

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

In the Matter of the Application of the City of)
Farmington for a Change of Electric Supplier)
from Union Electric Company d/b/a Ameren)
Missouri to City of Farmington Light & Water)

File No. EO-2018-0058

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), through Staff Counsel's Office, and for its *Staff Recommendation* suggests the Commission approve the Amended Application of the City of Farmington (the "City") for a change of electric supplier for eight street lights on Holly Tree Lane from Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") to City of Farmington Light & Water ("CFLW") as being in the public interest for a reason other than a rate differential. In support thereof, the Staff states that the accompanying Staff Recommendation relates the following:

1. On August 28, 2017, the City filed a Pro Se Form Application for Change of Electric Service Provider for eight City owned street lights on a street that was originally outside the City Limits of Farmington but was recently annexed and for which the City was able to provide water and sewer service but was not able to provide electric service. Through the construction of a new substation and distribution main within the last year the City is now able to provide power to the eight street lights. The City related that it had talked with Ameren Missouri and Ameren Missouri is agreeable to the City's request.

2. On August 29, 2017, the Commission issued an Order Directing Notice, Adding Party, And Directing Responses To Application in which it directed its

Data Center to send Notice of the Application to Ameren Missouri; joined Ameren Missouri as a party to the proceeding; directed Ameren Missouri to file a response to the Application no later than September 28, 2017; and directed the Staff to file a recommendation no later than October 27, 2017.

3. On August 30, 2017, the Commission issued a Notice Of Deficiency And Order Directing Filing giving the City until September 11, 2017, to file an Amended Application curing the deficiencies in the City's August 28, 2017, Application.

4. On September 8, 2017, the City filed an Amended Application with the Commission for a change of electric supplier for the eight street lights located on Holly Tree Lane, Farmington, Missouri which Ameren Missouri bills the City under Account Nos. 1951317127 and 3951317125. Also on September 8, 2017, the City filed a Request For Waiver of the of the sixty (60) days' notice required by 4 CSR 240-4.017(1). The City stated that good cause existed for waiving the 60-days' notice and attached a verified declaration that no communications with the Commission had occurred within the prior 150 days from the date the Application was filed regarding any substantive issue likely to be in the case. On September 21, 2017, the Commission issued an Order Granting Waiver Of 60-Day Notice Requirement.

5. On September 28, 2017, Ameren Missouri filed its Response To The City Of Farmington's Application To Change Electric Service Provider. The Ameren Missouri Response states that it does not oppose the City's limited request for the Holly Tree Lane street lights in question, but that it takes no position on whether the Application satisfies the legal standards that govern requests to change electric suppliers. Ameren Missouri states that it has no desire to relinquish the right to

continue to serve other customers in areas recently annexed by the City, and the City and the Commission should not infer otherwise respecting applications to change electric suppliers filed by the City.

6. The Staff's Recommendation states that the Commission should approve the Amended Application, finding that the City's request for a change in electric service providers for eight street lights on Holly Tree Lane from Ameren Missouri to CFLW installed years ago by the City and owned by the City and now located within the city limits by annexation and able to be served by the City due to a newly constructed substation and distribution main is in the public interest for a reason other than a rate differential, pursuant to Sections 91.025.2 and 393.106.2, 4 CSR 240-2.060, and 4 CSR 240-3.140.

WHEREFORE the Staff recommends that the Commission approve the Amended Application of the City for a change of electric supplier for eight street lights on Holly Tree Lane (Ameren Missouri Account Nos. 1951317127 and 3951317125) from Ameren Missouri to CFLW as being in the public interest for a reason other than a rate differential.

Respectfully submitted,

/s/ Steven Dottheim

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 27th day of October, 2017.

/s/ Steven Dottheim

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2018-0058 – In the Matter of the Application of the City of
Farmington for a Change of Electric Supplier from Union Electric
Company d/b/a Ameren Missouri to City of Farmington Light & Water

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

<u>/s/ Dan Beck</u> <u>10/27/17</u>	<u>Steven Dottheim</u> <u>10/27/17</u>
Manager, Engineering Analysis	Staff Counsel Department

SUBJECT: Staff Memorandum Recommending Approval of Application

DATE: October 27, 2017

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Application of the City of Farmington (the “City”) requesting a change in electric service providers for certain street lights from Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) to the City of Farmington Light & Water (“CFLW”), finding that the transaction is in the public interest for a reason other than a rate differential, pursuant to Sections 91.025.2 and 393.106.2, RSMo (2016), 4 CSR 240-2.060, and 4 CSR 240-3.140.

OVERVIEW

On August 28, 2017, the City filed an Application requesting approval for a change in electric service providers from Ameren Missouri to CFLW for certain street lights on Holly Tree Lane, which is located within the corporate limits of the City, in St. Francois County, Missouri. In its *Order Directing Notice, Adding Party and Directing Responses to Application*, issued on August 29, 2017, the Commission added

Ameren Missouri as a party to this case and directed Ameren Missouri to file a response to the Application by September 28, 2017. This Order also directed Staff to provide a recommendation by October 27, 2017.

