

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Joint Application of Union)
Electric Company d/b/a Ameren Missouri and)
Platte-Clay Electric Cooperative, Inc. for an)
Order Approving the Territorial Agreement)
between Ameren Missouri and Platte-Clay)
Electric Cooperative, Inc. in Ray, Clinton,)
Caldwell and Clay Counties, Missouri)

Case No. EO-2017-0044

STAFF RECOMMENDATION TO APPROVE TERRITORIAL AGREEMENT

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its Recommendation that the Commission approve the Territorial Agreement between Ameren Missouri and Platte-Clay Electric Cooperative, Inc., that is the subject of their joint application, states as follows:

1. On August 16, 2016, the Joint Applicants filed their Application requesting approval of a Territorial Agreement (“TA”) dated February 26, 2016, that, as between them, would designate specific areas in Ray, Clinton, Caldwell, and Clay Counties, Missouri, to be served exclusively by one or the other of them.

2. The Joint Applicants are not requesting authority to transfer, sell or exchange any electric facilities or current customers/members. Thus, the Joint Applicants will continue serving all their current customers/members even if these customers/members are located in an area to be served exclusively by the other electric service provider should the Commission approve their TA.

3. Approval of the TA will allow both Ameren Missouri and Platte-Clay to most efficiently and effectively use their existing facilities in the applicable areas and best plan for future expansion and thereby limit duplicative facilities. Therefore, Staff

finds that the transaction is not detrimental to the public interest, pursuant to 393.106.2, 394.312 RSMo (2000), 4 CSR 240-2.060, and 4 CSR 240-3.130.

4. Attached to this pleading as Appendix A is the Memorandum of Staff's recommendation for the approval of the TA.

WHEREFORE, Staff submits its Recommendation to the Commission's Order and recommends approval of the territorial agreement dated February 26, 2016.

Respectfully submitted,

/s/ Casi Aslin

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 14th day of November, 2016.

/s/ Casi Aslin

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2017-0044 – In the Matter of the Joint Application of Union Electric Company d/b/a Ameren Missouri and Platte-Clay Electric Cooperative, Inc. for an Order Approving the Territorial Agreement between Ameren Missouri and Platte-Clay Electric Cooperative, Inc. in Ray, Clinton, Caldwell and Clay Counties, Missouri

FROM: Alan J. Bax – Operations Analysis Department /Engineering Analysis Unit

<u>/s/ Dan Beck</u> <u>11/14/16</u> Engineering Analysis Unit / Date	<u>/s/ Casi Aslin</u> <u>11/14/16</u> Staff Counsel’s Office / Date
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SUBJECT: Staff Memorandum Recommending Approval of Application

DATE: November 14, 2016

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Joint Application (“Application”) of Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) and Platte-Clay Electric Cooperative, Inc. (“Platte-Clay”), collectively referenced as the Joint Applicants (“Joint Applicants”), requesting approval of their Territorial Agreement (“TA”) in portions of Ray, Clinton, Caldwell, and Clay Counties, Missouri, finding that the transaction is not detrimental to the public interest, pursuant to 393.106.2, 394.312 RSMo (2000), 4 CSR 240-2.060, and 4 CSR 240-3.130.

OVERVIEW

On August 16, 2016, the Applicants filed their Application requesting approval of a TA, dated February 26, 2016, that would designate specific portions of Ray, Clinton, Caldwell, and Clay Counties, Missouri as exclusive electric service areas respective to either Ameren Missouri or Platte-Clay. The terms of the TA apply only to the Joint Applicants; these terms have no effect

on any other electric service provider. The terms of the TA do not include any request for an exchange of electric facilities or current customers/members. Thus, the Joint Applicants will continue serving all their current customers/members even if these customers should lie in an exclusive service territory of the other electric service provider should the TA be approved by the Commission. The reasons cited for seeking approval of this TA include avoiding future duplication of electric facilities in these specified areas and allowing the Joint Applicants to make the most efficient and effective use of their existing and future resources.

On August 18, 2016, the Commission issued a *Notice of Application and Order Directing Filing* in which the Commission established a deadline of September 1, 2016. For any party desiring to intervene in this case and also directed Staff to file a recommendation by September 15, 2016. The Staff requested a sixty day extension in which to complete its investigation and report on September 15, 2016, a request granted by the Commission later this same day in its *Order Granting Extension of Time*.

Platte-Clay is a rural electric cooperative organized under Chapter 394 RSMo (2000) to provide electric service to its members in all or parts of seven Missouri counties, including Ray, Clinton, Caldwell and Clay Counties, in which lay the areas that are the subject of the Joint Application. Although the Commission has limited jurisdiction over rural electric cooperatives, Platte-Clay is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo (2000)¹.

¹ Section 394.312.4 states, in relevant part, that "...before becoming effective, all territorial agreements entered into under the provisions of this section, including any subsequent amendments to such agreements, or the transfer or assignment of the agreement or any rights or obligations of any party to an agreement, shall receive the approval of the public service commission by report and order..."

