

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

In the Matter of the Joint Application of)	
The Empire District Electric Company)	
d/b/a Liberty and Southwest Electric)	<u>File No. EO-2025-0223</u>
Cooperative for Approval of Second)	
Territorial Agreement Designating)	
Boundaries of Exclusive Service Areas for)	
Each Near the City of Bolivar, Missouri)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”),
by and through counsel, and states as follows:

1. On February 14, 2025, The Empire District Electric Company d/b/a Liberty (“Empire”) and Southwest Electric Cooperative (“Southwest”) filed a joint application seeking approval of a second territorial agreement (the “Second TA”) and a waiver request of the 60-day notice requirement contained in Commission Rule 20 CSR 4240-4.017 (the “Joint Application”).

2. Also on February 14, 2025, the Commission issued its *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation*, which set a March 7, 2025, deadline for applications to intervene and which set an March 14, 2025, deadline for Staff to file a Recommendation regarding the Joint Application or a status report. On March 13, 2025, Staff submitted a *Status Report*, requesting until April 18, 2025, to file its recommendation; the Commission granted the request.

3. No applications to intervene were filed on or by March 14, 2025.

4. The Second TA would transfer the right from Empire to Southwest to serve electricity to two parcels of land that are situated entirely in the right of ways of Highways 13, 32, and 83, within the city limits of Bolivar in Polk County, Missouri.

5. In the attached Staff memorandum, marked as Appendix A, Staff recommends the Commission approve the Joint Application for the Second TA, including the waiver request of the 60-day notice requirement contained in Commission Rule 20 CSR 4240-4.017. Staff finds that Southwest providing electrical service is not detrimental to the public interest, as it would prevent a duplication of services, does not affect other territorial agreements, and is not expected to harm any current or future customers. Additionally, the three affected parties have requested that Southwest serve these parcels.

6. Staff further recommends that the Commission order Empire to file the illustrative tariff sheet contained in Appendix D of the Joint Application, updating the case number in footnote one, as compliance tariffs in this case.

WHEREFORE, Staff respectfully submits this Staff Recommendation, and recommends that the Commission issue an order approving the Joint Application, and for such other and further relief as the Commission considers just and reasonable under the circumstances.

Respectfully Submitted,

/s/ Alexandra Klaus

Alexandra Klaus

Senior Staff Counsel

Missouri Bar No. 67196

Missouri Public Service Commission

P.O. Box 360

Jefferson City, MO 65102-0360

(573) 751-9533

lexi.klaus@psc.mo.gov

Attorney for the Staff of the

Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record on this 15th day of April, 2025.

/s/ Alexandra Klaus

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
File No. EO-2025-0223

FROM: Brodrick Niemeier, Industry Analysis Division – Engineering Analysis Dept.

/s/ Brodrick Niemeier 4/15/2025
Engineering Analysis Dept. / Date

SUBJECT: Staff Memorandum Recommending Approval of the Joint Application of The Empire District Electric Company d/b/a Liberty and Southwest Electric Cooperative for Approval of Second Territorial Agreement Designating the Boundaries of Exclusive Service Areas for Each Near the City of Bolivar, Missouri

DATE: April 15, 2025

STAFF RECOMMENDATION

Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Joint Application of Empire District Electric Company, d/b/a Liberty (“Empire”) and Southwest Electric Cooperative (“Southwest”). The Joint Application includes the second Territorial Agreement (“TA”) between Empire and Southwest, and transfers the right to serve electricity to two plots of land from Empire to Southwest. The City of Bolivar desires to establish electric service to its billboards located in the plots of land subject to the second TA. The three affected parties, the City of Bolivar, Empire, and Southwest, are all in favor of the Joint Application’s approval. In addition, Staff recommends the request for waiver from the 60-day notification requirements contained in 20 CSR 4240-4.017 be approved for good cause shown as the waiver request was supported by verified declarations.

