

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the joint application of)
Union Electric Company and the City of)
Sikeston for an order authorizing the)
sale, transfer, and assignment of certain)
electric distribution facilities, easements)
and other rights generally constituting)
Union Electric Company's electric utility)
business within and near the City of)
Sikeston, approving a territorial agreement,)
and authorizing the City of Sikeston to)
provide electrical service to one customer)
outside its municipal limits.)

CASE NO. EM-93-243

APPEARANCES: Steven R. Sullivan, Attorney at Law, P. O. Box 149,
St. Louis, Missouri 63166, for Union Electric Company.

John B. Coffman, Assistant Public Counsel, P. O. Box 7800,
Jefferson City, Missouri 65102, for the Office of the
Public Counsel and the Public.

Michaelene A. Knudsen, Assistant General Counsel, P. O. Box 360,
Jefferson City, Missouri 65102, for the Staff of the Missouri
Public Service Commission.

HEARING

EXAMINER: Elaine E. Bensavage

REPORT AND ORDER

Procedural History

On February 8, 1993, Union Electric Company (UE) and the City of Sikeston (City or Sikeston) filed a joint application pursuant to Sections 393.106, 393.190, 394.312, and 386.800, RSMo 1986 and Cum. Supp. 1992, seeking authorization of the Commission: (1) approving the sale, transfer, and assignment of certain electric distribution facilities, easements and other rights generally constituting UE's electric utility business within and near the City of Sikeston to the City; (2) authorizing the City to provide electrical service to one customer outside of its municipal limits; and (3) that the allowance for the City to serve one customer outside of its municipal limits be treated as a territorial agreement between UE and the City.

On February 23, 1993, the Commission issued an order giving notice, setting an intervention deadline, and establishing a procedural schedule. No one filed a motion to intervene in this proceeding. Pursuant to the procedural schedule, prefiled testimony was filed by all parties. On April 14, 1993, a Hearing Memorandum was filed, which indicated that all parties were in agreement with respect to the sale of UE's electric utility business in Sikeston to the City, and with respect to the territorial agreement, and that the only issue which remained in dispute was the ratemaking treatment to be given to the gain on UE's sale of facilities. On April 19, 1993, a Stipulation and Agreement was filed, which resolved the remaining disputed issue by agreeing that the ratemaking treatment on UE's gain from the sale of its facilities would be deferred to a later UE rate proceeding. A copy of the Stipulation and Agreement is attached hereto as Attachment 1 and incorporated herein by reference.

On April 23, 1993, a hearing was held on the joint application regarding the sale of facilities and territorial agreement. By agreement, counsel for Sikeston was not present at the hearing. Prior to the hearing, it was determined that a prehearing conference was unnecessary. At the hearing, the prefiled testimony of all parties was admitted into evidence, with cross-examination waived per the Stipulation and Agreement. In addition, the Hearing Memorandum and Stipulation and Agreement were also admitted into evidence.

On May 24, 1993, UE filed a Motion For Expedited Treatment, seeking to have the Commission's Report and Order become immediately effective, as the parties desire to close the sale of the facilities on Friday, May 28, 1993.

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:

I. General

UE is an electrical corporation and public utility as defined in Section 386.020, RSMo Cum. Supp. 1992, and is engaged in providing electric, gas, and steam heating services in portions of Missouri. Its principal office and place of business is located at 1901 Chouteau Avenue, St. Louis, Missouri 63103. Currently UE serves approximately 80 retail electric customers within the City of Sikeston.

The City of Sikeston is a municipal body and third-class city existing under the laws and constitution of the State of Missouri. The Sikeston Board of Municipal Utilities owns and operates a coal-fired generating plant. Service is provided to electric customers through Sikeston Light & Water, which currently serves approximately 8,750 customers.

