

McGRANN SHEA CARNIVAL STRAUGHN & LAMB, CHARTERED

ATTORNEYS AT LAW

WILLIAM R. MCGRANN
DOUGLAS M. CARNIVAL
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
and not not not not not

CURT N. TRISKO
OF COUNSEL
ROBERT O. STRAUGHN
PETER L. COOPER
ANDREW J. SHEA
(1938-2018)

January 24, 2020

VIA ELECTRONIC FILING

Ryan Barlow
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. Barlow:

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 an 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 Transfer Area is within the City limits; 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 depict the boundaries of the Transfer Area, which involves approximately 130 acres and approximately 57 current accounts (36 small commercial, 14 large commercial, and 7 residential).

The Parties have undertaken a thorough technical review of this transfer and are targeting a transfer of service in early March 2020. The Parties have also agreed to cooperate and communicate with customers to ensure a smooth transition and to minimize any disruption to customers.

Customer Notice

The Parties acknowledge that the Commission wishes to direct separate notice to customers as to the pending proceeding before the Commission. Attached as Exhibit B is a proposed notice to be sent to all customers in the Transfer Area.

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

Counsel:

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

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

Counsel:

Marc Sugden
Pemberton Law, P.L.L.P.
203 22nd Avenue W
Alexandria, MN 56308
Phone: 320-759-3143
m.sugden@pemplaw.com

Request

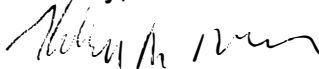
The Parties therefore petition the Commission to accept and file these documents and provide due acknowledgment thereof. The Parties further request that the Commission provide evidence of its acknowledgment of these changes of service territory boundaries, and the updating of the official service territory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