As a rural electric cooperative, Platte-Clay is not required to file annual reports or pay assessment fees. Further, Platte-Clay does not have pending or final unsatisfied judgments against it from any state or federal court involving customer service or rates within three years of the date of this filing.

Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo (2000). Ameren Missouri is authorized to provide electricity in and around the areas that are the subject of this Joint Application. Ameren Missouri is subject to the jurisdiction of the Commission in this case pursuant to Section 393.106 RSMo (2000).

Ameren Missouri is current on all assessment fees and annual report filings. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing; nor is Staff aware of any pending or final unsatisfied decision against Ameren Missouri from any state or federal court involving customer service or rates within the last three years that would affect or is affected by this filing.

DISCUSSION

Ameren Missouri and Platte-Clay met with Staff the week prior to filing their Joint Application. They desired to make Staff aware of their intended filing of a territorial agreement, and described in general the areas that would be designated as exclusive electric service areas of either Ameren Missouri or Platte-Clay, as between them, should the Joint Application be approved by the Commission. Extra effort was made in determining the boundaries of these pending exclusive electric service areas. The terms of the TA do not include a request to sell and/or transfer any electric facilities or customers/members, as both Ameren Missouri and Platte-Clay wished to maintain their existing customer/member base and associated facilities. Thus,

both Ameren Missouri and Platte-Clay will retain their existing facilities and customers/members that each currently serves, even if these existing facilities and/or customers/members lie within the exclusive electric service territory of the other if their Joint Application is approved. In their Response to Staff Data Requests 2 and 4 respectively, Ameren Missouri and Platte-Clay provided a list of properties that each will retain despite these properties being located in areas to be designated as exclusive service areas of the other. Ameren Missouri and Platte-Clay maintain that approval of this TA will provide the best opportunity for them to maximize future anticipated benefits from their provision of electric service to new structures built in their respective exclusive service areas. In addition, Ameren Missouri and Platte-Clay maintain that the terms of the TA allow each to best protect their existing investments made in these areas by retaining their associated facilities and customers/members.

Per the request of Staff in the aforementioned meeting conducted prior to the filing of the Joint Application, Ameren Missouri included prospective revised tariff sheets of each of the four corresponding counties in which lie properties included in the Joint Application². These prospective tariff sheets specifically identify all applicable sections, along with the respective township and range in each county, in which lie parcels reflected and described within the TA. Also identified for each section of each county in these revised tariff sheets are other electric service providers present. Approval of this TA between Ameren Missouri and Platte-Clay has no effect on other electric service providers operating in these proposed areas.

² Specifically, the affected sheets of the Ameren Missouri tariff are:

- Sheet 7 – Caldwell County
- Sheet 12 – Clay and Clinton Counties
- Sheet 12.1 – Clinton County
- Sheet 40 – Ray County

Note: The respective footnotes on the proposed tariff sheets 12 and 12.1 incorrectly identify that the noted sections are located in Caldwell County rather than Clay and/or Clinton County.

The TA is dated February 26, 2016. Ameren Missouri and Platte-Clay acknowledged that they have been operating for approximately the last eighteen months as if this TA had been approved. In their Response to Staff Data Requests 1 and 3 respectively, Ameren Missouri and Platte-Clay provided a list of properties to which they initiated electric service over the last eighteen months that lie in areas to be designated as the exclusive electric service territory of the other should the TA be approved.

Despite the best efforts of the Applicants, situations may arise in which a solution contrary to the terms of the TA is more advantageous, efficient and/or otherwise effective. Article 6 of the TA contains an addendum procedure that would allow, for example, either Ameren Missouri or Platte-Clay to provide electric service to a new structure located on a property that is designated to be in the exclusive electric service territory of the other, an otherwise violation of the terms of the TA. Addendums should be determined and approved by the Commission on a case-by-case basis.

Article 7 stipulates that this TA, if approved, has no termination date. However, Article 8 provides a means of terminating the agreement via a notice provided to the Commission that is mutually agreeable and signed by both Ameren Missouri and Platte-Clay.

CONCLUSION

For the reasons stated above, Staff is of the opinion that the Commission should approve the Joint Application, finding that this TA between Ameren Missouri and Platte-Clay, dated February 26, 2016, is not detrimental to the public interest, pursuant to Sections 393.106 and 394.312 RSMo (2000), 4 CSR 240-2.060, and 4 CSR 240-3.130. Therefore, Staff recommends that the Commission approve the Joint Application, which will establish exclusive electric service territories for Ameren Missouri and Platte-Clay, as between them, in portions of Ray,

Clinton, Caldwell, and Clay Counties, Missouri. Approval of the TA will allow both Ameren Missouri and Platte-Clay to most efficiently and effectively use their existing facilities in the applicable areas and best plan for future expansion and thereby limit duplicative facilities. This TA has no effect on other electric service providers present in the affected areas included in the Joint Application. Should the Joint Application be approved, the Staff recommends that the Commission order Ameren Missouri to file revised tariff sheets with the Commission in a manner that is reflected in the proposed tariff sheets that are attached to the filing of this Joint Application.

