

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**ELECTRONIC APPLICATION OF )  
KENERGY CORP. FOR )  
AUTHORIZATION OF CHANGES )  
IN SERVICE TERRITORY WITH )  
OWENSBORO MUNICIPAL )  
UTILITIES )**

**CASE NO. 2023-00150**

**APPLICATION**

**KENERGY CORP.** (“Kenergy”), pursuant to KRS 278.018(6), 807 KAR 5:001 Section 14, and 807 KAR 5:001, Section 22, hereby applies for approval of changes in its certified service territory as agreed to with **OWENSBORO MUNICIPAL UTILITIES** (“OMU”).

1. Kenergy’s mailing address is Post Office Box 18, Henderson, KY 42419. Kenergy may be reached by electronic mail at the electronic mail addresses of its counsel set forth below.

2. Kenergy organized as a consolidation of two (2) rural electric cooperatives on June 22, 1999, and is in good standing.

3. Kenergy is a public utility as defined in KRS 278.010(3)(a), engaged in the electric business. Kenergy purchases electricity and distributes and sells electricity at retail in the following counties in Western Kentucky:

Breckinridge	Henderson	Livingston
Hancock	Union	Caldwell
Daviess	Webster	Lyon
Ohio	Hopkins	Muhlenberg
McLean	Crittenden	

4. Pursuant to 807 KAR 5:001 (Section 8), on April 28, 2023, Kenergy filed with the Commission notice of its election of the use of electronic filing procedures in this proceeding. Copies of all orders, pleadings and other communications related to this proceeding should be directed to:

J. Christopher Hopgood  
Dorsey, Gray, Norment & Hopgood  
318 Second Street  
Henderson, KY 42420  
(270) 826-3965  
[chopgood@dkgnlaw.com](mailto:chopgood@dkgnlaw.com)

Timothy Lindahl  
CEO  
Kenergy Corp.  
Post Office Box 18  
Henderson, KY 42419  
(270)  
[tlindahl@kenergycorp.com](mailto:tlindahl@kenergycorp.com)

5. Description of Changes in Service Territory:

As explained in this application and in the attached exhibits, Kenergy and OMU have individually agreed to the requested territorial change. The proposed territorial boundary changes serve the purposes of KRS 278.016 by avoiding unnecessary encumbrance of the landscape, promotes the orderly development of retail electric device and minimizes disputes between retail electric suppliers.

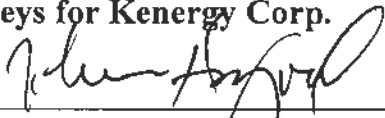
Big Rivers Electric Corporation (BREC), Kenergy's supplier of wholesale electricity, has acquired real property in western Owensboro and desires to construct an operations center at the site. The site is in OMU's territory. Kenergy desires to serve BREC and OMU has agreed to exchange territory with Kenergy to allow Kenergy to serve BREC.

The territorial maps and other attachments provided constitute the entire agreement between Kenergy and OMU.

6. Agreement and Maps: Application "Exhibit 1" of this filing includes the summary list identifying Kenergy and OMU personnel familiar with the specifics of the facilities available, the reason for the change and purposes served under KRS 278.016, and copies of the territorial (Quadrant) map, detailed site map, and agreement signed by both parties for the properties involved.

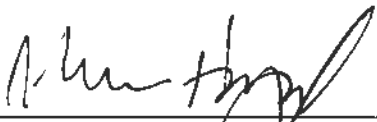
**WHEREFORE**, Kenergy requests, pursuant to KRS 278.018, that the Commission enter an order approving the updates to the Quadrant Map to reflect the current requested service territory change and the agreement between Kenergy and OMU.

**DORSEY, GRAY, NORMENT & HOPGOOD**  
318 Second Street  
Henderson, KY 42420  
Telephone (270) 826-3965  
Telefax (270) 826-6672  
Attorneys for Kenergy Corp.

By   
\_\_\_\_\_  
**J. Christopher Hopgood**  
**chopgood@dkgnlaw.com**

**CERTIFICATE OF COMPLIANCE**

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Kenergy Corp's May 9, 2023, electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on May 9, 2023; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that the original is held by the applicant pursuant to Commission orders.