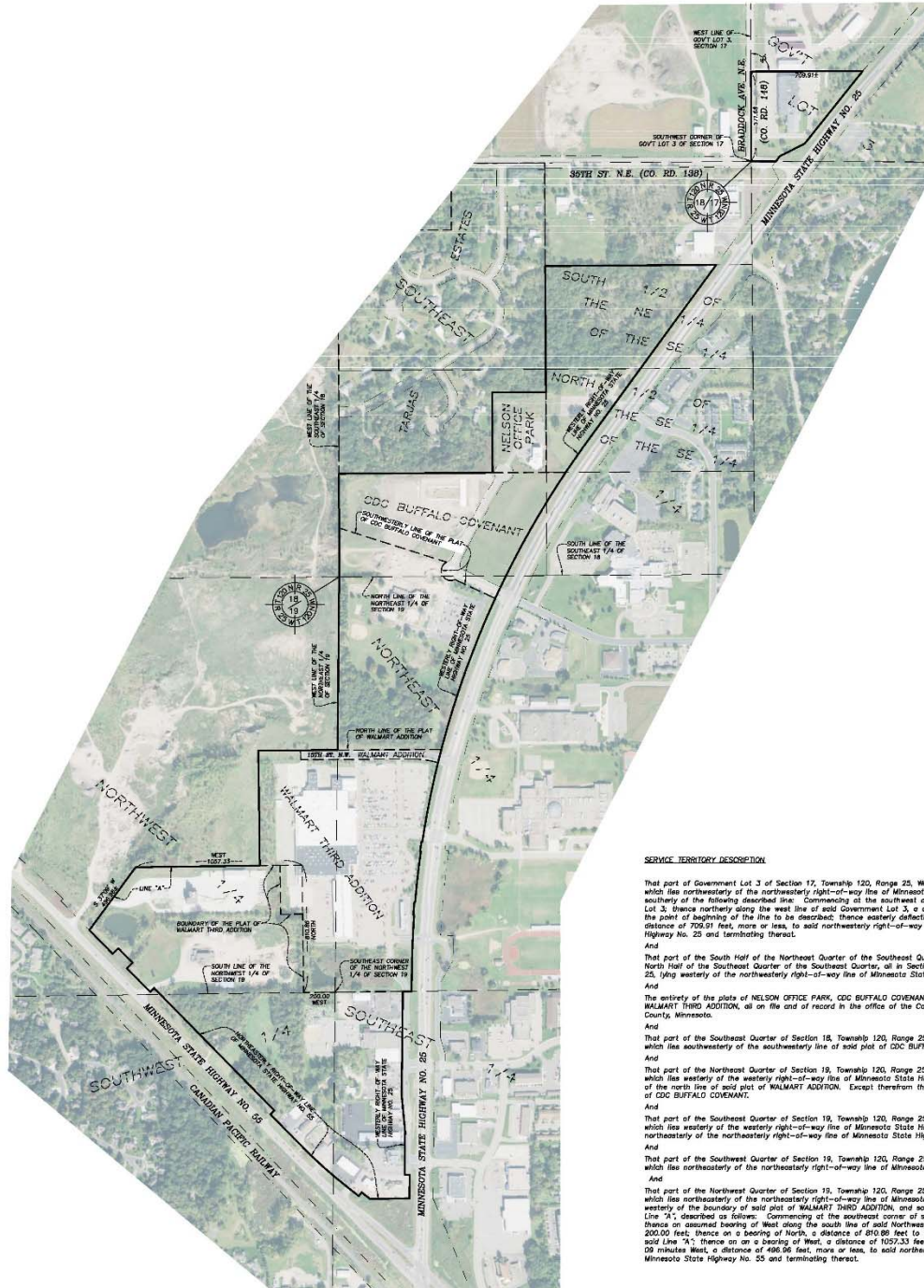
Enclosures

cc (w/encl.): Proposed Service List

EXHIBIT A

MAP AND LEGAL DESCRIPTION of TRANSFER AREA

**PROPOSED ELECTRIC SERVICE TERRITORY
FOR
CITY OF BUFFALO, MINNESOTA**



SERVICE TERRITORY DESCRIPTION

That part of Government Lot 3 of Section 17, Township 120, Range 25, Wright County, Minnesota, which lies northwesterly of the northwesterly right-of-way line of Minnesota State Highway No. 25 and southerly of the following described line: Commencing at the southeast corner of said Government Lot 3, thence northerly along the west line of said Government Lot 3, a distance of 577.66 feet to the point of beginning of the line to be described, thence westerly deflecting 80 degrees right, a distance of 709.91 feet, more or less, to said northwesterly right-of-way line of Minnesota State Highway No. 25 and terminating thereat.

And

That part of the South Half of the Northeast Quarter of the Southeast Quarter and that part of the North Half of the Southeast Quarter of the Southeast Quarter, all in Section 18, Township 120, Range 25, lying westerly of the northwesterly right-of-way line of Minnesota State Highway No. 25.

And

The entirety of the plots of NELSON OFFICE PARK, ODC BUFFALO COVENANT, WALMART ADDITION, and WALMART THIRD ADDITION, all on file and of record in the office of the County Recorder, Wright County, Minnesota.

And

That part of the Southeast Quarter of Section 18, Township 120, Range 25, Wright County, Minnesota, which lies northwesterly of the southerly line of said plot of ODC BUFFALO COVENANT.

And

That part of the Northeast Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies westerly of the westerly right-of-way line of Minnesota State Highway No. 25 and northerly of the north line of said plot of WALMART ADDITION. Except therefrom that part lying within said plot of ODC BUFFALO COVENANT.

And

That part of the Southeast Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies westerly of the westerly right-of-way line of Minnesota State Highway No. 25 and northwesterly of the northwesterly right-of-way line of Minnesota State Highway No. 55.

And

That part of the Southwest Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies northwesterly of the northwesterly right-of-way line of Minnesota State Highway No. 55.

And

That part of the Northwest Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies northwesterly of the northwesterly right-of-way line of Minnesota State Highway No. 55, westerly of the boundary of said plot of WALMART THIRD ADDITION, and southerly and southeasterly of Line "A" described as follows: Commencing at the southwest corner of said Northwest Quarter, thence on assumed bearing of West along the south line of said Northwest Quarter, a distance of 200.00 feet, thence on a bearing of North, a distance of 810.86 feet to the point of beginning of said Line "A", thence on a bearing of West, a distance of 1527.33 feet, thence South 77 degrees 09 minutes West, a distance of 496.96 feet, more or less, to said northwesterly right-of-way line of Minnesota State Highway No. 55 and terminating thereat.



0 300 600 900
GRAPHIC SCALE IN FEET

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a Licensed Land Surveyor under the laws of the State of Minnesota.
Date: 11/14/19
Abram A. Niemela
License No. 48664



REVISIONS			

Background image is 2015 orthophoto. Source is USDA-FSA Aerial Photography Field Office.

