

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
Jefferson City
April 23, 1981

CASE NO. EA-79-166 and EA-79-176

David C. Harrison, President
Missouri Power & Light Company
P. O. Box 780
Jefferson City, Missouri 65102

Norman G. Curtright
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Missouri Power & Light Company
P. O. Box 780
Jefferson City, Missouri 65102

Gentlemen:

Enclosed find certified copy of ORDER in the above-numbered case.

Sincerely,



D. Michael Hearst
Secretary

uncertified copy:

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

CASE NO. EA-79-166

In the matter of the application of Missouri Power & Light Company for a certificate of convenience and necessity to construct, operate and maintain a new 69,000 volt electric line and a new 69,000/4,160 volt substation in the City of LaGrange, Lewis County, Missouri.

CASE NO. EA-79-176

In the matter of the application of Missouri Power & Light Company for a certificate of convenience and necessity to construct, operate and maintain a new 69,000 volt electric line and a new 69,000/12,500 volt substation in Cole County, Missouri.

The Commission is without jurisdiction to entertain an application for a certificate of public convenience and necessity authorizing an electric utility company to extend transmission or distribution lines within its certificated service area.

APPEARANCES: NORMAN G. CURTRIGHT, General Attorney, Missouri Power & Light Company, Post Office Box 780, Jefferson City, Missouri 65102, for applicant, Missouri Power & Light Company.

GARY W. DUFFY, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

REPORT AND ORDER

On February 16, 1979, Missouri Power & Light Company (hereinafter, Applicant) filed an application for a certificate of public convenience and necessity to construct, operate and maintain a new 69,000 volt electric line and a new 69,000/4,160 volt substation in the City of LaGrange, Lewis County, Missouri. On March 7, 1979, Applicant filed an application for a certificate of public convenience and necessity to construct, operate and maintain a new 69,000 volt line and a new 69,000/12,500 volt substation in Cole County, Missouri. These cases were consolidated and heard on April 26, 1979, in the Commission's hearing room on the tenth floor of the Jefferson State Office Building, Jefferson City, Missouri. At the conclusion of the hearing, the parties waived briefing, oral argument and the reading of the transcript.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

(4)

Applicant is a corporation existing under the laws of the State of Missouri with its principal office at 101 Madison Street, Jefferson City, Missouri, and is engaged as a public utility, subject to the jurisdiction of this Commission, in rendering electric and gas service in various municipalities and counties, all in the state of Missouri.

Applicant proposes the new construction in Cole County just outside the corporate limits of Jefferson City. The Applicant does not possess an area certificate for Cole County, although it does have area certificates for certain parts of the county. The proposed power line will be located within an area for which the Applicant does not possess a certificate of convenience and necessity. This facility is needed to accommodate an additional load to come from new development in the area, including a Capital Mall expansion and a new Farm Bureau building. The new line would run along Festival Road and terminate at the proposed substation, to be located south of Leandra Lane and east of South Country Club Drive, on an abandoned Missouri Pacific Railroad Company right of way which the Applicant has purchased. In 1978, the Applicant experienced a peak load of 13,920 kva in this area, and presently has only a capacity of 14,400 kva. The County Court of Cole County has authorized the Applicant to erect, operate and maintain the power lines over, along and across county roads. This construction will not cross or affect the facilities of any other public utility in the area. The proposed power line extension will be located on a public right of way. Contractor bids will be solicited for the project. The nearest residence to the substation will be approximately 300 feet away, on the corner of Leandra Lane and Festival Road. A new transformer will be installed at a cost of \$50,000, and heavy duty 15 kv switching gear will be used, at a cost of \$57,000.

The proposed construction in Cole County will conform to the requirements of the National Electrical Safety Code. The construction will be financed from funds from the company treasury and unsecured short term bank loans. The short term bank loans will ultimately be refinanced through long term obligations, the issuance of which will be subject to Commission approval.

The power line to be constructed in Lewis County will be in an area for which Missouri Power & Light Company already has a certificate of convenience and necessity.

Conclusions

At the hearing the Staff moved to dismiss both cases, citing State ex rel. Harline v. Public Service Commission, 343 S.W.2d 177. In that case, the

Kansas City Court of Appeals affirmed a circuit court judgment affirming an order of the Public Service Commission dismissing a complaint filed by resident land-owners in Jackson County against the Missouri Public Service Company. After noting that the Missouri Public Service Commission is an administrative body of limited jurisdiction and has only such powers as are expressly conferred upon it by the statutes, and reasonably incidental thereto, the court held that a public utility is not required to obtain an additional certificate of public convenience and necessity to construct each extension of its transmission lines and facilities within an area for which the utility already holds a certificate.

The Commission Staff's position is as follows: if a power company has municipal or county franchises and an original certificate of public convenience and necessity from the Missouri Public Service Commission to do business in this state, then its inherent corporate powers and the specific powers conferred upon it by Section 393.010, R.S.Mo. 1978, are all the authorization it needs to extend its power lines within its certificated service area, and that this Commission is then without jurisdiction to consider any additional certificate application therefor.

Since it is the finding of this Commission that Missouri Power & Light Company holds a certificate for the area in which the proposed power line in Lewis County is to be built, the Commission finds that to be consistent with the Harline case it must dismiss Case No. EA-79-166.

Commission authority is necessary in Case No. EA-79-176, since the Commission has found the proposed line to be constructed in Cole County is not in an area in which the Applicant is certified to operate. The Commission has determined that the proposed line in Cole County is necessary and convenient for the public service.

It is, therefore,

ORDERED: 1. That Missouri Power & Light Company's application in Case No. EA-79-166 be, and hereby is, dismissed.

ORDERED: 2. That Missouri Power & Light Company be, and hereby is, granted a certificate of public convenience and necessity to construct, operate and maintain a new 69,000 volt electric line and a new 69,000/12,500 volt substation in Cole County, Missouri, as set out in Exhibit 6 of the record in Case No. EA-79-176.

ORDERED: 3. That this Report and Order shall become effective on the 26th day of May, 1981.

BY THE COMMISSION

D. Michael Hearst

D. Michael Hearst
Secretary

(S E A L)
Fraas, Chmn., Dority and Bryant,
CC., Concur.
McCartney and Shapleigh, CC., Absent.

Dated in Jefferson City on the
23rd day of April, 1981.

STATE OF MISSOURI
OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original
on file in this office and I do hereby certify the same to
be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, this 23rd day of April 1981

D. Michael Hearst
D. Michael Hearst
Secretary