

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION

3  
4 TRANSCRIPT OF PROCEEDINGS

5 Hearing

6 December 22, 1997  
7 Jefferson City, Missouri  
8 Volume 1

9 In the matter of the Application )  
10 of Ralls County Electric )  
11 Cooperative and the City of )Case No. EO-98-142  
12 Vandalia, Missouri, for Approval )  
13 of a Written Territorial Agreement )  
14 Designating the Boundaries of )  
15 Each Electric Service Supplier in )  
16 the Counties of Audrain, Pike and )  
17 Ralls in Missouri. )

18  
19 THOMAS H. LUCKENBILL, Presiding,  
20 DEPUTY CHIEF REGULATORY LAW JUDGE.

21 REPORTED BY:  
22 PATRICIA A. DURBIN, RMR, RPR, CCR, CSR  
23 ASSOCIATED COURT REPORTERS, INC.  
24  
25

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17 FOR: Staff of the Missouri Public  
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P R O C E E D I N G S

(EXHIBIT NOS. 1 THROUGH 4 WERE MARKED FOR  
IDENTIFICATION.)

JUDGE LUCKENBILL: On the record.

This is Case No. EO-98-142 which involves an  
application for approval of an amendment of an  
electric territorial agreement between Ralls County  
Electric Cooperative and the City of Vandalia,  
Missouri.

At this time the Commission will hear brief  
opening comments beginning with Ralls County Electric  
Cooperative.

Mr. Baumhoer.

MR. BAUMHOER: Back in March of '96 the  
Commission issued an order in Case No. EO-96-174  
approving a territorial agreement between Ralls County  
Electric Cooperative and the City of Vandalia.

The basic reason for that agreement was to  
allow the City of Vandalia and Ralls to work together  
on economic development projects and other issues  
without wasting limiting facilities and duplicating  
electric facilities and other things like that. There  
was only so many resources available, and that was the  
arrangement.

Paragraph 6 of the original territorial

1       agreement provided that in consideration for the right  
2       of the cooperative to be the sole and exclusive  
3       supplier of electric service within areas annexed by  
4       the city, after the date of this agreement cooperative  
5       agrees to pay to city a semiannual amount equal to  
6       5 percent of the cooperative's gross receipts from  
7       sales of electricity in the annexed area for all  
8       sales.

9               That was a mistake. We just messed up.  
10       That's not what we meant.

11              The city had annexed some territory prior to  
12       the date of that agreement that was intended to be  
13       included in that area that the cooperative was going  
14       to pay that 5 percent fee for.

15              There were several durations of the  
16       agreement. The one wrong got put together, went all  
17       of the way through and got approved by the Commission  
18       before the parties realized their mistake.

19              The amended agreement that we are proposing  
20       today differs only in that paragraph 6, and what it  
21       provides is that in consideration for the right of the  
22       cooperative to be the sole and exclusive supplier of  
23       electric service within areas annexed after  
24       January 1st, 1991, cooperative agrees to pay the city.

25              There is another provision that says that

1     this will only apply to structures to which service is  
2     first supplied after September 16th, 1997.

3             And that agreement was reached, and then  
4     this proceeding was filed on September 19th, 1997.

5             So it will apply to nobody at this point in  
6     time. There is no current consumer who will be called  
7     upon to pay this fee. So it's going to take into  
8     effect territory annexed by the city after 1991 as  
9     opposed to the old agreement which would have been  
10    after 1995, and it will only apply to things first  
11    served after September 16th, 1997.

12            It was simply correcting a mistake. The  
13    city needs the revenue from these electric sales to  
14    help fund its operation in providing the facilities  
15    that it provides. And other than this, it changes  
16    nothing about the agreement. The territory stays the  
17    same. Everything else about the agreement remains  
18    identical. It's just redefining this block of  
19    customers to whom this fee will apply.

20            There is no, in our opinion, change in the  
21    public interest considerations of the agreement. The  
22    standard is, of course, that the Commission should  
23    approve it unless it's detrimental to the public  
24    interest, and we see no significant change here to the  
25    public interest.

1           The concept that the coop is going to have  
2   to pay the city something for some of its electric  
3   services was contained in the original agreement. All  
4   we've done is change the definition of who that would  
5   apply to to reflect what the parties, in fact, had  
6   agreed to as opposed to the erroneous information  
7   contained in the original agreement, and, therefore,  
8   will ask the Commission to approve this amendment.

9           JUDGE LUCKENBILL: Thank you. Thank you  
10 very much, sir.

11           Mr. McIlroy.

12           MR. MCILROY: I would echo the sentiments of  
13 Mr. Baumhoer and say that the intent at the beginning  
14 was to have this area serviced by the city and for the  
15 that area to be paid through the city's tax for the  
16 city -- city to be able to tax the area. It just  
17 simply had the wrong dates on it, said '95 instead of  
18 '91. The intent of Ralls County and of the city was  
19 to do that.