  
\_\_\_\_\_  
J. Christopher Hopgood  
counsel for Kenergy Corp.

# **EXHIBIT 1**

## **TERRITORIAL CHANGE INFORMATION, AGREEMENT & MAPS**

**TERRITORIAL CHANGE INFORMATION**

Affected Property: 57.043 acres on Industrial Drive to Kenergy; 52.509 acres at 2070 Tamarack Road; and 11.45 acres at Daniels Lane to OMU

Foreign utility: OMU

Quadrant Map: \_\_\_\_\_

Agreement Date : \_\_\_\_\_

1.  Utilities signed copy of quadrant (Key) map showing revised territorial line with a note referencing the property//customer, and date of the territorial agreement.
2.  Utilities signed copy of site map (Plat) and/or territorial agreement showing original and revised territorial boundary.

The map must include coordinates accurate to within 3 meters for at least **four** points on the territorial line. It is preferable that these points include the beginning and ending points of the change. We also must provide the coordinate system used; This will be utilizing Global Positioning System (GPS) with the coordinates based upon WGS84.

3.  Copies of all written agreements (1 needed - not original).
4. Name of employee who would serve as Kenergy's witness if a hearing is required: Tim Lindahl
5. Name and mailing address of the foreign utility, and the name and title of their official who is to receive the Commission stamped quadrant Map:

Tim Lyons  
OMU  
2070 Tamarack Road  
Owensboro, KY 42301  
(270) 926-3200

6. The reason(s) for the boundary change (realignment with lot/property liens, closest utility - [give details], it is the least cost of providing service to the customer(s), etc.): Kenergy's desire to serve Big Rivers Electric Corporation's new facility.
7. How does this boundary change promote the purposes of KRS 278.016? (check all that apply)  
 Promotes the orderly development of retail electric service  
 Avoids wasteful duplication of facilities  
 Avoids unnecessary encumbering of the landscape  
 Prevents waste of materials and natural resources  
 Is necessary for the public convenience and necessity  
 Minimizes disputes between retail electric suppliers which may result in inconvenience, diminished efficiency, and higher cost to the consumer
8. Will any retail customer change electric supplier as the result of this boundary change?  
 No

## FIRST AMENDMENT TO TERRITORIAL AGREEMENT

This First Amendment (“Amendment”) to the Territorial Agreement between the Parties dated the 19<sup>th</sup> day of November, 2015 (“Agreement”) is made and entered into this 20 day of April, 2023, by and between the CITY UTILITY COMMISSION OF THE CITY OF OWENSBORO, KENTUCKY d/b/a/ OWENSBORO MUNICIPAL UTILITIES (“OMU”), a public body politic and corporate organized under the statutes of Kentucky and ordinances of the City of Owensboro, Kentucky, and KENERGY CORP. (“KENERGY”), an electric cooperative corporation organized under the statutes of Kentucky (collectively, the “Parties,” and each and individually a “Party”).

### WITNESSETH:

WHEREAS, the Parties previously established a service territory boundary (“Service Boundary”) in their Agreement defining the service territory in which each Party would have the exclusive right to provide electric service to customers; and

WHEREAS, Big Rivers Electric Corporation (“BREC”), desires to operate a facility that will be located within OMU’s Service Boundary and Kenergy desires to provide electrical service to the subject facility; and

WHEREAS, OMU is willing to permit Kenergy to add the area that will contain the new facility that is now within OMU’s Service Boundary to Kenergy’s Service Boundary in exchange for the inclusion within OMU’s Service Boundary of certain parcels of land that are now within the Kenergy Service Boundary;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, undertakings and agreements of the Parties in this Amendment, they contract and agree with each other as follows:

