

Receipt

Exhibit No.:
Issues/Subjects: Statutory Framework and Legislative
History; Annexation Process; Rates;
Fair and Reasonable Compensation;
Franchise and Territorial Agreements;
Public Interest

Witness: Vernon W. Strickland
Sponsoring Party: Intercounty Electric Cooperative
Type of Exhibit: Rebuttal Testimony
Case No.: EA-2000-308

INTERCOUNTY ELECTRIC COOPERATIVE ASSOCIATION

REBUTTAL TESTIMONY

OF

Exhibit No. 11
Date 12-4-00 Case No. EA-2000-308
Reporter KF

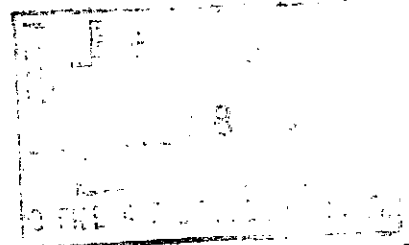
VERNON W. STRICKLAND

FILED

JUL 18 2000

Missouri Public
Service Commission

July 2000
Licking, Missouri



BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of the City of)
Rolla, Missouri, for an Order Assigning Exclusive)
Service Territories and for Determination of Fair) Case No. EA-2000-308
and Reasonable Compensation Pursuant to)
Section 386.800, RSMo 1994)

AFFIDAVIT OF VERNON W. STRICKLAND

STATE OF MISSOURI)
) ss.
COUNTY OF TEXAS)

I, Vernon W. Strickland, of lawful age, being duly sworn, do hereby depose and state:

1. My name is Vernon W. Strickland. I am presently the General Manager of Intercounty Electric Cooperative Association, a party in the referenced matter.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my personal knowledge, information and belief.

Vernon W. Strickland
Vernon W. Strickland

Subscribed and sworn to before me, a Notary Public, this 14 day of July, 2000.

My Commission expires:

Susan L. Parish
Notary Public

12-9-01

SUSAN L. PARISH NOTARY PUBLIC
State of Missouri
County of Texas
My Commission Expires Dec. 9, 2001

1 **TESTIMONY OF VERNON W. STRICKLAND**

2 **INTRODUCTION**

3 Q. Please state your name for the record.

4 A. Vernon W. Strickland

5 Q. By whom are you employed?

6 A. Intercounty Electric Cooperative Association (Intercounty).

7 Q. In what capacity are you employed?

8 A. I am the General Manager.

9 Q. What are your job duties as General Manager?

10 A. I am the chief executive officer of the cooperative and in charge of daily operations.

11 Q. To whom do you report?

12 A. I report directly to the board of directors who are elected by the members of the cooperative.

13 Q. Briefly explain your educational background and experience.

14 A. I received a Bachelors of Science degree in Electric Engineering in 1976 and a Master of
15 Science degree in 1982. I have received additional training earning numerous Continuing
16 Education Units as part of my continuing professional development. I have worked in the
17 power industry since February 1968. I have completed the course requirements and received
18 a Manager Certificate and Certified Director's Certificate from the National Rural Electric
19 Cooperative Association (NRECA).

20 I am a registered Professional Engineer (Texas, Certificate Number 51984), a

certified teacher for electrical engineering and mathematics (Arizona, Certificate Number 8180) and have served as an expert witness for the Federal Government in electrical and irrigation issues.

Q. Identify for the record Exhibit VWS-1 to your testimony.

A. Exhibit VWS-1 is a Biographical sketch reflecting my employment, education and professional history.

Q. For whom are you testifying in this case?

A. I am testifying on behalf of Intercounty Electric Cooperative Association (Intercounty).

Q. What is Intercounty Electric Cooperative Association and where are its offices located?

A. Intercounty, operating as an IRS 501C-12 corporation, is a Chapter 394, RSMo 1994, Cooperative Corporation which was organized in 1936 to distribute electric energy and service to its members in all or parts of Crawford, Dent, Gasconade, Miller, Maries, Phelps, Pulaski, Shannon, and Texas counties in Missouri.

The cooperative presently serves 28,100 accounts over 5,385 miles of line and covers approximately 2,500 square miles.

Intercounty's corporate headquarters is located in Licking, Missouri at 102 Maple Avenue. In addition, Intercounty has district offices in Mountain Grove and Rolla with service warehouses located in Houston, Salem, Roby, Summersville and St. James.

Q. Who owns and controls the assets of the cooperative?

A. Intercounty, as a cooperative, is controlled by its member elected board of directors within

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2 the guidelines provided by the state and our mortgage holders. Intercounty's mortgage
3 holders are the Rural Utilities Service of the Department of Agriculture (RUS), National
4 Rural Utilities Cooperative Finance Corporation (NRUCFC or CFC), and the members of
5 the cooperative. Intercounty is a 70% borrower from the RUS and a 30% borrower from the
6 CFC. The members own 41% of the cooperative and RUS & CFC own the remainder
7 proportionately to their loan levels.

8 Q. Does the non-member mortgage holders have an interest in these proceedings?

9 A. Yes. I have attached to my testimony as Exhibit VWS-2 correspondence from officers of the
10 RUS and the CFC respectively explains that interest.

11 Q. What is the purpose of your testimony?

12 A. The purpose of my testimony is to generally respond to the City of Rolla's (Rolla) direct
13 testimony as presented by representatives from Rolla Municipal Utilities (RMU) and
14 delineate the differences between the RMU's assumptions and the position of Intercounty
15 under the current State statutes. Mr. Brian Nelson, Intercounty's Manager of Engineering,
16 Mr. Jim Krewson, Intercounty's Manager of Operations and Maintenance, and Mr. Jim
17 Ledbetter of Ledbetter, Toth and Associates will also testify on Intercounty's behalf on
18 specific issues set out in their respective testimonies.

19 Q. Please explain why Intercounty engaged the services of Mr. Ledbetter?

20 A. Mr. Ledbetter was hired for essentially two reasons. The principal reason was to review and
provide an independent assessment of the information Intercounty received from Rolla and

1
2 the information Intercounty provided to Rolla. The secondary reason was to prepare the
3 technical estimate of "fair and reasonable compensation" for the facilities.

4 Q. What information did Mr. Ledbetter use to prepare his evaluations?

5 A. Mr. Ledbetter used the same information Intercounty provided to Rolla through data
6 requests, as well as information from his own investigation, his own knowledge and
7 experience of power industry, especially the local conditions and costs. All of the data
8 provided to Rolla and Mr. Ledbetter were, with the exception of the staking sheets and field
9 inventory of facilities, Intercounty records that are updated on a periodic basis. It was
10 through his efforts that Intercounty was able to find several acceptable alternatives to the
11 original "relocation of facilities outside" the annexed area.

12 Q. As General Manager of Intercounty are you familiar with the method by which Intercounty
13 records and documentation is prepared?

14 A. Yes, I am.

15 Q. With respect to the records pertaining to ownership and acquisition of facilities for the
16 cooperative, are those records made in the ordinary course of Intercounty's business and at
17 or near the time of the event recorded?

18 A. Yes, they are.

19 Q. Please explain the preparation of the staking sheets.

20 A. The staking sheets were prepared under my direction by personnel of Intercounty under the
supervision of Brian Nelson, Manager of Engineering. They were prepared specifically for

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2 this case in connection with the calculation of fair and reasonable compensation. They are
3 voluminous and I will not attach them to my testimony, however, they will be available in
4 the hearing room when this matter is heard. Copies of all the staking sheets have been
5 previously provided to Rolla.

6 ***CITY OF ROLLA'S TESTIMONY – REVIEW***

7 Q. Have you had an opportunity to review the direct testimony presented by RMU on behalf of
8 Rolla?

9 A. Yes.

10 Q. Could you briefly summarize any points of disagreement Intercounty has with the testimony
11 of those witnesses.

12 A. My summary should not be considered an exhaustive list of the disagreements Intercounty
13 has with the position taken by RMU through its direct testimony but in general, Mr. Watkins
14 has presented an analysis of the statutory basis for this matter which I believe is incomplete.
15 He also testifies in part that the Commission is limited in its deliberations in this case to four
16 factors, and I disagree. Mr. Bourne sponsors the amount of fair and reasonable compensation
17 RMU has calculated, and the manner RMU has made that calculation is flawed. Mr. Bourne
18 has also unreasonably estimated the costs of relocating Intercounty facilities. Additionally,
19 RMU has failed to fully comprehend the impact on Intercounty of a sale of its facilities in
20 the newly annexed area. Moreover, Intercounty disputes the conclusions of RMU's
feasibility study, and does not consider RMU's approach to transfer of facilities a reasonable

one from a safety and reliability perspective. These matters and related ones are addressed by my testimony and the testimony of the other Intercounty witnesses I have previously identified.

STATUTES

Q. Mr. Watkins has testified regarding the statutory basis for the application. Are there other statutes the Commission should be prepared to interpret?

A. Yes. I am not offering a legal opinion on the statutes I will describe. They are statutes which affect Intercounty as part of its business. This action was brought to the Commission by Rolla, and it is the first of its type to reach this stage--since the compromise that generated the "anti-flip/flop" statute-- and the Commission should be allowed to take a very comprehensive view of the situation in its deliberations.

The statutes that should be considered by the Commission are those that enable RMU and Intercounty to provide electrical services, statutes that cover the annexation process and transfer of properties, and those that govern the Public Service Commission while considering any potential valuation and transfer of service from one entity to another.

Q. Please describe Exhibit VWS-3.

A. I have attached Exhibit VWS-3 for convenient reference to the statutes I referred to in my prior answer. The source of the copies was the State of Missouri's web site.

Q. Why should the Commission consider these statutes?

A. The statutes on Schedule VWS-3 and the general topics covered by each are:

- 1
2 ◦ § 71.015 - This statute covers the steps required for an annexation, including
3 municipality preparation of a "plan of intent," public hearings and the presentation
4 of the plan for judicial review and to the electorate.
- 5 ◦ § 71.525 - This statute covers the restrictions and limitations on condemnation of
6 property of public utilities by municipalities.
- 7 ◦ § 91.025 - This statute covers the change of supplier and Commission jurisdiction for
8 municipally owned utilities and the limitation to consideration of public interest
9 concerns, and not for rate differentials.
- 10 ◦ § 386.310 - This statute covers the power and limits of the Commission over
11 territorial right and rules.
- 12 ◦ § 386.800 - This statute covers the power and limitations of the Commission over
13 transfer of facilities between municipalities and cooperatives as a result of
14 annexations. It sets forth the definition of "fair and reasonable compensation" and
15 the ability of the Commission to assign exclusive territories within the annexed area.
- 16 ◦ § 394.080 - This statute covers the rights of Rural Electric Cooperatives to operate
17 in Missouri and the limitation on the Commission to assign a change of supplier for
18 reasons other than the public interest.
- 19 ◦ § 394.160 - This statute is similar to § 91.025 except for cooperatives.
- 20 ◦ § 394.312 - This statute covers limitations and ability of the Commission to set
 territorial boundaries in the public interest., and

- 1
2 o § 394.315 - This statute is the cooperative version of § 91.025.

3 **HISTORY - §386.800 RSMo**

4 Q. What is the "flip-flop" statute and why was it enacted?

5 A. The popular name of §386.800 RSMo is the "Flip-Flop Law." The term "flip-flop" refers
6 to the situation by which customers of electric service within municipal areas formerly
7 changed electric suppliers. The statute allows the Commission to displace competition
8 between the types of electrical suppliers in an area through establishment of a boundary
9 between them. All cooperatives bordering municipalities that own or control an electric
10 distribution system furnish service to sites outside of the city's corporate boundary. As a
11 municipality annexes new territory some of those sites may be included in the newly annexed
12 area. The cooperative is restricted from serving new structures in the annexed area and the
13 municipality is responsible for providing service to new structures. Since a newly annexed
14 area is seldom fully developed, this leads to a duplication situation where both utilities will
15 soon have facilities in the same area creating the potential for numerous safety and control
16 problems.

17 In addition, prior to the compromise that led to the enactment of the present statute,
18 service was often changed from one supplier to another by discontinuing service for 90 days
19 and then applying to the other provider in the area, a result permitted by previous versions
20 of the "flip-flop" law. Since Cooperatives were not allowed to serve new customers in a
 newly annexed area, this generally led to wholesale poaching of cooperative members with

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2 little or no reimbursement by municipal utilities, or franchised utilities serving in a municipal
3 area. The transfer-of-service problems prompted the industry to arrive at a solution before
4 the issue inundated the Commission or the court systems.

5 A compromise was reached between the respective entities in the form of present
6 \$386.800 whereby Cooperatives and certificated electrical providers could continue to
7 provide services in annexed areas but which could also allow municipalities, or municipal
8 supported electrical utilities, to acquire those systems in newly annexed areas by purchase.
9 The statute provides for several alternatives which include leaving the current provider in
10 place and a territorial agreement reached between the parties or, a process to be followed by
11 the municipality that wants to acquire a cooperative's services in the area. The latter option
12 contains a provision that sets forth a review/valuation process to be conducted by the
13 Commission. The valuation process is spelled out in great detail by the statute. The
14 valuation provisions and formulas are set so as to discourage municipalities from bringing
15 frivolous actions before the Commission and to ensure the cooperatives are made whole.

16 Q. If the process for an orderly transfer of control from one service provider to another is in
17 place how often has this statute been exercised?

18 A. It is my understanding there have been several attempts by municipalities to exercise their
19 rights under this statute to acquire cooperative facilities but this is the first case to have
20 reached this point.

Q. Does Intercounty have any members within the city limits of Rolla that are not covered by

the annexation?

A. Yes. As noted in Mr. Watkins' testimony, Intercounty provides service to approximately 113 members in Rolla that are within the annexed territory.

Q. With respect to those Intercounty members, could they have been acquired by RMU previous to the enactment of §386.800 RSMo.?

A. It is my understanding that prior to the enactment of §386.800, RMU could have acquired those customers simply by switching them to RMU service.

Q. Do you know why RMU did not acquire those 113 members?

A. Intercounty continues to provide service to those members in areas previously annexed before July 1, 1991 that RMU was either unwilling or unable to serve. An example of such a customer is the subject of City of Rolla vs Intercounty, Missouri Public Service Commission Case No. 86-2, where Rolla sought a Commission order to compel the transfer of a long standing Intercounty member to RMU.

HISTORY - ANNEXATION PROCESS

Q. In Mr. Watkins' testimony he gives a summation of the activities of Rolla since the annexation became effective June 8, 1998. Please give Intercounty's perspective of the annexation process?

A. The overall annexation process was rather lengthy and began in 1994. At the first meeting required by the statute held by Rolla to inform the public of the annexation efforts by the city, the public was told that the members of the cooperative would not be required to change

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2 electric providers. Every public meeting where this issue was raised, the same response was
3 provided. A non-certified copy of a Special City Council Meeting Minutes, November 26,
4 1996 is attached to my testimony as Exhibit VWS-4. As noted in the minutes, the purpose
5 was to adopt a Plan of Intent, also a statutory requirement. On page 6 are samples of the
6 types of questions from the public and the responses from Rolla. Since Rolla had made it
7 clear, early and throughout the process, that Intercounty was not going to be impacted other
8 than a potential loss of new development, Intercounty did not participate further in the
9 annexation process. Since the citizens of Rolla and the voters in the proposed annexation
10 area were to decide if they wanted to be annexed; and, officials of Rolla represented that
11 Intercounty and its members in the area proposed to be annexed would be unaffected,
12 Intercounty decided that the matter was a local issue and that it need not participate.

13 Q. Why is the Plan of Intent important?

14 A. The Plan of Intent is a requirement of § 71.015. It helps inform the public and a reviewing
15 court of actions, costs, time frames, services, etc. a municipality is proposing for the area to
16 be annexed.

17 Q. Did Rolla prepare and make available to the public a Plan of Intent?

18 A. Yes. Rolla issued at least three drafts of a Plan of Intent. A copy of the final revised Plan
19 of Intent is attached to my testimony as Exhibit VWS-5.

20 Q. Why should the Commission consider this pre-annexation Plan of Intent?

A. There are several reasons for the Commission to consider the plan. The first is that based

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2 on the assurances given by the officials of Rolla during the public meetings, and this plan,
3 Intercounty built a district office within the area considered for annexation. The second
4 reason is that this is the plan approved by the court when it certified the annexation election.
5 The third reason is that this is the plan the voters had in front of them when they made their
6 decisions on annexation.

7 Q. How does the plan define RMU's relationship with Intercounty?

8 A. On page 10, of the plan prepared by Rolla, on the first line of the second paragraph under the
9 heading of Electricity it is unambiguous and clear to me that "areas within the proposed
10 annexation that are now receiving electric service from a rural electric co-op would continue
11 to do so."

12 Q. Why did Intercounty agree to participate in the territorial negotiation process?

13 A. Intercounty hoped that by meeting with Rolla, together we could clear the problem over
14 Rolla's Plan of Intent and its subsequent actions. In addition, Intercounty and RMU had
15 several historic problems and it was hoped that meeting face-to-face would enable us to work
16 some of them out.

17 Q. What was Intercounty's impression of the negotiations?

18 A. Intercounty's members of the negotiating committee believed that Rolla was simply marking
19 time and not serious in resolving anything of substance.

20 Q. Mr. Watkins attached a copy of a sample Joint Use Agreement as Schedule DAW-1 with his
testimony. Had Intercounty agreed to its terms and conditions during the negotiations?

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2 A. No. I recall that RMU broke off discussion on the Joint Use agreement when I thought we
3 were within one meeting of having a working agreement. I have attached as Exhibit VWS-6
4 a draft copy of the agreement the negotiators were working on when RMU stopped
5 discussion. As you can see by comparison, there remains enough of a difference for at least
6 one more meeting.

7 Q. Was there any progress toward a territorial agreement?

8 A. There was several exchanges of papers and proposals but little in the way of substantial
9 progress.

10 Q. Do you think that the negotiations were in "good faith?"

11 A. As I noted earlier, the committee members from Intercounty that were attempting to
12 negotiate with Rolla felt there was little or no flexibility on the key issues.

RATES

13
14 Q. In Mr. Watkins' testimony where he discusses his beliefs that the transfer would be in the
15 interest of the public, he asserts that the rates charged by RMU for the residential customers
16 are "approximately 25 percent cheaper." Is this accurate and what about the other classes of
17 rate payers?

18 A. I can agree that a majority of the members in the annexed area are on Intercounty's
19 residential rate. However, a direct comparison of rate schedules gives a misleading picture
20 of what it actually costs the members for electric service.

Rates are set, by all forms of electric service providers in Missouri, to recover

operating costs and debt service. The major differences between the utilities is in how they are controlled, who owns the assets and what is done with any profits. Since Intercounty is a cooperative, any margin (profit) realized by the cooperative is returned to those that generated the income - the members.

Exhibit VWS-7, which is attached to my testimony, is a comparison of Intercounty's and RMU's rates for several classes of consumers at various usage levels. The first three columns on the exhibit directly compare Intercounty's and RMU's rate schedules. The last three columns represent the actual cost for the past three years to the Intercounty member when annual discount and patronage figures for the respective year are included as part of the calculation. By using the exhibit and assuming all of the services in the annexed area are residential we can derive a monthly usage of approximately 1,288 kWh for each account. The exhibit illustrates that the difference in rates is negligible.

FAIR AND REASONABLE COMPENSATION

Q. Have you had an opportunity to review RMU's estimate of what they consider to be "fair and reasonable compensation?"

A. Yes, Intercounty staff and our consulting engineer reviewed the estimate prepared by RMU. Intercounty does not agree with RMU's methodology or final figure.