20           No consumer is going to be injured by this  
21 at this time, and we are asking that this agreement be  
22 modified to properly reflect the intent of the parties  
23 as we did at the first time, just with the wrong date.

24           JUDGE LUCKENBILL: Mr. Mills.

25           MR. MILLS: Public Counsel has no objection

1 to this agreement. It seems like a reasonable way to  
2 correct what is an error on the part of the two  
3 parties who are actually filing it.

4 JUDGE LUCKENBILL: And from the staff,  
5 Mr. Haas.

6 MR. HAAS: Thank you.

7 The joint application filed by Ralls County  
8 Electric Cooperative and the City of Vandalia proposes  
9 to amend a territorial agreement previously approved  
10 by the Commission in Case No. EO-96-174.

11 The amendment does not change the previously  
12 established boundaries for electric service areas.  
13 Instead, the amendment reflects the cooperative's  
14 previous agreement to pay a percentage of gross  
15 receipts on the service provided in areas annexed by  
16 the city after January 1, 1991.

17 This agreement was inadvertently omitted  
18 from the original written agreement submitted to the  
19 Commission.

20 The Staff through the rebuttal testimony of  
21 James Ketter recommends that the joint application be  
22 approved.

23 JUDGE LUCKENBILL: Thank you, Mr. Haas.

24 Prior to going on the record we pre-marked  
25 Exhibits 1, 2, 3 and 4.

1                   Exhibit 1 is the direct testimony of  
2   Mr. Strode on behalf of Ralls County Electric  
3   Cooperative. Exhibit No. 2 is the direct testimony of  
4   Mr. Minner filed on behalf of the City of Vandalia.  
5   Exhibit No. 3 is the testimony on behalf of the Staff  
6   of Mr. Ketter. That's the rebuttal of Mr. Ketter.  
7   And Exhibit No. 4 is the hearing memorandum.

8                   At this time, Ralls County, you may call  
9   your witness.

10                  MR. BAUMHOER: At this time we'd call  
11   Daniel L. Strode.

12                  (Witness affirmed.)

13                  JUDGE LUCKENBILL: Please be seated.

14                  Please proceed.

15   DANIEL L. STRODE testified as follows:

16   DIRECT EXAMINATION BY MR. BAUMHOER:

17       Q. State your name, please.

18       A. Daniel L. Strode.

19       Q. By whom are you employed?

20       A. Ralls County Electric Cooperative.

21       Q. Are you authorized to appear here today on  
22   behalf of the cooperative?

23       A. I am.

24       Q. Are you the same Daniel L. Strode that has  
25   previously filed direct testimony in this matter?



1           A.     I am.

2           Q.     I hand you what's been marked as Exhibit 1.  
3     Is that your direct testimony that you filed in this  
4     matter?

5           A.     It is.

6           Q.     If I asked you the same questions today,  
7     would your answers be the same as in that testimony?

8           A.     They would.

9           Q.     Do you have any additions or corrections to  
10    your testimony?

11          A.     None.

12                 MR. BAUMHOER:  I have no further questions  
13    and tender the witness for cross-examination.

14                 JUDGE LUCKENBILL:  Cross-examination, Public  
15    Counsel?

16                 MR. MILLS:  No questions.

17                 JUDGE LUCKENBILL:  Staff?

18                 MR. HAAS:  No questions.

19    QUESTIONS BY JUDGE LUCKENBILL:

20           Q.     Mr. Strode, good afternoon.  I have just one  
21    quick question for you.

22           A.     Sure.

23           Q.     You heard your attorney's summation of the  
24    history of this situation.  Is there anything you care  
25    to add to that summation?

1           A.     No.  What we have here is just simply human  
2     error, and our attempt was to not adversely affect  
3     anybody that would have been caught in the interim,  
4     and there wasn't any.  That's why we went back and  
5     picked up the '91 that we had intended to, and then  
6     also to exclude anybody that would have taken service  
7     in between that period.  So that was our intent.  So  
8     we're just trying to simply correct an error.

9                   JUDGE LUCKENBILL:  All right.  Thank you  
10    very much.

11                  I have nothing further.

12                  Mr. McIlroy, would you call your witness to  
13    the stand, please.

14                  MR. MCILROY:  I'd like to call Mr. Al  
15    Minner.

16                  (Witness affirmed.)

17                  JUDGE LUCKENBILL:  Please be seated.

18                  You may proceed with direct.

19    ALFRED MINNER testified as follows:

20    DIRECT EXAMINATION BY MR. MCILROY:

21           Q.     State your name, please?

22           A.     Alfred Minner.

23           Q.     By whom are you employed?

24           A.     The City of Vandalia, Missouri.

25           Q.     And are you authorized to appear here on

1       behalf of the City of Vandalia?

