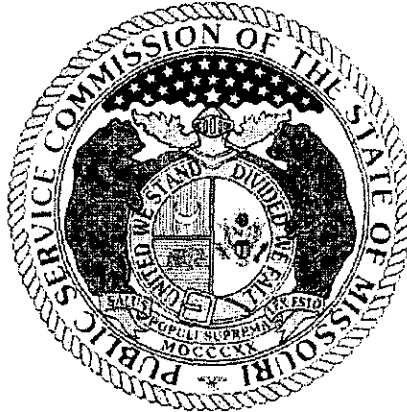


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Joint Application of
Kansas City Power & Light Company and the
City of Marshall for an Order Approving a
territorial agreement.

)
) Case No. EO-2001-240
)
)

REPORT AND ORDER

Issue Date: January 23, 2001

Effective Date: February 2, 2001

OF THE STATE OF MISSOURI

In the Matter of the Joint Application of)
 Kansas City Power & Light Company and the) Case No. EO-2001-240
 City of Marshall for an Order Approving a)
 territorial agreement.)

APPEARANCES

Michael A. Rump, Attorney, Kansas City Power & Light Company, 1201 Walnut,
Post Office Box 418679, Kansas City, Missouri 64141-8679, for Kansas City
Power & Light Company.

George S. Huff, Huff & Huff, 78 South Jefferson Avenue, Marshall, Missouri 65340, for the City of Marshall, Missouri.

John B. Coffman, Deputy Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Dennis L. Frey, Assistant General Counsel, and Eric William Anderson, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: Vicky Ruth.

REPORT AND ORDER

Procedural History

Kansas City Power & Light Company (KCPL) and the City of Marshall (City) filed a joint application on October 11, 2000, asking the Public Service Commission (Commission) to approve a territorial agreement pursuant

to Sections 386.800, 393.106, and 394.312, RSMo. The proposed territorial agreement is attached to this Report and Order as Attachment A.¹

The Commission issued an Order and Notice on October 27, 2000, directing parties wishing to intervene in the case to do so by November 16, 2000. No applications to intervene were filed. The parties filed a proposed procedural schedule on November 27, 2000. On November 29, 2000, the Commission issued an Order Adopting Procedural Schedule. That order provided that a hearing would be held on January 2, 2001.

On December 22, 2000, KCPL, City, the Office of the Public Counsel (Public Counsel), and the Staff of the Public Service Commission (Staff) filed a Unanimous Stipulation and Agreement. The parties agree that the territorial agreement is not detrimental to the public interest and should be approved. A copy of the Stipulation and Agreement is attached to this order and incorporated herein as Attachment B.

The Commission held an evidentiary hearing on January 2, 2001. All parties were represented at the evidentiary hearing.

Discussion

KCPL is a public utility engaged in providing electric service to the public in the state of Missouri, subject to the jurisdiction of the Commission. KCPL is also engaged in providing electric service in portions of Kansas. KCPL's principal place of business is located in Kansas City, Missouri. City is a municipal body politic and corporate in perpetuity, duly and legally established as a third-class city under the provisions of the Missouri Constitution. City operates a municipal utility (Marshall

¹ The attachments to the territorial agreement include: 1) Exhibit 1, the legal description for KCPL's Marshall Service Center; 2) Exhibit 2, the legal description of the five metered locations to be served by the City, including maps; 3) Attachment 2, a copy of the September 18, 2000, City of Marshall Ordinance No. 7280; and 4) Attachment 3, affidavits from the customers whose utility service would be transferred to the City. These attachments are not attached to this order due to their size, but are in the official case file available for public inspection.

Municipal Utilities) which renders electric utility service to the public in the City of Marshall and adjoining areas within Saline County in Missouri. City is generally not subject to Commission regulation of its service or rates.