Q. What in general does Intercounty consider to be wrong with RMU's approach to estimating the compensation?

A. RMU's estimate contains several problematic assumptions, not the least of which is its

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2 approach to depreciation, its estimate of the age of the facilities, its impression that
3 Intercounty's district office should not be considered a facility or property, and its
4 interpretations on operation and construction practices within the industry.

5 Q. Could you be more specific?

6 A. Yes. In particular on the subject of depreciation, RMU's estimating methodology has no
7 basis in projecting the value of Intercounty's facilities in the annexed area. Exhibit VWS-8,
8 attached to my testimony, is a copy of Intercounty's year-end FINANCIAL AND
9 STATISTICAL REPORT, Part C for the year ending 1999 which is required to be submitted
10 to our mortgage holders. Line 4 divided by line 3 gives a system wide valuation for
11 depreciation of 28.31%. Therefore the "replacement cost depreciated" value would be
12 multiplied by 71.69% as set forth in Mr. Ledbetter's testimony.

13 Mr. Ledbetter's and Mr. Nelson's separate testimonies cover Intercounty's other
14 concerns respecting RMU's analysis of fair and reasonable compensation.

15 Q. Have you reviewed Mr. Ledbetter's presentation on "fair and reasonable compensation," and
16 if so, do you agree with his valuation?

17 A. Yes. I have reviewed Mr. Ledbetter's testimony on this subject and Intercounty accepts his
18 calculations subject to several additions. There are several additions which would need to
19 be made to Mr. Ledbetter's figure to bring the calculation in line with the statutory
20 requirements, in particular paragraph 5 of §386.800. Mr. Ledbetter notes this in his
testimony as well. For the transfer of facilities, including meter reading, final bills and crew

time I estimate an additional cost of \$24,000. For the re-integration of telephones, fiber optics, computers and communications at a relocated office out of the annexed area, I estimate an additional cost of \$53,000. The retirement of the annexed member's patronage obligation will cost \$402,649.39. The re-integration easement acquisition and right of way clearing costs were assumed to be "reasonable" and the responsibility of RMU.

Taking into account this additional costs, the sum of \$4,521,253.40 is the total of the fair and reasonable compensation due Intercounty under the statute, specifically paragraph 6 of §386.800. If the Commission determines that the territory should be assigned to RMU and Rolla, Intercounty expects the Commission to make the award and direct payment thereof within the time frame set out in the statute.

Q. Is the amount of \$4,521,253.40 negotiable?

A. Intercounty remains ready to negotiate a limited transfer of facilities and easement rights which could reduce the costs for RMU - but Intercounty will not accept a wholesale transfer of members without the transfer of all facilities and payment under the statute.

FRANCHISE AGREEMENTS

Q. Is Intercounty opposed to franchise agreements, fees or assessments?

A. Intercounty is not opposed to franchise agreements lawfully imposed or to the fees associated with such agreements. The cooperative has a franchise agreement with the City of Mountain Grove as shown by attached Exhibit VWS-9. The original agreement was in place when Intercounty acquired the Sho-Me Power facilities in the City of Mountain Grove and was

recently renegotiated.

Q. Does Intercounty's franchise agreement with Mountain Grove have a fee associated?

A. Yes, there is a fee associated with the agreement.

Q. Why doesn't Intercounty negotiate a similar arrangement with Rolla?

A. Intercounty would be more than willing to negotiate a franchise arrangement with Rolla as long as it is understood that the State has already given Intercounty a franchise which the city cannot alter. The subject of the franchise rights of cooperatives is discussed in Missouri Utilities Company v. Scott-New Madrid - Mississippi Electric Cooperative, 475 S.W.2d 25 (Mo. 1971).

It would also have to be understood by Rolla that setting taxes, fees and/or assessments is the responsibility of Rolla and not the cooperative. Taxes, franchise fees and assessments are not included in the cooperative's rate structures. It is Intercounty's policy to pass through any taxes, fees or assessments as a separate line item on the bill for those members covered by the taxing entity when those entities are readily identifiable.

Q. Would Intercounty be willing to negotiate a franchise fee or Payment-in-Lieu of Tax (PILOT) with Rolla?

A. As noted above, it is not Intercounty's responsibility to set assessments or taxes - it is the responsibility of the taxing entity. Intercounty would pass through any such charge to the rate payer covered by the tax.

A PILOT arrangement would mean that Intercounty would either have to absorb the

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2 cost into the overall cost of operations, thereby requiring all 28,000 members to offset a cost
3 imposed by Rolla, or Intercounty could pass through the cost to the members impacted and
4 be liable if the arrangement was questioned. During the negotiations after annexation Rolla
5 was unwilling to discuss indemnifying Intercounty.

6 There was no franchise fee or PILOT arrangement in the Plan of Intent by which the
7 members based their decision when they voted on annexation. Intercounty is unwilling to
8 back-door a tax for Rolla. If Rolla were to pass an ordinance requiring the payment of a
9 franchise fee by all providers of electrical services, including RMU, within the city -
10 Intercounty would not have a problem collecting the fee and passing it through.

11 ***TERRITORIAL AGREEMENTS***

12 Q. Is Intercounty opposed to territorial agreements?

13 A. No, on the contrary, Intercounty is strongly in favor of territorial agreements. Any
14 agreement should be clearly in the public interest, reduce duplication of facilities, and
15 improve safety for the negotiating parties and the public. The agreement should be derived
16 without conflicting with neighboring utilities' traditional service areas or allowing
17 encroachment of facilities into non-traditional areas by defining boundaries that are
18 unambiguous or hard to define.

19 Q. Has Intercounty ever considered establishing a service territory boundary with any of its
20 neighbors?

A. Yes, over the past seven years offers have been made to negotiate territorial boundaries with

several municipalities, cooperatives and AmerenUE.

Q. What has been your experience to-date?

A. Since the cooperatives in Missouri regularly work with each other to minimize conflicts and many still hold to the "nearest-to" concept on providing service to new structures there was not much interest in establishing fixed boundaries between our neighboring cooperatives at this time.

Discussions were also started with Rolla and Union Electric early in 1995. The discussions with the City of Rolla ended shortly after beginning when it became apparent there was no interest in negotiating anything that would establish designated service territories. A copy of letters proposing discussion of a territorial agreement are attached as Exhibit VWS-10. The discussions with Union Electric were put on hold when two of our neighboring cooperatives objected. An understanding was reached with AmerenUE, and our neighboring cooperatives, in late 1999 and a territorial agreement filed with the Public Service Commission in early 2000.

PUBLIC INTEREST

Q. Is the acquisition of Intercounty's facilities by RMU in the public interest?

A. Mr. Nelson has interpreted the term "public interest" in his testimony. Mr. Nelson has identified three groups that would most immediately be impacted by any decision in this area: The first being the current rate payers of RMU; the second being the overall

membership of Intercounty; and the third group would be those in the annexed area.

This third group could be considered a subset of either of the first two groups. How a transfer from Intercounty to RMU would be in their interest was briefly covered in Mr. Watkins' testimony and centered primarily on perceived cheaper rates. With respect to all of the other purported benefits described as "benefits" by RMU in its testimony, and in its answers to Intercounty's data requests, Rolla is obligated to provide those benefits to any annexed property.

Intercounty surveyed this group (those in the annexed area) when Intercounty was notified that Rolla intended to attempt the acquisition of the facilities in the area. Exhibit VWS-11 is a copy of the survey results. The results give a clear indication how this segment of the "public" perceives the potential transfer. They are opposed. It is my understanding that RMU also conducted a similar survey, with less satisfactory results.

Q. How would the ratepayers of RMU be impacted by the acquisition of Intercounty members in the annexed area?

A. As noted in Mr. Watkins' testimony, RMU maintains a reserve of approximately \$6,500,000. This is approximately 48% of RMU's 1999 revenues and has been collected from the current ratepayers in Rolla. In City Council meetings held in March and April of this year Rolla ultimately authorized RMU to acquire local generation ostensibly for peak shaving and market purposes and assume an additional debt load of approximately \$6,000,000. All this with no firm wholesale power contract in place after the end of this year. In a series of data

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2 requests, Intercounty has asked Rolla and RMU about the costs and benefits of this
3 acquisition. Objections to those data requests are pending. If RMU keeps the same reserve
4 level and pays Intercounty over 4.5 million dollars required by the statute, I project that the
5 rate payers in Rolla can look forward to a rate increase.

6 Q. How would the transfer of facilities in the annexed area impact Intercounty?

7 A. Although Messrs. Watkins and Bourne agree with each other that the loss of approximately
8 1% of Intercounty's members would have minimal impact on Intercounty, it is more
9 comforting to realize that the statute was written to ensure that the cooperatives, the
10 cooperative mortgage holders and their members were protected. If the facilities and
11 members in the annexed area were transferred to RMU's control, Intercounty would require
12 the full payment described under the "Fair and Reasonable" section above. This should
13 satisfy financially RUS, CFC and our remaining member mortgage holders. Any perception
14 as to impact as seen by the transferred members on service and reliability are answered with
15 the survey in Exhibit VWS-12. Also, this question is further addressed in Mr. Nelson's
16 separate testimony.

17 Q. What impact would not transferring the facilities have on the public?

18 A. Obviously there would be little financial impact on either RMU or Intercounty. The public
19 safety issue of RMU building through Intercounty facilities, as it exists today, would remain,
20 and require the Commission to establish a boundary between RMU and Intercounty to
minimize these types of problems.

1
2 Q. Is Intercounty able to operate in the public interest and to meet its member's current and
3 future electrical requirements?

4 A. Intercounty is a distribution electric cooperative with over 60 years experience in the utility
5 business. Intercounty operates and maintains over 5,350 miles of line in nine counties in
6 Missouri and provides services to 28,000 member/owners of the cooperative.

7 Intercounty as an owner and member of Sho-Me Electric Power Cooperative (Sho-
8 Me) and Associated Electric Cooperative, Inc. (Associated) distributes energy and power
9 generated by Associated and delivered into our service territory by Sho-Me. As one of the
10 nine owner members Intercounty has an "all requirements" contract with Sho-Me
11 headquartered at Marshfield, Missouri for our substation, transmission and energy
12 requirements. Our energy provider is Associated of Springfield, Missouri.

13 Both Sho-Me and Associated are well positioned to continue to provide service for
14 Intercounty well into the next decade.

15 Intercounty is also a member of the Association of Missouri Electric Cooperatives
16 (AMEC). AMEC enables the member cooperatives to consolidate their efforts for public
17 relations, training, safety, regulatory compliance, safety inspections and legislative contacts.

18 The last rate adjustment at the cooperative was in spring of 1993. The latest
19 projection from our wholesale provider does not project a need for an increase for the next
20 ten years.

Intercounty has a current work plan on file that is approved by RUS. A new work

1
2 plan showing projected work and growth for the next four years is completed and on file with
3 the RUS and CFC.

4 With a total utility plant in service value of over 73 million dollars and an annual
5 operating revenue over 27 million dollars the financial condition of Intercounty is stable.
6 Since 1995 the cooperative has retired and returned to the members over \$7,000,000 in
7 capital credits. Between the operational and financial resources Intercounty has available
8 now, and on a long term basis all the financial, transmission, generation and other elements
9 needed to serve the electric needs of the general public and our members.

10 Q. Will RMU be able to meet the needs of current members and future growth in the area?

11 A. This is a difficult question to answer for several reasons. The first reason is that the current
12 wholesale power contract between RMU and AmerenUE will expire at the end of this year.
13 I understand that RMU has been negotiating with AmerenUE, and others for a new contract,
14 for over six months without results.

15 The next reason is that RMU recently received approval from Rolla to borrow over
16 \$6,000,000 for generators to provide both peaking and market power. There has been no
17 information disclosed publicly regarding how that will impact the ratepayers of RMU. As
18 I mentioned earlier, attempts by Intercounty through data requests to obtain any basic
19 information on analyses, costs, availability, etc. from Rolla, and RMU, have been
20 unsuccessful. If Rolla's objections to Intercounty's data requests on this topic are overruled,
I intend to supplement my testimony regarding the effect RMU will experience as a result

of the purchase of the generation equipment.

Intercounty was unable to find any dependable information on current reliability of service numbers that are standard in the industry through the data request process. We were able to review RMU's outage logs but they made no reference to numbers of customers impacted or statistics on average outage times experienced by their ratepayers.

SUMMARY

Q. What relief is Intercounty seeking in this matter from the Commission?

A. The Commission has the authority to set a boundary between RMU and Intercounty, and if that is done, there will be some benefit to both Intercounty and RMU in that a stabilized boundary will allow both RMU and the cooperative to fully meet the needs of their current respective ratepayers. It will enable both utilities to realize any future growth within their territories on their side of the Commission's defined boundary. Accordingly, Intercounty is requesting the Commission to find either of the two following options which are within the scope of the statute and in the public interest:

OPTION 1.

- Find and determine that Rolla should be required to honor its final revised Plan of Intent used as part of the annexation process prior to the annexation vote, and
- Find and determine that Intercounty should remain the supplier of electrical service for all the cooperative members in the annexed area, and

- Approve a territorial boundary within the annexed area that would protect both Intercounty's and Rolla's interest by preventing duplication of facilities or creating additional safety problems, and
- That Intercounty be permitted to serve all structures in the annexed area on its side of the boundary, and
- That a territorial boundary be established by the Commission between Rolla and Intercounty along the current contiguous corporate boundary of the City.
- Enter other orders that are needed to achieve the above

This option will more than equal the condition of meeting the "Public Interest" requirement that is set forth by §386.800 RSMo in that it: minimizes the duplication of facilities; allows both RMU and Intercounty to grow with the area; does no harm to the current members of Intercounty or rate payers of RMU; maintains the quality of service and reliability the members of Intercounty and rate payers of RMU have come to expect; and, minimizes the problems the members of Intercounty will experiences as the facilities are separated. Intercounty prefers this option.

OPTION 2.

However, if the Commission determines that the annexed area should be assigned exclusively to RMU and Rolla, Intercounty requests that the Commission enter the following orders and relief:

- Require Rolla to pay the fair and reasonable compensation amount computed in the testimony above, in accord with §386.800 RSMo, and
- Direct that Rolla shall be responsible for acquiring and paying for all required easements and right-of-ways, to be owned by and put in Intercounty's name, for the re-location of Intercounty's facilities outside the annexed area before any transfer of facilities or members to Rolla, and
- Set a transfer schedule such that the completion date will be at least two years after the date of the Commission finding in order to minimize the problems with the re-integration and transfer of facilities that the members of Intercounty would otherwise experience, and
- Direct that all monies due and payable to Intercounty be paid within 90 days after the Commissions findings, and
- Establish a territorial boundary between Rolla and Intercounty along the current contiguous corporate boundary of the City.
- Other orders which would be needed to achieve the above.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does at this time.

EXHIBIT VWS-1

**BIOGRAPHICAL
SKETCH
VERNON W. STRICKLAND**

BIOGRAPHICAL SKETCH

Name	: Vernon W. Strickland	Date and Place of Birth	: August 19, 1946 Weiner, Arkansas
Business Address	: Post Office Box 209 Licking, Missouri 65542	Religious Affiliation	: Church of Christ
Home Address	: Route 1, Box 214E Salem, Missouri 65560	Children's Names	: Tammy, Lorrie, Crystal, Wayne
Telephone	: (Work) 573-674-2211 (Home) 573-729-8380	Marital Status	: Married Susan Ann

EMPLOYMENT RECORD

GENERAL MANAGER September 1993-Present Intercounty Electric Licking, Missouri
Cooperative Assn.

- General Manager for Distribution Cooperative with 28,600 electric members, 99 employees, 2500 square mile service territory and \$28,000,000 annual budget.
- Advise and assist the nine member elected Board of Directors on objectives, policy and planning for the cooperative and subsidiaries.
- Manage the operations of the consumer-owned system through delegations to department managers concerned with construction, maintenance, service, engineering, member services, community relations, and accounting and control.
- Serve on the NRECA Transmission and Distribution Engineering Committee.
- Communicate with the public through press releases, writings, television and public appearances.
- Serve as the Cooperative's representative with other agencies, water and sewer districts, power companies and regulatory bodies.

POWER MANAGER June 1989 - August 1993 San Carlos Irrigation Coolidge, Arizona
Project

- Power Manager for Irrigation Project with 12,000 electric customers, 112 power employees, 3000 square mile service territory and \$24,000,000 annual budget.
- Direct the System Operations, Construction and Maintenance crews, estimators and advised the Project Engineer on power and water issues and concepts.
- Establish policies and procedures for electrical design estimates, material procurement, right-of-way accruals, rate development, Energy Management and Conservation programs and power contract negotiations.
- Evaluate, discipline and recommend awards for support staff and field crews, with direct supervision over twelve support staff and overall supervision of 112 power employees.
- Communicate with the public through press releases, writings, television and public appearances.
- Serve as the Project's representative with other agencies, power companies and regulatory bodies.
- Derive and approve specifications for power equipment, communication, vehicles and computer hardware/software.
- Serve as Visiting Faculty for Mesa Community College in Mathematics and Electrical Engineering.

SENIOR ENGINEER December 1985 - May 1989 Salt River Project Phoenix, Arizona

- Project Administrator of the Distribution Construction Management System.
- Directed the DCMS Feasibility Study and development of the Work Requesting subsystem of DCMS.
- Provided technical support for the development of Distribution Facilities Information and Compatible Units Systems.
- Worked as an Adjunct Instructor for Mesa Community College. Courses taught Math For Electronics, Digital Concepts and Electricity.

SENIOR ENGINEER June 1982-November 1985 El Paso Electric Co. El Paso, Texas

- Worked as an Electrical Systems Engineer specializing in Voltages over 69 kV.
- Directed the development of the transmission Near-term, Far-term, and Horizon year expansion plans.
- Administered the Transmission System Data Base and designed computer models of systems.
- Performed economic evaluations of systems changes and scheduled projects.
- Trained technical and support personnel for Energy Planning.
- Produced and defended external entity interrogatories.
- Evaluated planning and system design data.
- Designed and performed system studies including generator and transmission siting, contingencies analysis, sub-synchronous resonance calculations, etc.
- Worked as an Adjunct Mathematics Instructor for El Paso Community College.

ENGINEER May 1980 - May 1982 El Paso Electric Co. El Paso, Texas

- Performed the duties listed for the prior job and worked as the Administrative Assistant to the Senior Vice President of Power Supply.
- Reviewed fuel data and prepared monthly cost of fuel reports for the Rate, Planning, Energy Resources and Generation departments.
- Researched and prepared input for the Company's Annual Reports, financial documents and responses to Interrogatories.
- Coordinated department activities with the Arizona Nuclear Power Project with respect to Interrogatories, Testimony before Commissions and project work documentation.

ENGINEER July 1978 - April 1980 El Paso Electric Co. El Paso, Texas

- Worked as the Assistant to the Vice President of Transmission, Distribution and Special Projects.
- Performed confidential Administrative salary and costing work.
- Performed additional duties as assigned: for example, Computer, Electrical, Telephone and General Design Engineer for Franklin Land & Resources (subsidiary of El Paso Electric Co.) during three year renovation of the Mills building (Circa 1911) for EPEC's Corporate Headquarters.
- Trained, scheduled and managed construction crews for build-out.

