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## Missouri Public Service Commission

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January 4, 2002

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DANA K. JOYCE  
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Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. EO-2002-178**

**FILED<sup>3</sup>**

**JAN 04 2002**

**Missouri Public  
Service Commission**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF'S STATEMENT OF POSITIONS ON THE ISSUES**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

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RVF:ccl  
Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

JAN 04 2002

Missouri Public  
Service Commission

In the Matter of the Join Application of )  
Union Electric Company and Gascosage )  
Electric Cooperative for an Order )  
Approving a Change in Electric Service )  
Supplier for Certain Union Electric )  
Company Customers for Reasons in the )  
Public Interest; Authorizing the Sale, )  
Transfer, and Assignment of Certain )  
Electric Distribution Facilities, )  
Substations, and Easements from Union )  
Electric Cooperative; and Approving the )  
First Amendment to the Union Electric )  
Company and Gascosage Electric )  
Cooperative Territorial Agreement. )

Case No. EO-2002-178

**STAFF'S STATEMENT OF POSITIONS ON THE ISSUES**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), and for its Statement of Positions on the Issues in the above-styled case, respectfully states as follows:

**Issue A:** Is the change in electrical supplier for approximately 1200 structures in and around the Cities of Brumley and Ulman from Company to Cooperative pursuant to Section 393.106 RSMo 2000 in the public interest for reasons other than a rate differential?

**Staff's Position:** Staff believes that the change in electric supplier for approximately 1200 structures in and around the Cities of Brumley and Ulman from Union Electric (Company) to Gascosage will produce a benefit for the reliability of electric service for customers subject to the condition in Issue D as discussed in the testimony of Staff Witness Rackers. Gascosage has committed to a plan for added reliability. This involves a plan to energize a substation at Brumley from a new 69 kV source and future extensions could provide a looped transmission

circuit for added reliability. The new construction of a three-phase circuit through the middle of the new Gascosage territory would be of great benefit to the area. The benefit would be providing reliable electric service and an economic benefit for customers that might require three-phase service that is not otherwise available at the present time.

**Issue B:** Is the sale, transfer, and assignment of certain substations and electric distribution facilities, easements, and other rights generally constituting Company's electric utility business associated with said approximately 1200 structures pursuant to Section 393.190 RSMo 2000 not detrimental to the public interest?

**Staff's Position:** Staff believes that the sale, transfer and assignment of certain substations and electric distribution facilities, easements, and other rights generally constituting Company's electric utility business associated with approximately 1200 structures pursuant to Section 393.190 RSMo 2000 is not detrimental to the public interest subject to the condition in Issue D as discussed in the testimony of Staff Witness Rackers. Staff believes that the transmission and distribution facilities that Gascosage has in its plan to serve this area should provide better service quality and reliability. Staff further believes that this transaction will allow one supplier to supply the specified areas, avoid duplication of facilities and allow each utility to make long-range plans to serve their assigned territory.

**Issue C:** Pursuant to Section 394.312 RSMO 2000, is approval of the Applicants' First Amendment to the existing Territorial Agreement in total not detrimental to the public interest?

**Staff's Position:** Staff believes that approval of the Applicants' First Amendment to the existing Territorial Agreement in total is not detrimental to the public interest subject to the condition in Issue D as discussed in the testimony of Staff Witness Rackers. The existing boundary was established in Case No. EO-98-279. The First Amendment would move the

boundary of the exclusive territory westward to the Lake of the Ozarks State Park and northward to the Osage River to include the communities of Brumley and Ulman. The First Amendment to the Territorial Agreement and the change of electric supplier will produce a benefit. The benefit is that the new construction of a three-phase circuit through the new Gascosage territory by Gascosage will prove reliable electric service and an economic benefit for customers needing three-phase service not currently available.

**Issue D:** Should the Commission in any Order approving the Agreement order that none of the Parties in this case shall be deemed to have approved or acquiesced in any rate-making principle or any method of cost determination or cost allocation underlying or allegedly underlying the Stipulation and Agreement, except as the Commission finds that the Territorial Agreement is in the public interest?

**Staff's Position:** Staff is concerned that approval of the Agreement may result in an increase in revenue requirement for the ratepayers. This increase in revenue requirement may harm the Union Electric ratepayers by reducing the Missouri jurisdictional net revenues used in determining the revenue requirement in a rate case or excess earnings/revenues in a complaint case. This could ultimately increase the rates paid by the remaining Union Electric customers after the transaction. The Commission has previously considered and addressed the effect of lost revenues resulting from territorial agreements on remaining Union Electric customers. It was considered during the third year of Union Electric's first Experimental Alternative Regulation Plan (EARP). The Commission accepted Staff's adjustments to eliminate the effect of lost net revenues from territorial agreements on the amount of credits received under the EARP by remaining Union Electric customers.

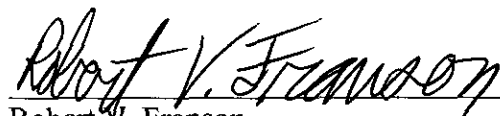
Staff recommends that the Commission, in any Order approving the Agreement, state that it reserves the right to consider the rate-making treatment of this transaction in any subsequent

rate increase case, excess earnings/revenue complaint case, and/or alternative regulation plan. This condition is necessary to assure that the Exchange Agreement meets the standards of "in the public interest" and "not detrimental to the public interest" by providing for the examination of the effects of this transaction in future rate-making proceedings.

In the surrebuttal testimony of Larry D. Merry, Union Electric states that it believes that this condition is unnecessary, but states that if the Commission adds such a condition, then the Order should not preclude Union Electric from arguing during any future rate-making proceeding that adjustments to earnings, rate base or plant should not be made (Surrebuttal Testimony of Larry D. Merry, p 1 lines 13-25). Staff agrees that none of the Parties to this Stipulation and Agreement should be deemed to have approved or acquiesced in any rate-making principle or any method of cost determination or cost allocation underlying or allegedly underlying the Stipulation and Agreement.

Respectfully submitted,

DANA K. JOYCE  
General Counsel



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Missouri Bar No. 34643

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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 4<sup>th</sup> day of January 2002.

*Robert V. Framson*

**Service List for**  
**Case No. EO-2002-178**  
**Verified: January 2, 2002 (ccl)**

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