

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 6th day of April, 2022.

In the Matter of the Application of Co-Mo)
Electric Cooperative for Approval of) **File No. EO-2022-0190**
Designated Service Boundaries Within)
Portions of Cooper County, Missouri)

ORDER DENYING MOTION FOR SUMMARY DETERMINATION

Issue Date: April 6, 2022

Effective Date: April 6, 2022

On January 18, 2022, Co-Mo Electric Cooperative (Co-Mo) filed an application for approval of designated service boundaries within portions of Cooper County, Missouri, to allow Co-Mo to provide electric service to a new development located on land recently annexed into the City of Boonville. Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) currently provides service to the City of Boonville. On January 20, 2022, the Commission issued its order joining Ameren Missouri as a party to the case.

Ameren Missouri filed its Motion for Summary Determination on February 14, 2022, followed by Co-Mo's response in opposition, Ameren Missouri's reply, Co-Mo's sur-response, Ameren Missouri's reply to Co-Mo's sur-response, and the Staff of the Commission's response on March 16, 2022.

The procedures regarding summary determination before the Commission are established by Commission Rule 20 CSR 4240-2.117.1. Subsection (E) of that rule provides that the Commission:

may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest.

Ameren Missouri, as the party requesting summary determination, has the burden of establishing a right to judgment as a matter of law.¹ Facts contained in affidavits or otherwise in support of a party's motion are to be accepted as true unless they are contradicted by the response to the motion for summary determination.² Only genuine disputes as to material facts preclude summary determination.³

Ameren Missouri's Motion for Summary Determination claims that Co-Mo fails to state a claim upon which relief can be granted because the subject statute does not apply on the facts presented in Co-Mo's application, therefore the Commission has no authority to grant the relief applied for. Ameren Missouri also claims that the service territory granted under its CCN is its exclusive service territory⁴ and Co-Mo denies that Ameren Missouri's service territory is exclusive with respect to electric suppliers not regulated by the Commission.⁵

After reviewing the pleadings of the parties, the Commission concludes that Ameren Missouri's motion for summary determination should not be granted. Ameren Missouri has failed to show that Co-Mo's application is foreclosed as a matter of law, and failed to show that its service territory is exclusive with respect to electric suppliers not regulated by the Commission. The Commission will deny Ameren Missouri's Motion for Summary Determination.

¹ *Wilmes v. Consumers Oil Co. of Maryville*, 473 S.W. 3d 705, 714 (Mo. App. W.D. 2015).

² *Allen v. Continental Western Ins. Co.* 436 S.W.3d 548, 551 (Mo. banc 2014).

³ *Id.*

⁴ Ameren Missouri's Statement of Undisputed Material Facts, Paragraphs 1, 2, 3, 4, 5, 7, and 16.

⁵ Co-Mo's Answer and Statement of Disputed Material Facts, Paragraphs 1, 2, 3, 4, 5, 7, and 16.

THE COMMISSION ORDERS THAT:

1. Ameren Missouri's Motion for Summary Determination is denied.
2. This order shall be effective when issued.



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.

Clark, Senior 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 6th day of April, 2022.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 6, 2022

File/Case No. EO-2022-0190

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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.