7. Osage Valley has constructed a three mile transmission line in anticipation of becoming Rich Hill's electric service provider. Because the service voltage of the two electric systems did not match, special adaptive equipment had to be installed. Osage Valley has promised to increase the reliability of the service to Rich Hill's citizens and has pledged to modernize the existing electric system of Rich Hill in matching the operating voltages of the two electric systems. On the basis of these facts, the consent of the affected property owners in a vote of April 6, 2021, and the Commission's review of the joint applications filed in EO-2022-0073 and EO-2022-0009, the Commission finds that the change of suppliers is in the public interest for reasons other than a rate differential, and the territorial agreement is not detrimental to the public interest.

CONCLUSIONS OF LAW AND DECISION

Section 394.315.2, RSMo, applicable to rural electric cooperatives, provides in relevant part that "[t]he 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 rate differential, and the commission is hereby given jurisdiction over rural electric cooperatives to accomplish the purpose of this section."

Section 91.025.2, RSMo, provides that a municipally owned or operated electrical system "shall have the right to continue serving structures and other suppliers of electrical energy may not serve those structures except as permitted in the context of municipal annexation or pursuant to a territorial agreement approved under section 394.312, RSMo." That statute also provides that the Commission, "upon application made by a customer, 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 municipally owned or operated electric systems to accomplish the purpose of this section.”

Section 394.312.1, RSMo, authorizes territorial agreements between rural electric cooperatives and municipally owned utilities. Per Section 394.312.2: “Such territorial agreements shall specifically designate the boundaries of the electric service area of each electric service supplier subject to the agreement, [and] any and all powers granted to a rural electric cooperative by a municipality, pursuant to the agreement, to operate within the corporate boundaries of that municipality. . . .” Before becoming effective, territorial agreements must receive Commission approval by report and order.⁶ Where the matter is resolved by a stipulation and agreement submitted to the commission by all the parties, no evidentiary hearing is required.⁷ The Commission may approve the application if it determines that approval of the territorial agreement in total is not detrimental to the public interest.⁸

It is the Commission’s decision that through a duly constituted election ballot held on April 6, 2021, Rich Hill’s resulting resolution and the joint application filed in File EO-2022-0009, the Commission has jurisdiction per Sections 91.025.2 and 394.315.2, RSMo, to grant the parties’ joint application for change of electric supplier if the Commission finds the request is in the public interest for a reason other than a rate differential. The Commission also has jurisdiction to grant their joint application for approval of their territorial agreement per Section 394.312.1, RSMo, if the Commission finds that in total it is not detrimental to the public interest.

⁶ Section 394.315.4, RSMo.

⁷ Section 394.315.5, RSMo.

⁸ Section 394.315.5, RSMo.

All parties have agreed the Commission should approved the proposed territorial agreement, and no person has sought intervention or filed an objection. No evidentiary hearing is required. It is the Commission's decision that the requested change of suppliers for Rich Hill's customers from Rich Hill to Osage Valley is in the public interest for a reason other than a rate differential. It is also the Commission's decision that the territorial agreement is not detrimental to the public interest. The Commission will approve the territorial agreement and the parties' joint request that Osage Valley be the exclusive electric service provider for all territory within Rich Hill's corporate boundaries and all Rich Hill's customers' structures both within and outside of those boundaries.

THE COMMISSION ORDERS THAT:

1. The territorial agreement filed in EO-2022-0073 is approved. Osage Valley shall be the exclusive electric service provider for current and future structures within the city limits of Rich Hill in Bates County, Missouri.
2. The Joint Application for Change of Electric Supplier is granted. Osage Valley is authorized to supply electrical service for all Rich Hill's current customers and customers' structures now within and outside Rich Hill's corporate boundaries.
3. This order shall be effective on December 31, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

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 1st day of December, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 1, 2021

File/Case No. EO-2022-0073

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

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

City of Rich Hill, Missouri
Sarah E Carnes
250 NE Tudor Rd.
Lee's Summit, MO 64086
scarnes@laubermunicipal.com

**Missouri Public Service
Commission**
Curtis Stokes
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
curtis.stokes@psc.mo.gov

**Osage Valley Electric
Cooperative**
Megan E Ray
3816 S Greystone Ct., Suite B
Springfield, MO 65804
mray@lawofficemo.com

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.