

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

In the Matter of the Application of)	
Brandon Jessip for Change of Electric)	File No. EO-2017-0277
Supplier from Empire District Electric)	
to New-Mac Electric)	

STATEMENT OF POSITION OF NEW-MAC ELECTRIC COOPERATIVE, INC.

COMES NOW the undersigned counsel for New-Mac Electric Cooperative, Inc. (“New-Mac”) and respectfully states its position on the issues as follows:

- 1. By Section 393.106, RSMo., does The Empire District Electric Company presently have the right to continue to serve any of the structures on the Jessips’ approximately 30 acre tract of land located at 7082 Nighthawk Road, Neosho, Missouri?**

Yes. It is New-Mac’s position that Empire has the exclusive right to serve structures on the Jessips’ property to which Empire previously provided permanent service. New-Mac refutes Staff’s position that the plain words and legislative intent of Section 393.106, RSMo. are made null and void by the passage of any indeterminate length of time. (Motion to Dismiss, June 26, 2017; Rebuttal Testimony of Daniel Beck, September 7, 2017). This statute provides no such method of avoidance.

Because Empire once provided “permanent service” to a presently existing “structure” on the Jessips’ property, all other electric suppliers are prohibited from serving this structure absent an Order of the Commission that such change “is in the public interest for a reason other than a rate differential.” Section 393.106.2,

RSMo. Staff does not dispute that the building in this case is a “structure” as defined in Section 393.106(2), RSMo. and Staff has not suggested that the service once provided by Empire was not “permanent service” as defined in Section 393.106(1).

It is the position of New-Mac that the period of service interruption begun at the request of Mr. Jessip is a singular fact that may be considered by the Commission in its determination of the public interest but that it is neither a dispositive fact nor a statute negating fact. It is further the position of New-Mac that if the Commission is persuaded to adopt Staff’s position, which New-Mac asserts is a departure from current law, the resulting consequence will be a loss of industry stability in supplier responsibilities. Further, there will be a loss of administrative economy as successive change of supplier cases will be brought before the Commission to clarify the ambiguity in the law this single case for change of electric supplier has the potential of creating. Such negation of law is an administrative overreach that invades the legislative action taken in 1991 to promote utility efficiency and produces ambiguity in a statute where no such ambiguity currently exists. (New-Mac Suggestions in Opposition to Staff’s Motion to Dismiss).

2. If so, is it in the public interest for a reason other than a rate differential for those structures to be served by New-Mac Electric Cooperative, Inc., rather than The Empire District Electric Company?

New-Mac takes no position on whether Mr. Jessip has met his burden of proving that the change of supplier is in the public interest.

Respectfully submitted,

**ANDERECK, EVANS, WIDGER,
LEWIS & FIGG L.L.C.**

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CERTIFICATE OF SERVICE

The undersigned certifies that a complete copy of the foregoing instrument was served upon:

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By e-mail and/or enclosing same in envelopes addressed to the parties or the attorneys of record of said parties at their business addresses as disclosed in the pleadings of record therein, with first class postage fully prepaid, and by depositing said envelope in a U.S. Post Office mail box in Springfield, Missouri, on October 4, 2017.

/s/ Megan E. Ray