

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

In the Matter of the Joint Application of)
Grundy Electric Cooperative and The City of)
Galt, Missouri for Approval of a Written)
Territorial Agreement Designating the)
Boundaries of each Electric Service Supplier) **Case No. EO-2022-0098**
within the City of Galt, Grundy County,)
Missouri, and Approving the Change of)
Electric Service Supplier for Customers of the)
City of Galt Municipal Electric System)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through undersigned counsel, and respectfully recommends the Commission approve the Joint Application of Grundy Electric Cooperative and The City of Galt, Missouri, for a Written Territorial Agreement and Change of Electric Service Supplier, and in support states the following:

1. The City of Galt, Missouri, and Grundy Electric Cooperative (Joint Applicants) filed a Joint Application for approval of a territorial agreement and change of electric supplier, pursuant to a contract for purchase and sale of Galt's distribution facilities to Grundy Electric Cooperative.

2. The Commission is authorized to approve written territorial agreements between municipal electric providers and rural electric cooperatives if it determines¹ that approval of the territorial agreement in total is not detrimental to the public interest. § 394.312, RSMo (2016). Additionally, the Commission is authorized to approve changes

¹ The requirement for a hearing is met if the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Pub. Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App. W.D. 1989).

of electric suppliers on a finding that it is in the public interest for a reason other than a rate differential. § 91.025, RSMo (Supp. 2021).

3. Territorial Agreements approved by the Commission are not prohibited by Missouri antitrust laws. § 416.041, RSMo (2016).

4. Attached hereto and incorporated by reference is Staff's Recommendation, in which Staff Recommends the Commission approve the Joint Application.

WHEREFORE, Staff respectfully requests the Commission issue an order approving the Joint Applicants' Joint Application for approval of a territorial agreement and for such other and further relief the Commission deems proper.

Respectfully submitted,

/s/ Curt Stokes

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**Counsel for Staff of the
Missouri Public Service Commission**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 30th day of November, 2021, to all parties and/or counsels of records.

/s/ Curt Stokes

Curt Stokes

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
File No. EO-2022-0098

FROM: David T. Buttig, PE, Professional Engineer

/s/ David T. Buttig, PE / 11-30-2021
Engineering Analysis Dept. / Date

/s/ Curtis Stokes / 11-30-2021
Staff Counsel's Office / Date

SUBJECT: Staff Memorandum Recommending Approval of Joint Application

DATE: November 30, 2021

STAFF RECOMMENDATION

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

OVERVIEW

On October 01, 2021, the Joint Applicants filed an application requesting approval of a territorial agreement, and for the order approving change of supplier, all as provided for in their Contract for Purchase and Sale of Distribution Facilities. The Joint Applicants asserted that this transfer was in the public interest as it would ensure reliable service to the citizens of Galt, Missouri. With this application, the Joint Applicants included a list of the customers that would be transferred to Grundy from Galt, a statement asserting that the City of Galt will transfer to Grundy Electric Cooperative, Inc. all electric distribution facilities, the ballot initiative illustrating an affirmative vote of the citizens of Galt, Missouri for the sale of the electric utility facilities, and a map of the service area.

On October 6, 2021, the Commission issued an *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation* in which the Commission directed its Data Center to send a copy of this order and the Joint Application to the County Commission of Grundy County, Missouri, and directed its Public Information Officer to make notice of this order to the members of the General assembly representing Grundy County, Missouri and to the county's newspapers. Also in this *Order*, the Commission established a deadline of October 22, 2021 for any party desiring to intervene in this case and also directed Staff to file its recommendation or status report by November 5, 2021, which was extended by Order to no later than December 1, 2021.

Grundy is a rural electric cooperative organized under Chapter 394 RSMo to provide electric service to its members in all or part of nine Missouri counties, including Grundy County, in which lies the area that is the subject of this Joint Application. Although the Commission has limited jurisdiction over rural electric cooperatives, Grundy is subject to the jurisdiction of the Commission in this case under Section 394.312 RSMo¹. Grundy is not required to file annual reports or pay assessment fees. Staff is not aware of any pending or final unsatisfied judgements against Grundy from any state or federal court involving customer service or rates within three years of the date of this filing. A copy of Grundy's Certificate of Good Standing from the Office of the Missouri Secretary of State was included with the Joint Application as Appendix B.

