

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

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 Territorial Agreement Designating the) **File No. EO-2022-0073**
Boundaries of each Electric Service Supplier)
Within the City of Rich Hill, Bates County,)
Missouri)

In the Matter of the Joint Application of Osage)
Valley Electric Cooperative Association and the)
City of Rich Hill for Approval of a Change of) **File No. EO-2022-0009**
Electric Supplier for Customers in Bates County) (consolidated)
for Reasons of Public Interest)

STAFF RECOMMENDATION

COMES NOW Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and respectfully states as follows:

1. In its *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation* issued in File No. EO-2022-0073 on September 10, 2021, the Commission ordered Staff to file a recommendation in that case no later than November 8, 2021. Thereafter, on October 22, 2021, the Commission issued an *Order Granting Consolidation* in which it consolidated File No. EO-2022-0073 and File No. EO-2022-0009, and designated File No. EO-2022-0073 as the lead case.

2. Attached hereto and incorporated herein by reference is Staff’s Recommendation, in which Staff recommends the Commission approve the Joint Application of Osage Valley Electric Cooperative Association and The City of Rich Hill, Missouri (collectively the “Joint Applicants”).

WHEREFORE, Staff prays the Commission issue an order approving the Joint Applicants' Joint Application for approval of a territorial agreement and for such further orders as the Commission deems meet and proper.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to parties of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 8th day of November 2021.

/s/ Jeffrey A. Keevil

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2022-0073 (Consolidated with EO-2022-0009)

FROM: Alan J. Bax, Associate Engineer, Engineering Analysis Dept.

Alan J. Bax 11/8/2021 Jeffrey A. Keevil 11/8/2021
Engineering Analysis / Date Staff Counsel's Office / Date

SUBJECT: Staff Memorandum Recommending Approval of Joint Application

DATE: November 8, 2021

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Joint Application of Osage Valley Electric Cooperative Association (“Osage”) and the City of Rich Hill, Missouri (“Rich Hill”), collectively referenced as the Joint Applicants (“Joint Applicants”). The Joint Applicants request the Commission approve their “Contract for Purchase and Sale of Distribution Facilities” i.e. a Territorial Agreement (“TA”), which, in part, designates the boundaries of each electric service supplier within the city limits of Rich Hill, in Bates County, Missouri, finding that the transaction is not detrimental to the public interest, pursuant to Sections 91.025, 394.312, and 416.041 RSMo, as well as 20 CSR 4240-2.060 and 20 CSR 4240-3.130.

OVERVIEW

On July 9, 2021, the Joint Applicants filed an application requesting approval of a change in electric service providers from Rich Hill to Osage (Case No. EO-2022-0009) for the customers currently being served by Rich Hill. The Joint Applicants asserted that this transfer was in the public interest as it would ensure reliable service to the citizens

of Rich Hill, Missouri both now and in the future. With this application, the Joint Applicants included a list of the customers that would be transferred to Osage from Rich Hill, along with a copy of a ballot initiative illustrating an affirmative vote of the citizens of Rich Hill, Missouri to have Osage be their electric service provider. Also cited as reasons by the Joint Applicants to have Osage be the electric service provider to Rich Hill was the pending expiration of the current wholesale power purchase contract (with Evergy Missouri West) to Rich Hill along with a promise that Osage would install system improvements to improve the reliability of electric service being provided to Rich Hill.

On July 12, 2021, the Commission issued an *Order Extending Deadline* in which the Commission directed its Data Center to send a copy of the application requesting a change of supplier and Commission Order to the County Commission of Bates County, Missouri, and directed its Public Information Office to make notice of this Order available to the members of the General Assembly representing Bates County, Missouri, as well as to newspapers that serve Bates County, Missouri. In this *Order*, the Commission also established a deadline of July 27, 2021 for any party desiring to intervene in this case and also directed Staff to file either its recommendation or a status report by August 12, 2021.

On August 12, 2021, Staff filed a status report that identified it had informed the Joint Applicants of the need to supplement their application in an effort to avoid a negative recommendation. Specially, Staff informed the Joint Applicants of the need to file a territorial agreement in conjunction with Osage purchasing a municipal electric service system and establishing its electric service to the citizens of Rich Hill, Missouri.