1. Kenergy may include within its Service Boundary and provide retail electric service to a tract of land containing approximately 57.043 acres lying on the proposed extension of Industrial Drive, presently located within OMU’s Service Boundary, and shown on the plat attached hereto as Exhibit A-1. OMU may include within its Service Boundary and provide retail electric service to the tract of land containing approximately 52.589 acres lying adjacent to the OMU Customer Service Center at 2070 Tamarack Rd. and adjacent to the US 60 Bypass, presently located within Kenergy’s Service Boundary, and shown on the plat attached hereto as Exhibit A-2, and the tract of land, presently located within Kenergy’s Service Boundary, containing approximately 11.45 acres, known as 1485 Daniels Lane, and shown on the plat attached hereto as Exhibit A-3. Each of the above-referenced plats being incorporated herein. The referenced tracts are also shown on the maps of the amended Service Boundary attached hereto and incorporated here in as Exhibit B and Exhibit C.
2. As of the Effective Date of this Amendment (defined below), and during the term of the Agreement, the Parties agree to abide by the amended service territory boundary as the Service Boundary between them, as identified on the maps attached hereto and incorporated herein by reference.

3. Following execution of this Amendment by the Parties, KENERGY shall file with and seek approval of this Agreement from the Public Service Commission of the Commonwealth of Kentucky ("PSC") and any other jurisdictional regulatory entities that may require such filing and/or approval, ("Regulatory Approvals"). OMU agrees to cooperate with KENERGY in obtaining any necessary Regulatory Approvals.
4. This Amendment to the Agreement shall be effective from the date of its execution (the "Effective Date"), and for so long as each Party provides service to the subject properties.
5. Each Party agrees that during the Term of the Agreement, neither shall offer or provide electric service to any present or prospective electric consuming facility located within the Service Boundary of the other Party, as defined herein. Each Party further agrees to provide adequate electric service to any present or prospective electric consuming facility located within its Service Boundary, as defined in this Agreement and Amendment, including service to any consumer which would have been the obligation of the other Party, but for this Agreement.
6. KENERGY waives any rights (including but not limited to those arising under KRS 96.538 or any other applicable state or federal law) to provide retail electric service outside the boundaries of its Service Territory, as defined herein with respect to OMU, during the term of this Agreement, unless both Parties mutually agree, in writing, to alter the Service Boundary described herein and shown on the Exhibits hereto.

OMU waives any rights (including but not limited to those arising under KRS 96.538 or any other applicable state or federal law) to provide retail electric service outside the boundaries of its Service Territory, as defined herein with respect to KENERGY, during the term of this agreement, unless both Parties mutually agree, in writing, to alter the Service Boundary described herein and shown on the Exhibits hereto.

7. The Parties acknowledge and agree that entering into this Amendment to the Agreement whereby they voluntarily establish new service boundaries, shall in no way be construed as either Party acquiescing to competition within its respective service territory.

The Parties further acknowledge and agree that this Amendment to the Agreement pertains only to the Service Boundary between the Parties, and the Agreement shall have no effect on KENERGY'S service territory boundaries certified by the PSC as they relate to any other utility.

8. Each Party hereby represents and warrants that it: (i) has the right and authority to enter this Amendment, subject to any required Regulatory Approvals; and (ii) has the right and authority to undertake and perform each of the obligations and waivers set forth herein.
9. This Amendment is contingent upon approval by the PSC of BREC'S financing application and a Certificate of Public Convenience and Necessity for construction of buildings owned by BREC to be constructed on the subject 57.043 acres out of PVA Map 047-00-00-003-00-000 and approval, if necessary, of this Agreement.



This Agreement is also contingent upon the approval of Big Rivers Electric Corp. and its grant of the easement to OMU described in this Agreement.

10. Kenergy acknowledges and understands that OMU wishes to avoid any conflict with or overbuild of OMU's existing or future electric facilities that might occur as a result of Kenergy's provision of electric service to the new service area that it is receiving under this Amendment. Kenergy agrees that it will construct and maintain its line to serve the new service area by running its line underground from its facilities located on the north side of Henderson Road (formerly US Highway 60) and on the east side of Lakewood Drive along the north side of Henderson Road to a point opposite the west side of GRADD Way, then in a southerly direction under and across Henderson Road to the 57.043 acre tract comprising Kenergy's new service area. Kenergy agrees that OMU shall have the right to run its underground lines across the 57.043 acre tract along the proposed extension of Industrial Drive either within an easement to be granted to OMU for that purpose or within any Public Utility Easements along the extension of Industrial Drive to 5<sup>th</sup> St. Road . Kenergy and OMU agree to coordinate their placement of facilities in any area where the lines of Kenergy and OMU cross or are likely to cross. Electric service to facilities in the new Kenergy service area and any replacement shall be placed and remain both underground and in the location specified herein as the sole means to serve facilities located on the new service area, unless otherwise expressly agreed in writing by OMU.
11. This Agreement will inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.
12. Except as expressly modified herein, the Agreement shall remain in full force and effect.