Galt is a fourth-class municipality with a municipally owned electric system that is organized in part under Chapters 79 and 91 RSMo and authorized to provide service to its customers that lie within the municipal limits of Galt, Missouri. Although the Commission has limited jurisdiction over municipal electric systems, Galt is subject to the jurisdiction of the Commission in this Case under Sections 91.025 and 394.312 RSMo. Galt is not required to file annual reports or pay assessment fees. Staff is not aware of any pending or final unsatisfied judgement against Galt from any state or federal court involving customer service or rates within the three years of the date of this filing.

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

DISCUSSION

Galt, in this Joint Application, is proposing to sell its municipal electric service system and associated equipment in seeking a new provider of electric service to its citizens of Galt. The proposed sale requires a territorial agreement be submitted to the Commission for approval in order to accomplish such a sale of assets, associated service territory, and transfer of customers. On October 1, 2021, the Joint Applicants filed their Territorial Agreement along with the required payment as specified in 20 CSR 4240-3.130(3). Attached as Appendix A to the Joint Application, this TA, entitled “Contract For Purchase and Sale of Distribution Facilities Between The City of Galt, Missouri and Grundy County Electric Cooperative, Inc.” was dated August 26, 2021. The contract contained the list of customers that would be transferred to and served by Grundy per 20 CSR 4240-3.130(1)(E). The terms of the contract indicate that Grundy would become the owner of Galt’s assets and service territory, as well as become the provider of electric service to the citizens of Galt, Missouri. 20 CSR 4240-10.105(1)(A) states, “A brief description of the property involved in the transaction, [sale of assets], including any franchises, permits, operating rights, or certificates of convenience and necessity”. Exhibit B of the contract stated “The City of Galt will transfer to Grundy Electric Cooperative, Inc. all distribution facilities, which includes: poles, conductor, transformers, and meters”. The contract references the franchise agreement between the Joint Applicants as required by the regulation. In addition, a “Bill of Sale” is also provided as Exhibit C, as required in an associated request to sell assets per 20 CSR 4240-10.105(1)(B).

Galt has been a wholesale customer of Evergy Missouri West, or one of its predecessors for many years. The joint application indicated that the wholesale power purchase agreement terminated on August 26, 2021. Prior to its termination, Galt proceeded to initiate the required ballot initiative to obtain the necessary favorable vote of its citizens in order to sell the electric utility facilities. The citizens of Galt approved the sale of Galt’s electric utility facilities in a vote on April 6, 2021. The results of this ballot measure are attached to the joint application as Appendix C. The Board of Aldermen approved the sale of the electric utility facilities to Grundy and granted a franchise to Grundy to engage in the sale, supply, and delivery of electric services within the city on July 14, 2021. Included with the joint application was the list of current

customers of Galt that would be transferred to and served by Grundy, as well as an illustrative map depicting the City of Galt's corporate boundaries.

In order to serve the customers of Galt, Grundy's right-of-way crew worked from July 26, 2021 through July 29, 2021 to prepare for the construction of a new three-phase feeder line. The new three-phase feeder line from the Osgood & Humphreys Substation to the city was started on September 14, 2021 and completed October 18, 2021. Line crews changed out all meters in the city to Grundy's meters on October 20, 2021 and worked with Evergy to transfer service to Grundy.

Grundy plans to convert the entire city from 4,160v to 7,200v. In order to accomplish this, Grundy is upgrading certain single phase lines to three phase, bringing additional three phase feeders into the city, and replacing poles, conductors, and transformers in order to facilitate the upgraded system. All work is anticipated to be done by the end of 2024. At the completion of the projects, Grundy will have three different substations that could be used to supply service to the City of Galt. Grundy states that this will enhance their ability to supply reliable service to Galt.

Although the Joint Application does not identify other service providers in the area, as required by 20 CSR 4240-3.130(1)(B), Staff notes that Evergy Missouri West, while not authorized to serve within the city limits of Galt, Missouri, is authorized to serve in Grundy County. The Joint Application includes sufficient detail in regard to 20 CSR 4240-3.130(1)(D) and 20 CSR 4240-10.105(1)(D), which requires documentation showing why the proposed Territorial Agreement, including the sale of assets, is not detrimental to the public interest.

CONCLUSION

For the reasons stated above, Staff concludes that the Commission should approve the Joint Application of Grundy and Galt for a Territorial Agreement designating Grundy as the provider of electric service within the municipal limits of Galt, Missouri. Staff concludes the Territorial Agreement is not detrimental to the public interest, pursuant to Sections 91.025, 394.312, 394.315, RSMo. It does not violate Missouri's antitrust laws under Section 416.041 RSMo. And the application is sufficient under 20 CSR 4240-2.060 and 20 CSR 4240-3.130. Therefore, Staff recommends that the Commission approve the Territorial Agreement.