2           A.     Yes, I am.

3           Q.     And what's your employment with the City of  
4       Vandalia?

5           A.     I'm the city administrator.

6           Q.     And let me hand you a copy of your direct  
7       testimony. You've seen that before, have you not?

8           A.     Yes.

9           Q.     And if I asked you those same questions  
10       today, would your answers be the same?

11          A.     Yes, they would.

12          Q.     And do you have anything that you wish to  
13       add to those questions?

14          A.     No.

15               MR. MCILROY: And I believe that's all of  
16       the questions I have.

17               JUDGE LUCKENBILL: Cross-examination?

18               MR. MILLS: No cross-examination. Thank  
19       you.

20               JUDGE LUCKENBILL: Staff?

21               MR. HAAS: No questions.

22               JUDGE LUCKENBILL: I have no questions for  
23       you, Mr. Minner.

24               You're excused.

25               THE WITNESS: Thank you.

1 JUDGE LUCKENBILL: Staff, would you call  
2 your witness, please  
3 MR. HAAS: Staff calls James Ketter.  
4 (Witness affirmed.)  
5 JUDGE LUCKENBILL: Please be seated.  
6 JAMES L. KETTER testified as follows:  
7 DIRECT EXAMINATION BY MR. HAAS:  
8 Q. Mr. Ketter, will you please state your name?  
9 A. James Ketter.  
10 Q. By whom are you employed and in what  
11 capacity?  
12 A. I'm an engineer in the engineering section  
13 of the Electric Department of the Staff of the  
14 Missouri Public Service Commission.  
15 Q. Are you the James L. Ketter who prepared  
16 rebuttal testimony that has been marked Exhibit 3 in  
17 this case?  
18 A. Yes, I am.  
19 Q. Do you have any additions or corrections to  
20 make to your rebuttal testimony?  
21 A. No.  
22 Q. If I asked you the questions that are asked  
23 in that prefiled testimony, would your answers be the  
24 same today?  
25 A. Yes, they would.

1 MR. HAAS: I have no further questions, and  
2 I tender the witness for cross-examination.

3 JUDGE LUCKENBILL: Cross-examination, Ralls  
4 County Electric Cooperative?

5 MR. BAUMHOER: I have no questions.

6 JUDGE LUCKENBILL: City of Vandalia.

7 MR. MCILROY: No questions.

8 JUDGE LUCKENBILL: Public Counsel?

9 MR. MILLS: No questions.

10 JUDGE LUCKENBILL: Is there anything you  
11 care to add, Mr. Ketter?

12 THE WITNESS: No. I believe the issues,  
13 even though short, have been adequately addressed in  
14 this hearing.

15 JUDGE LUCKENBILL: Thank you, Mr. Ketter.  
16 You're excused.

17 Mr. Baumhoer, did you already move for the  
18 admission of Exhibit No. 1?

19 MR. BAUMHOER: No. And at this time I would  
20 move for the admission of Exhibit No. 1.

21 JUDGE LUCKENBILL: So noted.

22 Are there any objections to the receipt of  
23 Exhibit No. 1 into the record?

24 Hearing none, Exhibit No. 1 is received.

25 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

1 JUDGE LUCKENBILL: Mr. McIlroy.

2 MR. MCILROY: I would like to move for the  
3 admission of Exhibit No. 2.

4 JUDGE LUCKENBILL: So noted.

5 Are there any objections to the receipt of  
6 Exhibit No. 2 into the record?

7 Hearing none, Exhibit No. 2 is received.

8 (EXHIBIT NO. 2 WAS RECEIVED INTO EVIDENCE.)

9 JUDGE LUCKENBILL: Mr. Haas, have you moved  
10 for the admission of Exhibit No. 3?

11 MR. HAAS: No, sir, not yet.

12 I move the admission of Exhibit No. 3, the  
13 rebuttal testimony of James L. Ketter and Exhibit  
14 No. 4, the hearing memorandum.

15 JUDGE LUCKENBILL: Thank you, sir.

16 Are there any objections to the receipt of  
17 Exhibit No. 3 into the record?

18 Hearing none, Exhibit No. 3 will be  
19 received.

20 (EXHIBIT NO. 3 WAS RECEIVED INTO EVIDENCE.)

21 JUDGE LUCKENBILL: And are there any  
22 objections to the receipt of Exhibit No. 4 into the  
23 record?

24 Hearing none, the hearing memorandum which  
25 was marked as Exhibit No. 4 will be received.

1 (EXHIBIT NO. 4 WAS RECEIVED INTO EVIDENCE.)

2 JUDGE LUCKENBILL: Are there any other  
3 matters that counsel wishes to bring up on the record?

4 MR. BAUMHOER: I don't have anything.

5 MR. MCILROY: No, sir.

6 MR. MILLS: Do you want to set a briefing  
7 schedule?

8 JUDGE LUCKENBILL: I don't believe that a  
9 briefing schedule will be necessary, at least to the  
10 best of my knowledge.

11 And I just want to say on behalf of the  
12 Public Service Commission, I want to wish you all a  
13 happy holiday season. And with that, this proceeding  
14 is adjourned.

15 WHEREUPON, the hearing of this case was  
16 adjourned.

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E X H I B I T S

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