JUNIOR ENGINEER June 1976 - June 1978 El Paso Electric Co. El Paso, Texas

- Conducted power flows, voltage profiles, economic and special studies on the distribution (24 kV or less) system, for EPEC and Customers.
- Coordinated relays, reclosers, sectionalizers, fuses, transformers, capacitors and other operational/protective devices.
- Wrote and maintained records of loads, equipment reliability, work estimates and distribution standards.
- Developed and wrote Computer programs required by Engineering Department and provided technical support to other sections of the Engineering and Customer Services Departments.
- Designed and worked special projects assigned by the Manager of Engineering.
- Performed all aspects of electric utility construction - from site preparation to completion.
- Reduced voltage problems and high bill complaints by 98% within two years.

PROFESSIONAL

Engineering Intern - New Mexico, Certificate Number 3337
Registered Professional Engineer - Texas, Certificate Number 51984
Institute of Electrical and Electronic Engineers, Member
Board Certified Teacher for Electrical Engineering and Mathematics -
Arizona, Certificate Number 8180
General Manager Certificate - National Rural Electric Cooperative
Association (NRECA) - June 1996
Credentialed Cooperative Director - National Rural Electric Cooperative
Association - December 1999

EDUCATION

University of Texas at El Paso - Bachelor of Science in Electrical Engineering
University of Texas at El Paso - Master of Science in Electrical Engineering

ORGANIZATIONS

American MENSA Limited, Member
Order of DeMolay, Life Member
Selective Service System, past Local Board Member
Toastmasters International, Competent Toastmaster
NRECA Transmission and Distribution Engineering Committee

EXHIBIT VWS-2

**CORRESPONDENCE FROM THE
RURAL UTILITIES SERVICE
AND THE
NATIONAL RURAL UTILITIES COOPERATIVE
FINANCE CORPORATION**



United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service
Washington, DC 20250

JUL 7 2000

Mr. Vernon W. Strickland
General Manager
Intercounty Electric Cooperative Association
P. O. Box 209
Licking, Missouri 65542-0209

Dear Mr. Strickland:

We are aware that you have discussed the City of Rolla's annexation of a portion of the cooperative's service territory with our field representative Wayne Groseclose. During these discussions, you voiced concerns with the annexation, loss of service territory and forced sale of the cooperative's facilities, and inquired as to whether or not the Administrator would approve the disposition of the facilities under Section 7 of the Rural Electrification Act of 1936, as amended (RE Act).

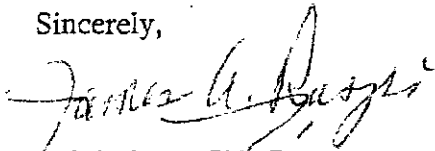
The Rural Utilities Service (RUS) is very concerned about the potential impacts of municipality annexations that result in forced sales of cooperative owned and RUS financed electric facilities. Any substantial taking of your RUS-financed system or service territory by the City of Rolla, whether all at once or over time, could have significant adverse impacts not only on the viability of the cooperative, but also on your power supplier, Sho-Me Power Electric Cooperative (Sho-Me), and its other members, as well as on Federal government interests under the RE Act, including the repayment of outstanding RUS loans. These concerns would have to be satisfactorily addressed before the Administrator would consider approving the taking of Intercounty Electric Cooperative Association's (Intercounty Electric) property.

As you know, Intercounty Electric and Sho-Me are part of an integrated cooperative structure, established and funded by RUS, formerly the Rural Electrification Administration, for the purpose of carrying out the objectives of the RE Act—providing low-cost, reliable electric service to rural America. The resources of Sho-Me are dedicated to meeting the needs of Intercounty Electric and its other member distribution cooperatives. The success of the integrated power supply structure, both in terms of providing low cost electric service and maintaining the feasibility of, and security of outstanding government loans, depends on the ability of distribution members to develop and maintain the loads necessary to generate sufficient revenues. The loss of facilities, service territory and associated load by any member distribution cooperative impacts Sho-Me and all members of Sho-Me, i.e., the entire integrated system.

Before consideration can be given to approval of any taking, RUS must review specifics of this action and address whether the taking should be viewed as an isolated action or as a part of a series of potential takings; the impact of the taking(s) on Intercounty Electric, including the rates Intercounty Electric must charge its remaining members and the feasibility of, and security for outstanding government loans; and the compensation to be provided to Sho-Me and its other members.

The matter of territorial integrity is of critical importance to the success of the Rural Electrification Program, and we are dedicated to working with you and other borrowers to insure that program interests are fully protected.

Sincerely,

A handwritten signature in dark ink, appearing to read "James A. Ruspi", written in a cursive style.

JAMES A. RUSPI

Director

Southern Regional Division



NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION
Powerful Financial Solutions

2201 Cooperative Way • Herndon, Virginia 20171-3025
<http://www.nrufc.org>
703-709-6700

July 12, 2000

Mr. Vernon W. Strickland
General Manager
Intercounty Electric Cooperative Association
P.O. Box 209
Licking, Missouri 65542-0209

Re: Annexation by City of Rolla

Dear Mr. Strickland:

It has come to our attention that the City of Rolla has initiated proceedings to annex a portion of the service territory of Intercounty Electric Cooperative Association (the "Cooperative"). As a secured creditor of the Cooperative which has provided a portion of the financing for the Cooperative's electric facilities, the National Rural Utilities Cooperative Finance Corporation ("CFC"), has several concerns about the impact of such a disposition of the Cooperative's assets.

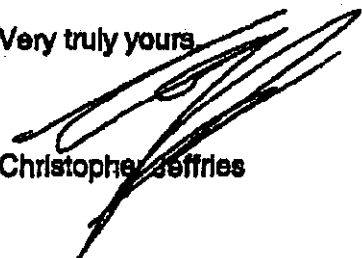
First, the Cooperative's electric facilities serve as collateral for CFC's outstanding loans to the Cooperative. Obviously any substantial taking of the Cooperative's utility plant could diminish the value of CFC's security interests. This is particularly a concern of this taking is merely the first of several municipal annexations. Moreover, the Cooperative is an integral member of Sho-Me Power Electric Cooperative ("Sho-Me"), another CFC borrower, and any action that has a potentially adverse impact on the Cooperative's continued viability could also negatively impact Sho-Me's operations. In short, any significant reduction in the facilities, service territory or load of the Cooperative as a distribution member system of Sho-Me affects the ability of the cooperative utilities to generate adequate revenues to continue to provide low cost power to the rural population they serve.

We know that you understand that the concerns set forth above are of critical importance to CFC, and consequently we would like the opportunity to review the

Mr. Vernon W. Strickland
July 12, 2000
Page 2

proposed taking and its potential impact on the security interests of CFC and on the viability of the operations of the Cooperative and Sho-Me. Thank you for providing us with the opportunity to comment on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Christopher Jeffries", written over the printed name.

Christopher Jeffries

EXHIBIT VWS-3

**§§ 71.015, 71.525, 91.025, 386.310, 386.800, 394.080,
394.160, 394.312, AND 394.315
RSMo.**

Missouri Revised Statutes

Chapter 71 Provisions Relative to All Cities and Towns Section 71.015

August 28, 1999

Objections to annexation, satisfaction of objections prior to annexation, procedure—certain cities, elections for annexation, procedure—cause of action for deannexation authorized.

71.015. 1. Should any city, town, or village, not located in any county of the first classification which has adopted a constitutional charter for its own local government, seek to annex an area to which objection is made, the following shall be satisfied:

(1) Before the governing body of any city, town, or village has adopted a resolution to annex any unincorporated area of land, such city, town, or village shall first as a condition precedent determine that the land to be annexed is contiguous to the existing city, town, or village limits and that the length of the contiguous boundary common to the existing city, town, or village limit and the proposed area to be annexed is at least fifteen percent of the length of the perimeter of the area proposed for annexation.

(2) The governing body of any city, town, or village shall propose an ordinance setting forth the following:

(a) The area to be annexed and affirmatively stating that the boundaries comply with the condition precedent referred to in subdivision (1) above;

(b) That such annexation is reasonable and necessary to the proper development of the city, town, or village;

(c) That the city has developed a plan of intent to provide services to the area proposed for annexation;

(d) That a public hearing shall be held prior to the adoption of the ordinance;

(e) When the annexation is proposed to be effective, the effective date being up to thirty-six months from the date of any election held in conjunction thereto.

(3) The city, town, or village shall fix a date for a public hearing on the ordinance and make a good faith effort to notify all fee owners of record within the area proposed to be annexed by certified mail, not less than thirty nor more than sixty days before the hearing, and notify all residents of the area by publication of notice in a newspaper of general circulation qualified to publish legal matters in the county or counties where the proposed area is located, at least once a week for three consecutive weeks prior to the hearing, with at least one such notice being not more than twenty days and not less than ten days before the hearing.

(4) At the hearing referred to in subdivision (3), the city, town, or village shall present the plan of intent and evidence in support thereof to include:

(a) A list of major services presently provided by the city, town, or village including, but not limited to, police and fire protection, water and sewer systems, street maintenance, parks and recreation, refuse collection, etc.;

(b) A proposed time schedule whereby the city, town, or village plans to provide such services to the residents of the proposed area to be annexed within three years from the date the annexation is to become effective;

(c) The level at which the city, town, or village assesses property and the rate at which it taxes that property;

(d) How the city, town, or village proposes to zone the area to be annexed;

(e) When the proposed annexation shall become effective.

(5) Following the hearing, and either before or after the election held in subdivision (6) of this subsection, should the governing body of the city, town, or village vote favorably by ordinance to annex the area, the governing body of the city, town or village shall file an action in the circuit court of the county in which such unincorporated area is situated, under the provisions of chapter 527, RSMo, praying for a declaratory judgment authorizing such annexation. The petition in such action shall state facts showing:

(a) The area to be annexed and its conformity with the condition precedent referred to in subdivision (1) of this subsection;

(b) That such annexation is reasonable and necessary to the proper development of the city, town, or village; and

(c) The ability of the city, town, or village to furnish normal municipal services of the city, town, or village to the unincorporated area within a reasonable time not to exceed three years after the annexation is to become effective. Such action shall be a class action against the inhabitants of such unincorporated area under the provisions of section 507.070, RSMo.

(6) Except as provided in subsection 3 of this section, if the court authorizes the city, town, or village to make an annexation, the legislative body of such city, town, or village shall not have the power to extend the limits of the city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in the city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed. However, should less than a majority of the total votes cast in the area proposed to be annexed vote in favor of the proposal, but at least a majority of the total votes cast in the city, town, or village vote in favor of the proposal, then the proposal shall again be voted upon in not more than one hundred twenty days by both the registered voters of the city, town, or village and the registered voters of the area proposed to be annexed. If at least two-thirds of the qualified electors voting thereon are in favor of the annexation, then the city, town, or village may proceed to annex the territory. If the proposal fails to receive the necessary majority, no part of the area sought to be annexed may be the subject of another proposal to annex for a period of two years from the date of the election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The elections shall if authorized be held, except as herein otherwise provided, in accordance with the general state law governing special elections, and the entire cost of the election or elections shall be paid by the city, town, or village proposing to annex the territory.

(7) Failure to comply in providing services to the said area or to zone in compliance with the

plan of intent within three years after the effective date of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident of the area who was residing in the area at the time the annexation became effective.

(8) No city, town, or village which has filed an action under this section as this section read prior to May 13, 1980, which action is part of an annexation proceeding pending on May 13, 1980, shall be required to comply with subdivision (5) of this subsection in regard to such annexation proceeding.

(9) If the area proposed for annexation includes a public road or highway but does not include all of the land adjoining such road or highway, then such fee owners of record, of the lands adjoining said highway shall be permitted to intervene in the declaratory judgment action described in subdivision (5) of this subsection.

2. Notwithstanding any provision of subsection 1 of this section, for any annexation by any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county that becomes effective after August 28, 1994, if such city has not provided water and sewer service to such annexed area within three years of the effective date of the annexation, a cause of action shall lie for deannexation, unless the failure to provide such water and sewer service to the annexed area is made unreasonable by an act of God. The cause of action for deannexation may be filed in the circuit court by any resident of the annexed area who is presently residing in the area at the time of the filing of the suit and was a resident of the annexed area at the time the annexation became effective. If the suit for deannexation is successful, the city shall be liable for all court costs and attorney fees.

3. Notwithstanding the provisions of subdivision (6) of subsection 1 of this section, all cities, towns, and villages located in any county of the first classification with a charter form of government with a population of two hundred thousand or more inhabitants which adjoins a county with a population of nine hundred thousand or more inhabitants shall comply with the provisions of this subsection. If the court authorizes any city, town, or village subject to this subsection to make an annexation, the legislative body of such city, town or village shall not have the power to extend the limits of such city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in such city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed; except that:

(1) In the case of a proposed annexation in any area which is contiguous to the existing city, town or village and which is within an area designated as flood plain by the Federal Emergency Management Agency and which is inhabited by no more than thirty registered voters and for which a final declaratory judgment has been granted prior to January 1, 1993, approving such annexation and where notarized affidavits expressing approval of the proposed annexation are obtained from a majority of the registered voters residing in the area to be annexed, the area may be annexed by an ordinance duly enacted by the governing body and no elections shall be required; and

(2) In the case of a proposed annexation of unincorporated territory in which no qualified electors reside, if at least a majority of the qualified electors voting on the proposition are in favor of the annexation, the city, town or village may proceed to annex the territory and no subsequent election shall be required.

If the proposal fails to receive the necessary separate majorities, no part of the area sought to be annexed may be the subject of any other proposal to annex for a period of two years from the date of such election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The election shall, if authorized, be held, except as otherwise provided in this section, in

accordance with the general state laws governing special elections, and the entire cost of the election or elections shall be paid by the city, town, or village proposing to annex the territory. Failure of the city, town or village to comply in providing services to the area or to zone in compliance with the plan of intent within three years after the effective date of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident of the area who was residing in such area at the time the annexation became effective or by any nonresident owner of real property in such area.

(L. 1953 p. 309 § 1, A.L. 1980 H.B. 1110, A.L. 1986 H.B. 1261, A.L. 1990 H.B. 1536, A.L. 1992 S.B. 571, A.L. 1993 H.B. 566, A.L. 1994 S.B. 700 and S.B. 749, A.L. 1996 H.B. 1237, A.L. 1999 S.B. 160 & 82)



Missouri General Assembly

Missouri Revised Statutes

Chapter 71 Provisions Relative to All Cities and Towns Section 71.525

August 28, 1999

Condemnation of property of public utility or rural electric cooperative, restrictions, conditions--limitation.

71.525. 1. Except as provided in subsection 2 of this section, no city, town or village may condemn the property of a public utility, as defined in section 386.020, RSMo, or the property of a rural electric cooperative, as provided in chapter 394, RSMo, if such property is used or useful in providing utility services and the city, town or village seeking to condemn such property, directly or indirectly, will use or proposes to use the property for the same purpose, or a purpose substantially similar to the purpose that the property is being used by the public utility or rural electric cooperative.

2. A city, town or village may only condemn the property of a public utility or the property of a rural electric cooperative, even if the property is used or useful in providing utility services by such utility or cooperative, if:

(1) The condemnation is necessary for the public purpose of acquiring a nonexclusive easement or right-of-way across the property of such utility or cooperative and only if the acquisition will not materially impair or interfere with the current use of such property by the utility or cooperative and will not prevent or materially impair the utility or cooperative from any future expansion of its facilities on such property; or

(2) The property is solely and exclusively devoted to the provision of street lighting or traffic signal service by such utility in a city having a population of at least three hundred fifty thousand inhabitants located wholly or partially within a county of the first classification with a charter form of government; or

(3) The property is owned by a water or sewer corporation, as defined in section 386.020, RSMo, with less than five hundred hook-ups.

3. The provisions of this section shall apply to all cities, towns and villages in this state, incorporated or unincorporated and no matter whether any statutory classification, special charter or constitutional charter or any other provision of law appears to convey the power of condemnation of such property by implication.

4. If a city, town or village seeks to condemn the property of a public utility or rural electric cooperative, and the conditions in subsection 1 of this section do not apply, this section does not limit the condemnation powers otherwise possessed by such city, town or village.

(L. 1994 S.B. 709)



Missouri General Assembly

Missouri Revised Statutes

Chapter 91 Municipally Owned Utilities Section 91.025

August 28, 1999

Definitions--continuation of existing electrical service--change of supplier--commission jurisdiction.

91.025. 1. As used in this section, the following terms mean:

(1) "Municipally owned or operated electric power system", a system for the distribution of electrical power and energy to the inhabitants of a municipality which is owned and operated by the municipality itself, whether operated under authority pursuant to this chapter or under a charter form of government;

(2) "Permanent service", electrical service provided through facilities which have been permanently installed on a structure and which are designed to provide electric service for the structure's anticipated needs for the indefinite future, as contrasted with facilities installed temporarily to provide electrical service during construction. Service provided temporarily shall be at the risk of the electrical supplier and shall not be determinative of the rights of the provider or recipient of permanent service;

(3) "Structure" or "structures", an agricultural, residential, commercial, industrial or other building or a mechanical installation, machinery or apparatus at which retail electric energy is being delivered through a metering device which is located on or adjacent to the structure and connected to the lines of an electrical corporation, rural electric cooperative, municipally owned or operated electric power system, or joint municipal utility commission. Such terms shall include any contiguous or adjacent additions to or expansions of a particular structure. Nothing in this section shall be construed to confer any right on an electric supplier to serve new structures on a particular tract of land because it was serving an existing structure on that tract.

2. 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, RSMo, or pursuant to a territorial agreement approved under section 394.312, RSMo. 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. Except as provided in this section, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any such municipally owned or operated electrical system, and nothing in this section, section 393.106, RSMo, and section 394.315, RSMo, shall affect the rights, privileges or duties of any municipality to form or operate municipally owned or operated

electrical systems. Nothing in this section shall be construed to make lawful any provision of service which was unlawful prior to July 11, 1991. Nothing in this section shall be construed to make unlawful the continued lawful provision of service to any structure which may have had a different supplier in the past, if such a change in supplier was lawful at the time it occurred.

(L. 1991 S.B. 221)

Effective 7-11-91



Missouri General Assembly

Missouri Revised Statutes

Chapter 386 Public Service Commission Section 386.310

August 28, 1999

Safety and health of public and employees--promulgation of rules-- territorial rights, rules.

386.310. 1. The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every person, corporation, municipal gas system and public utility to maintain and operate its line, plant, system, equipment, apparatus, and premises in such manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, customers or the public may demand, including the power to minimize retail distribution electric line duplication for the sole purpose of providing for the safety of employees and the general public in those cases when, upon complaint, the commission finds that a proposed retail distribution electric line cannot be constructed in compliance with commission safety rules. The commission may waive the requirements for notice and hearing and provide for expeditious issuance of an order in any case in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property, provided that the commission shall include in such an order an opportunity for hearing as soon as practicable after the issuance of such order.

2. The commission shall not make any rule, regulation, decree or order with respect to allocation of territory or territorial rights among electric suppliers pursuant to sections 386.310 and 394.160, RSMo.

3. For the purposes of gas pipeline safety regulation, the jurisdiction, supervision, powers and duties created and established by this chapter will extend to the following:

(1) Operators and owners of distribution systems where natural gas, excluding petroleum gas, is measured by a single meter and distributed to other users within a single structure or to multiple structures;

(2) Operators and owners of high pressure pipelines which are supplied, directly or indirectly, by an intrastate and interstate pipeline, where natural gas, excluding petroleum gas, is supplied to the owner or operator of the high pressure pipeline solely for consumption by the owner or operator;

(3) Intrastate natural gas facilities owned and operated by interstate natural gas pipeline companies serving direct sales customers would be subject to enforcement of federally mandated pipeline safety standards; and

(4) Operators and owners of gas plants where natural gas is supplied directly or indirectly, other than for consumption by and on the property of the supplier, to institutional buildings including, but not limited to, schools and hospitals.

