

McGRANN SHEA CARNIVAL STRAUGHN & LAMB, CHARTERED

ATTORNEYS AT LAW

WILLIAM R. MCGRANN  
DOUGLAS M. CARNIVAL  
PETER L. COOPER  
KATHLEEN M. LAMB  
JOHN R. SCHULZ  
BRIAN L. SOBOL  
SCOTT B. CROSSMAN

CARLA J. PEDERSEN  
JOSEPH T. BAGNOLI  
ROGER J. STELLJES  
JEFFREY C. URBAN  
KATHLEEN MICHAELA BRENNAN  
CARL S. WOSMEK  
AMY L. COURT

CHRISTY E. LAWRIE  
MATTHEW W. BUCKLEY

OF COUNSEL  
ROBERT O. STRAUGHN

RETIRED  
ANDREW J. SHEA

November 9, 2018

VIA ELECTRONIC FILING

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
350 Metro Square Building  
121 Seventh Place East  
St. Paul, MN 55101

Re: In the Matter of the Joint Request of the City of Buffalo and Wright-Hennepin Cooperative Electric Association to Update Electric Service Territory Records  
MPUC Docket: \_\_\_\_\_

Dear Mr. Wolf:

I represent the City of Buffalo, which operates a municipal utility under Minnesota law (the "City") and which is authorized, on behalf of the City and Wright-Hennepin Cooperative Electric Association (the "Cooperative") (collectively, the "Parties") to make this filing.

Summary of the Joint Request

This filing constitutes the Parties' joint request that the MPUC update the official service territory map to reflect an agreed-upon change in the Parties' electric service territory boundaries. This joint request concerns the permanent transfer of one area located within the city limits of Buffalo and within the electric service territory assigned to the Cooperative (identified as the "Transfer Area"), as further described below.

Legal Authorities

Under Minnesota Statutes, Section 216B.44(a), a municipal utility expands its assigned electric service territory, upon reaching agreement with the neighboring utility as to compensation: "Notwithstanding the provisions of sections 216B.38 to 216B.42, whenever a municipality which owns and operates an electric utility (1) extends its

corporate boundaries through annexation or consolidation, or (2) determines to extend its service territory within its existing corporate boundaries, the municipality shall thereafter furnish electric service to these areas unless the area is already receiving electric service from an electric utility, in which event, the municipality may purchase the facilities of the electric utility serving the area.” Minn. Stat. § 216B.44(a). In addition, “no electric utility shall render or extend electric service at retail within the assigned service area of another electric utility unless the electric utility consents thereto in writing . . . .” Minn. Stat. § 216B.40 (2018).

In the present case, the transfer has been completed pursuant to Section 216B.44: the City has annexed the Transfer Area; the Parties have agreed upon appropriate compensation; and the parties have agreed to the City providing service.

Minnesota Statutes, Section 216B.39, subd. 3 addresses changes to the assigned service territory map after 1975: “the commission may on its own or at the request of an electric utility make changes in the boundaries of the assigned service areas, but only after notice and hearing . . . .” By its terms, Section 216B.44(a) excludes Section 216B.39. Minn. Stat. § 216B.44(a) (“notwithstanding the provisions of sections 216B.38 to 216B.42,”). Nonetheless, the Parties acknowledge the public policy in having an accurate and updated official service territory boundary map. Accordingly, the Parties request that the Commission update its official records as to electric service territory boundaries to reflect the Parties’ permanent change in the Transfer Area.

#### Underlying Information

Attached as Exhibit A is a map and legal description that depicts the boundaries of the Transfer Area, which involves approximately 99.92 acres and zero current customers, and which is known as Greenbriar Hills.

In the event that a customer requests service before the Minnesota Public Utilities Commission has processed this mutually-requested and identified map change, the Parties have agreed in writing that the City may provide interim service to the Transfer Area, subject to certain conditions. If any customer does develop during this proceeding, then the Parties will provide notice to any customer about this proceeding and file the notice with the Commission.

The Parties have agreed to cooperate and communicate with any potential customers to ensure a smooth transition and to minimize any disruption to customers.