OVERVIEW

The first TA between Empire and Southwest was approved by the Commission and went into effect in September 2002.¹ On December 19, 2024, a joint application was filed by Empire and Southwest requesting an amendment to the first TA.² The amendment was withdrawn and the second TA was submitted on February 14, 2025, in the Joint Application pertaining to this case.

¹ Case No. EO-2002-1119.

² Within Case No. EO-2025-0188.

The necessary \$500.00 filing fee as required by 20 CSR 4240-3.130(3) has been paid. The second TA would transfer the right to serve electricity on two plots of land, entirely in the right of ways of Highways 13, 32, and 83 and within the city limits of Bolivar in Polk County, Missouri.

Empire is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo. Empire is current in regard to filing required annual reports and payments of its assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against Empire in any state or federal agency or court involving customer service or rates that would have bearing on the immediate case.

Southwest is a rural electric cooperative organized under Chapter 394, RSMo., to provide electric service to its members in all or parts of 11 Missouri counties, including Polk County, in which lie the two parcels that are the subject of the Joint Application. As a rural electric cooperative, Southwest is not required to file annual reports or pay assessment fees. Further, Staff is not aware of any pending or final unsatisfied judgments against Southwest from any state or federal court involving customer service or rates within three years of the date of filing this Joint Application.

DISCUSSION

A new TA was requested by Staff over amending the first TA due to the fact that the first TA explicitly stated that it covered “a portion of Greene County”.³ As the City of Bolivar is within Polk County, it is outside the geographic area of the first TA, and a second TA is required. Staff is not aware of any other TAs that exist within the City of Bolivar, and the first TA is currently the only TA between Empire and Southwest, which means no other TAs will be affected by the approval of this Joint Application for a second TA.

Parcel 1 is located southeast of Highways 13 and 83 within the highway’s rights-of-way, where the City of Bolivar desires to establish service to a pre-existing billboard that it owns.⁴ Similarly, Parcel 2 is located Northwest of Highways 13 and 32 within the highway’s rights-of-way, where the City of Bolivar desires to establish service to another billboard that it owns. Staff has included the illustrative maps in Attachment 1 and legal descriptions as

³ Case No. EO-2025-0188, Application, Appendix B.

⁴ Paragraph 4 of the Second Territorial Agreement. These billboards were also referred to as welcome signs in Case EO-2025-0188.

provided by Empire in Attachment 2. These two parcels are within the city limits of Bolivar, which is exclusively within the service territory of Empire due to it not being a “rural area” as defined by Section 394.020(3), RSMo.

The Joint Application claims that this TA would be in the public interest due to it preventing duplication of facilities. Currently, the closest Empire facilities are approximately 2,000 feet from Parcel 1 and 600 feet from Parcel 2. The closest Southwest facilities are 550 feet from Parcel 1 and 325 feet from Parcel 2. At a minimum, rejecting this Joint Application would cause an additional 1,625 feet of circuit to be required.

As both parcels are within highway right-of-ways, there are currently no customers, other than the City of Bolivar, and there are no expected future customers that would be affected by the second TA. Additionally, the City of Bolivar,⁵ Empire, and Southwest have all requested for Southwest to serve these parcels. As this second TA will have little effect on outside parties, and the three affected parties desire the Joint Application’s approval, Staff recommends the Commission approve the Joint Application.

CONCLUSION

Despite both parcels being located within a non-rural area, Southwest providing electrical service is not detrimental to the public interest, as it would prevent a duplication of services, does not affect other TAs, and is not expected to harm any current or future customers. Additionally, all three affected parties have requested that Southwest serve these parcels. As there are no other proposed changes or conditions included in this second TA, Staff recommends the Commission approve the Joint Application. In addition, Staff recommends the request for waiver from the 60-day notification requirements contained in 20 CSR 4240-4.017 be approved for good cause shown as the waiver request was supported by verified declarations.

Staff further recommends the Commission order Empire to file the illustrative tariff sheet contained in Appendix D of the Joint Application, updating the case number in footnote one, as compliance tariffs in this case.