(RSMo 1939 § 5695, A.L. 1979 H.B. 186, A.L. 1989 H.B. 938, A.L. 1996 S.B. 589 and S.B. 780)

Prior revisions: 1929 § 5239; 1919 § 10527



Missouri General Assembly

Missouri Revised Statutes

Chapter 386 Public Service Commission Section 386.800

August 28, 1999

Municipally owned electrical supplier, services outside boundaries prohibited--exceptions--annexation--negotiations, territorial agreements, regulations, procedure--fair and reasonable compensation defined--assignment of sole service territories--commission jurisdiction.

386.800. 1. No municipally owned electric utility may provide electric energy at retail to any structure located outside the municipality's corporate boundaries after July 11, 1991, unless:

(1) The structure was lawfully receiving permanent service from the municipally owned electric utility prior to July 11, 1991; or

(2) The service is provided pursuant to an approved territorial agreement under section 394.312, RSMo;

(3) The service is provided pursuant to lawful municipal annexation and subject to the provisions of this section; or

(4) The structure is located in an area which was previously served by an electrical corporation regulated under chapter 386, and chapter 393, RSMo, and the electrical corporation's authorized service territory was contiguous to or inclusive of the municipality's previous corporate boundaries, and the electrical corporation's ownership or operating rights within the area were acquired in total by the municipally owned electrical system prior to July 11, 1991. In the event that a municipally owned electric utility in a city with a population of more than one hundred twenty-five thousand located in a county of the first class not having a charter form of government and not adjacent to any other county of the first class desires to serve customers beyond the authorized service territory in an area which was previously served by an electrical corporation regulated under the provisions of chapter 386, and chapter 393, RSMo, as provided in this subdivision, the municipally owned utility shall apply to the public service commission for an order assigning nonexclusive service territories. The proposed service area shall be contiguous to the authorized service territory which was previously served by an electrical corporation regulated under the provisions of chapter 386, and chapter 393, RSMo, as a condition precedent to the granting of the application. The commission shall have one hundred twenty days from the date of application to grant or deny the requested order. The commission may grant the order upon a finding that granting of the applicant's request is not detrimental to the public interest. In granting the applicant's request the commission shall give due regard to territories previously granted to other electric suppliers.

2. Any municipally owned electric utility may extend, pursuant to lawful annexation, its service territory to include any structure located within a newly annexed area which has not received permanent service from another supplier within ninety days prior to the effective date of the annexation.

3. When a municipally owned electric utility desires to extend its service territory to include

any structure located within a newly annexed area which has received permanent service from another supplier within ninety days prior to the effective date of the annexation, it shall:

(1) Notify by publication in a newspaper of general circulation the record owner of said structure, and notify in writing any affected electric supplier and the public service commission, within sixty days after the effective date of the annexation its desire to extend its service territory to include said structure; and

(2) Within six months after the effective date of the annexation receive the approval of the municipality's governing body to begin negotiations pursuant to section 394.312, RSMo, with any affected electric supplier.

4. Upon receiving approval from the municipality's governing body pursuant to subsection 3 of this section, the municipally owned electric utility and the affected electric supplier shall meet and negotiate in good faith the terms of the territorial agreement and any transfers or acquisitions, including, as an alternative, granting the affected electric supplier a franchise or authority to continue providing service in the annexed area. In the event that the affected electric supplier does not provide wholesale electric power to the municipality, if the affected electric supplier so desires, the parties shall also negotiate, consistent with applicable law, regulations and existing power supply agreements, for power contracts which would provide for the purchase of power by the municipality from the affected electric supplier for an amount of power equivalent to the loss of any sales to customers receiving permanent service at structures within the annexed areas which are being sought by the municipally owned electric utility. The parties shall have no more than one hundred eighty days from the date of receiving approval from the municipality's governing body within which to conclude their negotiations and file their territorial agreement with the commission for approval under the provisions of section 394.312, RSMo. The time period for negotiations allowed under this subsection may be extended for a period not to exceed one hundred eighty days by a mutual agreement of the parties and a written request with the public service commission.

5. For purposes of this section, the term "fair and reasonable compensation" shall mean the following:

(1) The present-day reproduction cost, new, of the properties and facilities serving the annexed areas, less depreciation computed on a straight-line basis; and

(2) An amount equal to the reasonable and prudent cost of detaching the facilities in the annexed areas and the reasonable and prudent cost of constructing any necessary facilities to reintegrate the system of the affected electric supplier outside the annexed area after detaching the portion to be transferred to the municipally owned electric utility; and

(3) Four hundred percent of gross revenues less gross receipts taxes received by the affected electric supplier from the twelve-month period preceding the approval of the municipality's governing body under the provisions of subdivision (2) of subsection 3 of this section, normalized to produce a representative usage from customers at the subject structures in the annexed area; and

(4) Any federal, state and local taxes which may be incurred as a result of the transaction, including the recapture of any deduction or credit; and

(5) Any other costs reasonably incurred by the affected electric supplier in connection with the transaction.

6. In the event the parties are unable to reach an agreement under subsection 4 of this section, within sixty days after the expiration of the time specified for negotiations, the municipally owned electric utility may apply to the commission for an order assigning exclusive service

territories within the annexed area and a determination of the fair and reasonable compensation amount to be paid to the affected electric supplier under subsection 5 of this section. Applications shall be made and notice of such filing shall be given to all affected parties pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity. Unless otherwise ordered by the commission for good cause shown, the commission shall rule on such applications not later than one hundred twenty days after the application is properly filed with the secretary of the commission. The commission shall hold evidentiary hearings to assign service territory between affected electric suppliers inside the annexed area and to determine the amount of compensation due any affected electric supplier for the transfer of plant, facilities or associated lost revenues between electric suppliers in the annexed area. The commission shall make such determinations based on findings of what best serves the public interest and shall issue its decision by report and order. Review of such commission decisions shall be governed by sections 386.500 to 386.550. The payment of compensation and transfer of title and operation of the facilities shall occur within ninety days after the order and any appeal therefrom becomes final unless the order provides otherwise.

7. In reaching its decision under subsection 6 of this section, the commission shall consider the following factors:

- (1) Whether the acquisition or transfers sought by the municipally owned electric utility within the annexed area from the affected electric supplier are, in total, in the public interest, including consideration of rate disparities between the competing electric suppliers and issues of unjust rate discrimination among customers of a single electric supplier if the rates to be charged in the annexed areas are lower than those charged to other system customers; and
- (2) The fair and reasonable compensation to be paid by the municipally owned electric utility, to the affected electric supplier with existing system operations within the annexed area, for any proposed acquisitions or transfers; and
- (3) Any effect on system operation, including, but not limited to, loss of load and loss of revenue; and
- (4) Any other issues upon which the municipally owned electric utility and the affected electric supplier might otherwise agree, including, but not limited to, the valuation formulas and factors contained in subsections 4, 5 and 6, of this section, even if the parties could not voluntarily reach an agreement thereon under those subsections.

8. The commission is hereby given all necessary jurisdiction over municipally owned electric utilities and rural electric cooperatives to carry out the purposes of this section consistent with other applicable law; provided, however, the commission shall not have jurisdiction to compel the transfer of customers or structures with a connected load greater than one thousand kilowatts. The commission shall by rule set appropriate fees to be charged on a case-by-case basis to municipally owned electric utilities and rural electric cooperatives to cover all necessary costs incurred by the commission in carrying out its duties under this section.

(L. 1991 S.B. 221)

Effective 7-11-91



Missouri General Assembly

Missouri Revised Statutes

Chapter 394 Rural Electric Cooperatives Section 394.080

August 28, 1999

Powers, generally--may supply energy to certain cities, towns and villages, when.

394.080. 1. A cooperative shall have power:

- (1) To sue and be sued, in its corporate name;
- (2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;
- (3) To adopt a corporate seal and alter the same at pleasure;
- (4) Except as provided in section 386.800, RSMo, to generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply, and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of ten percent of the number of its members; provided, however, that where a cooperative has been transmitting, distributing, selling, supplying or disposing of electric energy in a rural area which, by reason of increase in its population, its inclusion in a city, town or village, or by reason of any other circumstance ceases to be a rural area, such cooperative shall have the power to continue to transmit, distribute, sell, supply or dispose of electric energy therein until such time as the municipality, or the holder of a franchise to furnish electric energy in such municipality, may purchase the physical property of such cooperative located within the boundaries of the municipality, pursuant to law, or until such time as the municipality may grant a franchise in the manner provided by law to a privately owned public utility to distribute electric power within the municipality and such privately owned public utility shall purchase the physical property of such cooperative located within the boundaries of the municipality. In case any of the parties to such purchase, as herein provided, cannot agree upon the fair and reasonable price to be paid for the physical property of such cooperative within the municipality, or if either party refuses to negotiate for the sale of such property upon the request of the other, the fair and reasonable value of such property for such purchase shall be fixed by the public service commission upon application of any one or more of the interested parties;
- (5) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such electric and plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;
- (6) To make loans to persons to whom electric energy is or will be supplied by the

cooperative for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating electric refrigeration plants;

(7) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds, and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands, subject, however, to the requirements in respect of the use of such thoroughfares and lands that are imposed by the respective authorities having jurisdiction thereof upon corporations constructing or operating electric transmission and distribution lines or systems;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; and

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.

2. In addition to all other powers granted in this section, rural electric cooperatives shall have the power to supply electric energy at retail after August 28, 1989, in cities, towns and villages having a population in excess of fifteen hundred inhabitants under the following conditions:

(1) The cooperative was the predominant supplier of retail electric energy within the city, town or village at the time any official United States Census Bureau "decennial census report" declares the population of such city, town or village to be in excess of fifteen hundred inhabitants;

(2) The city, town or village has granted to the cooperative a franchise to supply electric energy within the city, town or village.

3. In addition, the cooperative shall provide, concurrent with its application to the city, town or village for its initial franchise, written notice of its franchise application to all other providers of electric energy at retail operating within such city, town or village.

4. The provisions of subsections 2 and 3 of this section shall in no way affect or diminish the rights and duties of any city, town or village to grant franchises to electric suppliers in the manner provided by law or of any electrical corporation authorized by law to provide electric service at retail within such city, town or village.

5. Notwithstanding the provisions of subsection 2 of this section, after a public hearing upon a complaint, the public service commission may order that service be provided by another supplier if it finds that service from another supplier of electricity is in the public interest for a reason other than rate differential. Nothing in this section shall be construed as conferring upon the public service commission jurisdiction over the rates, financing, accounting or management of any electric cooperative.

(RSMo 1939 § 5388, A.L. 1943 p. 491, A.L. 1949 p. 238, A.L. 1983 H.B. 137, A.L. 1989 H.B. 813, A.L. 1991 S.B. 221)

Effective 7-11-91

CROSS REFERENCES: Condemnation proceedings, Chap. 523, RSMo Power lines on state highways, location and removal, RSMo 227.240

(1966) Cooperative's refusal of offer of amount fixed by public service commission does not terminate its power to supply electricity to annexed areas. Missouri Public Service Comm. v. Platte-Clay Elec. Coop. (Mo.), 407 S.W.2d 883.



Missouri General Assembly

Missouri Revised Statutes

Chapter 394 Rural Electric Cooperatives Section 394.160

August 28, 1999

Rules and regulations prescribed by public service commission-- limitation on jurisdiction of commission.

394.160. 1. Every cooperative constructing, maintaining and operating its electric transmission or distribution lines shall construct, maintain and operate such lines in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public and as to induction or electrical interference with other lines now or hereafter from time to time prescribed by the public service commission for the construction, maintenance and operation of electric transmission or distribution lines or system. The jurisdiction, supervision, powers and duties of the public service commission shall extend to every such cooperative so far as concerns the construction, maintenance and operation of the physical equipment of such cooperative to the extent of providing for the safety of the public and the elimination or lessening of induction or electrical interference, including the power to minimize retail distribution electric line duplication for the sole purpose of providing for the safety of employees and the general public in those cases when, upon complaint, the commission finds that a proposed retail distribution electric line cannot be constructed in compliance with commission safety rules. The jurisdiction of the public service commission shall be extended only to the extent provided in this section, and nothing herein contained shall be construed as otherwise conferring upon such commission jurisdiction over the service, rates, financing, accounting or management of any such cooperative.

2. Applications, notices, hearings, findings and orders, and all other proceedings before the commission, in pursuance of the powers and duties herein conferred upon such commission, and review thereof, shall be the same as now or hereafter provided by law for other similar proceedings before the commission and review thereof.

3. The commission may retain jurisdiction of any such cause for the purpose of making such supplemental orders in such cause as may be necessary in furtherance of the purposes of this section, or for the purpose of modifying or amending the terms of, or revoking any permit granted under, the provisions of this section for failure to comply with such rules, regulations, findings and orders made by the commission under authority of this section.

(RSMo 1939 § 5389, A.L. 1979 H.B. 186)



Missouri General Assembly

Missouri Revised Statutes

Chapter 394 Rural Electric Cooperatives Section 394.312

August 28, 1999

Territorial agreements authorized, procedure--public service commission, duties, fees may be set.

394.312. 1. Competition to provide retail electric service, as between rural electric cooperatives, electrical corporations and municipally owned utilities may be displaced by written territorial agreements, but only to the extent hereinafter provided for in this section.

2. Such territorial agreements shall specifically designate the boundaries of the electric service area of each electric service supplier subject to the agreement, 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, notwithstanding the provisions of section 394.020 and of section 394.080 to the contrary, and any and all powers granted to a municipally owned utility, pursuant to the agreement, to operate in areas beyond the corporate municipal boundaries of its municipality. Where the parties cannot agree, they may, by mutual consent of all parties involved, petition the public service commission to designate the boundaries of the electric service areas to be served by each party and such designations by the commission shall be binding on all such parties. Petitions shall be made pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity and the commission shall be required to hold evidentiary hearings on all petitions so received. The commission shall base its final determination upon a finding that the commission's designation of electric service areas is in the public interest.

3. The provisions of sections 386.310, RSMo, and 393.106, RSMo, and sections 394.160 and 394.315 to the contrary notwithstanding, 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. Applications for commission approval shall be made and notice of such filing shall be given to other electrical suppliers pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity. Unless otherwise ordered by the commission for good cause shown, the commission shall rule on such applications not later than one hundred twenty days after the application is properly filed with the secretary of the commission.

4. The commission shall hold evidentiary hearings to determine whether such territorial agreements should be approved or disapproved. The commission may approve the application if it shall after hearing determine that approval of the territorial agreement in total is not detrimental to the public interest. Review of commission decisions under this section shall be governed by the provisions of sections 386.500 to 386.550, RSMo.

5. Commission approval of any territorial agreement entered into under the provisions of this section shall in no way affect or diminish the rights and duties of any supplier not a party to the agreement or of any electrical corporation authorized by law to provide service within the boundaries designated in such territorial agreement. In the event any electrical corporation

which is not a party to the territorial agreement and which is subject to the jurisdiction, control and regulation of the commission under chapters 386, RSMo, and 393, RSMo, has heretofore sought or hereafter seeks authorization from the commission to render electric service or construct, operate and maintain electric facilities within the boundaries designated in any such territorial agreement, the commission, in making its determination regarding such requested authority, shall give no consideration or weight to the existence of any such territorial agreement and any actual rendition of retail electric service by any of the parties to such territorial agreement will not preclude the commission from granting the requested authority.

6. The commission shall have jurisdiction to entertain and hear complaints involving any commission-approved territorial agreement. Such complaints shall be brought and prosecuted in the same manner as other complaints before the commission. After hearing, if the commission determines that the territorial agreement is not in the public interest, it shall have the authority to suspend or revoke the territorial agreement. If the commission determines that the territorial agreement is still in the public interest, such territorial agreement shall remain in full force and effect. Except as provided in this section, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting, or management of any rural electric cooperative or municipally owned utility, or to amend, modify, or otherwise limit the rights of electrical suppliers to provide service as otherwise provided by law.

7. Notwithstanding the provisions of section 386.410, RSMo, the commission shall by rule set a schedule of fees based upon its costs in reviewing proposed territorial agreements for approval or disapproval. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case. The fees shall be paid to the director of revenue who shall remit such payments to the state treasurer. The state treasurer shall credit such payments to the public service commission fund, or its successor fund, as established in section 33.571, RSMo. Nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any rural electric cooperative or municipally owned utility and except as provided in this section nothing shall affect the rights, privileges or duties of rural electric cooperatives, electrical corporations or municipally owned utilities.

(L. 1988 S.B. 689, A.L. 1989 H.B. 813)

CROSS REFERENCE: Antitrust laws not applicable to territorial agreements, RSMo 416.041



Missouri General Assembly

Missouri Revised Statutes

Chapter 394 Rural Electric Cooperatives Section 394.315

August 28, 1999

Definitions--rural electric cooperative exclusive right to serve structures, exception--change of suppliers, procedure.

394.315. 1. As used in this section, the following terms mean:

(1) "Permanent service", electrical service provided through facilities which have been permanently installed on a structure and which are designed to provide electric service for the structure's anticipated needs for the indefinite future, as contrasted with facilities installed temporarily to provide electrical service during construction. Service provided temporarily shall be at the risk of the electrical supplier and shall not be determinative of the rights of the provider or recipient of permanent service;

(2) "Structure" or "structures", an agricultural, residential, commercial, industrial or other building or a mechanical installation, machinery or apparatus at which retail electric energy is being delivered through a metering device which is located on or adjacent to the structure and connected to the lines of an electrical supplier. Such terms shall include any contiguous or adjacent additions to or expansions of a particular structure. Nothing in this section shall be construed to confer any right on a rural electric cooperative to serve new structures on a particular tract of land because it was serving an existing structure on that tract.

2. Once a rural electric cooperative, 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, RSMo, 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, and the commission is hereby given jurisdiction over rural electric cooperatives 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. Except as provided herein, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any such cooperative, and except as provided in this section, nothing contained herein shall affect the rights, privileges or duties of existing cooperatives pursuant to this chapter. Nothing in this section shall be construed to make lawful any provision of service which was unlawful prior to July 11, 1991. Nothing in this section shall be construed to make unlawful the continued lawful provision of service to any structure which may have had a different supplier in the past, if such a change in supplier was lawful at the time it occurred. However, those customers who had canceled service with their previous supplier or had requested cancellation by May 1, 1991, shall be eligible to change suppliers as per previous procedures. No customer shall be allowed to change electric suppliers by disconnecting service between May 1, 1991, and July 11, 1991.

(L. 1982 H.B. 1646 § 2, A.L. 1986 H.B. 1486, A.L. 1991 S.B. 221)

Effective 7-11-91



Missouri General Assembly

EXHIBIT VWS-4

**SPECIAL CITY COUNCIL
MEETING MINUTES
TUESDAY, NOVEMBER 26, 1996**

SPECIAL CITY COUNCIL MEETING MINUTES
TUESDAY, NOVEMBER 26, 1996
ROLLA MIDDLE SCHOOL AUDITORIUM
7 P.M.