On September 9, 2021, the Joint Applicants did file their Joint Application for Approval of a Territorial Agreement (“TA”), which was filed in conjunction with a new case number (EO-2022-0073). This TA, in part, designated specific boundaries within the city limits of Rich Hill, Missouri to be exclusively served by Osage and would also transfer all current customers of Rich Hill to Osage if approved by the Commission. On September 10, 2021, the Commission issued an *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation*. In this *Order*, the Commission directed its Data Center to send a copy of this Joint Application and Commission Order to other electric service providers in Bates County, Missouri as well as the County Commission of Bates County, Missouri. In addition, the Commission’s Public Information Office was directed to make notice of this Order available to the members of the General Assembly representing Bates County, Missouri, and to news media that serve Bates County, Missouri. Also in this *Order*, the Commission established a deadline of October 1, 2021 for any party desiring to intervene in this case and also directed Staff to file its recommendation by November 8, 2021. No other party has filed for intervention in either of these cases.

Rather than duplicate information that had previously been supplied in conjunction with Case No. EO-2022-0009, the Joint Applicants sought to consolidate EO-2022-0009 with EO-2022-0073 in a request filed on September 14, 2021. Staff filed a recommendation to consolidate the two cases on October 20, 2021, citing Staff Data Requests that had been issued in the initial case. In its *Order Granting Consolidation*,

issued on October 22, 2021, the Commission consolidated the two cases and made EO-2022-0073, the case involving the TA, the “lead case”.

Osage is a rural electric cooperative organized under Chapter 394 RSMo to provide electric service to its members in all or parts of seven Missouri counties, including Bates County, in which lies the area that is the subject of the Joint Application. Although the Commission has limited jurisdiction over rural electric cooperatives, Osage is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo¹.

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

Rich Hill is a fourth-class municipality with a municipally owned electric system that is organized in part under Chapters 79 and 91 RSMo and authorized to provide service to its customers that lie within the city limits of Rich Hill, Missouri. Although the Commission has limited jurisdiction over municipal electric systems, Rich Hill is subject to the jurisdiction of the Commission in this case under Sections 91.025 and 394.312 RSMo.

Rich Hill is not required to file annual reports or pay assessment fees. Further, Staff is not aware of any pending or final unsatisfied judgments against Rich Hill from any state

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...”

or federal court involving customer service or rates within three years of the date of this filing.

DISCUSSION

Rich Hill had been a wholesale customer of Evergy Missouri West, or one of its predecessors (KCPL-GMO, Aquila Networks – MPS, Missouri Public Service Company, etc), for many years. The Joint Applicants indicate that the associated contract, in which Rich Hill was receiving said wholesale service from Evergy Missouri West, expired July 27, 2021. Per the terms of the contract, Rich Hill timely notified Evergy Missouri West of its intention of not renewing the existing wholesale contract, and reportedly prepared and delivered Request for Proposals (RFPs) to both Osage and Evergy Missouri West seeking their interest in purchasing its electric system and becoming the electric service provider to the citizens of Rich Hill, Missouri. Rich Hill proceeded to initiate the required ballot initiative to obtain the necessary favorable vote of its citizenry, as illustrated by the April 2021 ballot results attached to the initial request for a change in electric service providers in Case No. EO-2022-0009. Also included in this filing was the list of current customers of Rich Hill that would be transferred to and served by Osage, as well as an illustrative map depicting the current electric facilities of Rich Hill and Osage inside and immediately outside the city limits of Rich Hill, Missouri.

Despite Staff informing the Joint Applicants that a territorial agreement was necessary in the immediate situation, Staff submitted Data Requests in which it was revealed that Osage had constructed a three mile transmission line in anticipation of becoming the electric service provider to Rich Hill, a line that terminated at a different

point of delivery as compared to the delivery point used by Evergy Missouri West in supplying its wholesale service to Rich Hill. Moreover, Responses to these Data Requests revealed that the service voltage of the two electric systems did not match and there had to be special, adaptive equipment installed in order to address this mismatch in operational voltages. The installation of these new facilities in preparing for acquiring and serving Rich Hill only underscored the need for filing a territorial agreement. Filing a case for a change of electric service providers would have meant that Rich Hill would have remained a municipal electric system and was seeking a new supplier of wholesale service to replace its imminently expiring contract with Evergy Missouri West.

