

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

In the Matter of the Application of Jerry West)
And Sharon West to Change the Electrical)
Supplier for Part of their Property.) Case No. EO-2009-0272

Joint Stipulation of Facts and of Law

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE), Staff of the Missouri Public Service Commission (Staff), Jerry and Sharon West (the Wests), WIK, L.L.C. (WIK) and Cuivre River Electric Cooperative, Inc. (Cuivre River), and for their Stipulation of Facts and Law, state as follows:

The Parties

1. AmerenUE is an electric utility subject to the jurisdiction of the Missouri Public Service Commission (Commission). § 386.250 RSMo.
2. Cuivre River is a rural electric cooperative, organized pursuant to Chapter 394 of the Revised Statutes of Missouri.
3. The Wests are the named Cuivre River members¹ for the electric accounts at 7331 and 7333 Weldon Springs Road. Kevin West, who is the Wests’ son, is the named Cuivre River member for the electric account at 7335 Weldon Springs Road.
4. The Wests are the owners of the property located at 7335 Weldon Springs Road.
5. The provider of electric service for 7333 and 7335² Weldon Springs Road is not at issue in this case.

¹ Customer of Record

² This address, 7335 Weldon Springs Road, was an issue in the Applicants initial Complaint, but is no longer.

6. The provider of electric service for 7331 Weldon Springs Road is at issue in this case.

7. WIK is a Missouri limited liability company and its sole members are Jerry and Sharon West.

8. WIK is the owner of the properties located at 7331 and 7333 Weldon Springs Road.

9. Pursuant to Commission rule, Staff of the Commission is a party to this case.³

10. The Office of Public Counsel (OPC) is also a party to this case by Commission rule.⁴ Counsel for AmerenUE contacted the Public Counsel and was told that OPC did not object to this pleading and, further, that OPC would not be participating in this case.

The Property and Territorial Agreement

11. Cuivre River and AmerenUE have a Territorial Agreement⁵ which allocates between AmerenUE and Cuivre River territory in which each may exclusively provide electric service. The properties located at 7331, 7333 and 7335 Weldon Springs Road (collectively, the Weldon Springs Road properties) in Dardenne Prairie are within the territory allocated to AmerenUE by the Territorial Agreement. A copy of the Territorial Agreement is attached to this Joint Stipulation of Facts and Law as Exhibit 1.

12. For many years, the Wests have had a home at 7335 Weldon Springs Road and have operated (and continue to operate) a business at 7333 Weldon Springs Road which consists of multiple buildings. Prior to the demolition of the home (discussed

³ 4 CSR 240-2.010(11)

⁴ Id.

⁵ The Territorial Agreement was approved by the Commission on March 5, 1993 in Case No. EO-93-166.

below) in June of 2008, all buildings were served by Cuivre River, consistent with the terms of the Territorial Agreement.

13. In June of 2008, the Wests demolished the existing home at 7335 Weldon Springs Road and subsequently constructed two new homes, 7331 and 7335 Weldon Springs Road, on the property. A hand drawn map of the area showing the buildings is attached as Exhibit 2.

14. The home on the map labeled New House #2 at 7331 Weldon Springs Road is a “new structure” as the term is used in the Territorial Agreement between AmerenUE and Cuivre River. It is currently the residence of the Wests.

15. The home on the map labeled New House #1 is the current residence of the Wests’ son, who is a Cuivre River member/consumer. The address for this home is 7335 Weldon Springs Road. It is a replacement of the previous home and was constructed adjacent to the location of the previous home, except that the new home’s garage is located on an area within the footprint of the previous home.

16. The home at 7335 Weldon Springs Road is not a “new structure” as the term is used in the Territorial Agreement between AmerenUE and Cuivre River. (Staff does not believe that this statement is accurate and does not stipulate that it is an agreed upon fact, but AmerenUE, Cuivre River and the Wests do believe that the statement is accurate.)

17. The Territorial Agreement provides that Cuivre River may continue to serve the business facilities on the Weldon Springs Road location.