Council Members in Attendance: Ed Rothwell, Kenneth Smith, Ed Owsley, Gladys Light, Susan Eudaly, Wilton Painter, Lou Magdits, Jimmy Dale Williams, Ray Hoevelmann, Mary Daily, Robin Kordes

Council Members Absent: Mark Rolufs

Department Heads in Attendance: Public Works Director Steve Hargis, Chief of Police Mike Snavely, Finance Director Daniel Murphy, Fire Chief Keith Crowell, Parks and Recreation Director Ken Kwantes, Planning Director Bob Hosmer, Solid Waste Manager Steve Femmer

Other City Officials in Attendance: City Administrator Merle Strouse, City Counselor John Beger, Rolla Municipal Utilities General Manager Dan Watkins and City Clerk Carol Daniels

1. CONDUCT PUBLIC HEARING CONCERNING PROPOSED SOUTH SIDE ANNEXATION PLAN OF INTENT

Mayor Wax called the meeting to order and advised that this meeting has been called to conduct a public hearing concerning the proposed south-side annexation and plan of intent. Following the public hearing, Mayor Wax advised that the Council will consider an ordinance adopting the Plan of Intent.

Mayor Wax then turned the meeting over to City Administrator Merle Strouse.

City Administrator Merle Strouse explained that the reason for this public hearing is a result of a court decision from the Federal Court of the eastern district in St. Louis. This decision is a result of a similar case of annexation submitted by the City of Pacific. Apparently, the City of Pacific's Plan of Intent did not meet the criteria of the district court judge. Consequently, the City of Rolla staff revised its south-side annexation Plan of Intent in hopes of meeting the qualifications as stipulated by the Federal Judge. (Copies of the Revised Plan of Intent were provided to the individuals in attendance at the hearing).

City Administrator Merle Strouse completed an overview of the contents of the Revised Plan of Intent.

Following Mr. Strouse's review, Mayor Wax opened the public hearing to anyone wishing to address the City Council in favor of the proposed annexation.

SPECIAL CITY COUNCIL MEETING MINUTES
NOVEMBER 26, 1996
Page 2

Mayor Wax first read a letter he had received from Mr. Grady Cooper, 84 Cottonwood Drive, Rolla, Missouri. Mr. Cooper explained that he would be unable to attend the hearing. However, he wished to express his support for the annexation.

John Helm, 18 Ozark Terrace, stated that he was definitely in favor of the proposed annexation and it is very badly needed in his area. Mr. Helm told Council that on his way to this meeting, he drove through sewer water which was running across the street in his subdivision.

Harlan Payne, of the Ozark Terrace area, explained that he also has water problems on the street. Mr. Payne stressed that the residents in that area are in need of the City sewer and water. Mr. Payne also noted that the property owners will probably experience problems selling their properties because of the sewer and water problems.

Jerry Wiley, 5156 Cottonwood, located in the Parkview Addition, stated that he wished to make it the matter of record that he is in favor of the annexation. Mr. Wiley reiterated what Mr. Helm and Mr. Payne stated regarding the sewer and water problems and declining property values.

No one else present addressed Council in favor of the proposed south-side annexation.

Mayor Wax then opened the hearing to anyone wishing to address Council in opposition to the proposed south-side annexation.

Don Priest, 11890 State Route O, questioned the Mayor regarding the petition submitted approximately two years ago from those individuals opposed to the south-side annexation. Mayor Wax advised that the petition was on file at City Hall and that a copy was provided to the members of the City Council. Mr. Priest also questioned the status of the Neighborhood Improvement District.

Planning Director Bob Hosmer explained that there are two processes by which the Neighborhood Improvement District can be accomplished. The two processes are either by petition or election.

City Administrator Merle Strouse advised that the City has decided that the Neighborhood Improvement District should be decided by election rather than by petition. Mr. Strouse also added that it is constitutional to place the Neighborhood Improvement District question on the ballot.

Mr. Priest also asked if any City funds, including Rolla Municipal Utilities funds, will be used in the election campaign as well as any City employees used in the election campaign.

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Mr. Strouse responded that City employees will be available and funds will be used to enlighten the voters as to the pros and cons of the annexation. Statements will be made on what the City can do and what the City intends to do according to the Plan of Intent. Mr. Strouse added that some funds will be used to advertise the election, printing, and manpower costs. Mr. Strouse stated that he did not know exactly what would be required until the process begins. Mr. Strouse emphasized that the City will follow all of the State laws regarding this issue.

Mr. Priest concluded by stating that his other questions will be addressed in court.

Marvin Konynenbelt, 10320 Barnitz Drive, stated that he was undecided regarding the proposed annexation. Mayor Wax gave Mr. Konynenbelt an opportunity at this time to ask any questions. Mr. Konynenbelt asked what the City's policy is regarding snow removal, particularly in areas which have a considerable incline.

Public Works Director Steve Hargis stated that the City's policy is to immediately begin with salt, which contains calcium chloride liquid. Calcium chloride liquid will first be applied to the major routes in areas with inclines, and then the entire City streets will be salted. As soon as the salt has taken effect and there is sufficient material on the road to plow, usually three to four inches, the City begins plowing the major routes. The problem areas are then plowed and then the remaining parts of the City are plowed. The Street Department works two twelve-hour shifts utilizing all the City's equipment.

Mr. Konynenbelt then asked if the Line-Barnitz area will be brought up to the City's specifications, specifically in terms of septic systems.

Public Works Director Steve Hargis advised that the Line-Barnitz area will have a sanitary sewer available to them. A few homes are on a septic system collection system that is approvable through the Department of Natural Resources. The residents in that area will be asked to decide whether the present sewer system will be taken out of service or a full gravity system will be installed. If the decision is to use the present system, the residents will receive a \$1,000 credit. If the present system is replaced, the residents will pay the full price for the system.

Mr. Konynenbelt asked what the law or Department of Natural Resources regulation is regarding the capping of the wells.

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Rolla Municipal Utilities General Manager Dan Watkins explained that the capping of wells is part of a policy that Rolla Municipal Utilities (RMU) has adopted as its way of protecting well heads and the City. RMU requires that all home-type wells be capped so that there are fewer areas for the ground water to be contaminated.

Harry Harmes, Highway F, Rolla, Missouri, stated that he owns approximately 84 acres that would be split if the south-side annexation is completed. Mr. Harmes asked that he be given a better idea of where the proposed road will be constructed as it crosses Highway O to Highway 72.

Public Works Director Steve Hargis stated that there are no immediate plans to construct a road through his property.

Mr. Harmes asked that the "grandfather clause" be addressed regarding agricultural area.

Planning Director Bob Hosmer explained that agricultural property will be grandfathered in if the property is continually used for agricultural use, even though the property may be passed on to another owner.

Julian Harrison, 12165 State Route O, voiced his strong opposition to the annexation proposal. Although some subdivisions petitioned to be annexed, Mr. Harrison stated that he does not wish to be included in the annexation. The residents who currently live in the proposed annexed area of undeveloped land, have chosen to live there because they prefer living in the country. Mr. Harrison stated that he would like to continue such activities as skeet shooting, target practicing and other outdoor activities that he enjoys by living in the country. To annex this huge amount of farm land into the city, against the owners wishes, is unfair, unjust and not consistent with a democratic society. Mr. Harrison further stated that the City Council does not have anything to offer him.

Gus Mauller, owner of Mauller Cabinet Shop located on Highway 63 South, stated that he has been a board member of the Parkview Sewer District. Mr. Mauller asked what happens to the existing sewer districts if the annexation is successful.

Public Works Director Steve Hargis explained that whether or not the sewer districts remains will be the decision of the sewer district.

Mr. Mauller also asked if the City will honor the agreements made by the Sewer Districts.

Mr. Hargis stated that the City will honor the agreements.

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Mr. Mauller noted that Ozark Terrace subdivision was approximately 80% in favor of annexation. Mr. Mauller asked why the Ozark Terrace subdivision was not allowed to be annexed.

City Administrator Merle Strouse explained that unless 100% participation is received, the City must go through this type of annexation process.

Mr. Mauller concluded by stating that he is personally against the annexation and formally requested that his property be exempted from annexation.

Tom Sager, 8 Laird Avenue, began by stating that he does not propose to tell the people living south of Rolla whether they should or should not vote for annexation. Mr. Sager stated that he wished to relay some of his recent experiences with the City of Rolla as a resident and asked that his experiences be considered when deciding whether to annex or not. Mr. Sager continued by explaining that he lives in what "used to be" one of the finest neighborhoods in the City of Rolla. Mr. Sager added that last month the City approved a zoning change for one of his neighbors, from R-1 to C-3 zoning. Mr. Sager noted that C-3 is the highest level of commercial zoning and R-1 is single family dwellings. Mr. Sager went on to say that the City talks about protection, but there is very little protection when the City will put C-3 commercial property right next to single family dwellings. Mr. Sager suggested to the residents south of Rolla that they walk down Johnson Avenue from Highway 72 and look at the big fence that is being erected, and walk along the fence, which is right on the property line of a single-family residential area. Mr. Sager asked the residents to ask themselves "would you like to have that fence right on the borders of your land". Mr. Sager also alluded to some water run off problems.

Mayor Wax then opened the public hearing to anyone wishing to address Council who are undecided regarding the proposed south-side annexation.

Ralph Erwin, 10316 Forest, asked City Administrator Merle Strouse to point out where the \$4,500 figure was explained in the Plan of Intent. Public Works Director Steve Hargis stated that it was alluded to on Pages 10 and 17 of the document. Mr. Strouse further explained that \$4,500 +/- would be paid over a twenty year period by those who presently have a home on the property that receive water and sewer.

Regarding the existing lots in the some of these subdivisions that would be brought into the City sewer and water system, Ken Beasley, 10340 Line Avenue, asked if Rolla Municipal Utilities would provide electrical

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service to the new homes. Mr. Beasley also asked if the City would run an electric line for a single lot in a subdivision where there were thirty or forty other homes on Intercounty Electric.

City Administrator Merle Strouse along with Rolla Municipal Utilities General Manager Dan Watkins explained that within three years the City will run electric throughout the whole system and as new homes are constructed, they would make connections to the City's system.

Mr. Beasley also asked how much of the \$22.00 charge was water and sewer and how much is debt retirement.

Public Works Director Steve Hargis estimated that less than 50% of the \$22.00 is sewer and water charges and a little more than 50% is debt retirement.

Mr. Beasley also asked who is responsible for the closure of the lagoon system and wells at Line Barnitz and how will it be handled.

Public Works Director Steve Hargis advised that the homeowner's association that obtains the permit will be responsible for the actual closure of that facility.

Floyd Huffman, 1335 Highway 72, stated that he owns approximately 180 acres that will be affected. Mr. Huffman asked if the cost will be the same for those individuals who are not located in any of the neighborhood districts.

City Administrator Merle Strouse explained that the \$4,500 is a one-time offer for those in the four organized subdivisions. The proposal for any other properties in the annexed areas is under the same terms afforded to the residents within the City limits. Mr. Strouse added that if a property owner desires City sewer service, the property owner must petition the City and 50% will be paid by the City and 50% will be borne by the property owner. However, the property owner is responsible for 100% of the sewer costs from the property line.

Rolla Municipal Utilities General Manager Dan Watkins stated that RMU's obligation would be to provide the water to the nearest edge of the property and it is the property owner's responsibility to extend it beyond to the farthest edge of the property. Based on the Plan of Intent, it is based upon \$18.92 per foot installation costs.

Gus Mauller, owner of Mauller Cabinet Shop located on Highway 63 South, stated that currently his shop is serviced InterCounty Electric. If this area is annexed and another building is constructed near the present cabinet shop, Mr. Mauller asked what company would provide the electricity.

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Rolla Municipal Utilities General Manager Dan Watkins stated that RMU's decision is that they will not "hostilely shove" its services.

Mr. Mauller asked if the M-1 zoning classification remains if he should move his cabinet shop. City Administrator Merle Strouse advised Mr. Mauller that although he may move his cabinet business from its present location, the property would still remain M-1.

No one else present addressed Council concerning the south-side annexation issue. Mayor Wax closed the hearing at approximately 8:35 p.m.

On page 19 of the Plan of Intent Council person Magdits read the following: "Ample sales tax revenue exists to fund reconstruction of the existing streets within the proposed annexed area if the newly annexed citizens' petition." Mr. Magdits asked how to respond to the residents when they question the street maintenance schedules of existing City streets.

Public Works Director Steve Hargis explained that the citizens of the proposed south-side annexation area will have the same opportunity as any City resident. For instance, the citizens will be able to petition the City for these improvements. The City Council will ultimately determine the priority of the street improvements.

Council person Magdits also asked what approximately would be received in terms of property taxes for the south-side annexation area.

Finance Director Dan Murphy estimated approximately less than \$30,000, which includes the Library, parks and recreation and General Fund distributions.

Mr. Magdits further asked what the interest rate will be that will be used for debt amortization.

Public Works Director Steve Hargis explained that the amounts included in the Plan of Intent are the City's best estimate. The sewer portion will be financed with a low-interest loan through the Department of Natural Resources.

Council person Owsley stated that if the City is going to move ahead, progress always hurts someone. Progress takes time and it takes working together. Mr. Owsley added that he is not telling individuals how to vote. However, Mr. Owsley asked them to come to the meeting with an open mind. If Rolla was not a progressive city, it would have never gotten Briggs and Stratton or the school system. Mr. Owsley concluded by stressing that we have one of the best communities in the world.

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City Counselor John Beger read the following proposed ordinance for its first and second readings. ORDINANCE NO. 3159: AN ORDINANCE PROVIDING FOR THE EXTENSION OF THE CITY LIMITS OF THE CITY OF ROLLA, MISSOURI, BY EMBRACING AND INCLUDING UNINCORPORATED REAL PROPERTY LOCATED IN THE COUNTY OF PHELPS, STATE OF MISSOURI, LYING SOUTH OF THE PRESENT CITY LIMITS LINE OF THE CITY OF ROLLA, MISSOURI, AND HEREINAFTER PARTICULARLY DESCRIBED. A motion was made by Eudaly and seconded by Smith to suspend the rules and that the ordinance be read for its third reading. A voice vote on the motion showed unanimous approval. Motion carried.

City Counselor John Beger then read the proposed ordinance for its final reading. A motion was made by Smith and seconded by Eudaly that the ordinance pass. A roll call vote on the motion showed the following: Ayes; Smith, Williams, Daily, Rothwell, Hoevelmann, Owsley, Kordes, Light, Magdits, Eudaly, Painter. Nays; None. Absent: Rolufs. The ordinance passed.

A motion was made by Williams and seconded by Hoevelmann to adjourn the meeting. A voice vote on the motion showed unanimous approval. Motion carried.

The meeting adjourned at approximately 8:50 p.m.

Minutes submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

NOVEMBER 26, 1996

EXHIBIT VWS-5

**REVISED
PLAN OF INTENT FOR THE
SOUTH SIDE ANNEXATION**

CITY OF ROLLA

REVISED
PLAN OF INTENT FOR THE
SOUTH SIDE ANNEXATION

ROLLA CITY COUNCIL

Elwyn E. Wax, Mayor

Kenneth Smith, Ward 1
Monty Jordan, Ward 1

Ed Owsley, Ward 2
Donald Z. Barklage, Ward 2

Susan Eudaly, Ward 3
Carolyn Trundle, Ward 3

Louis Magdits, Ward 4
Mark Rolufs, Ward 4

Jim Williams, Ward 5
Brian DeFricse, Ward 5

Robin Kordes, Ward 6
Mary Daily, Ward 6

CITY OF ROLLA STAFF

John Butz, City Administrator

John Beger, City Counselor
Keith Crowell, Fire Chief
Steve Femmer, Solid Waste Director
Steve Hargis, Public Works Director
Bob Hosmer, Planning Director
Ken Kwantes, Parks and Recreation Director
Dan Murphy, Finance Director
David Pikka, Police Chief
Dan Watkins, RMU General Manager
Carol Daniels, City Clerk

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REVISED PLAN OF INTENT FOR THE PROPOSED SOUTH SIDE ANNEXATION AREA

I. Introduction

Missouri law requires that prior to annexation a report be prepared and presented at a public hearing setting forth the provision of major services presently provided by the city, a proposed time schedule for these services, the level at which the city assesses property and the rate at which it taxes that property, how the city proposes to zone the area to be annexed and when the proposed annexation will become effective. Therefore, the purpose of this Plan of Intent is to provide the citizens of Rolla and the residents of the un-incorporated area information relating to the services that the City of Rolla is proposing to provide to this area. The following events will need to occur before the City can extend its limits.

Chronology of Events

1. Adoption of the resolution of intent to annex.
2. Preparation of the plan of intent.
3. Introduction of the annexation ordinance.
4. Holding of public hearing.
5. Adoption of annexation ordinance.
6. Obtaining declaratory judgment and
7. Election.

The proposed south side annexation area is approximately 3 quarters mile in depth and 3 miles wide. The area is generally described as south of the existing City limits, north of Phelps County Road 5020, west of Highway 72 and east of US Highway 63 and the Parkview residential subdivision area. The proposed southern edge follows County Road 5020 and would extend due east from Highway 63 to Highway 72. The topography of the area is composed of gently rolling terrain. It is covered with a scattering of upland forested areas and a large amount of open land. This area is primarily in one watershed that lies on either side of the Deible Branch that divides the area. The lowest point is approximately 970 feet in elevation above mean sea level and the highest point is approximately 1,130 feet above mean sea level. This annexation would give the southern edge of the City a more uniform boundary between Highway 63 and Highway 72. The City Council of the City of Rolla, Missouri, has expressed an intent to annex the area as generally defined above.

The following information has been compiled by the principle departments of the City of Rolla, Missouri, which would be responsible for the provision of services to the newly annexed area. A series of maps accompanies and is an integral part of this report. These maps indicate the proposed City boundary extension, the proposed sanitary sewer collection system, the proposed boundary of the improvement districts, the existing streets, the proposed electrical system, the future transportation systems for Rolla, the existing land uses and the proposed zoning of the area.

II. Municipal Government Revenues and Expenditures

The Missouri state law prohibits the City of Rolla from assessing property at a higher rate than is assessed by the county assessor. Assessed valuation of property is computed at 12% for agricultural property, 19% for residential property and 33% for commercial property. The present City property tax rate is \$1.12 per \$100.00 assessed valuation. The City and County property taxes are depicted in the following chart.

1996 Property Taxes

Type of Tax	Per \$100 of Assessed Property Value
City Property Tax	\$1.12
General levy	\$0.67
Library levy	\$0.28
Park levy	\$0.17
County Tax	\$0.15
School Tax	\$3.04
State Tax	\$0.03
Road and Bridge Tax	\$0.09
Developmentally Disabled Tax	\$0.09
Total Tax	\$5.01 **

Source: City of Rolla Finance Department, 1996 ** Does not include 0.38 Commercial Surtax

The City of Rolla, like other cities, relies on taxes and or user fees to generate revenues. The largest revenue generator for the City of Rolla is the City sales tax. The City sales tax rate in 1996 was \$0.015 per each sales dollar spent in the City of Rolla. The sales tax in Rolla generated \$3,636,342 in 1996. This was a 4.2% increase over the 1995 sales tax revenue of \$3,489,501. The overall revenues and fund transfers for the City of Rolla grew by 5.2% from 1995 to 1996. The City of Rolla has increased revenues due mainly to sales tax revenues. This is attributed to the City's status as a regional trade center.