KCPL and City jointly applied for approval of a territorial agreement. The Agreement notes that KCPL has constructed a service center within the corporate limits and electric service area of the City. KCPL desires to provide electric service to that service center. In return, the City will provide electric service to five metered locations within KCPL's electric service area. The parties provided a customer list which contains affidavits from each customer to be switched, indicating that they have been informed of the proposed change and have no objection to the change in electric service providers.

The Stipulation and Agreement states that the change in electric service providers is in the public interest for a reason other than a rate differential and therefore should be approved under Section 393.106, RSMo 1994. The parties also note that there are no other electric service suppliers providing permanent service in the area covered by the territorial agreement in Saline County. KCPL and City have agreed to displace competition between them in Saline County, as allowed by law, and have set out the terms of the territorial agreement.

Before approving the proposed territorial agreement, the Commission must determine that it is not detrimental to the public interest. The first factor the Commission will consider in deciding the appropriateness of this territorial agreement is the extent to which the agreement eliminates or avoids unnecessary duplication of facilities. The applicants note that "very little" duplication of facilities currently exists between KCPL and City. The applicants indicate that the territorial

agreement would eliminate any further duplication of facilities and avoid any future increase in duplication in the affected area.

Second, the Commission will consider the ability of each party to the territorial agreement to provide adequate service to the customers in its exclusive service area. Both applicants have the ability to make available adequate power supplies.

The third area for Commission concern is the effect of approval of the territorial agreement on customers of the applicants. The applicants indicate that under the territorial agreement, KCPL would provide electric service to its service center located within the corporate limits and electric service area of the City. In addition, the City would provide electric service to five metered locations within KCPL's electric service area. Attached to the territorial agreement are affidavits from each affected customer indicating that they have been informed of the proposed change and have no objection to the change in electric service providers.

Fourth, the Commission will consider a category of other cost and safety benefits attributed to the proposed territorial agreement. Applicants noted that the agreement will promote efficiency, both by avoiding the duplication of electric service facilities, guarding economic efficiencies, and benefiting the public safety and aesthetics of the community. The agreement will also allow electric service customers to know with certainty the supplier of their electric service.

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. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument

of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

The Commission finds that approval of the territorial agreement signed by KCPL and City would avoid future duplication of facilities. The Commission finds that KCPL and City are capable of adequately and safely providing the electric power supply, service, and maintenance needs of the customers in their service areas as designated in the proposed territorial agreement. The Commission further finds that the overall effect of the proposed territorial agreement would not be harmful to ratepayers, that the agreement would promote efficiency and safety, and reduce customer confusion.

The Commission further finds that the approval of this territorial agreement will not impair KCPL's existing certificates of public convenience and necessity except as specifically limited by the territorial agreement.

Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law.

The Missouri Public Service Commission has jurisdiction over the services, activities, and rates of KCPL pursuant to Section 386.250 and Chapter 393, RSMo. The Commission does not have jurisdiction over the services, activities, and rates of municipal electric utilities, except as specified in Section 386.800, RSMo.

When a cooperative enters into a territorial agreement with a regulated public utility, the agreement shall be submitted to the Commission for approval. The Commission is required to hold evidentiary hearings on all requests for approval of territorial agreements.

Section 394.312, RSMo. The Commission may approve a territorial agreement if the agreement in total is not detrimental to the public interest. Section 394.312.4, RSMo. Based on the findings of fact it has made, the Commission concludes that the territorial agreement proposed by KCPL and the City of Marshall is not detrimental to the public interest and should be approved.

IT IS THEREFORE ORDERED:

1. That the territorial agreement attached to this order as Attachment A and signed by Kansas City Power & Light Company and the City of Marshall is approved.

2. That the Unanimous Stipulation and Agreement of the parties is approved.

3. That no more than 30 days after the effective date of this order, Kansas City Power & Light Company shall file revised tariff sheets in compliance with the territorial agreement approved in Ordered Paragraph 1.

4. That Kansas City Power & Light Company and the City of Marshall are authorized to perform in accordance with the terms and conditions of the territorial agreement.

