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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Stipulation and Agreegment
May 14, 1998
Jefferson City, Missouri
Volume 2

In the Matter of the)
Application of Union Electric)
Company and Gascosage Electric)
Cooperative for Approval of a)
Written Territorial Agreement)
Designating the Boundaries of Each) Case No.
Electric Service Supplier Within) EO-98-279
Portions of Camden, Miller,)
Maries, Pulaski and Phelps)
Counties, Missouri.)

NANCY M. DIPPELL, Presiding
REGULATORY LAW JUDGE.

REPORTED BY:
MELINDA ADOLPHSON
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1 APPEARANCES:

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5 FOR: Intercounty Electric Cooperative.

6 VICTOR S. SCOTT, Attorney at Law
7 Anderick, Evans, Milne,
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9 FOR: Gascosage Electric Cooperative.

10 WILLIAM B. BOBNAR, Attorney at Law
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14 FOR: AmerenUE.

15 JOHN COFFMAN
16 P.O. Box 7800
Jefferson City, Missouri 65102

17 FOR: Office of the Public Counsel and the
Ratepayers.

18 MARC POSTON, Assistant General Counsel
19 P.O. Box 360
Jefferson City, Missouri 65102

20 FOR: Staff of the Missouri Public Service
21 Commission.

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1 P R O C E E D I N G S
2 (EXHIBIT NOS. 1 THROUGH 5 WERE MARKED FOR
3 IDENTIFICATION.)
4 JUDGE DIPPELL: We're on the record in
5 case number EO-98-279 in the matter of the
6 Application of Union Electric Company and Gascosage
7 Electric Cooperative for an application of written
8 territorial agreement designating the boundaries of
9 each electric service supplier within portions of
10 Camden, Miller, Maries, Pulaski and Phelps
11 Counties, Missouri.
12 Can we begin with entries of appearance,
13 AmerenUE?
14 MR. BOBNAR: William B. Bobnar, Ameren
15 Services Company appearing on behalf of Union
16 Electric Company, which is doing business as
17 AmerenUE. One Ameren Plaza, St. Louis, Missouri
18 63166.
19 JUDGE DIPPELL: And Gascosage?
20 MR. SCOTT: I'm Victor Scott of the law
21 firm Anderick, Evans, Milne, Peace and Baumhoer for
22 Gascosage Electric Cooperative. Our address is
23 305 East McCarty, P.O. Box 1438, Jefferson City,
24 Missouri 65102.
25 JUDGE DIPPELL: Mr. Poston?

ASSOCIATED COURT REPORTERS, INC.
(573) 636-7551 JEFFERSON CITY, MO 65109
(573)442-3600 COLUMBIA, MO 65201

1 MR. POSTON: Marc Poston for the Staff of
2 the Missouri Public Service Commission, P.O.
3 Box 360, Jefferson City, Missouri 65102.

4 JUDGE DIPPELL: Public Counsel?

5 MR. COFFMAN: John B. Coffman, on behalf
6 of the Office of the Public Counsel and the
7 Ratepayers. P.O. Box 7800, Jefferson City,
8 Missouri 65102.

9 JUDGE DIPPELL: And Intercounty?

10 MR. COMLEY: Thank you, Judge. Let the
11 record reflect the entry of Mark W. Comley of
12 Newman, Comley and Ruth, P.C., 205 East Capitol
13 Avenue, Post Office Box 537, Jefferson City,
14 Missouri 65102, on behalf of Intercounty Electric
15 Cooperative Association.

16 JUDGE DIPPELL: Thank you. Let me go off
17 the record for just a second.

18 (OFF THE RECORD.)

19 JUDGE DIPPELL: Okay. We're going to have
20 short opening statements beginning with Gascosage.

21 MR. SCOTT: Thank you, your Honor.

22 This is a territorial agreement pursuant
23 to Section 394.312 of the Missouri Revised Code --
24 or statutes, between AmerenUE and Gascosage
25 Electric Cooperative. This territorial agreement

1 is a very simple agreement. It establishes the
2 territorial boundaries for these two electric
3 suppliers in the south central portion of the
4 state.

5 This agreement does not call for the
6 exchange of any customers or facilities, and is
7 very similar to several other agreements, which the
8 Commission has found that are in the public
9 interest and have been approved. Some of those
10 agreements include Farmers in the city Gallatin.
11 Ralls in the city of Vandalia, and Union Electric
12 and Consolidated Electric Cooperative. This
13 agreement is very similar to those.