IN TESTIMONY WHEREOF, the Parties hereto have executed this Amendment in multiple counterparts, the City Utility Commission of the City of Owensboro, Kentucky acting pursuant to its resolution adopted on the 20 day of April, 2023, and Kenergy Corp. acting pursuant to the resolution of its Board of Directors adopted on the 14th day of March, 2023.

CITY UTILITY COMMISSION OF THE  
CITY OF OWENSBORO, KENTUCKY

  
Chairman

ATTEST:

  
Secretary

COMMONWEALTH OF KENTUCKY )  
 ) ss:  
COUNTY OF Daviess )

The foregoing instrument was acknowledged before me this 20 day of April, 2023, by Paul Martin and Dr. Tom Maddox, Chairman and Secretary of the City Utility Commission of the City of Owensboro, Kentucky d/b/a Owensboro Municipal Utilities, a Commission organized under the statues of Kentucky and ordinances of the City of Owensboro, Kentucky, on behalf of the Commission.

My commission expires: 12-2-25.

Brittany M. Crabtree  
Notary Public

KENERGY CORP.

[Signature]  
President & CEO

ATTEST:

[Signature]  
Secretary

COMMONWEALTH OF KENTUCKY )  
 ) ss:  
COUNTY OF Daviess )

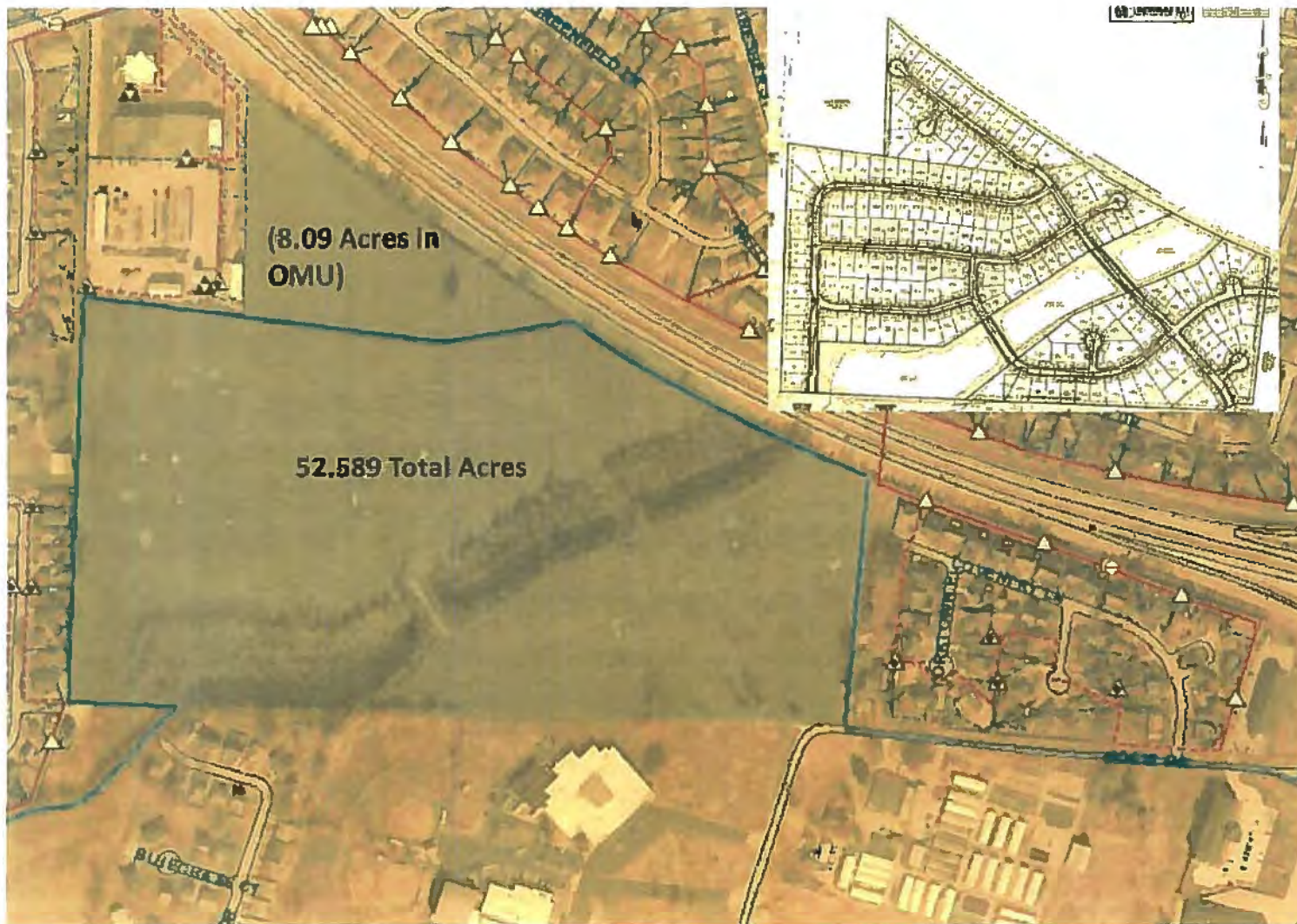
The foregoing instrument was acknowledged before me this 14th day of March, 2023, by Timothy Lindahl, and Debra Hayden, President and Secretary of Kenergy Corp., a Kentucky electric cooperative corporation, on behalf of the corporation.