5. That this Report and Order shall become effective on February 2, 2001.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Vicky Ruth, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 23rd day of January, 2001.

TERRITORIAL AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2000, by and between the CITY OF MARSHALL, MISSOURI, hereinafter referred to as "CITY," and KANSAS CITY POWER & LIGHT COMPANY, hereinafter referred to as "KCPL;"

WHEREAS, Section 394.312 of the Revised Statutes of Missouri provides that competition to provide retail electric service as between electrical corporations and municipally-owned utilities may be displaced by written territorial agreements specifically designating the boundaries of the electric service area of each electric service supplier subject to said agreement; and,

WHEREAS, the parties hereto believe that such a territorial agreement between the parties hereto would eliminate or reduce duplication of facilities which results in waste of resources and increases consumer costs and, therefore, the parties hereto believe that the within Territorial Agreement will be beneficial not only to the parties hereto but also to the power consumers within all affected areas; and,

WHEREAS, the CITY and KCPL desire to avoid wasteful duplication of services and unnecessary additional costs to their respective customers.

NOW, THEREFORE, the CITY and KCPL, in consideration of the mutual covenants and agreements herein set forth and contained, agree as follows:

1. The electric service area of KCPL within the immediate area of the CITY is an area within the city limits of the CITY described in Exhibit 1 and all of that area outside the city limits of the CITY except that portion thereof described

in Exhibit 2. Exhibit 1 and Exhibit 2 are hereby expressly incorporated herein by reference and made a part of the Agreement as fully as if set out herein verbatim.

2. The electric service area of the CITY is certain areas outside the city limits of the CITY as defined in a separate Territory Agreement between the CITY and Central Missouri Electric Cooperative, those areas described in Exhibit 2, and all areas within the city limits of the CITY except that area described in Exhibit 1.

3. The CITY shall provide electric service to all those meter locations that it presently has within its electric service area, to the five metered locations which are located in Area B as described in Exhibit 2, and to all new meter locations or electric customers within its electric service area with the exception of the service center described in "Exhibit1."

4. KCPL shall provide electric service to all those meter locations that it presently has within its electric service area and to all new meter locations or electric customers within its electric service area with the exception of the five metered locations which are located in Area B as described in Exhibit 2.

5. Except as provided for above, customers or meter locations of the parties hereto shall not be allowed to switch from one party hereto to the other without the mutual written approval of the Missouri Public Service Commission.

6. The parties hereto mutually agree that either party may service its own facilities even if located within the service area of the other party.

7. The parties hereto further mutually covenant and agree that if the CITY annexes areas set forth and contained within KCPL service territory, the

provisions of paragraph 4 above notwithstanding, the CITY shall have the sole and exclusive right to service all new electrical customers within such annexed area, and KCPL may continue to provide electric service to those meter locations to which it provided electric service prior to such annexation.

8. The initial term of this Agreement shall be ten (10) years from and after the date this Agreement is approved by the Missouri Public Service Commission. Thereafter, this Agreement shall automatically be renewed for successive five-year terms unless either party hereto shall notify the other party in writing of its intent to terminate this Agreement at least one (1) year in advance of any such renewal date.

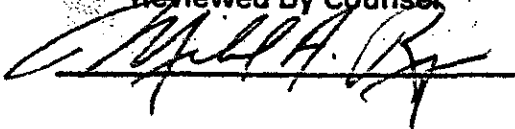
9. This Agreement shall be binding upon the parties hereto and all subsidiaries, successors in interest, and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on behalf of the CITY by ordinance duly passed and executed by its Mayor and City Clerk, and on behalf of KCPL by resolution duly adopted by its Board of Directors and signed by its Vice President and attested by its Secretary, all as of the day and year first above written.

All signatures below are required for this Agreement to be effective.

