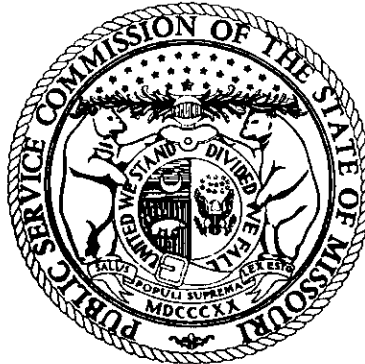


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Union)
Electric Company and Gascosage Electric)
Cooperative for Approval of a Written Terri-)
torial Agreement Designating the Boundaries)
of Each Electric Service Supplier Within)
Portions of Camden, Miller, Maries, Pulaski,)
and Phelps Counties, Missouri.)

Case No. EO-98-279

REPORT AND ORDER

Issue Date:

June 11, 1998

Effective Date:

June 23, 1998

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Union)
Electric Company and Gascosage Electric)
Cooperative for Approval of a Written Terri-)
torial Agreement Designating the Boundaries) Case No. EO-98-279
of Each Electric Service Supplier Within)
Portions of Camden, Miller, Maries, Pulaski,)
and Phelps Counties, Missouri.)

APPEARANCES

William B. Bobnar, Attorney, Union Electric Company, One Ameren Plaza,
1901 Chouteau Avenue, Post Office Box 66149, St. Louis, Missouri 63166, for
Union Electric Company, d/b/a AmerenUE.

Victor S. Scott, Andereck, Evans, Milne, Peace & Baumhoer, L.L.C., 305 East
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for Gascosage Electric Cooperative.

William E. Gladden, Attorney at Law, Post Office Box 217, Houston,
Missouri 65483,

and

Mark W. Comley, Newman, Comley & Ruth, 205 East Capitol Avenue, Post Office
Box 537, Jefferson City, Missouri 65102-0537, for Intercounty Electric
Cooperative Association.

Lewis R. Mills, Deputy Public Counsel, and John B. Coffman, Senior 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.

Marc Poston, 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: Nancy Dippell.

REPORT AND ORDER

Procedural History

The Union Electric Company¹ and the Gascosage Electric Cooperative
(U.E. and Gascosage or Applicants) filed a joint application on January 5,

¹ Since the filing of this application, the Union Electric Company has
been doing business as AmerenUE. However, for purposes of this order they
are referred to as Union Electric Company or U.E.

1998, under Section 394.312, RSMo 1994², asking the Missouri Public Service Commission (Commission) to approve a territorial agreement between the Applicants. The proposed territorial agreement is attached to this Report and Order as Attachment A³. The Commission issued an Order and Notice of Application to Enter into a Territorial Agreement on January 7 directing parties wishing to intervene in the case to do so by February 6.

Intercounty Electric Cooperative Association (Intercounty) filed an Application to Intervene One Day Out of Time on February 9 which the Commission granted on March 4. On March 23 the Commission issued an order setting a prehearing conference. The Applicants and the Staff of the Missouri Public Service Commission (Staff) filed testimony and all parties met in prehearing conference at 8:30 a.m. on April 2.

On April 6 Intercounty filed a Motion for Extension of the Time to Rule on Application and for Continuance. On April 8 the Commission issued an order which extended the time for the Commission to take action pursuant to Section 394.312 for good cause shown until June 14. The order also set an evidentiary hearing to begin on May 14 at 9:00 a.m. On May 1 Rebuttal Testimony of Vernon Strickland was filed by Intercounty. On May 12 the parties filed a Stipulation and Agreement. As part of the stipulation, Intercounty agreed not to submit its prefiled testimony.

² All further statutory references are to the Revised Statutes of Missouri 1994 unless otherwise indicated.

³ The attachments to the Territorial Agreement include: 1) Exhibit 1, a metes and bounds description of the electric service area of Union Electric Company; 2) Exhibit 2A-2E, highway maps depicting the electric service area of Union Electric Company and Gascoage Electric Cooperative in Camden, Miller, Maries, Pulaski, and Phelps Counties; and 3) Exhibit 3, a metes and bounds description of the electric service area of Gascoage Electric Cooperative. Those attachments are not attached to this order due to their size, but are in the official case file available for public inspection.