Legal Description of Transfer Area

That part of Government Lot 3 of Section 17, Township 120, Range 25, Wright County, Minnesota, which lies northwesterly of the northwesterly right-of-way line of Minnesota State Highway No. 25 and southerly of the following described line: Commencing at the southwest corner of said Government Lot 3; thence northerly along the west line of said Government Lot 3, a distance of 571.68 feet to the point of beginning of the line to be described; thence easterly deflecting 90 degrees right, a distance of 709.91 feet, more or less, to said northwesterly right-of-way line of Minnesota State Highway No. 25 and terminating thereat.

And

That part of the South Half of the Northeast Quarter of the Southeast Quarter and that part of the North Half of the Southeast Quarter of the Southeast Quarter, all in Section 18, Township 120, Range 25, lying westerly of the northwesterly right-of-way line of Minnesota State Highway No. 25.

And

The entirety of the plats of NELSON OFFICE PARK, CDC BUFFALO COVENANT, WALMART ADDITION, AND WALMART THIRD ADDITION, all on file and of record in the office of the County Recorder, Wright County, Minnesota.

And

That part of the Southeast Quarter of Section 18, Township 120, Range 25, Wright County, Minnesota, which lies southwesterly of the southwesterly line of said plat of CDC BUFFALO COVENANT.

And

That part of the Northeast Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies westerly of the westerly right-of-way line of Minnesota State Highway No. 25 and northerly of the north line of said plat of WALMART ADDITION. Except therefrom that part lying within said plat of CDC BUFFALO COVENANT.

And

That part of the Southeast Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies westerly of the westerly right-of-way line of Minnesota State Highway No. 25 and northeasterly of the northeasterly right-of-way line of Minnesota State Highway No. 55.

And

That part of the Southwest Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies northeasterly of the northeasterly right-of-way line of Minnesota State Highway No. 55.

And

That part of the Northwest Quarter of Section 19, Township 120, Range 25, Wright County, Minnesota, which lies northeasterly of the northeasterly right-of-way line of Minnesota State Highway No. 55, westerly of the boundary of said plat of WALMART THIRD ADDITION, and southerly and southeasterly of Line "A", described as follows: Commencing at the southeast corner of said Northwest Quarter; thence on assumed bearing of West along the south line of said Northwest Quarter, a distance of 200.00 feet; thence on a bearing of North, a distance of 810.86 feet to the point of beginning of said Line "A"; thence on an a bearing of West, a distance of 1057.33 feet; thence South

37 degrees 09 minutes West, a distance of 496.96 feet, more or less, to said northeasterly right-of-way line of Minnesota State Highway No. 55 and terminating thereat.

EXHIBIT B

Re: Notice of Minnesota Public Utilities Commission Proceeding
City of Buffalo & Wright-Hennepin Cooperative Electric Association
MPUC Docket No: _____.

Dear Customer:

As you may know, the City of Buffalo and Wright-Hennepin Cooperative Electric Association have reached an agreement in which the City will provide electric service to your meter(s). The utilities are working together to achieve a smooth transfer of service, with minimal disruption to customers. The transfer is expected to occur in early March 2020, and details concerning the transfer will be sent to you closer to that time.

In the meantime, the utilities are in the process of formally updating the electric service maps on file with the Minnesota Public Utilities Commission (MPUC) to reflect this change in electric service providers. This letter provides information concerning that proceeding before the MPUC.

The MPUC is a state agency with jurisdiction over electric service territory boundaries. The MPUC requires that all customers located in an area involved in a change in the service territory maps be formally notified of the proceeding in which the service territory maps will be approved. This letter provides that formal notice.

If you wish to address the MPUC concerning this change in maps, you may contact the MPUC Consumer Affairs Office at: 121 Seventh Place E., Suite 350, Saint Paul, Minnesota 55101, consumer.puc@state.mn.us, or call 651-296-0406. You should reference MPUC Docket No. _____. It is completely optional and voluntary to contact the MPUC.

The City values your business and strives to provide the highest quality service. Please contact me (763-682-1001) if you have any questions.

Sincerely,

Merton Auger
City Administrator
City of Buffalo

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

Ryan Barlow
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 7th 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

Residential Utilities Division
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
(*Wright Hennepin Cooperative Electric Association*)

Via Electronic Mail

Marc Sugden
Pemberton Law, P.L.L.P.
203 22nd Avenue W
Alexandria, MN 56308
m.sugden@pemplaw.com
(*Wright Hennepin Cooperative Electric Association*)

Via Electronic Mail

Merton Auger
City Administrator
212 Central Avenue
Buffalo, MN 55313
merton.auger@ci.buffalo.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
(*City of Buffalo*)