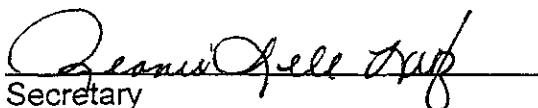
Kansas City Power & Light Company

Reviewed By Counsel


Nancy Moore - Vice President

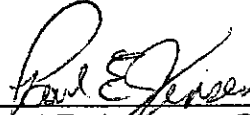
Date: 9/28/00

ATTEST:


Secretary

City of Marshall, Missouri

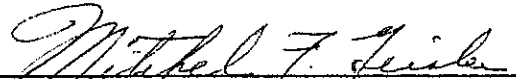
By action of its 9/13/00 meeting,
the Board of Public Works recommends
approval of the Agreement



Paul E. Jensen – General Manager
Marshall Municipal Utilities

Date: 9/13/00

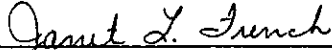
Approved by the City Council of the City
of Marshall by Ordinance # 7280



Mayor, City of Marshall

Date: 9/19/00

ATTEST:



City Clerk, City of Marshall

FILED

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Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Joint Application of Kansas City)
Power & Light Company and the City of Marshall)
For an Order Approving a Territorial Agreement)

Case No. EO-2001-240

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW the undersigned parties to this proceeding and for their Unanimous Stipulation and Agreement ("Stipulation and Agreement"), respectfully state as follows:

I. Procedural History

1. On October 11, 2000, Kansas City Power & Light Company ("KCPL"), a regulated utility, and the City of Marshall ("City"), a Third-Class City in the State of Missouri, hereinafter collectively known as "the Applicants", filed a Joint Application requesting that the Commission: 1) approve a Territorial Agreement between the Applicants, based on a finding that it is not detrimental to the public interest; 2) authorize the Applicants to perform in accordance with the terms and conditions of the Territorial Agreement; and 3) grant such other relief as deemed necessary to accomplish the purposes of this Joint Application.

2. On October 27, 2000, the Commission issued an Order directing that a procedural schedule be filed in this case by November 27, 2000, with the hearing to be held no later than January 9, 2001; that notice be sent to interested parties; and that any applications to intervene be filed by November 16, 2000. To date, no applications to intervene have been filed.

3. In the Joint Application, KCPL and City seek Commission approval of the Territorial Agreement. KCPL has constructed a service center within the corporate limits and electric service area of the City. KCPL desires to provide electric service to said service center. The legal description of the service center and the area in which KCPL seeks to provide electric service within the City is attached to the Territorial Agreement and marked as Exhibit 1. In return for KCPL providing electric service to its service center, the City will provide electric service to five metered locations within KCPL's electric service area. The legal description of the five metered locations to be served by the City is attached to the Territorial Agreement and marked as Exhibit 2. The Territorial Agreement also provides that five metered locations within the KCPL's current service area will now be serviced by the City and that these customers will not be allowed to switch providers without permission of the Commission. A customer list is provided in paragraph 4 of the Joint Application and Attachment 3 to the Joint Application contains affidavits from each customer indicating that they have been informed of the proposed change and have no objection to the change in electric service providers. The change in electric service providers is in the public interest for a reason other than a rate differential as discussed in paragraph 3(e) of the Joint Application and therefore should be approved under 393.106 RSMo 1994. Each party will continue to provide electric service to all meter locations presently within their respective electric service areas and to all new meter locations within their respective service areas, except as described in the Territorial Agreement. There are no other electric suppliers providing permanent service in the area covered by the Territorial Agreement in Saline County. KCPL and City have agreed to displace competition between them in Saline County, as

allowed by law and have set out the terms of the Territorial Agreement, which is attached to the Joint Application and marked as Exhibit A.

4. On November 29, 2000, the Commission issued an order setting a procedural schedule, which set the filing of a Stipulation and Agreement for December 20, 2000 at 3:00 PM and an evidentiary hearing on the Territorial Agreement for January 2, 2000 at 8:30 AM.