My commission expires: MAR 18 2024.

[Signature] KYNP 1149  
Notary Public







**166 Residential Homes**

**2,000-3,000 Sq. Ft. Homes**

**\$550,000 Electric Infrastructure**

**\$85,000 in City Street Lights**

**Annual Net Revenue=\$158,364**  
(Assumes 1,500 kWh monthly usage)

**3.5 year payback**

**Exhibit A-2**

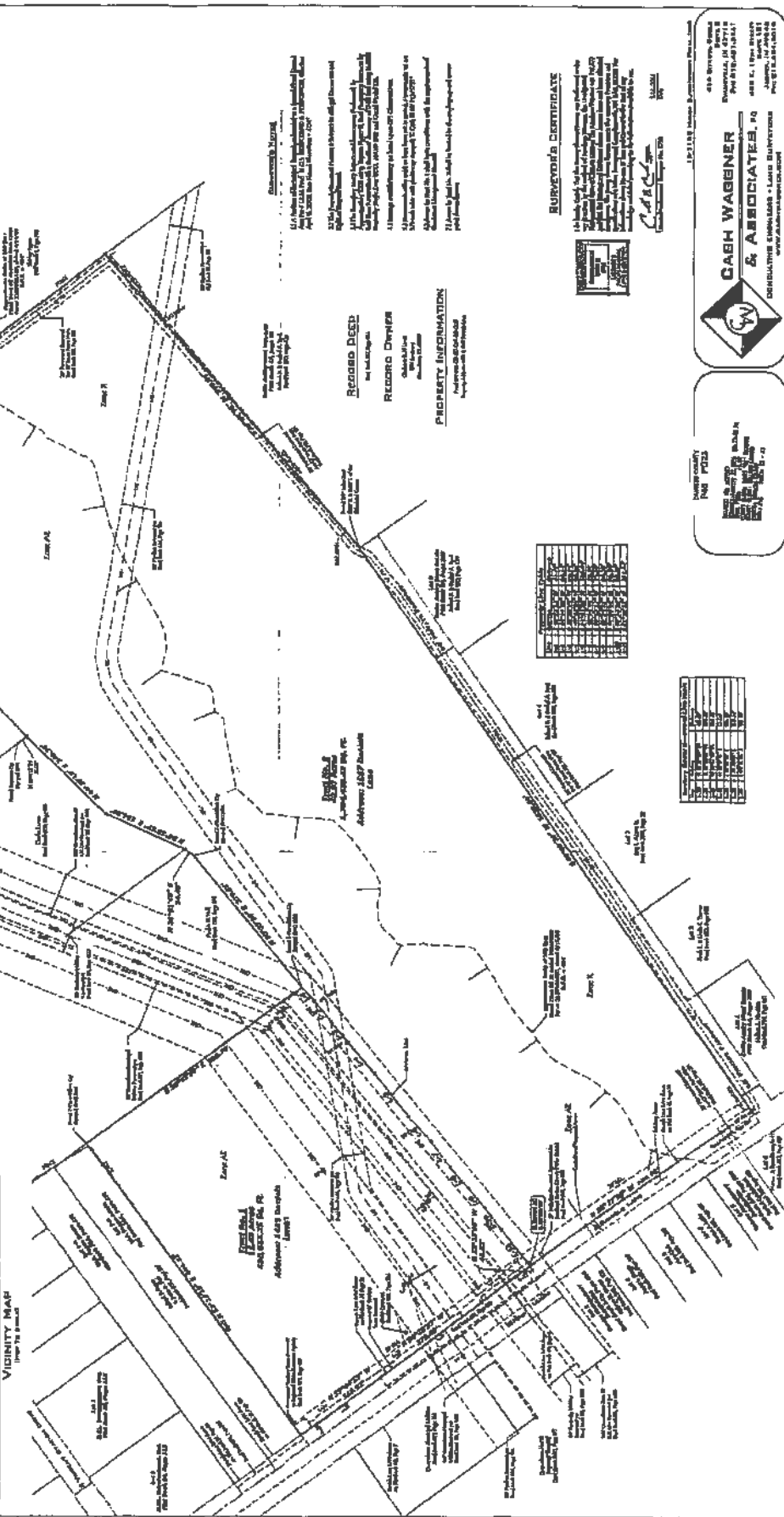
**DEWBORO METROPOLITAN PLANNING COMMISSION**