City of Rolla--Revenues and Fund Transfers for FY 1995 and FY 1996

Type of Revenue or Transfer	FY 1995	FY 1996	Percent Change
Ad valorem tax	\$473,874	\$484,243	2.19%
Gasoline tax	\$332,076	\$348,563	4.96%
Intangible tax	\$22,538	\$31,544	39.96%
City sales tax	\$2,325,675	\$2,426,595	4.34%
Transportation sales tax	\$1,163,826	\$1,209,747	3.95%
Railroad tax	\$4,808	\$6,722	39.81%
Utility franchise tax	\$303,083	\$343,194	13.23%
Motor vehicle tax	\$140,388	\$145,425	3.59%
Payment in lieu of tax	\$1,943	\$1,933	-0.51%
Mail order tax	\$200,236	\$83,985	-58.06%
Lodging tax	\$161,671	\$173,957	7.60%
Cigarette tax	\$118,921	\$129,487	8.88%
Liquor tax	\$15,280	\$20,620	34.95%
Taxes subtotal	\$5,264,319	\$5,406,015	2.69%
Occupational licenses	\$36,078	\$54,222	50.29%
Building permits	\$29,718	\$29,335	-1.29%
Other	\$19,019	\$32,475	70.75%
Licenses and Permits subtotal	\$84,815	\$116,032	36.81%
Landfill	\$14,637	\$9,600	-34.41%
Grants	\$14,379	\$27,536	91.50%
Intergovernmental Revenues subtotal	\$29,016	\$37,136	27.98%
Fire dues and assessments services	\$33,120	\$34,114	3.00%
Street services	\$86,033	\$124,968	45.26%
Cemetery income services	\$66,395	\$120,745	81.86%
Charges for Services subtotal	\$185,548	\$279,827	50.81%
City court fines	\$107,521	\$125,373	16.60%
Police training fees	\$1,506	\$2,423	60.89%
Other	\$32,000	\$0	-100.00%
Fines and forfeitures subtotal	\$141,027	\$127,796	-9.38%
Lease and rent	\$23,482	\$23,509	0.11%
Interest	\$160,879	\$164,857	2.47%
Animal shelter	\$11,144	\$1,549	-86.10%
Sale of property	\$18,051	\$50,003	177.01%
Administrative charges to other funds	\$307,095	\$317,397	3.35%
Other	\$79,037	\$132,806	68.03%
Miscellaneous subtotal	\$592,457	\$690,121	16.48%
Economic development fund	\$135,658	in general fund	--
Cemetery fund	\$15,054	\$14,980	-0.49%
Airport fund*	\$195,672	\$189,656	-3.07%
Park fund*	\$498,890	\$543,436	8.93%
Solid waste fund	\$1,724,329	\$1,588,029	-7.90%
Sanitary sewer fund	\$1,122,362	\$1,268,690	13.04%
RMU#	\$1,304,000	\$1,575,649	20.83%
Fund subtotal	\$4,995,965	\$5,180,440	-68.46%
TOTALS	\$11,293,147	\$11,837,367	-54.13%

Source: City of Rolla Finance Department, General Purpose Financial Statements Year Ended September 30, 1996, Davis, Lynn & Moots P.C., 1996. *Represents general fund transfers, as well as fund reserves.--# represents operating revenues

The annual budget for the City of Rolla is approved by the Mayor and a twelve member City Council. The fiscal year begins on October 1 of each year. It is the responsibility of the City Administrator to prepare annual budgets from each department request. The budget is then submitted to the Mayor and the City Council for final approval. Annual budgets are managed throughout the budget year by the City Council, City Administrator and the Finance Department. The fiscal year 1996 budget expenditures increased by 2.0% from the fiscal years 1995-1996 budget. The following chart is a comparison of budget expenditures between the fiscal years 1995 and 1996.

City of Rolla--Budget Expenditures for FY 1995 and FY 1996

Type of Expenditure	FY 1995	FY 1996	Percent Change
Administrative	\$732,111	\$530,741	-27.51%
City Administration	\$107,702	\$116,199	7.89%
Finance	\$384,010	\$397,687	3.56%
Legal services	\$40,587	\$39,520	-2.63%
Mayor's office	\$24,304	\$24,308	0.02%
City court	\$49,381	\$47,140	-4.54%
Police	\$1,354,233	\$1,468,220	8.42%
Fire	\$1,171,860	\$902,549	-22.98%
Buildings	\$39,348	\$38,434	-2.32%
Cemetery	\$52,147	\$53,353	2.31%
Street	\$1,020,728	\$1,221,325	19.65%
Vehicle maintenance	\$67,429	\$69,808	3.53%
Engineering	\$845,635	\$580,504	-31.35%
Code enforcement	\$123,021	\$136,058	10.60%
Planning	\$109,590	\$79,131	-27.79%
Economic development	\$1,650,585	\$200,967	-87.82%
Sewer fund	\$1,046,942	\$1,105,811	5.62%
Solid waste fund	\$1,581,161	\$1,564,802	-1.03%
Parks fund	\$491,228	\$543,183	10.58%
Airport fund	\$192,778	\$176,528	-8.43%
TOTAL	\$11,084,780.00	\$9,296,268.00	-16.13%

Source: City of Rolla Finance Department, General Purpose Financial Statements Year Ended September 30, 1996, Davis, Lynn & Moots P.C., 1996.

III. Municipal Services

The City of Rolla is classified as a third class city in the State of Missouri. The City operates under a City Administrator form of government. The City government is made up of twelve councilpersons elected for two years' terms and a mayor who is elected from the city at large for a four year term. The City is departmentalized into seven departments and the Rolla Municipal Utilities. The seven departments consist of the Finance, Fire, Parks and Recreation, Police, Planning, Public Works and Solid Waste. The City of Rolla employs approximately 188 full time employees which includes the City Administrators office and RMU. The following services are currently provided to the residents of the City of Rolla.

1. Building and Codes Enforcement

The City of Rolla has four full time employees in the Public Works Department Division of Codes Enforcement. This division is responsible for issuing building permits for new and renovated structures. Building plans are reviewed by the Codes Administrator in accordance with BOCA and National Electrical codes that includes building, mechanical, plumbing and electrical compliance. The Codes Administrator is also responsible for the enforcement of the zoning ordinance in addition to nuisance abatements.

2. Electric, Water and Street Lighting

RMU Personnel Structure

Water System:

The Rolla Municipal Utilities (RMU) is the provider and distributor of water for the City of Rolla. RMU maintains a water system comprised of 15 water wells with a total capacity of 8,500 GPM, five times the current average daily use, and 100 miles of distribution mains ranging in size from 16 inch down to 2 inch. In addition, RMU has two elevated water tanks, three standpipes ranging from 100,000 gallons to 1.65 million gallons' capacity with a total storage capacity of 4.65 million gallons. There are seven full time employees, out of a total of 44, whose primary responsibility is the operation and maintenance of the water system.

Electric System:

RMU currently has a total of 44 full time and 4 part-time employees. The RMU business office is staffed by 12 full time and 2 part-time employees and with the remaining employees working out of the service department. The remaining employees, except for the seven full time employees are responsible for the operation and maintenance of the electric distribution system. RMU maintains 101 miles of distribution lines that consist of 87.25 miles of overhead lines, 13.75 miles of underground lines and 10 substations.

Enterprise Funds

Assets	Water	Electric	Total
Cash in Bank	\$421,553.93	\$782,885.90	\$1,204,439.80
Reserves	\$1,983,475.90	\$3,683,598.10	\$5,667,074.00
Inventory	\$208,301.48	\$205,369.31	\$413,670.79
Totals	\$2,613,331.20	\$4,671,850.30	\$7,285,184.59

Source: Rolla Municipal Utilities (RMU), 1996

Timetable For Service Delivery

Within 90 days after the effective date of annexation:

Finalize the location of municipal street lights

Within 365 days after the effective date of annexation:

Substantial completion of municipal street lighting

Street Lighting:

The City of Rolla provides residential street lights at intersecting streets, at points of street curvature that might obstruct street vision, or with spacing of approximately 600 feet. The estimated cost of electricity for the operation of these lights is \$5.25 per month per light. Street lights along State Highways are spaced as required by the Missouri State Highway and Transportation Department. These lights cost \$21.00 per month per light.

Street Lighting Maintenance Fees

Location	Number of Lights	Cost
Parkview Subdivision	18 - 100W HPS	\$1,134
Ozark Terrace Subdivision	2 - 100W HPS	\$126
South Bishop Avenue	6 - 400W HPS	\$1,512
Shady Brook Drive	3 - 100W HPS	\$189
State Highway "O"	9 - 100W HPS	\$576
State Highway 72	19 - 400W HPS	\$4,788
Linc-Barnitz Subdivision	14 - 100W HPS	\$882
County Road #3050	4 - 100W HPS	\$252
South Rolla Street	6 - 100W HPS	\$378
Lion's Club Drive	6 - 100W HPS	\$378
Total	81 Lights	\$10,215

Source: Rolla Municipal Utilities (RMU), 1996

Proposed Cost of Street Lighting Installation

Location	Length	Number of Lights	Cost
Parkview Subdivision	6,416	18 - 100W HPS	\$21,040.20
Ozark Terrace	650	2 - 100W HPS	\$2,277.80
S. Bishop Avenue	3,000	6 - 400W HPS	\$24,360.00
Shady Brook Drive	1,400	3 - 100 W HPS	\$4,479.20
State Highway "O"	5,280	9 - 100W HPS	\$12,342.49
State Highway 72	6,870	19 - 400W HPS	\$58,595.00
Line-Barnitz Subdivision	9,000	14 - 100W HPS	\$27,069.60
County Rd #3050	2,000	4 - 100W HPS	\$6,305.60
So. Rolla Street	2,600	6 - 100W HPS	\$6,586.40
Lion's Club Drive	3,500	6 - 100W HPS	\$10,708.40
Totals	37,516	81 Lights	\$173,764.69

Source: Rolla Municipal Utilities (RMU), 1996

Electricity:

The Rolla Municipal Utilities is owned by the City of Rolla and provides electric service for residential and commercial customers within the City limits of Rolla. RMU is governed by the Rolla Board of Public Works, which is a four member board approved by the Rolla City Council. RMU serves approximately 7,264 customers for an average 72 customers per mile of the electric distribution system. RMU currently has a total of 44 full time and 4 part-time employees. The RMU business office is staffed by 12 full time and 2 part-time employees and with the remaining employees working out of the service department. RMU maintains 101 miles of distribution lines that consist of 87.25 miles of overhead lines, 13.75 miles of underground lines and 10 substations. RMU is a full requirement contract customer of Union Electric Company. The electricity utilized in Rolla is purchased from Union Electric. This electricity supplied by Union Electric originates at multiple sources. These sources are Union Electric's Labadie coal-fired Missouri River generating plant, the Callaway County nuclear facility or Bagnell Dam at the Lake of the Ozarks. In addition, surplus power is frequently bought and sold from other electrical facilities. Rolla's electricity needs are but a small part of Union Electric's overall system demands. The local availability of electricity will not be a limiting factor relative to future development of the proposed annexation area.

The areas within the proposed annexation that are now receiving electric service from a rural electric CO-OP would continue to do so. RMU would not be allowed to serve any of these properties. Any new development within this area would receive electric service from RMU. It is the policy of RMU to absorb the cost of any electric extension and this would continue to be the case. The proposed financing of electric extensions into the proposed annexation area is to use electric reserve funds to install any new lines.

Proprietary Enterprise Fund Departments

Water System:

The Rolla Board of Public Works is responsible for operating and supervising the electric and waterworks systems throughout the City. All improvements and extensions of the City are under their supervision. The Board is responsible for establishing the electric and water rates to be paid by consumers of electric and water services. The Board of Public Works is authorized to appoint a General Manager to manage the operation of the electric and water systems. The RMU water department consists of an operations manger, an operations foreman, a water foreman, and six (6) full-time employees. RMU also operates the only laboratory in the Rolla area that has been certified by the Missouri Department of Natural Resources for the microbiological examination of drinking water.

Rolla's water system consists of fifteen (15) operational wells, two (2) elevated tanks, three (3) standpipes ranging from 100,000 to 1.65 million gallons and two booster pumping stations. The total storage capacity of the water system is currently 4.65 million gallons of water. The wells produce a combined capacity of 12 million gallons of water per day and are operated on a 24 hour rotational cycle. All of the wells are equipped with fluoridation and chlorination treatment equipment. RMU has been approved, by the Missouri Department of Natural Resources, to be a self supervised water system.

Rolla's water system is intended and designed to serve individual households as well as high-volume commercial and industrial users. The water system must meet exacting requirements relative to flow and hydrant supply, so that the community can provide a high standard of fire protection to keep property insurance rates comparatively low.

The existing water storage facilities and mains are designed so that the future requirements indicated in the development of the annexation area will not pose a problem either with water service or fire protection.

When water mains are extended from the RMU water distribution system to serve new customers and fire hydrants, RMU will construct the extension in accordance with City of Rolla codes and RMU specifications. The total cost of the extension will be recorded by RMU and the pro-rated cost will be determined at the time the extension is made by taking the total cost of the extension less a pipe allowance applicable to the size of the main installed. The cost per foot divided by the total amount of frontage, will equal the pro-rated cost per foot of the main. All developers of new subdivisions within the annexation area will be required to install and pay for the subdivision's water main system in its entirety, less any applicable pipe allowance.

The Rolla Municipal Utilities has prepared tentative plans and cost estimates for extension of the public water system. The following is a summary of the proposed water extensions.

Parkview Subdivision

This area will be served by connecting on to an existing eight inch main located on Kent Lane and extending the main west to Parkwood Drive and then south along the westernmost street of this subdivision to Missouri Highway CC and then east to Bishop Avenue. The interior of this subdivision and that portion facing Bishop Avenue will be served with 6 inch mains. There will also be a connection to an existing 8" main extended across Bishop Avenue just north of Missouri Highway CC. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

Ozark Terrace

This subdivision will be served by extending an existing eight inch main from Lion's Club Drive south along Bishop Avenue to the southern extents of this subdivision and installing a six inch water main along Keeton Road. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

South Bishop Avenue

This area will be served by extending eight inch mains from existing mains, along both sides of Bishop Avenue south to County Road #5020. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

County Road #5020

This area will be served by the installation of a six inch water main along County Road #5020 between Bishop Avenue and Rolla Street. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

South Rolla Street

The South Rolla Street area will be served by the installation of a water main of a minimum size of six inch beginning at the existing twelve inch main at the existing City limits and continuing south to the new city limits. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

Shady Brook Drive

This subdivision will be served by the installation of a six inch water main that will connect to an existing twelve inch water main on Rolla Street. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

Highway "O"

This area will be served by the installation of a water main of a minimum size of six inch beginning at the existing eight inch main at the existing City limits and continuing south to the

new city limits. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

Line-Barnitz Subdivision

This area will be served by the installation of a twelve inch water line connecting to the existing twelve inch main at Highway 72 & Commercial Drive and extending south along Highway 72 to the new city limits, and an eight inch water main along the entire length of Phelps County Road #5110 and connect at each end to the new twelve inch main installed on Highway 72. The interior of this subdivision will be served by installing six inch water mains. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

Lion's Club Drive

This area will be served by the installation of an eight inch water main connecting to the existing eight inch main on Lion's Club Drive and extending east to connect to the existing twelve inch main on Rolla Street. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

Highway 72 - Dewing Lane to proposed City Limits

This area will be served by the installation of a twelve inch water line connecting to the new twelve inch line at the intersection of Highway 72 and County Road #3050 and extending south to the proposed new city limits. Fire hydrants will be installed at the appropriate intervals in order to better facilitate fire protection.

The entire annexation area, as indicated in the projects listed above, will have water service available and fire protection provided within the three year period.

Proposed Cost of Water Extensions

Location	Length	Unit Price	Project Cost	Anticipated Completion Date
Parkview Subdivision	11,851	\$18.93	\$224,339.43	4 months
Ozark Terrace	1,790	\$18.93	\$33,884.70	12 months
So. Bishop Ave.	6,550	\$19.11	\$125,170.50	18 months
Shady Brook Dr.	1,400	\$18.75	\$26,250.00	6 months
So. Rolla Street	2,600	\$19.11	\$49,686.00	9 months
Highway "O"	5,280	\$18.80	\$99,264.00	17 months
Line-Barnitz	13,130	\$18.93	\$248,550.90	6 months
Lion's Club Dr.	2,030	\$18.85	\$38,265.50	12 months
Co. Rd #5020	3,917	\$18.75	\$73,443.75	24 months
Highway 72	3,200	\$19.11	\$61,152.00	15 months
Total	51,748	\$18.93 Avg.	\$980,006.78	--

Source: Rolla Municipal Utilities (RMU), 1996

These anticipated completion dates are based upon final approval of the annexation. The average cost per foot for installation is \$18.93.

The initial meetings with residents in the area to be annexed were focused mainly upon four subdivisions. Those subdivisions are, Parkview, Shady Lane, Ozark Terrace and Line Barnitz/Longview with a total of 184 service connections. The estimated total cost of providing water service to these four areas is \$533,025.03. There are three methods of payment available to the customers whereby the city would be reimbursed for the cost of these water improvements. The first method would be a one time connection fee of \$2,896.88 per customer. The second would be for the city to pass the issuance of revenue bonds to cover the cost of improvement. The third and final option would be for these areas involved to form a neighborhood improvement districts. The estimated monthly cost of debt retirement to these four areas for existing residences utilizing this method would be \$22.46 per month. Any new homes in the annexation area, but outside of the subdivisions listed above, which request connection to the water system will be assessed a per lineal foot cost which will equal the average cost of connection for the above stated subdivisions.

3. Fire Protection

The Rolla Fire & Rescue will be able to respond to fires in the proposed area with two pumper/tanker apparatuses with 1000 gallons of water each. These fire apparatuses will both be equipped with a fire fighting crew with an average of ten personnel. On a second alarm, the department can bring in an additional 50 ft. pumper/ladder and a 90 ft. pumper/aerial ladder. Off-duty recalled personnel can add as much as 16 firefighters to the scene operations. Mutual aid agreements with area fire departments can increase the amount of transported water and personnel upon call. There will be no direct added cost to our operation to serve the proposed area. Response time would be between four to six minutes. Upon annexation, the area will be subject to grading by the Insurance Services Office (ISO) for proper insurance grade classification. Upon completion of the water supply system by RMU, the area will be subject to the present ISO rating, which is currently class 5.

4. Parks and Recreation

The Parks and Recreation Department oversees the operation of approximately 197 acres of park land and park facilities. The Parks Department consists of five divisions; the Park Maintenance, Cemetery, Pool, Concessions and Recreation. The Department maintains a 24-hour hotline to inform individuals of current park activities.

The Park Maintenance Division maintains over 197 acres of park land and facilities that include a 500,000 gallon Olympic-size swimming pool, eighteen rest rooms, five batting cages and four concession stands (Table 6.10). There is a total of 25 parks in Rolla, 15 that are developed and 10 that are undeveloped. The largest park in Rolla, the Ber Juan park, consists of 84.49 acres of park land on the east side of the City. The Ber Juan Park facilities during the baseball and softball season are used by over 3,000 people. The Holloway House located in the Ber Juan Park and maintained by the Parks Department was built in 1896. The house is used by the senior citizens "Achieving Better Lifestyles for the Elderly" (ABLE) program.

The staff of the Parks and Recreation Department has determined that three (3) City parks (Silverleaf, Ponzer and Maggi Place) are on the northern border or within a block of the area proposed to be annexed. There is also a large private park (Lions Club) which is available to public and adjoins the proposed annexed area. The Parks & Recreation Department also indicates that existing park sites and planned improvements should adequately serve the area. Recreation programs and facilities are open to both City residents and nonresidents with a cost difference in some instances (in pool fees and pavilion rental fees). The proposed annexation would have little impact on recreational revenues or programs.