II. Sale of Electric Utility Business

The contract for purchase and sale of distribution facilities between UE and the City generally provides that Sikeston will pay UE \$100,000 for UE's Sikeston electric distribution facilities and related secondary and service facilities. Among the exclusions from the sale are UE's 34.5 kV distribution feeder, which runs through the City, and all transformers and revenue meters located within the city limits. Under the terms of the agreement the City is required to remove at its expense all transformers and revenue meters and return them to UE. The contract also provides for the sale of facilities necessary to serve the one customer outside the City's municipal limits, which is the subject of the territorial agreement between the parties.

A number of witnesses testified regarding the reasons for the sale and the results expected therefrom. Based upon that testimony, the Commission finds that UE can expect little or no load growth from the area, and faces removal costs for deenergized electric facilities which are duplicative of the City's facilities now serving former UE customers. These facilities are a potential

source of liability to UE, and cause confusion to utility personnel during storm outages and emergencies. Sikeston currently has adequate power to supply the additional customers obtained through its purchase of UE's facilities.

In addition, the Commission finds further that as a result of the sale, future duplication of facilities could be prevented, and current duplication of facilities would be removed. Current customers of UE who would in the future be served by the City could expect improved reliability in their service, as there was testimony from a Staff witness that UE's system in this area is a stand alone/noncompatible radial distribution system, whereas the City's distribution system will allow redundant feed paths. In addition, a comparison was done of these customers' actual UE bills versus an estimate of what City's bills would have been, which indicated that on average both residential and commercial customers should experience overall decreases in their electric rates. Overall, UE should experience a small reduction in peak load, and avoid future capacity needs, energy, and environmental costs. This sale may have the effect of increasing UE's revenue requirement, but should have no significant impact on rates. The Commission finds, therefore, that the sale by UE of the described facilities to City reasonable and not detrimental to the public interest.

III. Territorial Agreement

As part of the sales agreement, UE also intends to sell to the City its distribution and service facilities outside the city limits of Sikeston, south of Abels Road between Shady Lane and the St. John's drainage ditch, consisting of three poles and spans of wire. After the sale of its facilities within Sikeston to the City, UE would be required to maintain several miles of lines and facilities in order to continue to serve this single residential customer. UE and the City intend that the contract provisions pertaining to the sale of the three poles and spans of wire be considered as the territorial agreement. The property in question consists of 276 acres and is privately owned, with a very

light load serving a barn, amounting to an average of \$16 per month. It is also physically surrounded by the Sikeston city limits on all sides. A legal description of the property to be served under the territorial agreement between UE and the City was attached as Schedule 4 to the direct testimony of UE's witness Mark S. Vantrease, and is attached hereto as Attachment 2 and incorporated herein by reference.

There was testimony that it would be more economic for the City to serve this customer, and that this customer would receive the same benefits as the other UE customers who will be transferred to the City, i.e., improved reliability of service and decrease in electric rates. The witness for Sikeston also testified that this customer would be treated on the same basis as any other City customer. Based upon this evidence, the Commission finds that the territorial agreement is in the public interest and should be approved.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law:

The Commission has jurisdiction over these matters pursuant to Chapters 386, 393, and 394, RSMo 1986 as amended. The standard for Commission approval of a Stipulation and Agreement is whether it is just and reasonable. The Commission concludes that the Stipulation and Agreement filed in this case is just and reasonable and should be approved.

The Stipulation and Agreement recommends that the Commission approve the proposed sale of UE's facilities to the City, and approve the territorial agreement between UE and the City. The Commission concludes that it would be more economical and efficient for the City to serve the 80 or so UE customers affected by the transaction, as well as the one customer outside the City's municipal limits. Benefits of improved service reliability and lower electrical costs will inure to current UE customers who will be transferred to the City

under the sales agreement and territorial agreement. Future duplication of facilities will be avoided, and currently duplicative facilities will be removed. Benefit also will inure to remaining UE ratepayers through a small reduction in peak load, and avoidance of future capacity needs, energy, and environmental costs, with no significant impact on rates. Over time those benefits can be magnified by a policy of planning which seeks to identify the economics and efficiencies of particular service areas, with resulting sales or purchases of service areas, or execution of territorial agreements. The Commission further concludes that in the event development should occur on the property which is the subject of the territorial agreement, the City is likely to attempt to annex the property.