At 9:00 a.m. on May 14 the Commission conducted an evidentiary hearing. All parties were represented at the evidentiary hearing on the record.

Discussion

U.E. is a public utility engaged in providing electric service to the public in the State of Missouri, subject to the jurisdiction of the Commission. U.E.'s principal place of business is located in St. Louis, Missouri. Gascosage is a rural electric cooperative engaged in distributing electric energy and service to its members in the State of Missouri. Gascosage's principal place of business is located in Dixon, Missouri. Gascosage is not subject to Commission regulation of its service or rates.

U.E. and Gascosage jointly applied for approval of a territorial agreement which would designate the service area of each of the Applicants in portions of the Missouri counties of Camden, Miller, Maries, Pulaski, and Phelps. The agreement is designed to avoid duplication of facilities and minimize disputes between the two suppliers. The agreement designates the boundaries of the exclusive electric service area of each of the Applicants for service of new structures within the designated areas. The territorial agreement sets boundaries which encompass territory not serviced by either party but which is serviced by other power suppliers including Intercounty. As part of the Stipulation and Agreement, U.E., Gascosage, and Intercounty agreed that the territorial agreement only defines service territory as to U.E. and Gascosage. 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' testimony indicated that duplication of facilities currently exists between U.E. and Gascosage. The Applicants further testified 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. Gascosage's witness testified that no customers of the Cooperative are located in the territory that is assigned to U.E. under the territorial agreement. U.E.'s witness, Larry Merry, testified that there will be no exchange of customers as a result of the agreement and either party will have the right to continue serving existing structures located in the electric service area of the other party. Mr. Merry also testified that U.E. will continue to serve customers located in Gascosage's service territory for which it must maintain distribution facilities. Mr. Merry also stated that the agreement does not limit either party's right to construct transmission and distribution facilities in one another's service areas where necessary.

Both Applicants have the ability to make available adequate power supplies. Although Gascosage is a distribution cooperative, it is a member of Sho-Me Electric Power Cooperative which supplies its power needs under a long term, all requirements contract.

The third area for Commission concern is the effect of approval of the territorial agreement on customers of the Applicants. Both the

Applicants' witnesses and Staff's witness testified that no customers or facilities will be transferred.

Fourth, the Commission will consider a category of other cost and safety benefits attributed to the proposed territorial agreement. Both Applicants and Staff testified that the agreement will promote efficiency, both by avoiding the duplication of distribution facilities and minimizing or eliminating competitive disputes. The elimination of duplicated facilities will result in fewer live power lines crossing the same area, thereby increasing public safety. Staff's and Applicants' witnesses testified that the agreement should also enhance certainty in whom to call for service within the designated territories.

The last factor the Commission will consider in regard to the appropriateness of the territorial agreement is the provision for case-by-case addendum to the agreement found in Paragraph 8 of the territorial agreement. The addendum provision would permit a structure to receive service from one party even though it is located in the other party's designated service area. The party wishing the special arrangement would have to file appropriate documentation (called an "Addendum") with the Commission and the arrangement would be subject to Commission approval. A similar provision was approved in Case No. EO-95-151 as part of a territorial agreement between U.E. and Laclede Electric Cooperative, Inc.

The Commission Staff reviewed the addendum provision and Staff's witness testified that the language is acceptable to Staff. In general the addendum is acceptable to the Commission as substantially in conformance with the approved addendum in Case No. EO-95-151.

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 the Applicants on November 13, 1997, would avoid future duplication of facilities. The Commission finds that the Applicants 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 finds that the addendum providing for a case-by-case procedure for exceptional customers is appropriate and is not detrimental to the public interest.

The Commission further finds that the approval of this territorial agreement will not impair U.E.'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 U.E. pursuant to Section 386.250 and Chapter 393, RSMo. The Commission does not have jurisdiction over the services, activities, and rates of rural electric cooperatives such as Gascosage except as specified in Section 394.160, RSMo.