⁵ Appendix E of the Joint Application includes an affidavit from the City of Bolivar requesting Southwest serve the parcels.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Joint Application of)
The Empire District Electric Company d/b/a)
Liberty and Southwest Electric Cooperative)
for Approval of a Second Territorial)
Agreement Designating Boundaries of)
Exclusive Service Areas for Each Near the)
City of Bolivar, Missouri)

File No. EO-2025-0223

AFFIDAVIT OF BRODRICK NIEMEIER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

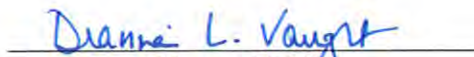
COMES NOW BRODRICK NIEMEIER, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation, in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

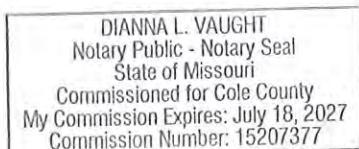
Further the Affiant sayeth not.

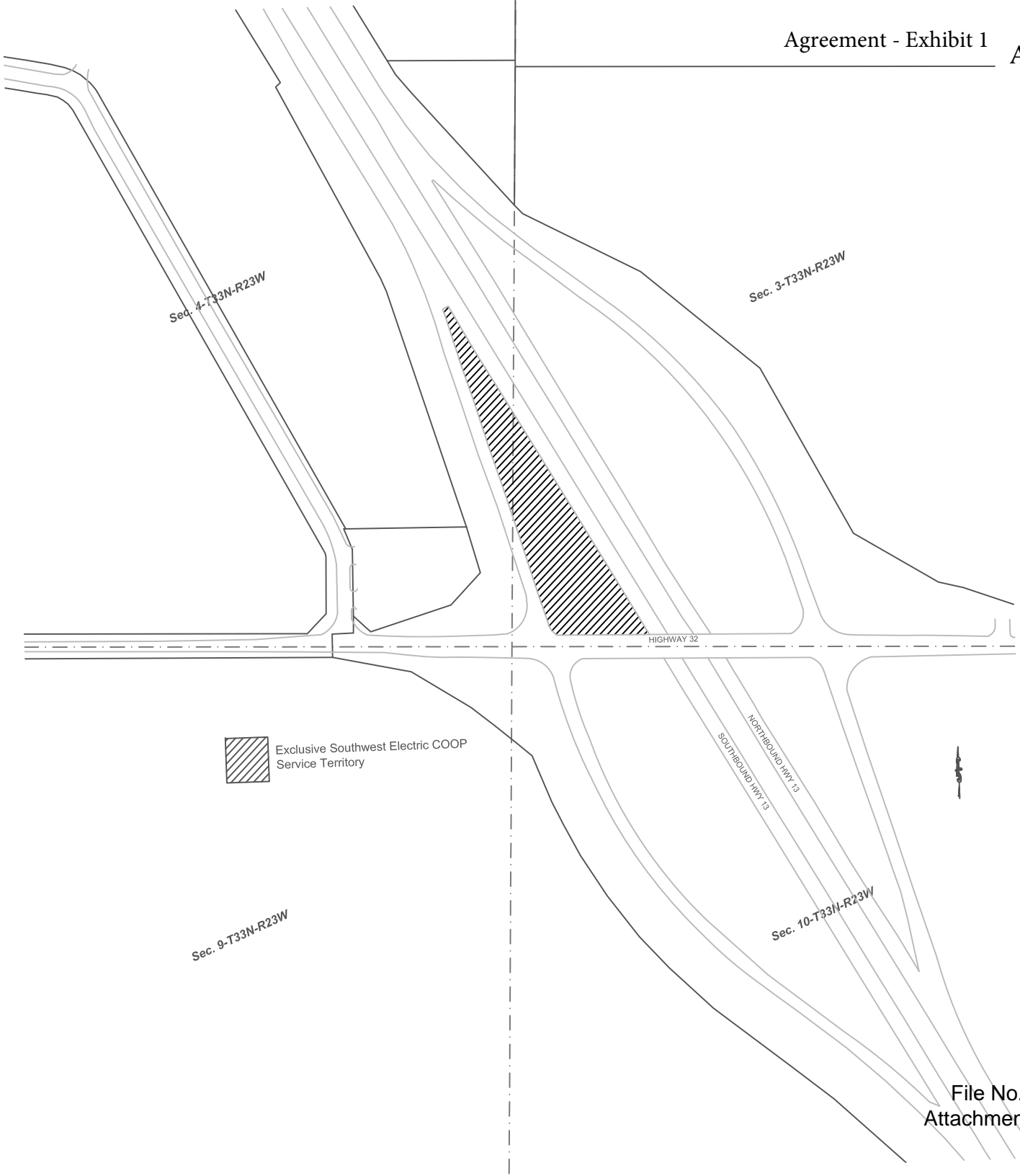

BRODRICK NIEMEIER

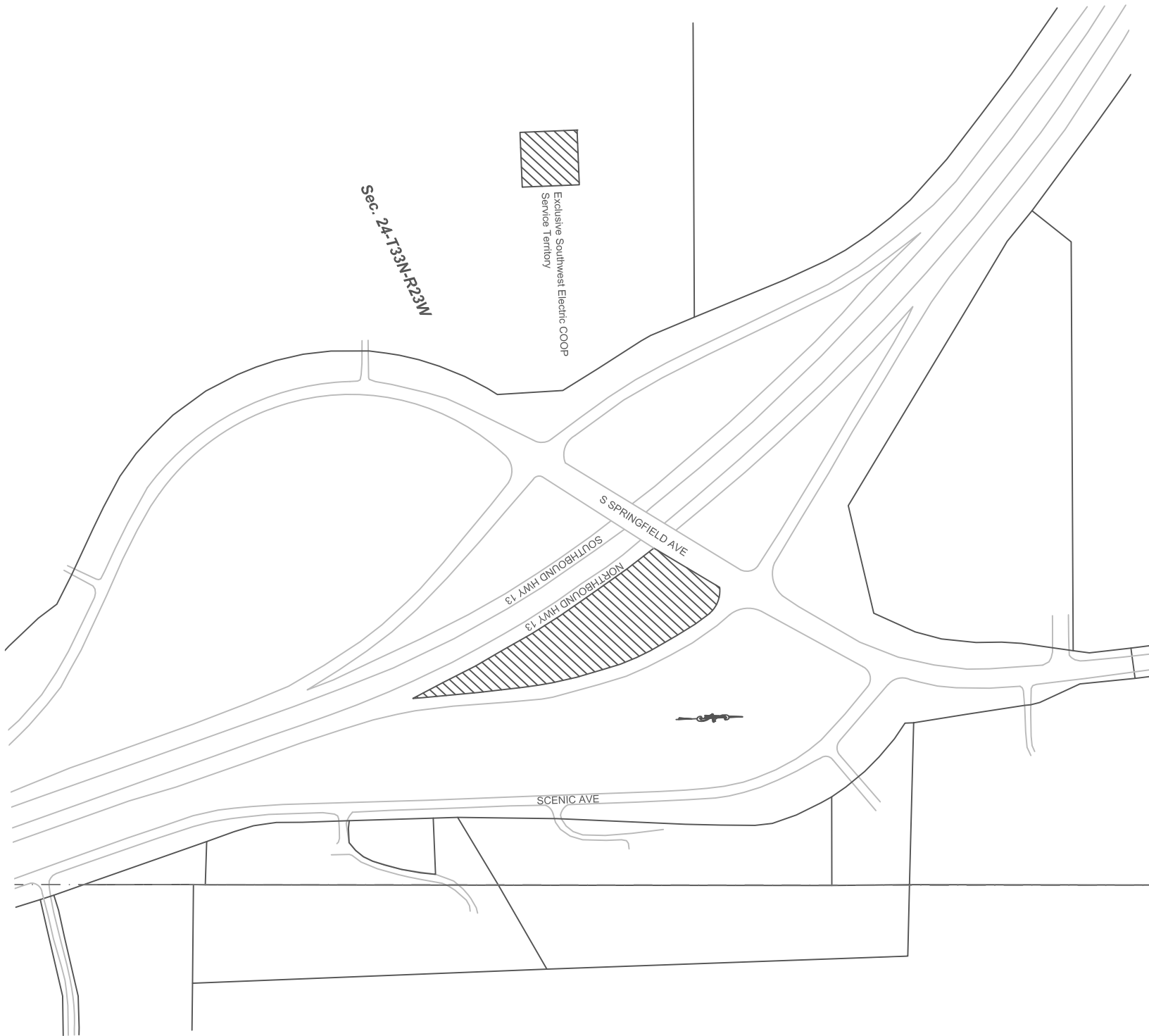
JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15th day of April 2025.