5. Planning and Zoning

The City of Rolla Department of Planning has two full time and one part time employee. The Planning Department is responsible for reviewing rezoning requests, subdivision plats, annexations and other development requests within the City. These requests are forwarded to the Planning and Zoning Commission for recommendations to the City Council. The Planning and Zoning Commission is composed of eight voting members and two ex-officio non voting members which are the Mayor and Public Works Director. In addition, the Planning Department is also responsible for carrying out the City's long range comprehensive planning. The City of Rolla zoning codes has eleven zoning districts which consist of the following categories;

1. Rural Residential District (R-R)
2. Single Family Residential District (R-1)
3. Two Family Residential District (R-2)
4. Multi-family Residential District (R-3)
5. Office Commercial District (C-O)
6. Neighborhood Retail District (C-1)
7. General Retail District (C-2)
8. Commercial District (C-3)
9. Light Manufacturing District (M-1)
10. Heavy Manufacturing District (M-2)
11. Planned Unit Development District (PUD)

The existing land uses and the proposed zoning for the proposed annexation area are depicted in the attached map (see appendices). The proposed zoning of the land in the south side annexation area will occur by a public hearing after the effective date of the annexation. Once the land is zoned the normal process of rezoning property will take place at the owners request. There will be no added cost to the residents in the annexation area for planning and zoning services.

6. Police Protection

The Rolla Police Department would not require additional personnel or capital outlay to serve the area at the present time.

Also, we could offer the residents of that area special community policing services that are not currently available to them from other enforcement agencies in this area. These services would include Vacation Security Checks, The Neighborhood Watch Program, and various crime prevention programs and activities.

The first table (*Table 1*) reflects the population based approach which is the most widely used statistic when considering adequate police protection. The Uniform Crime Reports of 1994, published by the US Department of Justice reflects 2.1 sworn officers per 1,000 inhabitants in the Midwestern States, or a national average across the United States of 2.2 sworn officers per 1,000 inhabitants. The 1996 International City Manager Association Yearbook reflects a 1.83 sworn officer ratio per 1,000 inhabitants for cities with similar demographics as the City of Rolla. Since this data tends to be somewhat more conservative in its approach and more recent at time of this writing, the latter was used for the purpose of this report. Finally, a one percent growth factor for each year since 1990 was figured into the population of Rolla based on the 1990 US Census figure.

Table 1

Year	1990	1991	1992	1993	1994	1995	1996	*1997	1998	1999
Pop.	14,090	14,231	14,373	14,517	14,662	14,809	14,957	15,107	15,767	15,925
Cops	23	23	24	24	24	25	25	28	28	28
Ratio	1.63	1.62	1.67	1.65	1.64	1.69	1.67	1.85	1.78	1.76

Source: Rolla Police Department, 1996 *Denotes Population figures of 504 for Proposed Annexed Area

The above table is illustrative of the fact, that based on the increase of officers we received as a result of the US Crime Bill in 1996, our officers per 1,000 ratio are well within the ratio as outlined by the ICMA. Specifically, speaking we would be 7/100ths of an officer under the average.

The second chart (*Table 2*) represents information concerning Calls for Police Service for the calendar year 1995 and projected for the year 1996. Call for Service is one of the most commonly used measurements of police service. Calls for Service are wide ranging and measure all levels of service from the Rolla Police Department. This would include answering a "dog barking" type of call, and the investigation of a "homicide". We could have simply measured reported Part I Crimes (serious crime) but this would not have been indicative of our true level of service. Statistical data used for this report was taken from the Rolla Police Department 1995 Annual Report. In addition, projections were made for the 1996 calendar year based on an eight month average ending in August of 1996.

Table 2

ACTIVITY	1995	1996
Total Calls for Police Service	30,221	37,224
Call Average per Resident (14,809)	2.04	2.5
Population Increase in Proposed Annexation	NA	504
Increase in Calls due to Annexation (Projected)	NA	1,260
Average Calls per Day	82.8	101.7
Average Calls per Hour	3.45	4.2
One Call per Average Minutes	17.39 Minutes	14.3 Minutes

Source: Rolla Police Department, 1996

Finally, the third approach to the annexation was based on Available Time versus Unavailable Time. The following table reflects committed time to police service when compared to non-committed time. According to the Local Government Police-Management 2nd Edition, it states, "The general rule for uncommitted or preventative patrol should average between twenty five (25%) and thirty five (35%) of the total time allocated for patrol. The remaining sixty five (65%) to seventy five (75%) percent should be apportioned for administrative assignments and calls for service." Based on this

information the following assumptions can be made concerning uncommitted patrol time for the Rolla Police Department.

Table 3

ACTIVITY	1995	1996
Total Number of Patrol Officers	19	22
Total Available Man Hours	36,480	42,240
Total Committed Man Hours	11,539 or 32%	13,601 or 32%
Total Uncommitted Man Hours	24,941 or 68%	28,639 or 68%

Source: Rolla Police Department, 1996

This table reflects that the Rolla Police Department far exceeds the amount of necessary uncommitted time as outlined by the referenced material on the previous page. Even though the calls for service are estimated to increase by nearly 15% for calendar year 1996, with the addition of the three new patrol officers I am anticipating no reduction in Uncommitted Man Hours, thereby providing adequate patrol time to the proposed annexation.

7. Public Library

The Rolla Public Library offers free library services to all City residents at no cost. This service would be extended to the residents of the South side area upon the effective date of the annexation at no additional cost.

8. Sanitary Sewer System

The City of Rolla operates and maintains a wastewater collection and treatment enterprise utility. The operation is funded by user fees. The system consists of approximately 110 miles of sanitary sewers and 3 wastewater treatment facilities. The current total of wastewater collected and treated is 3.22 MGD. The current staffing levels would be adequate to provide sewer service to the proposed annexed area. The current available funds as of October 1, 1996 are:

Available Funds

Item	Assets
Cash in Bank	\$14,427
Reserves	\$652,759
Outstanding Reimbursable	\$230,000
Total	\$897,186

Source: Public Works Department, 1996

Over the past two decades the City of Rolla has made many improvements in both the treatment and collection facilities. The system now serves virtually all of the areas of Rolla except for areas where physical constraints such as elevation or distance to the main makes it uneconomical for the user to connect. In these cases private sewage disposal approved by the Phelps County Health Department is used.

Under current City of Rolla policy new collection mains are extended to areas on a 50-50 basis whereby the owners of the tract of land and the City of Rolla share equally in the cost of

extending service. Collection systems within the tract of land to be served are constructed at 100% of the cost by the owner of the tract.

During meetings with residents in the area proposed to be annexed four areas stood out as areas where municipal sewer service was immediately needed. Those areas are the urbanized areas of Parkview, Shady Lane/South Rolla Street, Ozark Terrace and the Lines Barnitz/Longview areas. Attached is a drawing showing the area to be served and the approximate location of the sewers to be provided (see appendices).

The total estimated cost to provide the Parkview, Shady Lane/South Rolla Street, Ozark Terrace and the Lines Barnitz/Longview areas with sewer service is \$490,300. The funds to construct the sewer system for these four areas will be used from the Sewer Fund reserves. The users will pay back the City over a 20 year period by using a combination of user and connection fees. The estimated average cost for sewer mains to these four areas is approximately \$2,346.00 per home plus an additional cost for connecting the homes to the mains which may vary. Upon successful passage or petition of the neighborhood improvement district the connection fee can be financed over a 20 year period at an estimated cost of \$220 per year.

The land uses apart from the four subdivision areas are rural with some commercial. To provide sewer service to these properties would add an estimated \$615,000. This would be financed under current policy whereby the owner and the City share equally (\$307,500) in the cost of extending sewer services to this area. The approximate location of the proposed sewer system for these additional tracts is shown on the attached drawing (see appendices).

The total up-front expense to the City of Rolla to provide service to all areas would be \$797,800. The proposed schedule for providing sewer services is to have the four urbanized areas served within two years 6 months of the effective date of the annexation and the formation of the Neighborhood Improvement District (NID). The remaining areas would be served either as the area is developed or within two years of a received petition from residents for sewer service.

9. Street Maintenance

The City of Rolla currently operates and maintains approximately 90 miles of City streets. The primary funding source for maintenance is a ½ cent transportation sales tax, which generates approximately \$1,225,000 per year. Capital improvements or street reconstruction is funded by a ½ cent capital improvement tax which also generates \$1,225,000 per year.

The City has just increased staffing in both the street and engineering departments. The increase was done to allow for more resources to be allocated in the street maintenance and reconstruction areas. Existing personnel will maintain the increase in the number of miles of streets with no needed increase in personnel or equipment.

The condition of almost all of the existing roads in the area would be classified in the fair to good range. These streets will be maintained by the City at their current standard. Chip and seals will be the primary maintenance activity that will be used. The estimated cost for maintenance is \$1,500.00/YEAR/MILE. The estimated cost to reconstruct these streets to City standard is \$320,000.00/MILE. The reconstruction of streets to City standards would be on the

basis of petition from property owners. Typical petition projects are funded on an 85% City-At-Large or operating budget and 15% property owners. Almost all of the existing roads in the area of the proposed annexation are constructed to less than urban standards without curb and gutters. Most are asphalt mat with the remainder being gravel. The approximate footage of roadways by type of construction is as follows:

Proposed Annexation Area Roads

Road	Asphalt	Gravel	Total
Shady Lane	140	500	640
Keeton Road	1,100	0	1,100
Parkwood	800	150	950
Basswood	1,700	1,150	2,850
Elmwood Drive	1,100	0	1,100
Tucker Lane	550	0	550
Maplewood Drive	300	1,000	1,300
Boxelder Drive	750	0	750
Cottonwood Drive	500	550	1,050
County Road 5010 (Rolla Street)	5,350	0	5,350
Forest Place	800	0	800
Barnitz Avenue	1,100	0	1,100
Line Avenue	1,100	0	1,100
Longview Lane	800	0	800
County Road 5110	4,300	0	4,300
County Road 5020	2,800	0	2,800
Total Linear Feet	23,190	3,350	26,540

Source: Public Works Department, 1996

Ample sales tax revenue exists to fund reconstruction of the existing streets within the proposed annexed area if the newly annexed citizens' petition. The typical time frame for petition projects is for the improvement to be completed within 2 to 3 years from when the petition is received. Petitions received after October 1st normally must wait until the following October 1st for funding and accounts for the 1 year leeway. The existing streets in the area would be maintained by City personnel after the effective date of the annexation. Any new streets in the area would be constructed to City of Rolla Subdivision Standards.

10. Solid Waste Collection and Recycling

The City of Rolla provides solid waste collection services for residential and commercial customers through the Solid Waste Department. A once a week collection service is provided to residence and commercial collection can either be collected weekly or two to five times per week. There are special collections provided to both residential and commercial customers. In the City of Rolla there are approximately 6,800 residential customers receiving solid waste collection services. Currently a crew of one driver and one worker provides a weekly service for 800 to 1,000 residence. The current monthly rate for solid waste collection is \$11.43 per month per customer. In addition to normal refuse service, the Solid Waste Department also provides curb side recycling services to City residents and a recycling center drop off site. The Department also provides free fall and spring trash pick up.

Upon the effective date of the annexation solid waste collection will be extended to all residences and businesses in conformance with Missouri state statutes' section 260.247. The private haulers now serving this area will be able to continue for a period of two (2) years after the effective date of the annexation. Revenue received from customers in the proposed annexation area will be sufficient to fund the operating expenses for the extension of solid waste services to this area.

IV. Timetable of Municipal Services

The City of Rolla can provide the proposed annexation area with normal City services. These City services will be provided after the effective date of the annexation. There are four existing subdivisions in the South side annexation proposal which are Parkview, Ozark Terrace, Shady Lane and the Line Barnitz/ Longview Subdivisions (see map). These four areas will form the boundaries of the Neighborhood Improvement District (NID) for the South side annexation. The formation of the Neighborhood Improvement District (NID) will be formed in accordance with RSMo 67.453 to 67.475. The NID will be formed by a separate election held after the successful annexation election. The Neighborhood Improvement District (NID) will form a special assessment district for the repayment of sewer and water facilities. Should the annexation pass and the NID not pass, land owner requested sewer services would be paid at a cost of 50% by the owners and 50% by the City. The cost for water would be based on a per linear foot cost. Both would be owner initiated by individual petitions or requests.

The residents outside the four subdivisions and new development will obtain sewer and water service in the same manner as other City residents. Sewer services in these areas will be obtained as requested by residents at a cost of 50% paid by the City and 50% paid by the owner. Water services will be obtained in these areas by a per linear feet cost to the customer. The City has the ability to furnish normal municipal services to the unincorporated area within a reasonable time not to exceed a three year period as mandated by RSMo. 71.015. The following services, timing and financing are described in the table below (*Timing of all services is subject to the effective date of the annexation and the Neighborhood Improvement District (NID) formation).

Timetable of Municipal Services

Service Presently Provided by City	Timing *	Financing as Presently Used in City
Building and Codes Enforcement	Immediately after effective date of annexation	City-at-large (fee supported)
Electric	Immediate for all new development	City-at-large/ RMU
Fire Hydrants	With water lines	City-at-large
Fire Protection	Immediately after effective date of annexation	City-at-large
Licensing	Immediately after effective date of annexation	City-at-large (fee supported)
Parks and Recreation	Four (4) park sites are immediately available	City-at-large
Planning	Immediately after effective date of annexation	City-at-large
Police Protection	Immediately after effective date of annexation	City-at-large
Refuse Collection	After two (2) years	City-at-large (fee supported)
Sewer Mains (NID)	Within 2 years and 6 months of formation of NID or by petition	100% Special Assessment
Sewer Mains (other)	When petitioned for by owner	50% City--50% owner
Sewer private connections (NID)	Required connection within 60 days of availability or by petition	100% property owner
Sewer private connections (other)	Required connection within 60 days of availability or by petition	100% property owner
Street Lights	Immediately after effective date of annexation	City-at-large
Street Maintenance and snow removal	Immediately, but maintenance is according to priority schedule	City-at-large
Water Mains (NID)	Within 2 years of formation of NID or by petition	100% Special Assessment
Water Mains (other)	When petitioned for by owner outside the NID	per linear foot cost
Water private connections (NID)	Required connection within 90 days of availability	100% property owner
Water private connections (other)	Required connection within 90 days of availability or by petition	100% property owner
Water wells	Required to be capped within 120 days of availability of water lines	100% property owner
Zoning	Immediately after effective date of annexation/ public hearing	City-at-large
All other City Services	Immediately after effective date of annexation	City-at-large

V. Reasonableness and Necessity of Annexation

The growth trends for the City of Rolla historically have been in a southeasterly direction. This growth trend is expected to continue. The City's growth to the north and west is hampered by physical barriers such as Interstate 44 and steep terrain. In addition, growth to the north, west and east of Rolla is hampered, to some degree, by the presence of the Phelps County Public Water Supply District #2. Land to the south and east of Rolla consists of relatively mild topography. However, these areas have poor soil conditions for sanitary septic systems. Many homes in this area have had problems with septic systems. Since the County does not have planning and zoning, there are no means for controlled growth. The proposed South side annexation is a high priority for Rolla's continued growth pattern and for the protection of the environmental quality for both the City and County residents.

Growth Occurrence:

The City of Rolla has experienced growth in every census year except between the 1910 and 1920 census. In the fifty year period from 1940 to 1990 the population of Rolla changed by +174.1% (see table). This population change is significant when compared to population changes of Phelps County, the State of Missouri and the United States all of which grew at a much slower pace during that period. The population changes that occurred between 1940 and 1990 can be attributed to increased enrollment at the University of Missouri at Rolla, rural to urban migration and annexations that occurred between 1950 to 1970.

Population Change 1940-1990

Geographic Area	1940	1990	Number Change	Percent Change
Rolla	5,141	14,090	+8,949	+174.1%
Phelps County (Including Rolla)	17,435	35,248	+17,813	+102.2%
Phelps Co. (Excluding Rolla)	12,294	21,158	+8,864	+72.1%
Missouri	3,784,664	5,117,073	+1,332,409	+35.2%
United States	131,669,275	248,709,873	+117,040,598	+88.8%

Source: City of Rolla Department of Planning, 1994 and the US Census Bureau, 1940 to 1990

The population of Phelps County in 1990 was 35,248. The Bureau of Census estimated that between 1990 and 1995 the County increased in population by 2,229 people. This is a 6.3% growth rate for a total population of 37,477 (US Bureau of Census Mo. Office of Administration). The State of Missouri only grew at approximately 4.0% during the same time span. In 1990, the population of Rolla and the three townships surrounding Rolla contained 66% of the total population of Phelps County. Therefore, if the Rolla area has maintained 66% of the total estimated 1995 population for Phelps County, the population in or around Rolla would be 24,735. Rolla and the Rolla area are experiencing and will experience continued population growth.

In 1990 the population of Rolla was 14,090. The state of Missouri State Data Center estimated that from April 1, 1990 to July 1, 1994 Rolla grew by 687 people or to 14,777 a 4.9% change in population in a four year period. If this trend continues to the year 2000 Rolla could have a population of 15,897. However, a more likely estimation of the population of Rolla for the year 2000 could be between 14,496 to 15,670 and for the year 2010 between 15,939 and 17,122 (see table). Therefore, if the average between these population projections is taken it is estimated that Rolla could be at 15,077 by the year 2000 and at 16,615 by the year 2010. These population projections did not take into consideration annexations, dramatic population changes or shifts in economic conditions.

Population Projections for the City of Rolla

Projection	2000	2010
Exponential	15,670	17,122
Modified Exponential	14,496	16,784
Step Down	15,066	15,939
Average of all three	15,077	16,615

Source: Rolla Department of Planning, 1996.

The building permits in the City of Rolla from 1985 to 1995 have increased by 138%. The largest increase during this period occurred in the areas of two family dwellings. This area changed by 900% from 1985 to 1995 (see chart).

New Construction Building Permits in Rolla from 1985 to 1995

Type	1985	1995	Percent Change
One Family Dwelling	27	65	+140.74%
Two Family Dwelling	1	10	+900.00%
Multi-Family Dwelling	6	3	-50.00%
Commercial	18	46	+155.55%
Total	52	124	+138.00%

Source: City of Rolla Public Works Department, 1996

Environmental Problems:

One of the reasons behind this annexation is health and safety problems caused by densely populated areas south of the City of Rolla. The developed area, in the proposed annexation, consists of four subdivisions which include Parkview, Ozark Terrace, Shady Lane and the Line Barnitz/ Longview Subdivisions. These four single family residential subdivisions were constructed on small lots with individual septic systems or lagoons for sewer treatment. Many of the lots in these subdivisions are ill equipped to handle treating the sewage properly. This has led to problems with drinking water and related health hazards. The proposal to annex these subdivisions and the larger undeveloped areas will ensure that future developments do not experience similar problems even though they may be developed on three acre lots.

Many of the established subdivisions in the south side annexation have unacceptable sewage collection and treatment systems. Soil in this area is composed of tightly compacted clays that do not function to absorb the effluent of sewage waste. In addition, lagoons have been cited

by the Phelps County Health Department and the Department of Natural Resources (DNR) for violations. This has led to a potential contamination of water wells as septic systems drain into fissures and then finds its way into the water aquifer. This is polluting the water for many of the wells in the area and if left unchecked could spoil the water aquifers for the City of Rolla.

Planned Growth:

The proposed annexation area is in close proximity to the developed areas that are inside the City of Rolla. This is the path of one of the major growth areas for the City (see table on population around Rolla). The 1990 population of the three townships around the City of Rolla was 9,271 (excluding the City of Rolla). The proposed annexation area is in Phelps County that does not have any mechanism to manage growth. There is no planning authority available in the County to prepare the area for long range development. Development occurs, in some cases, haphazardly. Streets, buildings and land uses are subject to no coordinated development standards.