When a cooperative enters into a territorial agreement with a regulated public utility the agreement must be approved by the Commission after hearing. § 394.312, RSMo. The Commission may approve a territorial agreement if the agreement in total is not detrimental to the public interest. § 394.312.4, RSMo. Based on the findings of fact it has made, the Commission concludes that the territorial agreement proposed by U.E. and Gascosage, Case No. EO-98-279, 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 Union Electric Company and Gascosage Electric Cooperative on November 13, 1997, is approved.

2. That no more than 10 days after the effective date of this order Union Electric Company shall file revised tariff sheets in compliance with the Territorial Agreement approved in Ordered Paragraph 1.

3. This Report and Order shall become effective on June 23, 1998.

BY THE COMMISSION

Dale Hardy Roberts

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

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
Murray and Schemenauer, CC.,
concur and certify compliance
with the provisions of
Section 536.080, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 11th day of June, 1998.

TERRITORIAL AGREEMENT

THIS AGREEMENT is entered into between Union Electric Company, hereinafter referred to as "Company", and Gascosage Electric Cooperative, hereinafter referred to as "Cooperative".

WHEREAS, Company is authorized by law to provide electric service within the State of Missouri, including portions of Camden, Miller, Maries, and Phelps Counties; and

WHEREAS, Cooperative is authorized by law to provide electric service within the State of Missouri, including portions of Camden, Miller, Maries, Phelps and Pulaski Counties; and

WHEREAS, the Missouri Legislature has authorized electrical corporations and rural electric cooperatives to enter into written territorial agreements; and

WHEREAS, Company and Cooperative desire to promote the orderly development of the retail electric service within Camden and Pulaski counties and portions of Miller, Maries, and Phelps Counties, Missouri, to avoid wasteful duplication and to minimize disputes which may result in higher costs in serving the public.

NOW, THEREFORE, Company and Cooperative, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. For purposes of this Agreement:

(a) "Customer" includes any natural person, firm, association, partnership, business trust, public or private corporation, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity which has requested or is receiving electric service. Any customer who has requested or is receiving electric

EXHIBIT No. A

service at one structure shall be a new and different customer at each structure at which electric service has been requested.

(b) "Structure" is defined as an agricultural, residential, commercial, industrial or other building or a mechanical installation, machinery or apparatus but shall not include customer-owned meter wiring. "Structure" shall include a contiguous addition to or expansion of a previously existing structure and a replacement of a previously existing structure if the replacement structure is built on the foundation of the previously existing structure and is used for the same purposes as the previously existing structure.

(c) "Commission" shall mean the Missouri Public Service Commission.

(d) "Company" shall mean Union Electric Company and any subsidiary or other corporate entity owned or controlled by Union Electric Company.

(e) "Cooperative" shall mean Gascosage Electric Cooperative and any subsidiary or other corporate entity owned or controlled by Gascosage Electric Cooperative.

(f) "New Structure" shall mean any structure which did not receive electric energy from either party prior to the effective date of this Agreement.

2. Each Party shall be entitled to continue serving those structures it was serving as of the date of this agreement, wherever those structures may be located. After the effective date of this Agreement, as between the parties hereto, each shall have the exclusive right and power pursuant to this agreement to furnish electric service to all new structures located within its respective electric service area described in paragraphs 3 and 4 of this Agreement, regardless of the size of the load or the characteristics of the customer's requirements. Except as provided

expressly herein, neither party may furnish, make available, render or extend electric service to new structures or for use within the electric service area of the other party, either directly, indirectly or through a subsidiary corporation or other entity controlled by the party.

3. The electric service area of Company under this Agreement shall be all of Camden County (Exhibit 2A) and that portion of Miller (Exhibit 2B) and Maries (Exhibit 2C) Counties as is described in Exhibit 1 to this Agreement and as substantially illustrated by the line as shown on the maps marked Exhibit 2A thru 2C to this Agreement, all exhibits being incorporated herein by reference and made a part of this Agreement as if fully set out verbatim. The Company may serve within municipalities that are located in Company's service area, pursuant to this Agreement.