#### Contact Information

If there are any questions concerning this filing, you may contact the following representatives:

City of Buffalo:

Merton Auger  
City Administrator  
212 Central Avenue  
Buffalo, MN 55313  
Phone: 763-682-1181  
[merton.auger@ci.buffalo.mn.us](mailto:merton.auger@ci.buffalo.mn.us)

Wright-Hennepin Cooperative Electric  
Association:

Tim Sullivan  
President & CEO  
Wright Hennepin Cooperative  
Electric Association  
6800 Electric Drive  
P.O. Box 330  
Rockford, MN 55373-0330  
Phone: 763-477-3000  
[tsullivan@whe.org](mailto:tsullivan@whe.org)

Counsel:

Kaela Brennan  
McGrann Shea Carnival  
Straughn & Lamb, Chtd.  
800 Nicollet Mall, Suite 2600  
Minneapolis, MN 55402  
Phone: 612-338-2525  
[kmb@mcgrannshea.com](mailto:kmb@mcgrannshea.com)

Counsel:

Marc Sugden  
Pemberton, Sorlie, Rufer & Kershner, PLLP  
110 N. Mill Street  
Fergus Falls, MN 56537  
Phone: 218-736-5493  
[m.sugden@pemplaw.com](mailto:m.sugden@pemplaw.com)

Request

The Parties therefore petition the Commission to accept and file these documents and provide due acknowledgment thereof. The Parties further request that the Commission provide evidence of its acknowledgment of these changes of service territory boundaries, and the updating of the official service territory records.

Proposed Service List

A copy of this letter and the accompanying documents has been mailed or emailed to the persons on the enclosed proposed service list.

Please contact the representatives above if you have any questions.