Notary Public









The Empire District Electric Company d/b/a Liberty
Case No. EO-2025-0223
Missouri Public Service Commission Data Request - 0005

Data Request Received: 2025-03-06

Response Date: 2025-03-25

Request No. 0005

Witness/Respondent: Drew Landoll

Submitted by: Brodrick Niemeier, Brodrick.Niemeier@psc.mo.gov

REQUEST:

Empire Parcel Legal Description Please provide a metes and bounds legal description of both tracts identified in the Second Territorial Agreement, under Description of Territory Affected, paragraph 1a and depicted on the maps marked as Appendix C, Exhibit 1 and Exhibit 2.

RESPONSE:

The Company is providing the following legal description based on internally utilized software to produce legal descriptions, while these are considered accurate, they are not sealed by a licensed surveyor.

Bolivar North (Highway 32 crossing)

LEGAL DESCRIPTION

Beginning at a point, said point being the POINT OF BEGINNING; thence S.30°10'56"E., a distance of 1067.58 feet; thence N.88°27'07"W., a distance of 241.42 feet; thence N.34°30'31"W., a distance of 20.99 feet; thence N.19°39'14"W., a distance of 32.14 feet; thence N.17°27'10"W., a distance of 910.56 feet to the POINT OF BEGINNING.

Containing 113,259 square feet or 2.60 acres, more or less.



Bolivar South Hwy 83 Crossing

LEGAL DESCRIPTION

Beginning at a point, said point being the POINT OF BEGINNING; thence N.29°50'08"E., a distance of 188.14 feet; thence S.78°41'24"E., a distance of 24.48 feet; thence S.65°13'29"E., a distance of 17.18 feet; thence S.60°56'43"E., a distance of 12.35 feet; thence S.53°07'48"E., a distance of 18.00 feet; thence S.36°52'12"E., a distance of 18.00 feet; thence S.37°52'30"E., a distance of 27.36 feet; thence S.33°41'24"E., a distance of 17.31 feet; thence S.30°15'23"E., a distance of 16.67 feet; thence S.30°39'02"E., a distance of 37.66 feet; thence S.28°18'03"E., a distance of 35.44 feet; thence S.27°28'28"E., a distance of 33.81 feet; thence S.22°37'12"E., a distance of 31.20 feet; thence S.22°45'04"E., a distance of 40.34 feet; thence S.18°26'06"E., a distance of 30.36 feet; thence S.15°56'43"E., a distance of 34.94 feet; thence S.14°55'53"E., a distance of 37.26 feet; thence S.11°41'22"E., a distance of 35.54 feet; thence S.11°18'36"E., a distance of 36.71 feet; thence S.06°47'20"E., a distance of 101.51 feet; thence S.05°20'44"E., a distance of 206.10 feet; thence S.08°44'46"E., a distance of 31.57 feet; thence S.11°18'36"E., a distance of 24.48 feet; thence S.12°31'44"E., a distance of 11.06 feet; thence N.24°19'52"W., a distance of 151.45 feet; thence N.27°53'50"W., a distance of 115.41 feet; thence N.29°11'09"W., a distance of 152.57 feet; thence N.33°49'50"W., a distance of 135.79 feet; thence N.35°24'11"W., a distance of 178.14 feet to the POINT OF BEGINNING.

Containing 100,806.55 square feet or 2.3142 acres, more or less.

