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June 14, 2004

FILED³

JUN 14 2004

EUGENE E. ANDERECK (1923-2004)
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PHIL HAUCK (1924-1991)

Secretary
Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Missouri Public
Service Commission

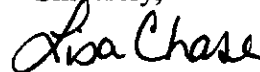
Re: Position Statement of Ozark Border Electric Cooperative
Case No. EC-2003-0452

Dear Secretary:

Enclosed for filing please find the original and eight copies of the Position Statement of Ozark Border Electric Cooperative in the above referenced case.

Thank you for seeing this filed. If you should have any questions or concerns, please do not hesitate to contact me.

Sincerely,


Lisa C. Chase

LCC:lw

Encl.

CC: General Counsel, OPC
General Counsel, PSC

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

FILED³
JUN 14 2004

Missouri Public
Service Commission

Ozark Border Electric Cooperative,
Complainant

vs

City of Poplar Bluff,
Respondent

Case No. EC-2003-0452

**POSITION STATEMENT
OF OZARK BORDER ELECTRIC COOPERATIVE**

Comes now Ozark Border Electric Cooperative, and hereby submits the following statement of position with respect to the issues contained on the List of Issues, Order of Opening Statements, Witnesses, and Cross Examination:

LIST OF ISSUES

1. Does the notice provision in section 4.B. of the Territorial Agreement require written notice by the city to the cooperative within sixty days after the effective date of an annexation?

Ozark Border Electric Cooperative's Position:

Yes. Section 4.B. of the Territorial Agreement requires the city, within sixty days after the effective date of the annexation to provide written notice to the cooperative of the city's intent to include any structure served by the cooperative within the annexed area into the city's service territory.

2. If the Commission finds that written notice is required pursuant to section 4.B. of the Territorial Agreement, and that written notice was not timely given with respect to the annexations in dispute in this matter, then under the terms of the Territorial

Agreement is the cooperative allowed to continue to serve the annexed customers it was serving prior to these annexations or is the city allowed to serve the annexed customers?

Ozark Border Electric Cooperative's Position:

When the city fails to provide written notice within the sixty-day time period set forth under section 4.B. of the Territorial Agreement, then the cooperative is allowed to continue to serve customers within the annexed territory pursuant to section 3.C. of the Territorial Agreement, which grants cooperative the exclusive right to continue to provide permanent electrical service to all existing structures in Zone 1 which the cooperative is serving on the effective date of the Territorial Agreement, except when the structure is intentionally demolished or when the structure is annexed and the city provides written notice within sixty days of the effective date of the annexation to the cooperative regarding the city's intent to serve the structure.

3. Does the Commission have subject matter jurisdiction over the complaint?

Ozark Border Electric Cooperative's Position:

Yes. The Commission has jurisdiction over this matter by virtue of the authority found in §§ 386.250, 386.390, 386.800, and 394.312.6 RSMo. 2000 and 4 CSR 240-2.070(3), as well as pursuant to the section 15 of the Territorial Agreement.

4. Does the Commission have subject matter jurisdiction over the controversy pursuant to paragraph 15 of the Territorial Agreement?

Ozark Border Electric Cooperative's Position:

Yes.

5. Does the Commission have the authority to issue an informal opinion to resolve the controversy?

Ozark Border Electric Cooperative's Position:

Yes, under section 15 of the Territorial Agreement, the parties agreed to resolve disputes through an informal opinion of the Commission and the Commission issued an order approving the Territorial Agreement in Case. No. EO-98-143 on December 31, 1997.

6. Does the complaint state a claim upon which relief can be granted by the Commission?

Ozark Border Electric Cooperative's Position:

Yes, the Complaint does not seek monetary damages, but instead specifically seeks interpretation of the notice provision in section 4.B. of the Territorial Agreement, and the Missouri Legislature has granted to the Commission jurisdiction to entertain and hear complaints involving any commission-approved territorial agreement pursuant to § 394.312.6 RSMo. 2000.

Respectfully Submitted,

**ANDERECK, EVANS, MILNE,
PEACE AND JOHNSON L.L.C.**

By *Lisa Chase*

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**ATTORNEYS FOR OZARK
BORDER ELECTRIC
COOPERATIVE**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 14th day of June 2004.

Lisa Chase

Lisa Cole Chase, MO Bar # 51502