Scale: 1" = 400'



**LEGEND**

- 1. PLANNED ZONING DISTRICT
- 2. EXISTING ZONING DISTRICT
- 3. EXISTING LOT LINES
- 4. EXISTING EASEMENTS
- 5. EXISTING UTILITIES
- 6. EXISTING STREETS
- 7. EXISTING DRIVEWAYS
- 8. EXISTING DRIVEWAYS
- 9. EXISTING DRIVEWAYS
- 10. EXISTING DRIVEWAYS



**OWNER'S CERTIFICATE**

I, the undersigned, do hereby certify that the above described property is owned by me and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended, and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended, and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended.

*John A. Smith*  
*John A. Smith*  
*John A. Smith*  
*John A. Smith*  
*John A. Smith*

**RECORD DEED**

See Record Deed No. 1234567890

**RECORD DEED**

See Record Deed No. 1234567890

**PROPERTY INFORMATION**

See Record Deed No. 1234567890

**RECORD DEED**

See Record Deed No. 1234567890

**RECORD DEED**

See Record Deed No. 1234567890

**RECORD DEED**

See Record Deed No. 1234567890

**RECORD DEED**

See Record Deed No. 1234567890

**OWNER'S CERTIFICATE**

I, the undersigned, do hereby certify that the above described property is owned by me and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended, and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended, and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended.

*John A. Smith*  
*John A. Smith*  
*John A. Smith*  
*John A. Smith*  
*John A. Smith*

**BURVEYOR'S CERTIFICATE**

I, the undersigned, do hereby certify that the above described property is owned by me and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended, and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended, and that the same is being offered for sale in accordance with the provisions of the Act of March 22, 1921, as amended.

