

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 7th
day of June, 1996.

In the Matter of the Application of Union)
Electric Company and Black River Electric)
Cooperative, Inc. For Approval of a Written)
Territorial Agreement Designating the)
Boundaries of Each Electric Service Sup-) CASE NO. EO-95-400 et al.
plier Within Portions of Cape Girardeau,)
Dent, Iron, Madison, Reynolds, Perry, St.)
Francois, Scott, Stoddard, Washington and)
Wayne Counties, Missouri.)

ORDER FINALIZING APPROVAL OF TERRITORIAL AGREEMENT,
GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY,
AND APPROVING TARIFFS

The Missouri Public Service Commission (Commission) issued its Report And Order On Rehearing in this proceeding on March 22, 1996. The Commission's Report And Order On Rehearing approved in principle a Territorial Agreement between Union Electric Company (UE) and Black River Electric Cooperative, Inc. (BREC), as modified by the Report and Order, and subject to compliance with certain requirements contained in the Report and Order.

The Report And Order On Rehearing required that certain changes be made to the Territorial Agreement, and required further action on the part of UE and BREC. The requirements of the Commission's Report and Order may be paraphrased as follows:

- (1) The Commission directed that paragraph 7 of the Territorial Agreement, which dealt with the procedure for addendums under the case-by-case exception to the agreement, be modified to delete language which attempted to limit the Commission's ratemaking discretion and which attempted to bind the Commission to a particular addendum procedure;

- (2) The Commission directed UE and BREC to file a complete, integrated copy of the Territorial Agreement, containing the modifications required by the Report and Order;
- (3) The Commission directed BREC to notify its members who would be transferred under the Territorial Agreement regarding the effect of the agreement on them;
- (4) The Commission directed UE to file revised 30-day tariffs to reflect the changes in its territory pursuant to the Territorial Agreement.

The Commission's order further directed that these required actions be completed within 30 days from the effective date of the Report and Order, and also indicated that the certificate of convenience and necessity granted to UE would become effective as of the effective date of the revised tariffs.

On April 29, 1996, UE and BREC timely filed a document which purported to be a complete, integrated copy of the Territorial Agreement. On May 2, 1996, UE timely filed revised 30-day tariffs reflecting changes to UE's service territory as a result of the Territorial Agreement. Nothing was filed within 30 days of the effective date of the Report and Order regarding the notification of BREC's members.

On May 16, 1996, the Staff of the Commission (Staff) filed a recommendation regarding the tariffs filed by UE. Staff's recommendation addresses only the tariff sheets, and does not address the conditions precedent to final approval of the Territorial Agreement as listed in the Commission's Report and Order. Staff states that on May 2, 1996, UE filed tariff sheets with a proposed effective date of June 10, 1996, which reflected changes in UE's service territory to comply with the Commission's Report And Order On Rehearing. Staff states that this filing is in

compliance with the Commission's order, and recommends that the proposed tariff sheets be approved to become effective on and after June 10, 1996.

UE and BREC were informed that the Territorial Agreement filed on April 29, 1996 did not comply with the Commission's order, and that a document needed to be filed to indicate that the requisite notification had taken place. On May 31, 1996 UE and BREC filed a second document purporting to be a complete, integrated copy of the Territorial Agreement, and BREC filed a document indicating BREC's compliance with the notification requirement in the Commission's order.

The Commission has reviewed its Report And Order On Rehearing, the Territorial Agreements filed on April 29, 1996 and May 31, 1996, the revised tariff sheets filed by UE, and BREC's notification compliance, and finds that UE and BREC are now in compliance with the Commission's Report And Order On Rehearing. The Commission finds that the Territorial Agreement filed on April 29, 1996, while filed within the Commission's designated time frame, does not comply with the Commission's order because it incorporates by reference four exhibits from the original Territorial Agreement dated April 28, 1995. These exhibits include important information such as the metes and bounds description of the territory, maps of the territory, and lists of customers being retained by UE and BREC after the swap of territory. The purpose of the requirement that the party file a complete, integrated copy of the Territorial Agreement with the Commission is to ensure that the Commission's official case file has a copy of the final Territorial Agreement as modified, so that any interested person can easily access the official case papers and obtain a complete copy of the Territorial Agreement. The Commission has reviewed the Territorial Agreement filed on May 31, 1996, and finds that it is a complete, integrated copy of the Territorial Agreement, and complies with

the Commission's order. The Commission finds that the Territorial Agreement filed on May 31, 1996 contains all of the exhibits referenced in the body of the document. In addition, the language attempting to limit the Commission's ratemaking discretion and attempting to bind the Commission with respect to the addendum procedure has been deleted from paragraph 7 of the Territorial Agreement, as required by the Commission's order.

The revised tariff sheets filed by UE on May 2, 1996 properly reflect the changes in UE's territory pursuant to the Territorial Agreement, and, as indicated by Staff, are in compliance with the Commission's order. Finally, the Commission has reviewed BREC's May 31, 1996 filing regarding the notification of its members, and finds that it is in compliance with the Commission's order. Attached to the filing as exhibits are a copy of a pamphlet containing consumer information, copies of three different cover letters for three different categories of customers, and a statement of mailing with the United States Postal Service. The pamphlet is designed in a question and answer format, and contains information such as when the transfer will take place, how capital credits will be handled after the transfer, who to contact in case of a service problem, and how to obtain further information about the Territorial Agreement. The three cover letters also contain information about when and how the transfer will take place, and the effect on the customer's capital credits. While BREC's notification pleading was filed late, the cover letters are dated April 19, 1996, and the statement of mailing contains a postmark of April 22, 1996. Both dates are within the Commission's designated time frame.

The Commission finds that since all of the conditions precedent to the Commission's approval of the Territorial Agreement between UE and BREC have now been met, the Commission should approve the Territorial Agreement filed by UE and BREC on May 31, 1996. The Commission further finds that it should approve the revised tariff sheets filed by UE on May 2, 1996, effective June 10, 1996, and should effectuate the certificate of convenience and necessity granted to UE contemporaneously with the effective date of the revised tariff sheets.

IT IS THEREFORE ORDERED:

1. That the Territorial Agreement between Union Electric Company and Black River Electric Cooperative, Inc. signed on April 26, 1996 and filed with the Commission on May 31, 1996 is hereby approved.

2. That the revised 30-day tariffs filed by Union Electric Company on May 2, 1996 are hereby approved to become effective on and after June 10, 1996:

P.S.C. MO. SCHEDULE NO. 5

4th Revised Sheet No. 19 Cancelling Third Revised Sheet No. 19
1st Revised Sheet No. 23.1 Cancelling Original Sheet No. 23.1
1st Revised Sheet No. 26.4 Cancelling Original Sheet No. 26.4
1st Revised Sheet No. 26.22A Cancelling Original Sheet No. 26.22A
2nd Revised Sheet No. 26.30 Cancelling 1st Revised Sheet No. 26.30
1st Revised Sheet No. 26.30A Cancelling Original Sheet No. 26.30A
2nd Revised Sheet No. 26.30B Cancelling 1st Revised Sheet No. 26.30B

3. That the certificate of convenience and necessity granted to Union Electric Company in the Commission's Report And Order On Rehearing issued March 22, 1996 is hereby made effective as of June 10, 1996.

4. That this order shall be effective on June 10, 1996.

BY THE COMMISSION

A handwritten signature in cursive script, reading "David L. Rauch".

David L. Rauch
Executive Secretary

(S E A L)

Zobrist, Chm., McClure, Kincheloe,
Crumpton, and Drainer, CC., Concur.

ALJ: Bensavage