14 Today we will be introducing as evidence
15 the territorial agreement in the exhibits, a
16 stipulation and agreement between Gascoisage, Union
17 electric, AmerenUE, Intercounty, Staff and OPC,
18 which resolved the issue of Intercounty's concerns
19 about this agreement.

20 That Stipulation Agreement came from
21 extensive negotiations, several meetings between
22 the parties, and we are requesting that the
23 Commission approve that stipulation as presented
24 today.

25 We will also present the testimony of John

1 Greenlee, who has testified in his prefiled
2 testimony that this agreement is in the public
3 interest, we will reduce facilities and several
4 other public benefits that come along with
5 territorial agreements. And at this time we will
6 be requesting the Commission approve the agreement
7 as presented.

8 JUDGE DIPPELL: Thank you. And Ameren?

9 MR. BOBNAR: Yes. I would like to first
10 introduce my sole witness in this case, which is
11 Larry Merry. He's our district manager for the
12 capital district. He negotiated the agreement.
13 And I'll be presenting his testimony.

14 Rather than build -- I'd just like to
15 build on Mr. Scott's testimony and specifically
16 state that the agreement covers the counties of
17 Camden, Miller, Maries, Phelps and Pulaski
18 Counties. It has been the agreement that has been
19 negotiated by not only Gascosage and UE, but as a
20 result of the stipulation process involved
21 Intercounty Electric Cooperative. Everything has
22 been satisfied to those parties.

23 In Mr. Merry's testimony, we will be
24 presenting evidence that says that this agreement
25 does not only -- not detrimental to the public

1 interest, but actually is a benefit to the public.
2 Mr. Merry will testify that this will reduce
3 duplication in the area served by both Gascosage
4 and Union Electric. It will aid in our internal
5 planning and utilization.

6 And probably most of all it will allow
7 Gascosage and Union Electric to work together in
8 the future in serving these counties. Thank you
9 very much.

10 JUDGE DIPPELL: Thank you.

11 Does Staff have an opening statement they
12 would like to make?

13 MR. POSTON: Thank you, your Honor.

14 Staff supports the territorial agreement
15 between AmerenUE and Gascosage. The agreement is
16 in the public interest, and it complies with
17 394.312, Missouri statutes.

18 In addition, we support the stipulation
19 and agreement that has been signed by all the
20 parties, and request that the Commission approve
21 the territorial agreement and the terms of the
22 stipulation.

23 JUDGE DIPPELL: Thank you. Does Office of
24 Public Counsel wish to make an opening statement?

25 MR. COFFMAN: Yes. Public Counsel concurs

1 that the territorial agreement and stipulation are
2 in the public interest, and as with most of these
3 territorial agreements should discourage harmful
4 competition and wasteful duplication of lines, so
5 we support it.

6 JUDGE DIPPELL: Thank you. And
7 Intercounty?

8 MR. COMLEY: Thank you, your Honor. May
9 it please the Commission; I have very little to add
10 to the comments of the brethren here, who have
11 offered them already. I want to lend support to
12 the stipulation and agreement, which the parties
13 entered the other day, and would ask that the
14 Commission approve the stipulation and agreement
15 that we have so extensively negotiated to this
16 point. And that's all, thank you very much.

17 JUDGE DIPPELL: Thank you. We will
18 proceed then with the witnesses. Can we go off the
19 record?

20 (OFF THE RECORD.)

21 (Witness sworn.)

22 JUDGE DIPPELL: For the record the witness
23 has taken the stand and has been sworn.

24 You may proceed.

25 MR. SCOTT: Thank you, your Honor.

1 JOHN GREENLEE, testified as follows:
2 DIRECT EXAMINATION BY MR. SCOTT:
3 Q. Can you please state your name for the
4 record.
5 A. John W. Greenlee.
6 Q. And where do you work?
7 A. I'm the general manager of Gasco Sage
8 Electric Cooperative in Dixon, Missouri.
9 Q. And have you filed brief testimony in this
10 matter?
11 A. Yes, I have.
12 Q. I'm going to hand you Exhibit 3.
13 Mr. Greenlee, do you recognize this
14 exhibit?
15 A. Yes, I do.
16 Q. What is it?
17 A. This is my testimony as filed.
18 Q. And if I were to ask you the same
19 questions today as you were asked when you filed
20 this testimony, would the answers be the same?
21 A. Yes, they would.
22 Q. And today, do you have any additions or
23 corrections that you would like to make to this
24 testimony?
25 A. No, I do not.