*John A. Smith*  
*John A. Smith*  
*John A. Smith*  
*John A. Smith*  
*John A. Smith*

**CASH WAGNER & ASSOCIATES, P.C.**  
 CONSULTING ENGINEERS • LAND SURVEYORS  
 410 BIRCHWOOD DRIVE  
 DEWBORO, NJ 07832  
 (609) 326-1111  
 www.cashwagner.com

**DEWBORO METROPOLITAN PLANNING COMMISSION**

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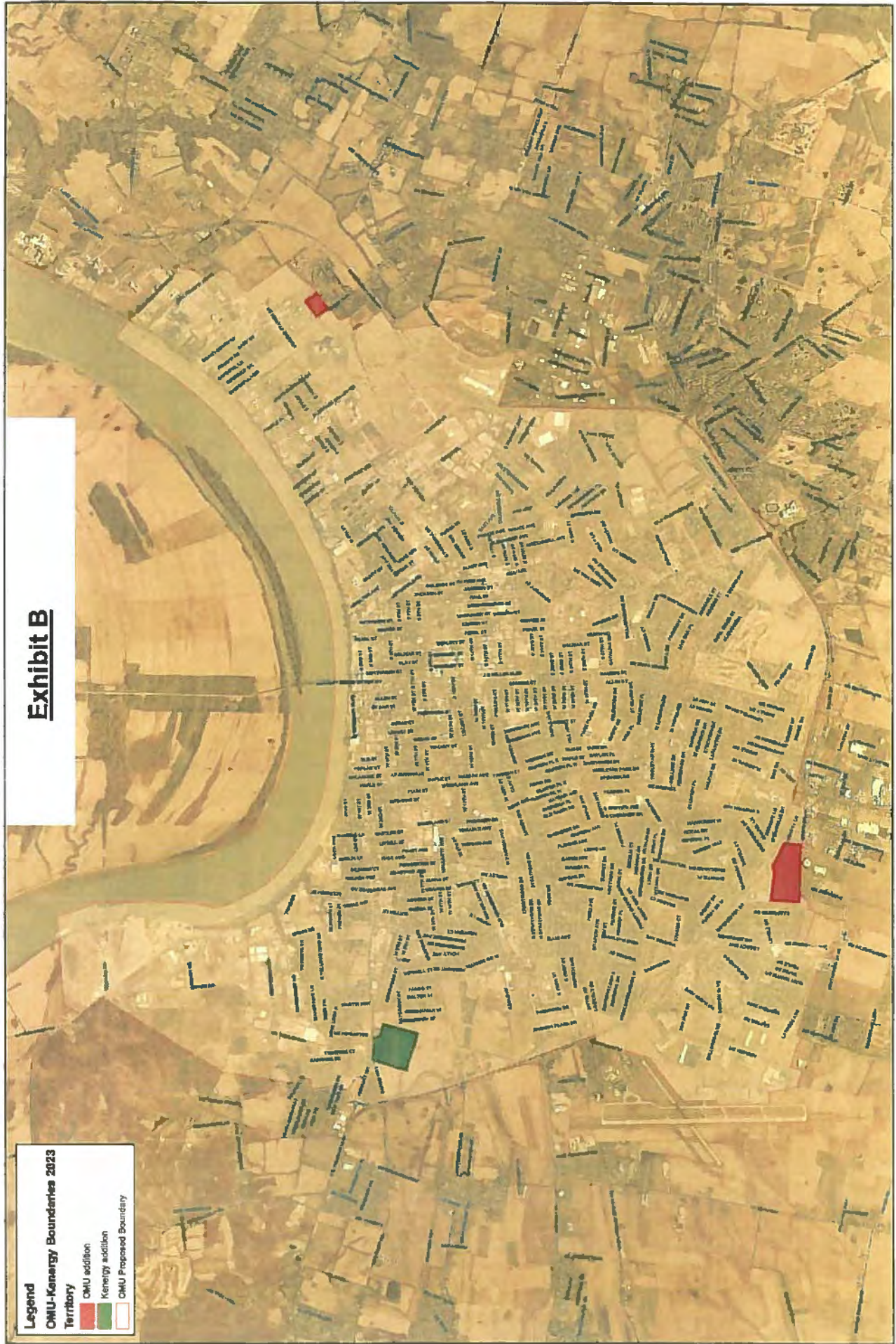
**DEWBORO METROPOLITAN PLANNING COMMISSION**

**DEWBORO METROPOLITAN PLANNING COMMISSION**



# Exhibit B

**Legend**  
OMU-Kenenergy Boundaries 2023  
Territory  
OMU addition  
Kenenergy addition  
OMU Proposed Boundary





# EXHIBIT C

**Legend**  
OMU-Kenney Boundaries 2023  
Territory  
OMU  
Kenney