Sincerely,



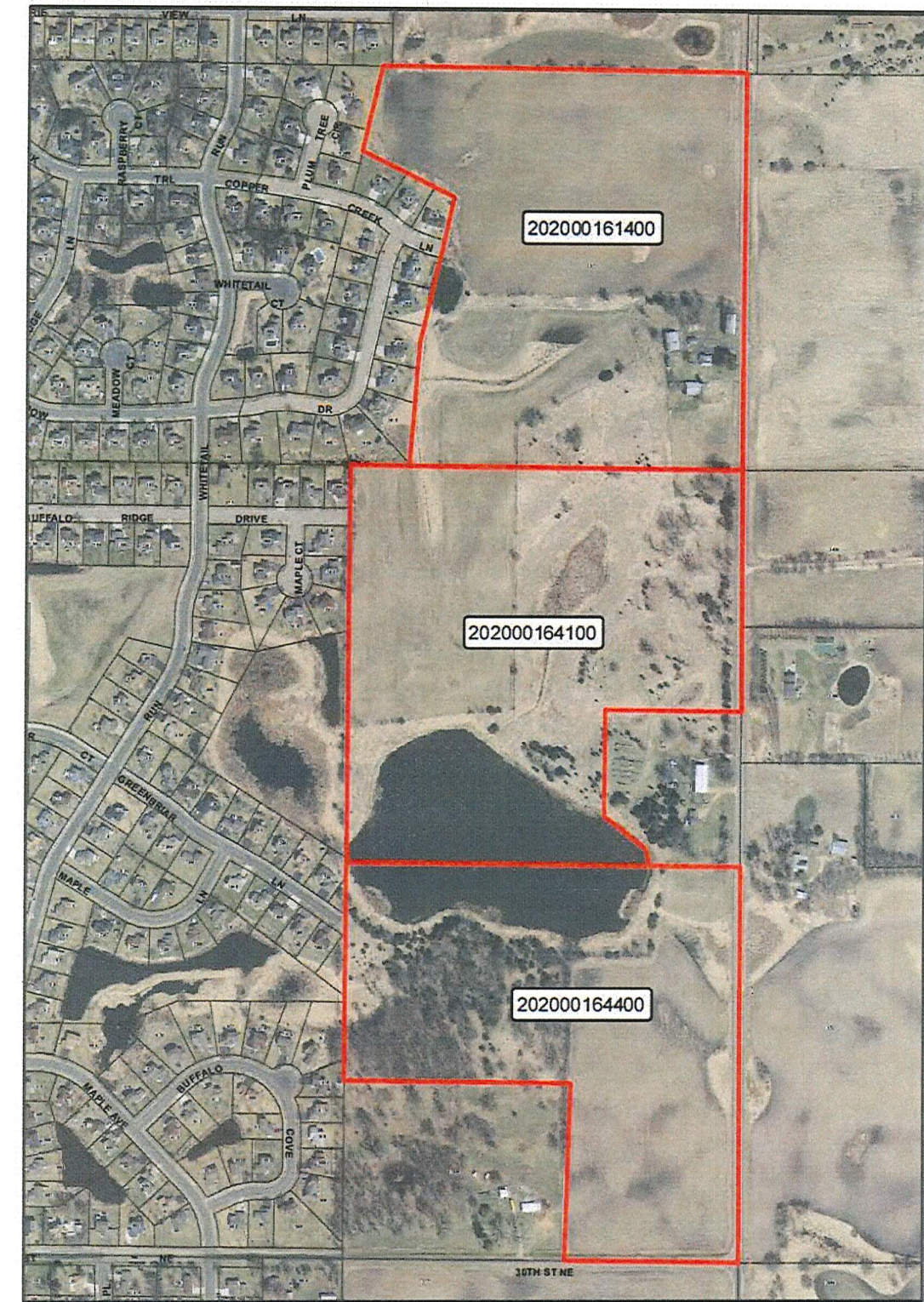
Kathleen M. Brennan

Enclosures

cc (w/encl.): Proposed Service List




## EXHIBIT A: MAP AND LEGAL DESCRIPTION



PID: 202000161400,  
202000164100 &  
202000164400

*Buffalo*  
CITY OF BUFFALO, MINNESOTA

 Subject Parcels

The South Half of Northeast Quarter; the Northeast Quarter of Southeast Quarter and the Southeast Quarter of Southeast Quarter, all in Section 16, Township 120, Range 25, Wright County, Minnesota, except therefrom the following:

Exception 1:

That part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota, described as follows: Commencing at the Southeast corner of said Section 16; thence West along the Section line 594.4 feet for a point of beginning of herein described tract; thence continuing West along said Section line 739.2 feet; thence angle right 88 degrees 20 minutes along an established fence line 590.0 feet; thence angle right 89 degrees 58 minutes 52 seconds distant 758.1 feet; thence Southerly 590.0 feet, more or less, to the point of beginning, containing 10.0 acres, more or less, subject to town road right-of-way.

Exception 2:

That part of the East Half of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota described as follows:

Commencing at the Southeast corner of the East Half of the Southeast Quarter; thence on an assumed bearing of North 0 degrees 00 minutes East a distance of 1316.81 feet to the point of beginning; thence continue North 0 degrees 00 minutes 00 seconds East along said east line a distance of 370.72 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 235.00 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 370.72 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 235.00 feet to the point of beginning. Containing 2.00 acres. Subject to Public Road Easement. Together with an easement for ingress and egress to Ordorff's Pond over a one rod strip. The said one rod strip to run Westerly along the Southerly line extended of the above described tract until such extended line reaches the said pond.

Exception 4:

The Southwest Quarter of the Northeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota.

Exception 5:

That part of the Southeast Quarter of the Northeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota, described as follows: Beginning at the northwest corner of said Southeast Quarter of the Northeast Quarter of Section 16; thence South 89 degrees 42 minutes 09 seconds East, assumed bearing, along the north line of the said Southeast Quarter of the Northeast Quarter, a distance of 95.30 feet; thence South 12 degrees 51 minutes 09 seconds West, a distance

of 290.00 feet; thence South 64 degrees 23 minutes 06 seconds East, a distance of 348.50 feet; thence South 13 degrees 14 minutes 51 seconds West, a distance of 487.32 feet; thence South 4 degrees 12 minutes 50 seconds West, a distance of 412.07 feet to the south line of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 51 minutes 01 second West along said south line, a distance of 200.00 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 0 degrees 08 minutes 03 seconds West along the west line of said Southeast Quarter of the Northeast Quarter, a distance of 1318.68 feet to the point of beginning.

