

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 8th
day of April, 1992.

In the matter of the application of the Missouri Joint)
Municipal Electric Utility Commission, for permission,)
approval, and a certificate of convenience and necessity)
authorizing it to enter into a refinancing of an existing) CASE NO. EF-92-215
promissory note previously approved by the Commission as)
a part of the original financing of the purchase of an)
office building for its general offices in Columbia,)
Missouri.)

ORDER DISMISSING APPLICATION FOR LACK OF JURISDICTION

By an application filed March 2, 1992, the Missouri Joint Municipal
Electric Utility Commission (Applicant) sought approval of a modification and
five year extension of a note or mortgage entered into at the time of purchase
of its office building.

Although authority had previously been given to enter into a similar
transaction, the Commission, by Order issued March 18, 1992, expressed concern
as to whether the Applicant engaged in any activity subject to its jurisdiction.
The order directed the Commission Staff, the Applicant, and the Office of Public
Counsel, if it desired, to file comments by March 30, 1992, addressing the
question of the Commission's jurisdiction over the activities of the Applicant.

The General Counsel of the Commission has filed comments; the Office
of Public Counsel has notified the Commission it will file no comments; and the
Applicant has made no response.

The General Counsel's suggestions cite three sections of statutes
controlling the jurisdiction of the Commission over a joint municipal utility
commission.

Section 386.025 RSMo 1986 reads:

Any joint municipal utility commission established by contract for the purpose of owning, operating, controlling or managing all or part of any water, gas or electric light works, heating or power plants, or gas or electrical production, distribution or transmission facilities shall be considered a water corporation, gas corporation or electrical corporation, as the case may be, as those terms are defined in this chapter.

Section 393.295 RSMo 1986 reads:

All provisions of chapters 386 and 393, RSMo, concerning court proceedings and the jurisdiction, supervision, powers and duties of the public service commission with reference to water corporations, gas corporations and electrical corporations, including, but not limiting by enumeration those provisions concerning supervision, investigations, complaints, hearings, reports, approval of certificates of franchises, granting of certificates, approval of issues of stocks, bonds, notes and other evidence of indebtedness, keeping of accounts, fixing of just and reasonable rates, which shall be based on costs associated with any property of such corporations, shall be and are hereby made fully applicable to any joint municipal utility commission which owns, operates, controls, or manages all or part of any water, gas or electric light works, heating or power plants, electrical energy resources or gas or electrical production, distribution or transmission facilities in this state. Nothing contained herein, however, shall affect the rights, privileges or duties of existing corporations pursuant to this chapter, including the construction of facilities within an existing certificated area.

Section 393.765 RSMo 1986, H.B. 1126 §14 as amended in 1986, reads:

All provisions of chapters 386 RSMo, and 393, in reference to the jurisdiction, supervision, powers and duties of the public service commission with reference to gas and electrical corporations are hereby made applicable to any commission proposed to be created pursuant to sections 393.700 to 393.770 which commission proposes to own, operate, control or manage any gas or electrical light works, heating or power plant in this state and such provisions shall have full application thereto.¹

¹ Section 386.020(12) RSMo Supp. 1991 defines "electrical corporation" as a company "owning, operating, controlling or managing any electric plant."

The General Counsel's suggestions also refers to Section 27, Article VI of the Missouri Constitution which provides in pertinent part as follows:

No such joint board, commission, officer or officers established by a joint contract, or any joint venture or cooperative action or undertaking of any kind or character shall purchase, construct, extend, or improve any revenue producing water, gas or electric light works, heating or power plant unless and until such joint boards, commissions, officer or officers, or any joint venture or cooperative action and all utility operations conducted by any joint board, commission, officer or officers are fully regulated in all respects as a public utility.

The General Counsel's suggestions state that the common thread running through the jurisdictional provisions is the "ownership, operation, control or management of electric facilities". It is the suggestion of the Office of General Counsel that, since the Applicant does not own or control any electric facilities, but acts as a broker by bringing together prospective buyers and sellers of electricity, its current activities do not bring it within the Commission's jurisdiction.

In the Commission's opinion the suggestions of the Office of General Counsel should be adopted for disposition of this matter and the instant application should be dismissed because it does not require Commission approval, and for the additional reason that the Applicant appears to currently perform no function which brings it under the Commission's regulatory authority.

IT IS THEREFORE ORDERED:

1. That for the reasons recited herein, the application of the Missouri Joint Municipal Electric Utility Commission for authority to enter into a refinancing of an existing promissory note as a part of the financing of the purchase its office building, filed herein on March 2, 1992, be dismissed.

2. That this Order shall become effective on April 20, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

McClure, Chm., Mueller, Rauch,
Perkins and Kincheloe, CC.,
Concur.