4. The electric service area of Cooperative under this Agreement shall be all of Pulaski County (Exhibit 2D) and that portion of Miller (Exhibit 2B), Maries (Exhibit 2C), and Phelps (Exhibit 2E) Counties as is described in Exhibit 3 to this Agreement and as substantially illustrated by the line as shown on the maps marked Exhibit 2B thru 2E to this Agreement, both exhibits being incorporated herein by reference and made a part of this Agreement as if fully set out verbatim. The Cooperative may serve within municipalities that are located in Cooperative's service area, pursuant to this Agreement.

5. Exhibits 2A-2E depicts the service areas of both Company and Cooperative. To aid readability of these exhibits, the boundary line of the Cooperative is offset in those areas where the service areas boundaries of both parties coincide. For these cases, the actual service

area boundary is at the location shown by the Company's boundary line. In cases of conflict between Exhibits 2A-2E and the written legal descriptions contained in Exhibits 1 and 3, the legal written descriptions shall prevail.

6. The city of Rolla operates and maintains a municipally-owned electric system, which is being presently served wholesale by Company. Nothing in this agreement shall restrict or limit Company's right to continue to serve wholesale the municipally-owned electric system of Rolla. Should Rolla cease to operate and maintain the municipally-owned electric system, offer to sell such system, or restructure the municipally-owned electric system from a wholesale system to a retail system, nothing in this agreement shall preclude or restrict either Company or Cooperative from:

- (a) buying the municipally-owned electric system of Rolla,
- (b) seeking to supply the municipally-owned electric system of Rolla in the event the system becomes a retail system, and
- (c) serving individual customers within the city limits of Rolla, as permitted by Missouri law.

To the extent the electric service area of the Cooperative as defined in paragraph 4 above includes the city of Rolla and should Rolla cease to operate and maintain municipally-owned electric facilities and sell such facilities to the Company, notwithstanding this Agreement, Company may serve within the incorporated boundaries of Rolla as it exists on the date Rolla and Company agree on a sale of Rolla's facilities to Company ("the Sale Date") pursuant to the following conditions and agreement. Company shall, notwithstanding this Agreement, have the

power to serve the structures being served by Rolla on the Sale Date. Following the purchase by Company and the receipt of all required regulatory approvals, Company and Cooperative shall agree on an amendment to this Agreement which excludes from the exclusive territory of the Cooperative under this Agreement, territory lying within Rolla's incorporated boundaries whose facilities were purchased by Company. Boundaries of the area to be excluded from the exclusive service territory of the Cooperative shall be that portion of Rolla's incorporated boundary as it exists on the effective date of this Agreement plus such portion of any territory annexed by Rolla after the effective date of this Agreement which territory is closer to the facilities acquired by Company from the municipality than to facilities of Cooperative as both such facilities exist on the Sale Date. In the event the parties cannot agree on the boundaries defined above within six (6) months after the Sale Date, the parties shall submit the issue of the appropriate boundaries to determination by the Commission as provided in Section 394.312.2 RSMo. Company shall be entitled to serve all of the structures served by Rolla prior to the purchase of the facilities by Company regardless of whether the structures are located in territory determined to be served by Company or Cooperative. The Cooperative shall be entitled to serve all of the structures it was serving prior to the purchase of the Rolla municipal system by Company regardless of whether the structures are located in the city limits of Rolla or in any territory deemed to be served by Company or Cooperative.

7. The location of a structure for purposes of this Agreement shall be the geographical location at which electric power and energy is used, regardless of the point of delivery. The first owner of a new structure located on or crossed by any mutual boundary line

described in paragraphs 3 and 4 dividing the electric service territories of the parties shall be permitted to choose either party for permanent electric service, provided that the customer's meter is installed within that party's service area. Thereafter that party shall exclusively serve that structure.

8. The parties may agree on a case-by-case basis by an Addendum hereto to allow a structure to receive service from one party though the structure is located in the electric service area of the other.

Such Addendum shall be filed with the Executive Secretary of the Commission in the same manner as a motion or other pleading, with a copy submitted to the Office of the Public Counsel. There will be no filing fee for these addenda.

Each Addendum shall consist of a notarized statement identifying the structure, the party to serve the structure and the justification for the Addendum and indicate that the parties support the Addendum.