Population Around the City of Rolla

Townships Around Rolla	Population 1990	Minus the City of Rolla	Total Pop in County Around Rolla
Rolla Township	14,625	11,991	2,634
Dillon Township	6,453	1,797	4,656
Minus part of the City of St. James	-145	--	-145
Miller Township	2,428	302	2,126
Total	23,361	14,090	9,271

Source: US Bureau of Census, 1990

This area has no major east/west road system and no right-of-ways have been established for future access to interior properties. The City has a long range transportation plan that includes an east/west connection between Highway 72 and Highway 63 (see appendices).

The south side area has no land use regulations to avoid haphazard development. The proposed annexation would greatly enhance the value of land with City services and a mechanism for controlled growth. The annexation area will benefit from the uniform application and enforcement of municipal zoning used by the City. This area will also benefit from the application and enforcement of municipal building, plumbing, mechanical and electrical codes that the area does not presently have. All these mechanisms are in place in the City and the City is capable of providing these services to the annexation area once it is annexed.

Need for Land to Develop:

The amount of undeveloped land in the City of Rolla has dwindled from 59.5% of the total land uses in 1970 to 29% of the total land uses in 1995. This is due, in part, to the growth that has occurred in Rolla over the last 15 years. In addition, Rolla has had an estimated 11.57% change in population from 1970 to 1994 (US Census Bureau, Missouri Office of Administration). Rolla is still growing and is estimated to have a population of 14,777 in 1994. The following chart depicts the land uses in the City of Rolla compared to typical cities of similar sizes.

Land Use Percentages for a Typical City and Rolla from 1970 to 1995

Land Uses	Typical City	Rolla 1970	Rolla 1995
Residential Use	30.0%	13.1%	25.0%
Industrial and railroad Use	8.0%	1.8%	3.2%
Commercial Use	4.0%	2.8%	8.2%
Institutional Use (parks, public buildings, streets & roads)	35.0%	22.8%	34.6%
Undeveloped Land (vacant or agricultural land)	23.0%	59.5%	29.0%
Total	100.0%	100.0%	100.0%

Source: Land Uses in American Cities, 1983, Rolla Planning Department, 1995, the 1976 Comprehensive Plan, and the Land Use Update, 1984.

Rolla has grown to the edge of the corporate City limits. This area is the logical growth pattern for the City to provide land for residential and commercial development. In reviewing the local realty company's listings of vacant land there was a total of 65.51 acres of vacant land for sale. Many local realty companies have expressed that there is a need for more vacant land for development in the City of Rolla.

Need For Land

	Typical City	City of Rolla		Annexation Area	
	Percent	Percent	Acres	Percent	Acres
Total Land	100%	100%	5,684.80	100%	1,352.00
1. Total Developed Land	77%	71%	4,027.35	21%	285.14
2. Total Undeveloped Land	23%	29%	1,657.45	79%	1,066.87
3. Undeveloped Land (due to environmental constraints)	--	20%	1,145.30	20%	270.00
Total of #2 minus #3 equals land available for development	--	9.0%	512.15	59%	796.87
Total land not presently available for sale	--	7.9%	446.63	--	--
Total land available for sale 10-20-96	--	1.2%	65.512	--	--
Total acres needed to sustain Rolla's growth for 2010	--	--	859.27	--	--

Source: City of Rolla Planning Department and City of Rolla Comprehensive Plan, 1996

The excess in undeveloped land is attributed to a large amount of land that is undeveloped due to environmental constraints such as flood plains, water, steep slopes and poor soils.

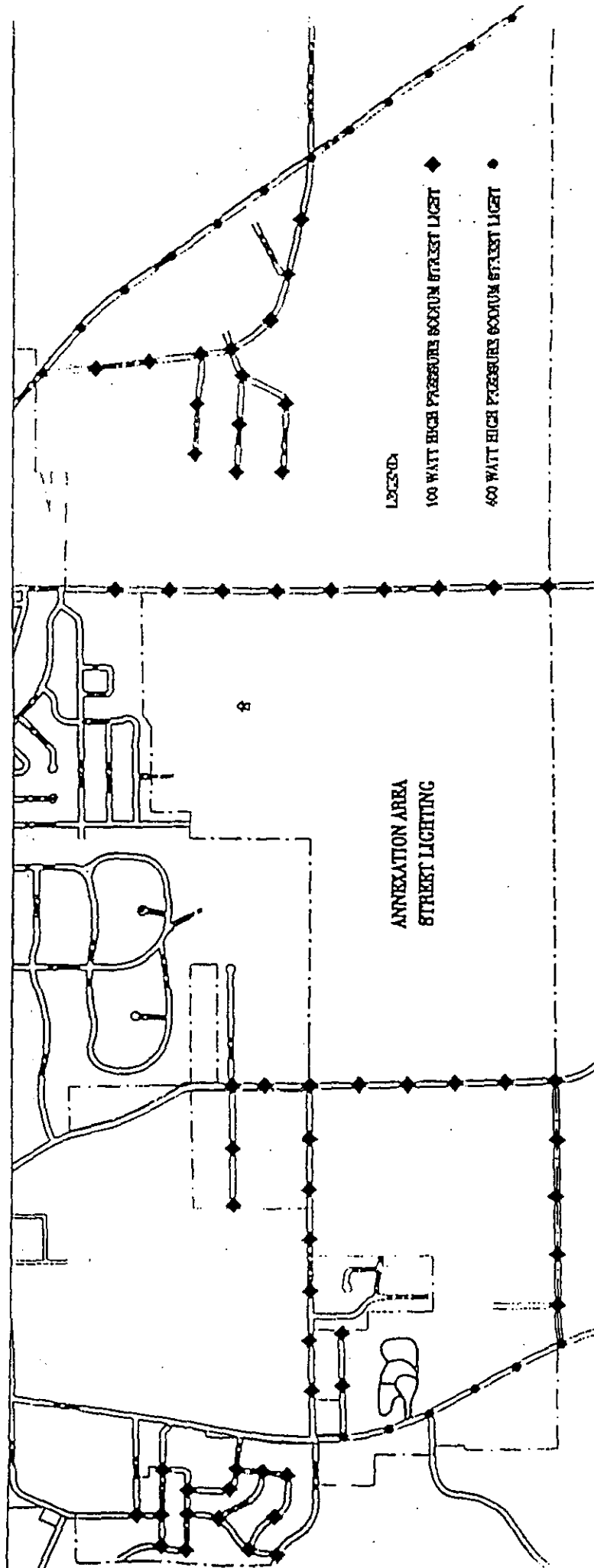
The proposed annexation, if approved by the voters, will make the City boundaries more uniform and regular and will increase the efficient distribution of City services. In addition, this annexation will protect the environmental quality for the un-incorporated area as well as the City. The City of Rolla has the ability to furnish normal municipal services to the unincorporated area within a reasonable time not to exceed a three year period as mandated by RSMo. 71.015.

VI. Effective Date of Annexation

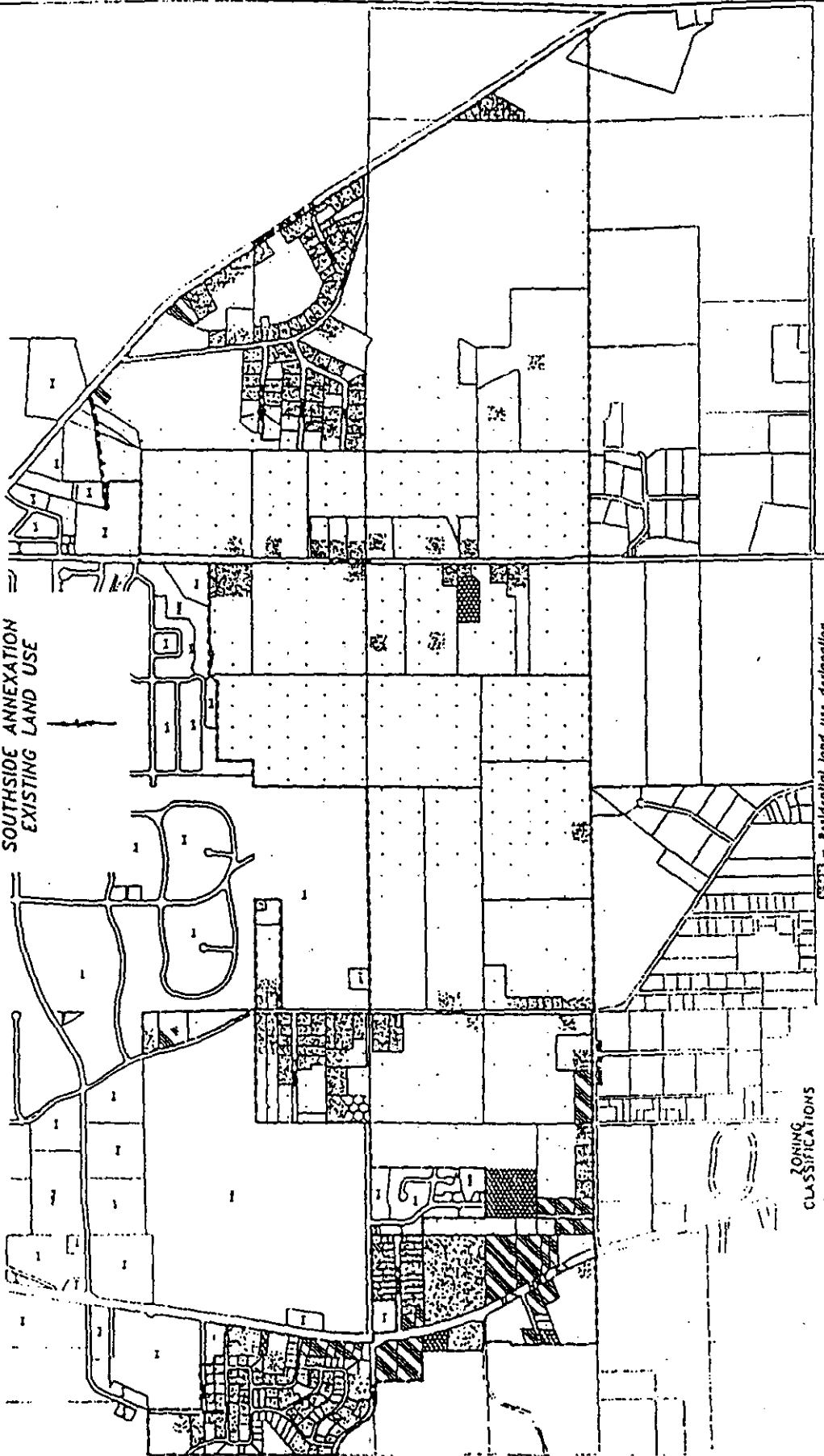
The annexation shall take effect sixty days after the approval of the annexation by the qualified voters of the City and area to be annexed as required by law.

VII. Appendices

Map of Proposed Annexation Area Lighting
Map of South side Annexation Existing Land Uses
Map of South side Annexation Proposed Zoning
Map of South side Annexation Proposed Sewer Improvements
Map of South side Annexation Existing Streets
Map of Future Transportation Plan for the City of Rolla



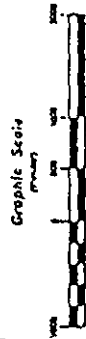
**SOUTHSIDE ANNEXATION
EXISTING LAND USE**



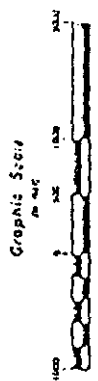
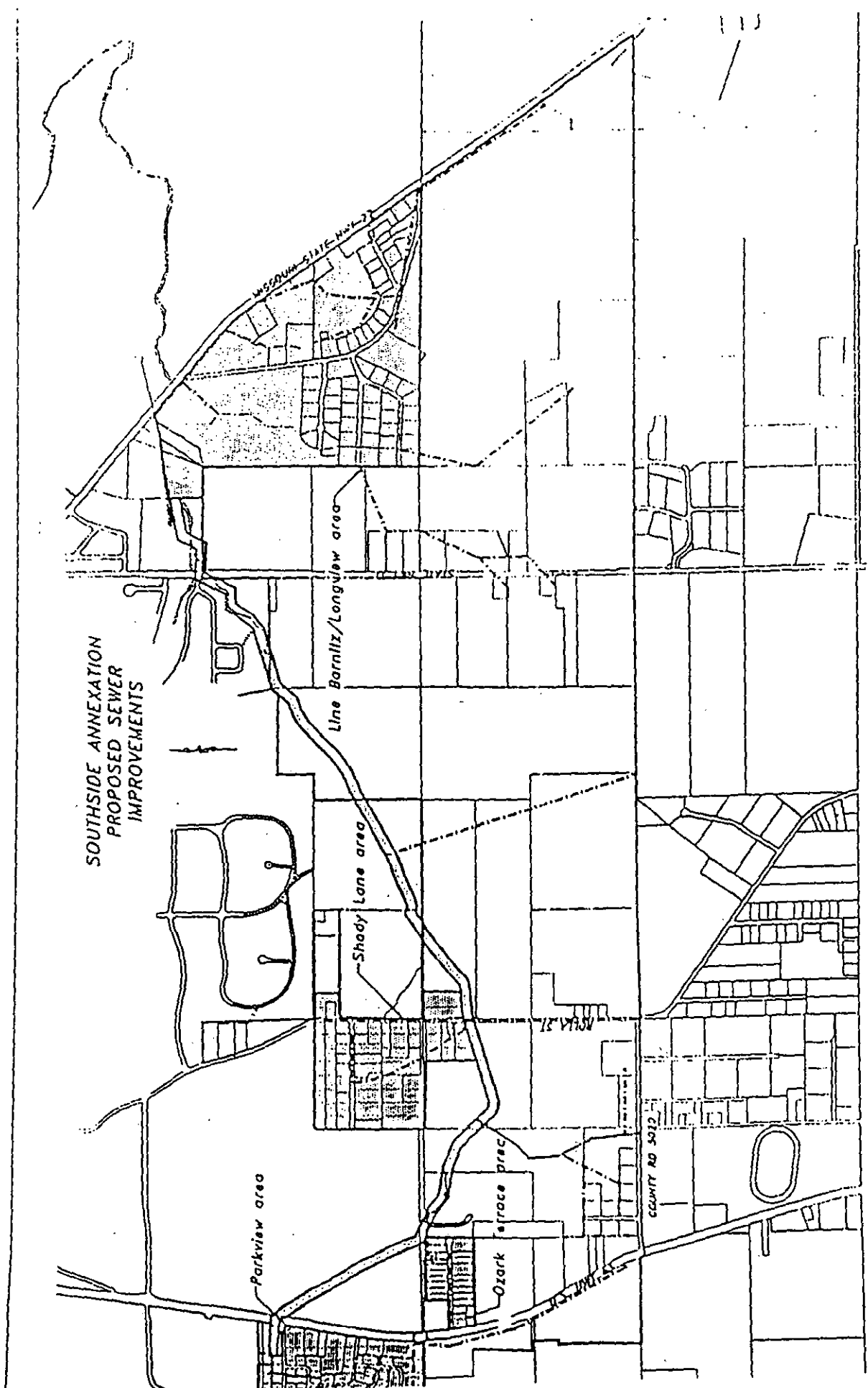
**ZONING
CLASSIFICATIONS**

- 1-1 - Single family detached
- 1-2 - Single family detached
- 1-3 - Single family detached
- 1-4 - Single family detached
- 1-5 - Single family detached
- 1-6 - Single family detached
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- 1-99 - Single family detached
- 1-100 - Single family detached

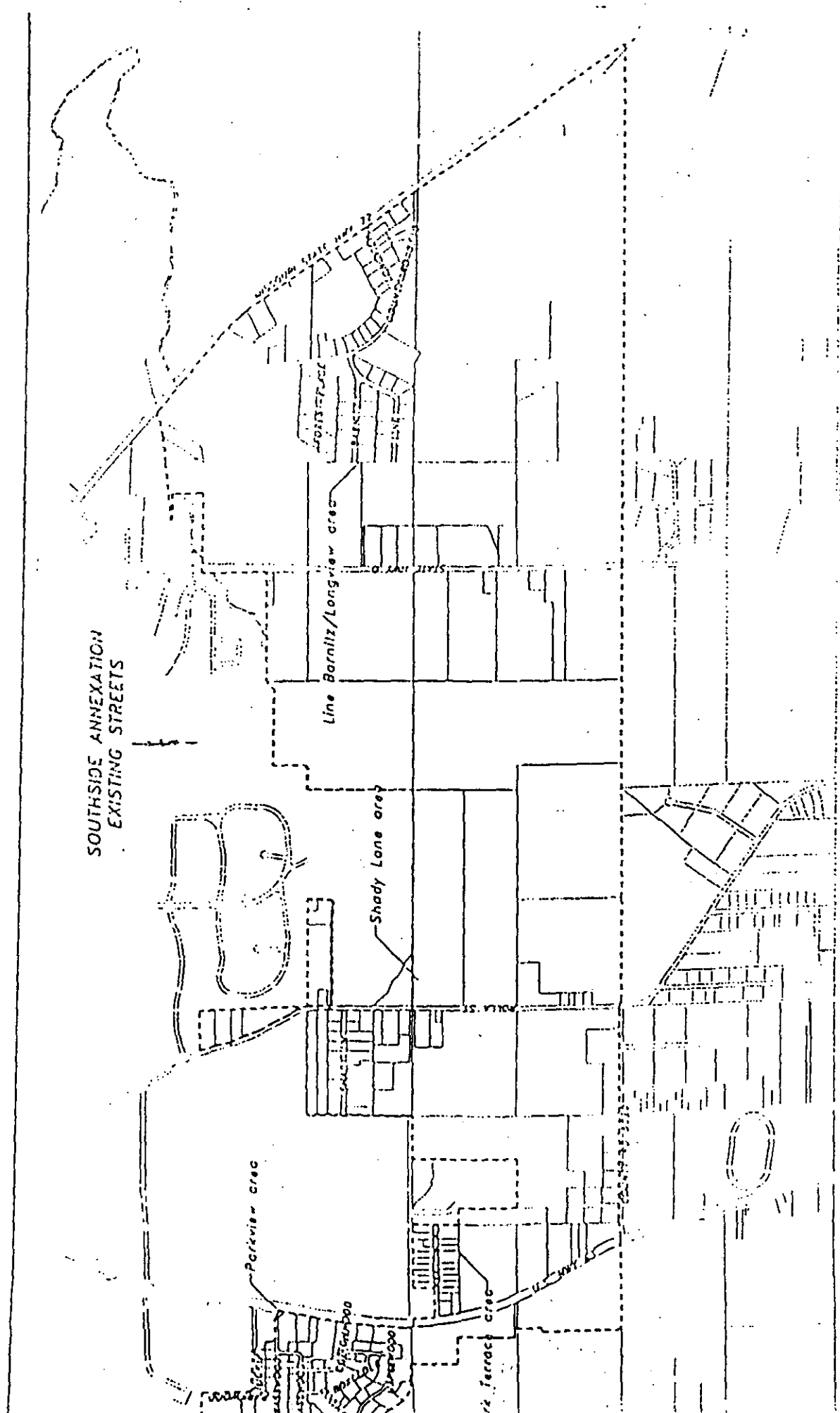
- 2-1 - Residential land use designation
- 2-2 - Commercial land use designation
- 2-3 - Manufacturing land use designation
- 2-4 - Pasture and open area



Prepared by: Thomas A. Falkenberg, City of Bala Planning Department, October 23, 1988



Prepared by: David Fennell, City of Roubidoux, Missouri, September 23, 1992



--- - Boundary of proposed annexation area