The Stipulation and Agreement also stipulates and agrees that the ratemaking treatment to be afforded UE's gain from the sales transaction should be deferred to a later UE rate proceeding. The Commission concludes that such a deferral to a rate case will allow the overall impact of the sale to be seen more clearly, with more information available to assist in making a determination of the proper treatment.

The Commission also specifically concludes that the territorial agreement filed by UE and the City in total is not detrimental to the public interest, but is in fact in the public interest, and that the sale of UE's facilities within the City of Sikeston to the City is also not detrimental to the public interest.

Although the joinder of an application for approval of a territorial agreement with an application for approval of a sales agreement caused no particular problems in this case - where a Stipulation and Agreement was reached which was approved by the Commission - the Commission expresses its reservations concerning the joinder of an application for approval of a territorial agreement with another type of application. Linkage of two applications would risk

disapproval of a territorial agreement for reasons which have nothing to do with the territorial agreement itself. Thus, the Commission states its disapproval of joinder of applications where one of the applications involves a territorial agreement.

With respect to UE's request for expedited treatment, the Commission concludes that an early closing date will allow the current customers of UE to benefit from the City's lower rates as soon as possible, and thus will grant the requested expedited treatment.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement filed in this case (Attachment 1) is hereby approved and adopted.

2. That the sale and transfer of certain assets of Union Electric Company to the City of Sikeston pursuant to the Contract for Purchase and Sale of Distribution Facilities Between Union Electric Company and City of Sikeston attached as Schedule 1 to Union Electric Company's joint application is hereby approved, subject to the terms and conditions set forth in this Report and Order.

3. That the territorial agreement between Union Electric Company and the City of Sikeston pursuant to the Contract for Purchase and Sale of Distribution Facilities Between Union Electric Company and City of Sikeston attached as Schedule 1 to the joint application and pursuant to the Legal Description of Property to be Served Under the Territorial Agreement Between Union Electric Company and the City of Sikeston, attached to this Report and Order as Attachment 2, is hereby approved, subject to the terms and conditions set forth in this Report and Order.

4. That Union Electric Company is hereby authorized to take any and all other actions necessary to effectuate the sales transaction and territorial agreement contemplated by the joint application and this Report and Order.

5. That Union Electric Company is hereby authorized to enter into, execute, and perform in accordance with the terms of all other documents reasonably necessary and incidental to the performance of the sales transaction and territorial agreement which are the subject of the joint application.

6. That Union Electric Company shall file a pleading notifying the Commission of the closing date of the sale and transfer of assets within five (5) days after its completion.

7. Upon receipt of the pleading described in Ordered Paragraph 6 above, the Commission shall issue an order cancelling the certificate of convenience and necessity held by Union Electric Company with respect to the service area which is the subject of this joint application.

8. That on the closing date of the sale and transfer of Union Electric Company's assets, Union Electric Company is hereby authorized to transfer to the City of Sikeston all security deposits applicable to Union Electric Company's electric utility accounts in the City of Sikeston and applicable to the territorial agreement.

9. That Union Electric Company shall file revised service area tariff sheets to reflect its updated service area after the effectuation of the sale and territorial agreement on or before June 28, 1993.

10. That treatment of Union Electric Company's gain on the sale of the facilities contemplated herein shall be deferred to Union Electric Company's next rate proceeding.

11. That nothing in this Report and Order shall be considered a finding of the Commission of the value for ratemaking purposes of the properties herein involved or as an acquiescence in the value placed upon said properties by Union Electric Company. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded these transactions in any later proceeding.