Each Addendum shall be accompanied by a notarized statement, signed by the customer to be served, which acknowledges such customer's receipt of notice of the contemplated electric service to be provided and that the Addendum represents an exception to the territorial boundaries approved by the Commission and shall indicate the customer's consent to be served by the service provided contemplated by the Addendum.

If the Staff or Office of the Public Counsel do not submit a pleading objecting to the Addendum within forty-five (45) days of the filing thereof, the Addendum shall be deemed approved by the aforesaid parties. Each Addendum shall contain a statement in bold uppercase

typeface indicating that the Staff or Office of the Public Counsel has forty-five (45) days to oppose the Addendum or else the Addendum shall be deemed approved by the aforesaid parties.

Each party, pursuant to an executed Addendum, shall have the right to provide temporary service, as defined in Section 393.106 RSMo., until the Commission approves or disapproves the Addendum. No party shall be required to remove any facilities installed pursuant to an Agreement until the effective date of an Order of the Commission or a court regarding the removal of same.

9. Company and Cooperative agree to undertake all actions reasonably necessary to implement this Agreement. Company and Cooperative will cooperate in presenting a joint application showing this Agreement, in total, not to be detrimental to the public interest. Company and Cooperative will share equally in the costs assessed by the Commission for seeking of administrative approval of this Agreement. All other costs will be borne by the respective party incurring the costs.

10. Except as expressly provided herein, neither the boundaries described by this Agreement nor any term of this Agreement may be modified, repealed or changed except by a writing mutually approved by the respective parties and by the Commission.

11. This Agreement shall be binding on the parties and all subsidiaries, successors, assigns and corporate parents or affiliates of Company and Cooperative. Neither party shall make any assignment of any of its rights or interests under this Agreement without written consent of

the other party, which consent shall not be unreasonably withheld, and the approval of the Commission. Notwithstanding the foregoing, in the event of a merger, corporate reorganization, or corporate restructuring of a party, said party may assign this Agreement to the corporate entity responsible for providing distribution level electric service in the area covered by this Agreement and the consent of the other party shall be deemed to be given. The consenting party or party whose consent is deemed to be given shall cooperate in obtaining Commission approval by (a) participating in a joint application requesting Commission approval of the assignment and (b) providing an affidavit, stating it consents to the Assignment, for inclusion in such application.

12. This Agreement shall become effective upon approval by the Commission pursuant to Section 394.312, RSMo. The term of this Agreement shall be perpetual. Performance of the parties is contingent upon all of the following having occurred no later than July 31, 1998:

(a) All required approvals of the Cooperative's Board of Directors.

(b) Approval of the transaction by the Commission, including but not limited to a finding that this Agreement, in total, is not detrimental to the public interest and that this Agreement shall suspend the Company's obligation to serve customers within Cooperative's service area described in paragraph 6 of this Agreement but shall not impair the Company's certificates of convenience and necessity in any other respect within Miller and Maries Counties.

13. Both of the parties to this Agreement have service territories outside of the areas covered by this Agreement. For service outside of the areas described by this Agreement, each party will continue to operate without regard to this Agreement. The principles of law, rules and

regulations applicable to the business of retail sales of electricity shall apply without regard to this Agreement.

14. This Agreement shall in no way affect either party's right to construct such electric distribution and transmission facilities within the designated electric service area of the other as that party deems necessary, appropriate or convenient to provide electric service to its customers not inconsistent with the terms of this Agreement and as otherwise allowed by law.

15. This contract constitutes the entire agreement between the parties relating to the allocation of service rights in the territory described herein. If the Commission does not approve this Agreement or fails to approve or rejects any portion of this Agreement, then the entire Agreement shall be nullified and of no legal effect. Further, if any part of this Agreement is declared invalid or void by a Court or other agency with competent jurisdiction, then the whole Agreement shall be deemed invalid and void.

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IN WITNESS WHEREOF, the parties have executed this Agreement this 13th day of

November, 1997.

UNION ELECTRIC COMPANY

By: William J. Carr

Title: Vice President

ATTEST:

GK Waters
Ass't Secretary

GASCOSAGE ELECTRIC
COOPERATIVE

By: Walter R. Wade

Title: Board President

ATTEST:

Nancy Ziddle
Secretary