However, Rich Hill is proposing to sell its municipal electric service system and associated equipment in seeking a new provider of electric service to the citizens of Rich Hill, Missouri, which requires a territorial agreement be submitted for approval from the Commission in order to accomplish such sale of assets, associated service territory, and transfer of customers. On September 9, 2021, the Joint Applicants did submit their TA, in Case No. EO-2022-0073, along with the required payment of \$500.00 as specified in 20 CSR 4240-3.130(3). Attached as Appendix A to the Joint Application, this TA, entitled “Contract For Purchase and Sale of Distribution Facilities between The City of Rich Hill, Missouri and Osage Valley Electric Cooperative Association,” was dated July 21, 2021. The contract contained the list of customers that would be transferred to and served by Osage per 20 CSR 4240- 3.130(1) (E). The terms of this contract indicate that Osage would become the owner of Rich Hill’s assets and service territory, as well as become the provider of electric service to the citizens of Rich Hill, Missouri, on July 28,

2021, the day following the expiration of Rich Hill’s wholesale service contract with Evergy Missouri West. Thus, as the contract stipulates, Rich Hill needed to ensure that its final meter readings were taken on or before July 27, 2021. Staff had requested to receive a specific, itemized material list of Rich Hill’s facilities to be transferred/sold to Osage. 20 CSR 4240-10.105 (1)(A) states, “A brief description of the property involved in the transaction, [sale of assets], including any franchises, permits, operating rights, or certificates of convenience and necessity”. Exhibit B of the contract, entitled “Facilities to be Transferred to Cooperative”, states “All electric power lines, transmission lines, distribution lines, and all appurtenances thereto in City’s municipal electric power system.” The contract references a franchise agreement between the Joint Applicants as required by this regulation. In addition, a “Bill of Sale” is also provided, as required in an associated request to sell assets per 20 CSR 4240-10.105 (1)(B).

Although the Joint Application does not identify other service providers in the area, as required by 20 CSR 4240-3.130(1)(B), Staff notes that Evergy Missouri West, while not authorized to serve within the city limits of Rich Hill, Missouri is authorized to serve in the immediate surrounding area of Bates County, Missouri. The Joint Application includes sufficient detail in regard to 20 CSR 4240-3.130(1)(D) and 20 CSR 4240-10.105 (1)(D), which requires that ample reasons be provided in explaining why the proposed territorial agreement, including a sale of assets, is not detrimental to the public interest.

The Staff notes the following on page 6 of this contract: “City and Cooperative agree to cooperate in good faith by filing a joint petition to obtain a Final Order of the Commission approving the transfer to Cooperative of retail electric service rights and

obligations pursuant to the provisions of 394.312 RSMo. and **if approved** (emphasis added) Cooperative shall be authorized to operate within the corporate municipal boundaries of the City.” This statement is an acknowledgement of the Joint Applicants not only that Commission approval was necessary for Osage to purchase and serve Rich Hill but that said approval should have been sought and received **prior to Osage acquiring the service territory, assets and serving Rich Hill.** Nonetheless, Staff recommends the Commission approve the Joint Application, authorizing Osage to purchase the assets of Rich Hill and become its electric service provider. The Commission had little regulatory authority over the Joint Applicants prior to the filing of this TA, and will have the same limited authority over Osage afterwards.

CONCLUSION

For the reasons stated above, Staff concludes that the Commission should approve the Joint Application of Osage and Rich Hill for a TA that would designate Osage as the provider of electric service within the city limits of Rich Hill, Missouri, finding that this TA between Osage and Rich Hill, dated July 21, 2021 and becoming effective on July 28, 2021, is not detrimental to the public interest, pursuant to Sections 91.025, 394.312 and 416.041 RSMo, as well as 20 CSR 4240-2.060, and 20 CSR 4240-3.130. Therefore, Staff recommends that the Commission approve the TA, which will allow Osage to be the exclusive electric service provider, for current and future structures, within the city limits of Rich Hill, in Bates County, Missouri. Osage has promised to increase the reliability of service to the citizens of Rich Hill, as it has pledged to modernize the existing electric system of Rich Hill in matching the operating voltages of the two electric systems.