1 Q. At this time I'd like to hand you
2 Exhibit 2, and do you recognize that exhibit?
3 A. Yes, I do.
4 Q. What is it?
5 A. It's a stipulation and agreement.
6 Q. And were you part of the negotiations for
7 that document?
8 A. Yes, we were.
9 Q. And do you support the contents of that
10 document?
11 A. Yes, I do.
12 Q. And are you today asking the Commission to
13 approve not only the territorial agreement, but the
14 stipulation?
15 A. Yes, I am.
16 MR. SCOTT: I don't have anything further,
17 your Honor.
18 JUDGE DIPPELL: Would you like to offer
19 those exhibits?
20 MR. SCOTT: Yes, your Honor. I'd like to
21 offer Exhibit No. 3, Exhibit No. 2, and -- excuse
22 me. One more question.
23 BY MR. SCOTT:
24 Q. I'd also like to hand you Exhibit No. 1.
25 Mr. Greenlee, I apologize, I'm going to hand you

1 Exhibit No. 1, do you recognize that?

2 A. Yes, I do.

3 Q. And what is it?

4 A. It is the territory agreement.

5 Q. And were you part of the discussions of

6 this territorial agreement?

7 A. Yes, we were.

8 Q. And, again, you are asking the Commission

9 to approve this agreement as presented?

10 A. Yes, I am.

11 MR. SCOTT: Thank you, your Honor. At

12 this time I would like to offer Exhibits 1, 2, and

13 3 for the record.

14 JUDGE DIPPELL: Are there any objections

15 to Exhibit No. 1?

16 Exhibit No. 1 will be received into the

17 record.

18 (EXHIBIT NO. 1 WAS RECEIVED INTO

19 EVIDENCE.)

20 JUDGE DIPPELL: Any objections to

21 Exhibit No. 2?

22 Exhibit No. 2 is received into the

23 record.

24 (EXHIBIT NO. 2 WAS RECEIVED INTO

25 EVIDENCE.)

1 JUDGE DIPPELL: And any objections to
2 Exhibit No. 3?
3 Exhibit No. 3 is received into the
4 record.
5 (EXHIBIT NO. 3 WAS RECEIVED INTO
6 EVIDENCE.)
7 JUDGE DIPPELL: Do you have any further
8 witnesses -- oh, I'm sorry. Is there any
9 cross-examination of this witness by Intercounty?
10 MR. COMLEY: No questions, thank you.
11 JUDGE DIPPELL: Public Counsel?
12 MR. COFFMAN: No questions, your Honor.
13 JUDGE DIPPELL: Staff?
14 MR. POSTON: No questions, your Honor.
15 JUDGE DIPPELL: And Ameren?
16 MR. BOBNAR: No questions, your Honor.
17 JUDGE DIPPELL: Thank you. You may be
18 excused Mr. Greenlee, thank you.
19 MR. SCOTT: And at this time Gascoisage has
20 no further witnesses.
21 JUDGE DIPPELL: Would Ameren like to call
22 its first witness?
23 MR. BOBNAR: Yes, we would. I'd like to
24 call Mr. Larry Merry to the stand, your Honor.
25 JUDGE DIPPELL: We can go off the record.

1 (OFF THE RECORD.)
2 (Witness sworn.)
3 JUDGE DIPPELL: Let the record reflect
4 that the witness has been sworn.
5 You may go ahead and proceed with your
6 questions.
7 MR. BOBNAR: Thank you, your Honor.
8 LARRY D. MERRY, testified as follows:
9 DIRECT EXAMINATION BY MR. BOBNAR:
10 Q. Please state your name and address for the
11 record.
12 A. My name is Larry D. Merry. That's spelled
13 M-E-R-R-Y. My office address is 1310 Industrial
14 Boulevard, Jefferson City, Missouri.
15 Q. Are you employed by AmerenUE?
16 A. Yes, I am. I'm the district manager over
17 at Capital and Lakeside districts in Mid-Missouri.
18 Q. Have you prepared testimony for submission
19 in this proceeding?
20 A. Yes, I have.
21 Q. Mr. Merry, I'm going to hand you a copy of
22 a document that has been marked Exhibit No. 4.
23 It's entitled Direct Testimony of Larry D. Merry.
24 Can you identify that document?
25 A. Yes, I can. This is my written testimony.