On August 30, 2017, the Commission issued a *Notice of Deficiency and Order Directing Filing* in which the Commission noted two rule violations associated with the Application and directed the City to file an amended Application that addressed these violations by September 11, 2017. The City filed its Amended Application on September 8, 2017. It also filed a Request For Waiver from Commission Rule 4 CSR 240-4.017(1), as directed by the Commission, on the same day. The Commission approved this waiver request in an *Order Granting Waiver of 60-Day Notice Requirement*, which was issued on September 21, 2017. Ameren Missouri filed its Response to the Amended Application on September 28, 2017, stating that it did not oppose the City's request.

CFLW is a municipal electric utility authorized to provide electric service to customers that lie primarily within the corporate limits of the City pursuant to Section 91.025. CFLW is subject to the jurisdiction of the Commission for the purpose of seeking approval for a change in electric service providers per Section 91.025.2.

As a municipal electric utility, CFLW is not required to file annual reports or pay assessment fees to the Commission. Further, Staff is not aware of any pending or final unsatisfied judgments against CFLW from any state or federal court involving customer service or rates within three-years of the date of filing its Amended Application.

Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo (2016).

Ameren Missouri is authorized to provide electricity in and around the area that is the subject of the Amended Application. Ameren Missouri is subject to the jurisdiction of the Commission in this case pursuant to Section 393.106.2.

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

The City provided an illustration of an area noted in the Amended Application to have been annexed into the city limits of Farmington, Missouri, an area that includes Holly Tree Lane (Schedule AJB-1). There are eight streetlights installed on Holly Tree Lane associated with the two account numbers with Ameren Missouri noted by the City in the Amended Application (Ameren Missouri Account Nos. 1951317127 and 3951317125). An example of these street lights is attached as Schedule AJB-2. These streetlights were installed and are owned by the City.

Schedule AJB-1 also depicts the location of a recently installed substation by the City, called the Woodlawn Substation, which was energized in August 2016. This substation provides an additional level of reliability to the customers of CFLW. The Woodlawn Substation and associated distribution facilities also enables CFLW to provide electric service to new structures that are being constructed in the immediate area recently annexed into the city limits of Farmington, including new residential properties along Holly Tree Lane. Because the eight street lights along Holly Tree Lane, which are

the subject of the Amended Application, were installed by the City prior to it being annexed and before the installation of the Woodlawn Substation, Ameren Missouri was the provider of electric service, as this area is included in Ameren Missouri's certificated service area.

With the annexation and the City's installation of the Woodlawn Substation and associated distribution facilities in a nearby location, the City desires that CFLW provide electric service to these eight streetlights, as they were installed and are owned by the City, and CFLW is now capable of doing so, and CFLW is currently providing electric service to nearby structures and homes. This request is not being made for any reason relating to the quality and reliability of the electric service being provided by Ameren Missouri. In its Amended Application, the City states that its request is limited to these eight street lights previously installed on Holly Tree Lane and not applicable to any other structures.

In its Response filed September 28, 2017, Ameren Missouri states that it is not opposed to the City's request to have CFLW become the electric service provider to these street lights on Holly Tree Lane, noting that the City is providing water, sewer and electric service to adjacent areas. While noting that the Amended Application expressly states that the City's request is limited to these street lights on Holly Tree Lane, Ameren Missouri emphasized this by reiterating that the City's request is limited to these specific street lights on Holly Tree Lane. Further, Ameren Missouri notes it has provided electric service for many years to Holly Tree Lane and structures in adjacent areas prior to Holly Tree Lane and these other areas being annexed and has no intention or desire to forego its right in continuing to provide electric service to these structures in adjacent

areas to Holly Tree Lane. In addition, Ameren Missouri notes it does not take a position on whether the City's request in its Amended Application meets the legal standards.¹ However, Ameren Missouri states it does not oppose a Commission Order granting the City's limited request.

CONCLUSION

For the reasons stated above, Staff is of the opinion that the Commission should approve the Amended Application, finding that the City's request for a change in electric service providers from Ameren Missouri to CFLW for certain street lights installed years ago by the City and owned by the City on Holly Tree Lane and now located within the City is in the public interest for a reason other than a rate differential, pursuant to Sections 91.025.2 and 393.106.2, 4 CSR 240-2.060, and 4 CSR 240-3.140. Therefore, Staff recommends that the Commission approve the City's limited request allowing

¹ Section 393.106.2 states in relevant part: "Once an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The 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 a rate differential. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction. . . ."

Section 91.025.2 states, in relevant part: "Once a municipally owned or operated electrical system, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 or pursuant to a territorial agreement approved under section 394.312. The public service 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. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction. . . ."

CFLW to provide electric service to eight street lights on Holly Tree Lane (Ameren Missouri Account Nos. 1951317127 and 3951317125) located in an area recently annexed into the city limits of Farmington, Missouri. There are no indications of any issues regarding Ameren Missouri's electric service that it has provided to these street lights for a number of years. Due to the annexation of this area within the city limits of Farmington, Missouri, and the recent addition of the Woodlawn Substation and associated distribution facilities, CFLW is now capable of providing electric service to these street lights that it previously could not. As stated in both the Amended Application and in the Response of Ameren Missouri, Staff would recommend the Commission make very clear in its Order that the City's request is limited to these specific eight street lights on Holly Tree Lane and not applicable to any other structures or area.

In the Matter of the Application of the City of Farmington for a Change of Electric Supplier From Union Electric Company d/b/a Ameren Misosuri to City of Farmington Light & Water

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: June 28, 2019
Commission Number: 15207377