5. The Staff of the Commission, the Office of the Public Counsel, KCPL, and City (hereinafter collectively known as "the Parties"), having reviewed the Joint Application and associated Territorial Agreement and having considered the position of the Parties and the issues to be resolved in this case, have entered into this Stipulation and Agreement.

II. The Parties Have Reached the Following Stipulation and Agreement:

6. The Parties assert and, in consideration of the promises and covenants herein contained, state that the Territorial Agreement between KCPL and City is not detrimental to the public interest and therefore should be approved.

7. KCPL agrees that within 30 days of the effective date of an Order approving the Territorial Agreement, KCPL will file for review and approval revised tariff sheets for the KCPL's service area in Saline County, which will state the effect of the Territorial Agreement on the rights and obligations of KCPL to provide service and state the effect of the Territorial Agreement on the service area.

8. This Stipulation and Agreement shall be binding upon the successors and assigns of KCPL and City.

III. General Matters

9. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation and Agreement in total, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all stipulations are made without prejudice to the rights of the signatories to take other positions in other proceedings.

10. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the Parties and participants waive, with respect to the issues resolved herein: their respective rights, pursuant to §536.080 RSMo. 1994, to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo. 1994; their respective rights to seek rehearing pursuant to §386.500 RSMo. 1994; and their respective rights to seek judicial review pursuant to §386.510 RSMo. 1994. Notwithstanding the foregoing each party may present oral testimony at the evidentiary hearing supporting the fact that the Territorial Agreement is not detrimental to the public interest. The Parties agree to cooperate with each other in presenting for approval to the Commission this Stipulation and Agreement, and will take no action, direct or indirect, in opposition to the request for approval of this Stipulation and Agreement.

11. The Staff shall file suggestions or a memorandum in support of this Stipulation and Agreement, and the other parties shall have the right to file responsive suggestions or prepared testimony.

12. The Staff shall have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties and participants with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

13. None of the Parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any rate-making principle or any method of cost determination or cost allocation underlying or allegedly underlying the Stipulation and Agreement, except as the Commission finds that the Territorial Agreement is in the public interest. Further, the parties recommend that the Commission reserve the right to consider the rate-making treatment to be afforded this transaction in any future rate-making proceeding.

WHEREFORE, the Parties respectfully request the Commission to issue its Order:

- A. Finding that the designated electric service areas are not detrimental to the public interest and approving the Territorial Agreement, (Exhibit A to the Joint Application);
- B. Authorizing KCPL and City to perform in accordance with the terms and conditions of the Territorial Agreement;
- C. Authorizing a change of suppliers from KCPL to City for the five customers listed in paragraph 4 of the Joint Application;
- D. Finding that the Territorial Agreement does not impair KCPL's certificates of

convenience and necessity, except as specifically limited by the Territorial Agreement; and

E. Directing that KCPL file, within thirty days of the effective date of said Commission Order, revised tariff sheets with respect to its service area in Saline County.


F. Authorizing KCPL to enter into, execute, and perform in accordance with the terms of all other documents reasonably necessary and incidental to the performance of the transactions which are the subject of the Territorial Agreement;

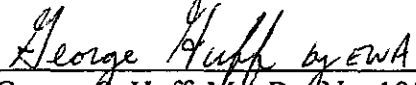
G. Approving all of the terms of this Stipulation and Agreement.

H. Granting such other relief as deemed necessary to accomplish the purposes of the Joint Application.

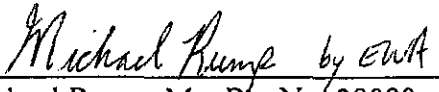
Respectfully submitted,

DANA K. JOYCE
General Counsel


Eric William Anderson, Mo. Bar No. 47253
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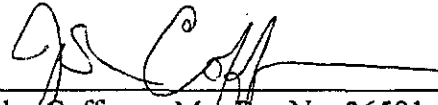

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(573) 751-5565
(573) 751-5562 (fax)

Attorney for the
Office of the Public Counsel

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 20th day of December, 2000.