18. The Territorial Agreement provides that new structures on the Weldon Springs Road properties shall be served by AmerenUE.

19. The Territorial Agreement allows AmerenUE and Cuivre River to enter into agreements to change which utility would serve a property on a case-by-case basis.

20. AmerenUE and Cuivre River have not entered into any agreement to change which utility could serve any new structure at the Weldon Springs Road location.

21. The Wests currently receive temporary electric service to 7331 Weldon Springs Road from Cuivre River.

22. AmerenUE plans to provide underground service to 7331 Weldon Springs Road. AmerenUE believes the work (placing a pole, installing a transformer, etc.) to connect this property to AmerenUE's distribution system will take no more than 20 hours.

Other Facts and Law

23. Cuivre River has the power to "...generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute sell, supply, and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of ten percent of the number of its members." § 394.080.1(4) RSMo. 2000.

24. A "rural area" is defined as "...any area of the United States not included within the boundaries of any city, town or village having a population in excess of fifteen hundred inhabitants." § 394.020(3) RSMo. 2000.

25. The Weldon Springs Road properties are located within the City of Dardenne Prairie.

26. The City of Dardenne Prairie has a population of 7,423 according to the US Census Bureau's 2000 census report as published in the 2007-2008 edition of the Missouri State Manual.

27. The City of Dardenne Prairie is not a "rural area" as defined by §394.020(3) RSMo. 2000.

28. Currently, Cuivre River serves customers within the city limits of Dardenne Prairie. These are customers that Cuivre River served prior to such area being incorporated by Dardenne Prairie.

29. AmerenUE has a franchise agreement with Dardenne Prairie.

30. Cuivre River does not have a franchise agreement with Dardenne Prairie.

31. Missouri's anti-flip-flop statutes are found at § 393.106.2 and § 394.315.2, RSMo 2000.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a AmerenUE

By: /s/ Wendy K. Tatro
Steven R. Sullivan, # 33102
Senior Vice President, General
Counsel and Secretary
Wendy K. Tatro, # 60261
Associate General Counsel
Ameren Services Company
P.O. Box 66149
St. Louis, MO 63166-6149
(314) 554-3484 (phone)
(314) 554-4014 (fax)
AmerenUEService@ameren.com

ANDERECK, EVANS, MILNE,
WIDGER & JOHNSON, L.L.C.

By /s/ Andrew J. Sporleder
Andrew J. Sporleder, # 51197
The Col. Darwin Marmaduke House
700 East Capitol
Post Office Box 1438
Jefferson City, Missouri 65102
Telephone: (573) 634-3422
Facsimile: (573) 634-7822
Email: asporleder@aempb.com

ATTORNEYS FOR CUIVRE RIVER
ELECTRIC COOPERATIVE, INC.

Jaime N. Ott
Assistant General Counsel
Missouri Bar No. 60949
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8700 (Telephone)
(573) 751-9285 (Fax)
jaime.ott@psc.mo.gov

LATHROP & GAGE, LLP

By: /s/ Jeff R. Wagener
Jeff R. Wagener (37499)
Pierre Laclede Center
7701 Forsyth Boulevard, Suite 400
Clayton, Missouri 63105
Telephone: (314) 613-2800
Telecopier: (314) 613-2801

Attorney for Applicants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response was served on the following parties via electronic mail (e-mail) or via regular mail on this 16th day of September, 2009.

General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Jeff R. Wagener
Suite 400
7701 Forsyth
St. Louis MO 63105
jwagener@lathropgage.com

Jaime Ott
General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
jaime.ott@psc.mo.gov

Lewis Mills
Office Of Public Counsel
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Jerry and Sharon West
7333 Weldon Spring Road
Dardenne Prairie, MO 63368

Andrew Sporleder
Cuivre River Electric Cooperative, Inc.
P.O. Box 1438
700 E. Capital Ave
Jefferson City MO 65102
asporleder@lawofficemo.com

/s/ Wendy K. Tatro

Wendy K. Tatro