

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

AUG 30 1999

Missouri Public
Service Commission

In the Matter of the Application of)
Union Electric Company d/b/a AmerenUE)
and Ozark Border Electric Cooperative for)
Approval of a Written Territorial Agreement)
Designating the Boundaries of Each Electric)
Service Supplier within Portions of)
Bollinger, Butler, Carter, Dunklin, Iron,)
Madison, New Madrid, Reynolds, Ripley)
Stoddard and Wayne Counties, Authorizing)
the Sale, Transfer, and Assignment of)
Certain Electric Distribution Facilities,)
Easements and Other Rights, Generally)
Constituting the Applicants' Electric)
Utility Business Associated with its)
Customers Transferred Pursuant to the)
Territorial Agreement.)

Case No. EO-99-599

**APPLICANTS' OBJECTIONS TO THE MOTION TO INTERVENE OUT
OF TIME FILED BY STODDARD CNTY INTERVENORS**

Comes now Union Electric Company, d/b/a AmerenUE and Ozark Border Electric Cooperative, by and through their attorneys of record, and hereby object to the application and motion to intervene out of time filed by 400 members of Ozark Border Electric Cooperative collectively being called the "Stoddard County Intervenor". In support of said motion AmerenUE and Ozark Border states as follows:

1. On February 24, 1999, AmerenUE and Ozark Border Electric Cooperative sent to its customers being affected by the Territorial Agreement and customer exchange a notice of a public information meeting being held in the Fisk and Dexter areas. This letter specifically stated that "[y]ou are one of the customers who would have an account served by AmerenUE under this proposed agreement." Attached as Exhibit 1 is the February 24, 1999, letter from Ozark Border to its members.

2. On March 3, 1999 and March 05, 1999 AmerenUE and Ozark Border Electric Cooperative held public information meetings in Fisk and Dexter, Missouri.

3. At the public information meetings AmerenUE and Ozark Border Electric Cooperative informed their customers of the proposed exchange and the effect that the exchange would have on the individual consumer via the cost difference in obtaining electric service from the proposed new supplier.

4. On June 16, 1999, Ozark Border Electric Cooperative and AmerenUE filed for approval by the Missouri Public Service a Territorial Agreement defining electric service areas of both utilities. Along with this application was request by the Applicants to approved the proposed customer exchange as listed in the Territorial Agreement.

5. On June 24, 1999, the Public Service Commission issued an order establishing an intervention deadline of no later than July 14, 1999, for any interested party to intervene in the case and required AmerenUE and Ozark Border to notify their customers of the intervention date.

6. On July 2, 1999, Ozark Border sent to its affected customers a letter that provided the intervention date and a statement that the Commission required Ozark Border and AmerenUE to provide notice to their affected customers of the requested approval of a Territorial Agreement and customer exchange.

7. In addition to this information, the Cooperative further provided a 1-800 number to allow its members to contact the Cooperative at no cost to them to ask questions regarding the Territorial Agreement and how it would affect them.

8. The Commission on August 10, 1999, issued an order establishing a procedural schedule, the granting and denying intervention and the order denying show cause order and order denying motion to reject Territorial Agreement. In the order, the Commission stated that a sentence within the Ozark Border customer notification letter was a misstatement of the law. Ozark Border's letter stated inter alia, " ... [a]s a customer ... that is being affected (sic) by a territorial agreement [,] you have the right to intervene in this case." The Commission stated that Commission rule 4 CSR 240-2.075(4)(A) Intervention states that the Commission may grant intervention on a showing that "[T]he applicant has an interest in the proceeding which is different from that of the general public".

9. In addition to the Order granting intervention to the City of Poplar Bluff, the Commission denied the intervention of A.S. Johnson, and Helen Channell for failure to comply with the Commission's rules.

Argument Against Intervention

10. 4 CSR 240-2.075 provides that " that the Commission may permit Intervention on a showing that – (A) the applicant has an interest in the proceeding different than that of the general public; ... see granting the proposed intervention would serve the public interest or (D) Application to intervene filed after the intervention date set by the Commission may be granted by a showing of good cause. There is nothing in the Application to Intervene nor the Motion to Intervene Out of Time which indicates that the 400 members collectively known as the Stoddard County Intervenors have raised issues which are different from that of the general public. This is especially true since AmerenUE and Ozark Border, Commission Staff and the Office of Public Counsel have

reached an agreement and stipulation in principle that inter alia, that no Ozark Border member will be exchanged to AmerenUE in the proposed Territorial Agreement.