12. That this Report and Order shall become effective on May 28, 1993.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Chm., McClure and
Perkins, CC.; Concur.
Kincheloe and Crumpton, CC., Absent.

Dated at Jefferson City, Missouri,
on this 25th day of May, 1993.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the Joint)
Application of Union Electric)
Company and the City of Sikeston)
for an order authorizing the sale,)
transfer and assignment of)
certain Electric Distribution)
Facilities, Easements and other)
rights generally constituting)
Union Electric Company's electric)
utility business within and near)
the City of Sikeston, approving)
a territorial agreement, and)
authorizing the City of Sikeston)
to provide electrical service to)
one customer outside of its)
municipal limits.)

Case No. EM-93-243

FILED
APR 19 1993
MISSOURI
PUBLIC SERVICE COMMISSION

STIPULATION AND AGREEMENT

On February 2, 1993, Union Electric Company (UE) and the City of Sikeston (Sikeston), a third class city in the state of Missouri, filed an application with the Commission seeking: (1) authorization for UE to sell, transfer and assign certain electric distribution facilities, easements and other contractual obligations constituting UE's electric utility business within and near Sikeston pursuant to the terms of the Contract for Purchase and Sale of Distribution Facilities (Sale Agreement) filed by UE and Sikeston in this case; (2) approval of a territorial agreement between UE and Sikeston; and (3) authorization for Sikeston to provide electrical service to one customer outside its municipal limits.

On February 23, 1993, the Commission issued an Order and Notice setting a deadline for interventions and adopting a procedural schedule. No interventions were filed. Notice was

served to each of UE's customers affected by the proposed sale in addition to notice by publication.

UE filed prepared direct testimony of Mark S. Vantrease and David L. Wucher on March 16, 1993. Sikeston also filed prepared direct testimony of William R. Bloemer on March 16, 1993. Rebuttal testimony was filed by the Staff on March 26, 1993, including the testimony of William J. Cochran, Stephen M. Rackers and B. J. Washburn. UE filed surrebuttal testimony of Mark S. Vantrease and David L. Wucher.

On April 14, 1993, the parties filed a Hearing Memorandum describing the areas of consensus and the parties' positions on the one contested issue remaining in the case.

The parties to this proceeding have reached a resolution of all of the issues raised in this proceeding. Accordingly, the following stipulations are hereby submitted to the Commission for its consideration and approval in complete resolution of Case No. EM-93-243:

1. The parties recommend that the Commission issue an Order granting the authority and relief requested by the Joint Application, as amended by Paragraph 2 of this Stipulation and Agreement, regarding the proposed sale. In the Joint Application, UE and Sikeston are requesting approval of the Sale Agreement which will allow Sikeston to purchase from UE certain electric distribution facilities and related secondary and service facilities (excluding transformers and revenue meters), easements and other rights as are more particularly described in the Sale

Agreement. If the sale is approved, UE is also requesting authorization to extinguish all Commission Certificates of Convenience and Necessity under which UE operates its electric business in Sikeston and such other requests as are fully described on pages 5 through 7 of the Joint Application.

2. The parties stipulate and agree that the Commission's determination of ratemaking treatment regarding the gain of approximately \$150,000 from the sale of the property should not be made in this case, but shall be deferred to a later UE rate proceeding.

3. The parties recommend that the Commission approve the proposed territorial agreement and grant Sikeston the authority to provide service to the one customer located outside Sikeston's municipal limits. In the Joint Application, UE and Sikeston are requesting approval of the territorial agreement in this case for the purpose of serving one customer located outside of Sikeston's corporate limits. UE and Sikeston are requesting that the Commission treat the provision of the Contract for Purchase and Sale of Distribution Facilities (Sale Agreement) which provides for the sale of the distribution and service facilities located outside of Sikeston, consisting of three poles and spans of wire used to service the one customer as the territorial agreement in this case. If the Commission approves this agreement, Sikeston will provide service to this customer whose property is legally described on Schedule 4 of the Direct Testimony of UE witness Mark S. Vantrease.