Exception 6:

That part of the Northeast Quarter of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota, described as follows: Beginning at the Southeast corner of said Northeast Quarter of the Southeast Quarter; thence on an assumed bearing of North 89 degrees 24 minutes 25 seconds West, along the South line of said Northeast Quarter of the Southeast Quarter, a distance of 302.10 feet; thence North 12 degrees 22 minutes 23 seconds West, a distance of 58.37 feet; thence North 52 degrees 30 minutes 29 seconds West, a distance of 160.98 feet; thence North 68 degrees 24 minutes 07 seconds West, a distance of 11.20 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 357.55 feet; thence South 89 degrees 24 minutes 25 seconds East, a distance of 452.76 feet; to the East line of said Northeast Quarter of the Southeast Quarter; thence South 00 degrees 00 minutes 00 seconds East, along said East line, a distance of 515.11 feet to the point of beginning. EXCEPT THEREFROM:

That part of the East Half of the Southeast Quarter of Section 16, Township 120, Range 25, Wright County, Minnesota described as follows: Commencing at the Southeast corner of the East Half of the Southeast Quarter; thence on an assumed bearing of North 00 degrees 00 minutes East a distance of 1316.81 feet to the point of beginning; thence continue North 0 degrees 00 minutes 00 seconds East along said east line a distance of 370.72 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 235.00 feet; thence South 0 degrees 00 minutes 00 seconds West a distance of 370.72 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 235.00 feet to the point of beginning. Subject to public road easement. Together with an easement for ingress and egress to Ordorff's Pond over a one rod strip. The said one rod strip to run westerly along the Southerly line extended of the above described tract until such extended line reaches the said pond.



## **PROPOSED SERVICE LIST**

Re: In the Matter of the Joint Request of the City of Buffalo and Wright-Hennepin  
Cooperative Electric Association to Update Electric Service Territory Records  
MPUC Docket: \_\_\_\_\_

### Via Electronic Filing

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
350 Metro Square Building  
121 Seventh Place East  
St. Paul, MN 55101

### Via Electronic Filing

Ms. Sharon Ferguson  
MN Department of Commerce  
85 7<sup>th</sup> Place East, Suite 500  
St. Paul, MN 55101-2198

### Via Electronic Filing

Commerce Attorneys  
Office of the Attorney General-DOC  
1800 BRM Tower  
445 Minnesota Street  
St. Paul, MN 55101-2134

### Via Electronic Filing

Ian Dobson  
Office of the Attorney General-RUD  
1400 BRM Tower  
445 Minnesota Street  
St. Paul, MN 55101-2130

### Via Electronic Mail

Tim Sullivan  
President & CEO  
Wright Hennepin Cooperative  
Electric Association  
6800 Electric Drive  
P.O. Box 330  
Rockford, MN 55373-0330  
[tsullivan@whe.org](mailto:tsullivan@whe.org)  
(*Wright-Hennepin Cooperative Electric  
Association*)

### Via Electronic Mail

Marc Sugden  
Pemberton, Sorlie, Rufer & Kershner, PLLP  
110 N. Mill Street  
Fergus Falls, MN 56537  
[m.sugden@pemlaw.com](mailto:m.sugden@pemlaw.com)  
(*Wright-Hennepin Cooperative Electric  
Association*)

### Via Electronic Mail

Merton Auger  
City Administrator  
212 Central Avenue  
Buffalo, MN 55313  
[merton.auger@ci.bufflao.mn.us](mailto:merton.auger@ci.bufflao.mn.us)  
(*City of Buffalo*)

### Courtesy Copies

Ms. Kathleen M. Brennan  
McGrann Shea Carnival Straughn  
& Lamb, Chartered  
800 Nicollet Mall  
Suite 2600  
Minneapolis, MN 55402-7035  
[kmb@mcgrannshea.com](mailto:kmb@mcgrannshea.com)  
(*City of Buffalo*)