1 Q. If I ask you each of the questions
2 appearing in the testimony, would your answers be
3 the same?
4 A. Yes, they would.
5 Q. Do you wish to make any other additions,
6 corrections or deletions to your testimony at this
7 time?
8 A. No, I do not.
9 MR. BOBNAR: I move that Exhibit 4 be
10 admitted into evidence.
11 JUDGE DIPPELL: Are there any objections to
12 Exhibit No. 4?
13 MR. SCOTT: No, your Honor.
14 JUDGE DIPPELL: Then Exhibit No. 4 is
15 received into the record.
16 (EXHIBIT NO. 4 WAS RECEIVED INTO
17 EVIDENCE.)
18 MR. BOBNAR: Your Honor, I have no further
19 questions for Mr. Merry, and I offer him for
20 cross-examination at this time.
21 JUDGE DIPPELL: Is there any
22 cross-examination of this witness by Intercounty?
23 MR. COMLEY: No questions, thank you.
24 JUDGE DIPPELL: Office of Public Counsel?
25 MR. COFFMAN: No questions.

1 JUDGE DIPPELL: Staff?
2 MR. POSTON: No questions, your Honor.
3 JUDGE DIPPELL: Gascosage?
4 MR. SCOTT: No, your Honor.
5 JUDGE DIPPELL: Then you may be excused,
6 Mr. Merry.
7 JUDGE DIPPELL: Do you have any further
8 witnesses?
9 MR. BOBNAR: No, your Honor.
10 JUDGE DIPPELL: Is Staff ready to call its
11 witness?
12 MR. POSTON: Thank you, your Honor.
13 Staff calls Mr. Syed K. Ahmad.
14 JUDGE DIPPELL: We can go off the record.
15 (OFF THE RECORD.)
16 (Witness sworn.)
17 JUDGE DIPPELL: You may go ahead and
18 proceed, Mr. Poston.
19 MR. POSTON: Thank you.
20 SYED K. AHMAD, testified as follows:
21 DIRECT EXAMINATION BY MR. POSTON:
22 Q. Please state your name.
23 A. Syed K. Ahmad.
24 Q. Where are you employed and what is your
25 position?

1 A. I am employed with the Missouri Public
2 Service Commission, and my job title is staff
3 engineer.

4 Q. Are you the same Syed Ahmad that prepared
5 prefiled rebuttal testimony that has been marked as
6 Exhibit 5?

7 A. Yes.

8 Q. If I were to ask you the same questions
9 today that appear in your testimony, would your
10 answers be the same?

11 A. Yes.

12 Q. Do you have any changes to this testimony?

13 A. No.

14 MR. POSTON: Your Honor, at this time I'd
15 like to offer Exhibit 5 into evidence?

16 JUDGE DIPPELL: Are there any objections
17 to Exhibit 5?

18 MR. SCOTT: No, your Honor.

19 MR. BOBNAR: No, your Honor.

20 JUDGE DIPPELL: Exhibit No. 5 will be
21 received into evidence.

22 (EXHIBIT NO. 5 WAS RECEIVED INTO
23 EVIDENCE.)

24 MR. POSTON: Your Honor, I'd also like to
25 offer this witness for cross-examination.

1 JUDGE DIPPELL: Is there any
2 cross-examination for this witness by Intercounty?
3 MR. COMLEY: No ma'am.
4 JUDGE DIPPELL: Office of Public Counsel?
5 MR. COFFMAN: No questions.
6 JUDGE DIPPELL: AmerenUE?
7 MR. BOBNAR: No questions, your Honor.
8 JUDGE DIPPELL: And Gascosage?
9 MR. SCOTT: None, your Honor.
10 JUDGE DIPPELL: You may be excused,
11 Mr. Ahmad.
12 And once more, I'd like to go off the
13 record.
14 (OFF THE RECORD.)
15 JUDGE DIPPELL: The bench has asked to
16 recall Mr. Greenlee for questions from the
17 Commissioners, and he was previously sworn.
18 JOHN GREENLEE, testified as follows:
19 QUESTIONS BY JUDGE DIPPELL:
20 Q. Mr. Greenlee, is this territorial
21 agreement dividing up territory that lies within
22 Intercounty's territory?
23 A. Would you please restate that? I'm not
24 quite sure of the question.
25 Q. Does the territorial agreement purport to

1 give territory or claim boundary lines that overlap
2 with perhaps areas that Intercounty services now?

3 A. Intercounty and Gascosage electric lines
4 intertwine in the eastern part of our boundary.
5 What we did for the purpose of this agreement, was
6 draw a straight line that includes some of the
7 lines that Intercounty has inside that boundary
8 line.