11. The Commission on August 19, 1999, held a public hearing in the auditorium of the Dexter High School, Dexter, Missouri to take the testimony of the effected customers of the proposed exchange. At this hearing there were numerous people who testified as to the various reasons why they did not want to be a part of the customer exchange and have their electric service switched to AmerenUE, including some of the so called participants in the class of clients that are referred to as the Stoddard County Intervenors. These individuals have had an opportunity to address the Commission and express their concerns regarding the exchange of customers. As a result of the testimony, the parties to the agreement have entered into additional negotiations to modify the agreement.

12. At the Public Hearing, it was the comments of Senator Howard who suggested that the effected customers hire an attorney to participate in this proceeding. Up until that point numerous individuals had contacted and petitioned the Office of Public Counsel to hold a public hearing in this proceeding.

13. Granting intervention to the Stoddard County Intervenors would not raise any issues that would be new or helpful to the proceeding.

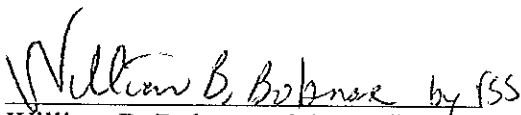
14. Applicants desire to move this matter as expeditiously as possible without further delay in the statutorily mandated 120 day deadline, without good cause. Granting intervention to the Stoddard County Intervenors would unduly prejudice Applicants, especially due the inordinate amount of time that has passed between the intervention deadline and the Application to Intervene. Applicants do not believe that the

Stoddard County Intervenor are raising any issue that have not already been addressed by the Commission staff and the Office of Public.


15. Within the application to intervene there was no indication of the exact relationship between these Stoddard County Intervenor and their counsel Patricia D. Perkins of Hendren & Andrae. Counsel for Intervenor has simply attached the Exhibit list of Ozark Border's customers to be exchanged to AmerenUE as filed with the Application. In the off chance that the Application to Intervene is granted, Applicants request that the Commission require some form or proof as to the actual members who Ms. Perkins actually represents.

WHEREFORE, Applicants respectfully request that the Commission deny the Stoddard County Intervenor Application to Intervene and the Motion to Intervene Out of Time.

Respectfully submitted,


William B. Bobnar MoBar #38966

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CERTIFICATE OF SERVICE

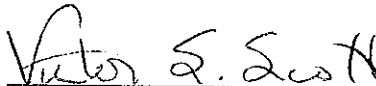
I hereby certify that copies of the foregoing have been mailed or hand-delivered this 30th day of August 1999 to the following parties:

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February 24, 1999

Dear Ozark Border Electric Cooperative Customer:

Ozark Border Electric Cooperative and AmerenUE have, over the past several years, studied the potential of a territorial agreement that would define service areas. The intent of such an agreement is to enable each utility to operate more efficiently by eliminating costly duplication of facilities. This would benefit customers from both utilities over time by helping to keep rates down, while also improving service.

A territorial agreement is being proposed, subject to approval by the Missouri Public Service Commission, that would include an exchange of customers between our two organizations. You are one of the customers who would have an account served by AmerenUE under the proposed agreement.

Using experience gained from previous exchanges, AmerenUE and Ozark Border Electric Cooperative will work together so that the transfer of electric service will be of only minimal inconvenience and no cost to you. In addition, any deposits on record will be returned to you, in accordance with the Cooperative's existing procedures.

We recognize that changing to a new electric supplier is bound to cause anxiety among some customers. We want to assure you that both utilities have comparable rates and both will work to insure that you continue to receive quality service. Ozark Border Electric Cooperative and AmerenUE will host informational sessions to answer questions regarding this change:

<u>CITY</u>	<u>DATE</u>	<u>TIME</u>	<u>LOCATION</u>
Fisk	3/03/99	3:00 PM-7:00 PM	Fisk Civic Center
Dexter	3/05/99	3:00 PM-7:00 PM	UAW Hall, Park & Houston

Should you be unable to attend these informational sessions, please feel free to contact us at 1-800-392-0567 or send written comments to PO Box 400, Poplar Bluff, MO 63902.

Sincerely,

Stanley Estes
General Manager

OZARK BORDER ELECTRIC COOPERATIVE

EXHIBIT
1

"Owned By Those Served"