4. The parties further stipulate and agree that upon approval of the Joint Application by the Commission, UE shall file within thirty (30) days of the effective date of the Commission's Order, revised service area tariff sheets to reflect its updated service area after the sale.

5. This Stipulation and Agreement represents a negotiated settlement for the sole purpose of addressing the authority requested by the Joint Application in Case No. EM-93-243. Except as specified herein, the parties to the Stipulation and Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation and Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve the instant Stipulation and Agreement in this case, or in any way condition its approval of the same.

6. None of the parties to this Stipulation and Agreement shall be deemed to have approved of or acquiesced in any ratemaking principle, accounting principle, or any method of cost of service determination, or cost allocation underlying, or allegedly underlying any of the issues for which provision is made in this Stipulation and Agreement.

7. The prepared testimonies and schedules of UE witnesses Mark S. Vantrease and David L. Wucher; Sikeston witness William R. Bloemer; and Staff witnesses William J. Cochran, Stephen M. Rackers and B. J. Washburn shall be received into evidence without the

necessity of these witnesses taking the witness stand, unless otherwise directed by the Commission. However, the Staff, Public Counsel and UE shall appear before the Commission for the hearing scheduled for April 23, 1993, for the purpose of offering exhibits and presenting the Stipulation and Agreement to the Commission on the record.

8. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive their respective rights to cross-examine witnesses; their respective rights to present oral argument and written briefs pursuant to 536.080.1 RSMo; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1986; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1986.

9. The provisions of this Stipulation and Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event the Commission does not approve and adopt the terms of this Stipulation and Agreement in

total, it shall be void and no party hereto shall be bound by any of the agreements or provisions hereof.

Respectfully submitted,

UNION ELECTRIC COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 19th day of April, 1993.

Michaelene A. Knudsen

EM-93-243 Union Electric
3-26-93

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LEGAL DESCRIPTION OF PROPERTY
To Be Served Under The Territorial Agreement
Between Union Electric and the City of Sikeston

A tract of land containing two hundred and seventy-six (276) acres, more or less, located outside the city limits of Sikeston, Missouri, lying in Sections 28 and 29, Township 26 North, Range 14 East, Scott County, Missouri.

Said tract of land is generally bounded by Abels Road to the north, County Line Road on the south and between St. Johns Drainage Ditch on the west and Illinois Avenue to the east; and is more particularly described as follows:

Beginning at the quarter corner between Sections 20 and 29, thence South 89 degrees 57 minutes west along the line between said sections a distance of 833 feet, more or less, to a point in the center line of the north and south public road; thence south 6 degrees 47 minutes east along said center line of said public road a distance of 1,459 feet, more or less, to a point; thence south 82 degrees 40 minutes west a distance of 30 feet, more or less, to a point in the meander line along the west bank of Lake St. John; thence south 1 degree 58 minutes east along the said meander line a distance of 630 feet, more or less, to a point being the northeast corner of Private Survey 1032; thence south 7 degrees 14 minutes east along the east line of said survey a distance of 187 feet, more or less, to the northwest corner of a five acre tract of land sold to the City of Sikeston; thence north 89 degrees 36 minutes east along the north line of said five acre tract a distance of 610 feet, more or less, to a point in the north and south center line of said Section 29; thence north 0 degrees 53 minutes east along said north and south center line of said Section 29 a distance of 2,263 feet, more or less, to the place of beginning; containing thirty-six (36) acres, more or less.

Also all of the northeast quarter of Section 29 and the west half of the northwest quarter of Section 28, containing two hundred and forty (240) acres, more or less.

This tract of land is more fully described by deeds recorded in Book 64 at pages 71, 75 and 76 and Book 42 at page 423 of the records of the Recorder of Deeds Office for Scott County, located in the City of Benton, Missouri.