9 Q. Okay. How does the stipulation solve that
10 issue?

11 A. That stipulation is agreement between the
12 three parties that we would in no way use this
13 agreement to try to persuade other customers to
14 come over into Gascosage and be served by us or UE
15 do the same, and its agreement between us that the
16 things be left status quo.

17 JUDGE DIPPELL: Okay. Is there any
18 cross-examination on the Bench's questions?

19 MR. POSTON: I have none.

20 MR. COFFMAN: No.

21 JUDGE DIPPELL: Thank you. You may be
22 excused, Mr. Greenlee.

23 MR. BOBNAR: Excuse me, your Honor. Could
24 I ask a couple of questions of Mr. Greenlee?

25 CROSS-EXAMINATION BY MR. BOBNAR:

1 Q. Mr. Greenlee, doesn't the stipulation also
2 state that the territorial agreement boundaries
3 between Union Electric and Gascosage have no real
4 impact on Intercounty Electric Cooperative?

5 A. That's correct.

6 Q. Doesn't it also state that Intercounty
7 Electric Cooperative and Gascosage are able to
8 compete for customers in the area like they were
9 before the agreement?

10 A. That's correct.

11 Q. Does the stipulation and agreement also
12 state that since Intercounty Electric Cooperative
13 is not a signatory of the agreement, that they are
14 not bound by the terms of the territorial
15 agreement?

16 A. That is also correct.

17 Q. Thank you, Mr. Greenlee, for your time.

18 MR. BOBNAR: I have no further questions,
19 your Honor.

20 JUDGE DIPPELL: Thank you.

21 Is there anything further before I excuse
22 this witness?

23 Okay. You may be excused, Mr. Greenlee.

24 Are there any other matters that need to
25 be taken up before I adjourn the hearing?

1 MR. COMLEY: Your Honor, I may want to
2 speak to Commissioner Lumpe's question just
3 momentarily. I'm thinking that Intercounty entered
4 the stipulation on the faith that the provisions
5 there have adequately attended to its concern. And
6 these have been tailored to address Intercounty's
7 issues that were surfacing in the testimony that
8 had been prefiled, but has not been entered into
9 the record today.

10 I want to let the Commission know that we
11 do stand behind the stipulation. Intercounty feels
12 very comfortable with the provisions that had been
13 agreed by the parties. We think they do address
14 concerns that we had about somewhat of an
15 interconnecting kind of boundary line between all
16 of the suppliers. And again, we would reassert our
17 complete approval and support for the stipulation.

18 JUDGE DIPPELL: Thank you.

19 MR. SCOTT: Your Honor, to further address
20 Commissioner Lumpe's concerns, Intercounty like
21 Gascosage is electric cooperative. They are free
22 to serve in any rural area in the state.
23 Consequently the electric cooperatives have
24 interconnecting lines throughout the state.
25 Intercounty like Gascosage has no particular

1 service territory, which has been granted by the
2 legislators or this Commission, with the exception
3 in the event that the Commission does now approve
4 the territorial agreement as between Gascosage and
5 Union Electric.

6 In this state the only way an electric
7 cooperative can have a certified territory is
8 through the territorial agreement procedure, and as
9 the statute clearly states, that is only binding as
10 between the parties to that territorial agreement.

11 So as between Gascosage and Intercounty,
12 they are free to compete between themselves along
13 this boundary, outside the boundary, on both sides
14 of the line. In all essence, what the line does is
15 stop Union Electric from going into the area, which
16 in this agreement -- in this territorial agreement,
17 Gascosage has negotiated with Union Electric,
18 basically stay out. We're going to serve this
19 area, we're going to use our resources for this
20 area, we don't want you coming in.

21 Since Intercounty is not a party, they can
22 go across that line as freely as they want. In
23 this particular agreement when you look at the
24 maps, the territory that is in question is not
25 crossed, the line is not part of the agreement.

1 And so once you go across this boundary line, which
2 Gascosage is their territory, Union Electric can
3 still serve there, Gascosage can still serve there,
4 and Intercounty can still serve there as long as
5 its a rural area for Gascosage and Intercounty, and
6 Union Electric has certificates of convenience and
7 necessity.

8 This is also similar to the consolidated
9 UE agreement where in that agreement, the lines
10 actually overlapped, and the Commission approved
11 the agreement there. Because again, the
12 territorial agreement only effects and only
13 prohibits the two entities who have come to the
14 agreement in serving that territory together.

15 JUDGE DIPPELL: Thank you. Now, that I've
16 let Mr. Scott and Mr. Comley make closing
17 statements, would anybody else like to?

18 Then this hearing is adjourned. Thank
19 you.

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