

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

In the Matter of the Joint Application of The Empire)
District Electric Company and White River Valley)
Electric Cooperative for Approval of a Second) Case No. EO-2009-0428
Addendum to the Parties' Second Territorial)
Agreement Designating Service for a lot located in)
Taney County, Missouri.)

STAFF RECOMMENDATION TO APPROVE APPLICATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and, for its recommendation on the application of The Empire District Electric Company and White River Valley Electric Cooperative, states:

1. On May 29, 2009, the Empire District Electric Company ("Empire") and White River Valley Electric Cooperative ("White River") (collectively "Applicants") filed a Joint Application requesting that the Commission approve a second addendum to the Second Territorial Agreement. The addendum would allow White River to provide electric service to Lot 313, Lake Taneycomo Acres, located at 313 Macbeth, Branson, Missouri.

2. One June 1, 2009, an Order was issued to provide notice of application and allow the opportunity for intervention no later than June 16, 2009. No applications for intervention were filed.

3. The Staff was directed to file its recommendation or preliminary response to the application no later than June 29, 2009.

4. In its Memorandum, attached hereto as Appendix A, the Staff, for the reasons stated therein, recommends the Commission approve the Joint Application for approval of a second addendum to the Second Territorial Agreement as being in the public interest. The lot owner, Empire and White River agree that White River is best suited to provide electric service to Lot 313 of Taneycomo Acres.

5. If this agreement is approved, Staff further recommends that Empire be directed to file a revised tariff sheet to reflect the limitations on the service territory so approved.

WHEREFORE, the Staff recommends that the Commission approve the Joint Application for approval of a second addendum to the Parties' Second Territorial Agreement designating service for Lot 313, as being in the public interest.

Respectfully submitted,

/s/ Samuel D. Ritchie

Samuel D. Ritchie

Legal Counsel

Missouri Bar No. 61167

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Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 29th day of June, 2009.

/s/ Samuel D. Ritchie

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2009-0428, In the Matter of the Joint Application of The
Empire District Electric Company and White River Valley Electric
Cooperative for Approval of a Second Addendum to the Parties' Second
Territorial Agreement Designating Service for a lot located in Taney
County, Missouri

FROM: James L. Ketter, Energy Department – Engineering Analysis

/s/ Lena M. Mantle 06/29/09
Energy Department / Date

/s/ Samuel D. Ritchie 06/29/09
General Counsel's Office / Date

Subject: Staff Recommendation

Date: June 29, 2009

OVERVIEW

On May 29, 2009, The Empire District Electric Company (Empire) and White River Valley Electric Cooperative (White River) (collectively, Applicants) filed a Joint Application for approval of an addendum to their Second Territorial Agreement (Agreement). This addendum would allow White River to provide electric service to Lot 313, Lake Taneycomo Acres, located at 313 Macbeth, Branson, Missouri.

On June 1, 2009, an Order was issued to provide notice of the application and allow the opportunity for intervention no later than June 16, 2009. No applications for intervention were filed. The Staff was directed to file its recommendation or a preliminary response to the application no later than June 29, 2009.

DISCUSSION

The Agreement was approved on March 19, 1976, designating exclusive service areas for the two parties within certain areas of Taney County, Missouri. Development on Lot 313 of Lake Taneycomo Acres required the extension of electric service and Empire was the designated electric service provider pursuant to the Agreement.

Empire has electric facilities nearby but extension of these facilities to the lot would require crossing a deep ravine that would pose hazards in construction and future maintenance. Empire was unable to obtain new right-of-way from neighbors to allow an alternate route to the lot. White River has existing electric facilities adjacent to Lot 313, requiring only a service drop from an existing transformer to provide service.

STAFF INVESTIGATION

The Applicants have filed this addendum pursuant to provisions of the Agreement which outline how the parties can deal with boundary structures that are within the service area of one utility, but can be more easily served by the other utility. Empire has electric facilities in close proximity to the lot but difficult terrain and the lack of an alternate route make White River the better choice. If an alternate route was available, this would cause further duplication of electric facilities in this neighborhood.

The prospective customer and the utilities agree that White River is in the best position to provide service to Lot 313. Staff has obtained and reviewed electric distribution maps that show the existing facilities serving the area subject to this application.

STAFF RECOMMENDATION

The Staff recommends that the Commission approve the Joint Application, as filed on May 29, 2009, for the Second Addendum to the Second Territorial Agreement between Empire and White River, as being in the public interest. The location of White River's existing facilities and the terrain conditions that limit the use of Empire's facilities together show that the public interest is best served by allowing White River to serve Lot 313. The lot owner, Empire and White River agree that White River is best suited to provide electric service to Lot 313 of Lake Taneycomo Acres.

Empire's Rules and Regulations specifically identify electric service territory for the company and areas subject to territorial agreements. Staff recommends that if this Agreement is approved that Empire be directed to file a revised tariff sheet to reflect the limitations on the service territory so approved. Staff directs attention to Empire P.S.C. Mo. No. 5, Section B, Original Sheet No. 19 where the limitations of Empire's obligation to serve in Taney County are limited by specific territorial agreements listed therein.

Empire states that it has no pending or final unsatisfied judgments or decisions against it from any state or federal agency which involve customer service or rates. Empire has no overdue Commission annual reports or assessment fees. White River is a rural electric cooperative and no annual reports or assessments are required from the Commission. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

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Territorial Agreement Designating Service)
for a Lot Located in Taney County,)
Missouri)

Case No. EO-2009-0428

AFFIDAVIT OF JAMES KETTER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

James Ketter, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Report in memorandum form, to be presented in the above case; that the information in the Staff Report was provided to him; that he has knowledge of the matters set forth in such Staff Report; and that such matters are true to the best of his knowledge and belief.


James Ketter

Subscribed and sworn to before me this 29th day of June, 2009.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086


Notary Public