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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 22nd
day of September, 1998.

In the Matter of the Application of)
Union Electric Company d/b/a AmerenUE)
and Farmers' Electric Cooperative for)
Approval of a Written Territorial)
Agreement Designating the Boundaries of)
Each Electric Service Supplier within)
Portions of Caldwell, Carroll, Chariton,)
Clinton, Daviess, DeKalb, Linn,)
Livingston and Ray Counties; Authorizing)
the Sale, Transfer, and Assignment of)
Certain Electric Distribution Facilities,)
Easements, and Other Rights Generally)
Constituting AmerenUE's Electric Utility)
Business Associated with Its Customers)
Transferred Pursuant to the Territorial)
Agreement; and AmerenUE's Application for)
a Certificate of Convenience and Necessity)
Authorizing It to Own, Control, Manage,)
and Maintain an Electric Power System for)
the Public in Certain Portions of Chariton,)
Linn, and Ray Counties.)

Case No. EO-98-511

ORDER DENYING APPLICATION FOR REHEARING OR CORRECTION

On September 3, 1998, the Commission issued an Order Approving Application and Stipulation and Agreement. On September 9, North Central Electric Cooperative (NCMEC) filed an Application for Rehearing or Correction. NCMEC points out the Commission's September 3 order did not specifically state the territorial agreement between Union Electric Company d/b/a AmerenUE (AmerenUE) and Farmers' Electric Cooperative (Cooperative) "shall in no way affect or diminish the rights and duties of other electric suppliers not a party to the Territorial Agreement to provide service within the boundaries designated in the Territorial

Agreement in accordance with Section 394.312.5 RSMo" as requested by the parties. NCMEC claims that since the Commission's September 3 order did not contain that language, the Stipulation and Agreement filed by the parties is void. NCMEC claims that, since it is another electric supplier, not a party to the agreement, in the area affected by the agreement, inclusion of this language is "vitally important" to NCMEC.

Section 394.312.5, RSMo 1994 provides, in pertinent part, that:

5. Commission approval of any territorial agreement entered into under the provisions of this section shall in no way affect or diminish the rights and duties of any supplier not a party to the agreement or of any electrical corporation authorized by law to provide service within the boundaries designated in such territorial agreement.

This statute provides that the Commission's approval will not affect or diminish NCMEC's rights. The Commission is an administrative body created by statute and has only such powers as are expressly conferred by statute and reasonably incidental thereto. State ex rel. Harline v. Public Service Commission, 343 S.W.2d 177, 181(5) (Mo.App.1960). The effect of the Commission's September 3 order on NCMEC is exactly the same whether it contains the language that NCMEC believes is vitally important or not. The provisions of Section 394.312.5 apply even if they are not cited in the Commission's order. Mere recitation of the statutory language does not enhance or diminish its binding effect but would simply be a reminder of that effect.

Section 386.500, RSMo 1994, provides that the Commission shall grant a rehearing if in its judgment it finds sufficient reason to do so. NCMEC is not in any manner affected by the failure of the specific language it cites to appear in the Commission's order, and thus has not stated sufficient reason to grant a rehearing. Likewise, NCMEC has not

demonstrated that it is adversely affected by any error in the Commission's order, so there is no reason for the order to be corrected.

IT IS THEREFORE ORDERED:

1. That the Application for Rehearing or Correction filed by North Central Electric Cooperative is hereby denied.

2. That this order shall become effective on September 22, 1998.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

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

(S E A L)

Murray, Schemenauer and Drainer, CC., concur.
Lumpe, Ch., and Crumpton, CC., absent.

Mills, Deputy Chief Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION