

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Complaint of Ozark Border Electric )  
Cooperative as to Territorial ) **CASE NO. EC-95-198**  
Agreement between Union Electric )  
Company and the City of Poplar Bluff. )

**ORDER AND NOTICE OF COMPLAINT**

On December 30, 1994, Ozark Border Electric Cooperative (Ozark) filed with the Commission a complaint directed against the territorial agreement between Union Electric Company (UE) and the City of Poplar Bluff, Missouri (City), approved in Commission Case No. EM-94-90. A copy of that complaint is attached to this order and notice as Attachment A. Ozark filed its complaint pursuant to §394.312 RSMo Supp. 1993, which grants the Commission jurisdiction to entertain complaints regarding Commission-approved territorial agreements. The statute provides for such complaints to be initiated and prosecuted in the same manner as other complaints and requires a hearing for the purpose of determining whether the territorial agreement is still in the public interest.

The Commission is of the opinion that since UE and the City were the Company parties to the territorial agreement at issue, each should be given an opportunity to respond to Ozark's complaint. Responses should comply with 4 CSR 240-2.070(7) of the Commissions's Rules of Practice and Procedure and with Commission rules regarding practice before the Commission and pleadings. A date shall be set for hearing after the response period has ended.

**IT IS THEREFORE ORDERED:**

1. That Union Electric Company and the City of Poplar Bluff, Missouri, shall file their responses to the complaint filed in this case no later than 3:00 p.m. on February 6, 1995.

2. That the parties shall file their responses with the Executive Secretary, Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, and send a copy to the Complainant, Ozark Border Electric Cooperative, and to the Office of the Public Counsel.

3. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch  
Executive Secretary

(S E A L)

Anne Wickliffe Freeman, Hearing Examiner,  
by delegation of authority under  
Commission Directive of January 3, 1995,  
pursuant to Section 386.240, RSMo (1986).

Dated at Jefferson City, Missouri,  
on this 6th day of January, 1995.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Complaint of Ozark Border )  
Electric Cooperative as to )  
Territorial Agreement ) Case No.: EC-95-198  
between Union Electric Company )  
and the City of Poplar Bluff. )

COMPLAINT

COMES NOW Ozark Border Electric Cooperative and for its Complaint states as follows:

1. Claimant Ozark Border Electric Cooperative is a rural electric cooperative organized and operating under the laws of the State of Missouri providing retail electric distribution service in Bollinger, Butler, Carter, Dunklin, New Madrid, Oregon, Reynolds, Ripley, Shannon, Stoddard and Wayne Counties.

2. This Complaint is directed against a Territorial Agreement between Union Electric Company and the City of Poplar Bluff, Missouri dated September 7, 1993. Union Electric Company's address is 1901 Chouteau Avenue, Post Office Box 149 (MC1310), St. Louis, Missouri 63166. The City of Poplar Bluff's address is Poplar Bluff, c/o Municipal Utilities, Post Office Box 1268, Poplar Bluff, Missouri 63902.

3. On or about September 7, 1993 Union Electric Company and the City of Poplar Bluff entered into a Territorial Agreement pursuant to Section 394.312 RSMo. A copy of the Territorial Agreement is attached hereto marked as Exhibit 1 and is incorporated by reference as though set forth in full herein.

4. Union Electric Company and the City of Poplar Bluff submitted the Territorial Agreement to the Public Service

**FILED**

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MISSOURI  
PUBLIC SERVICE COMMISSION

Commission in Case No. EM-94-90.

5. On December 3, 1993, the Commission issued it's Report and Order purporting to approve the Territorial Agreement as not being contrary to the public interest.

6. By its terms the Territorial Agreement grants to the City of Poplar Bluff the authority to provide retail electric service outside of its city limits in certain areas specified in the Agreement.

7. Ozark Border Electric Cooperative has facilities, members and customers located within the areas outside of the city limits of the City of Poplar Bluff which are within the areas set aside by the Agreement as the service territory of the City of Poplar Bluff.

8. The Commission has jurisdiction pursuant to Section 394.312.6 to entertain and hear complaints involving any Commission approved territorial agreement.

9. Ozark Border Electric Cooperative believes that the Territorial Agreement between Union Electric Company and the City of Poplar Bluff is not in the public interest.

10. Among the reasons that the Agreement is not in the public interest is that it increases duplication of electric distribution facilities in the area covered by the Agreement. Prior to the Agreement, Union Electric engaged in the business of retail electric sales in and around the City of Poplar Bluff. Pursuant to the Agreement Union Electric Company transferred to the City of Poplar Bluff certain of its facilities and customers located within and outside the city limits to the City of Poplar Bluff. However,

the Territorial Agreement granted authority to the City of Poplar Bluff to serve outside of its city limits beyond the area served by the facilities acquired from Union Electric or any reasonable extension of those facilities.

11. The City is extending and has indicated its intention to extend facilities to cover the entire service area granted it pursuant to the Agreement. This extension of facilities will intersect with, duplicate and on occasion interfere with facilities of Ozark Border Electric Cooperative already serving consumer members in the area.

12. The City of Poplar Bluff lacks the long term capability to adequately serve the electrical needs of all of the consumers within the territory set aside to it under the Territorial Agreement with Union Electric Company. The electrical needs of consumers within this area can only be met in total if Ozark Border Electric Cooperative continues to operate and serve in the area.

13. The public interest will be harmed by the City of Poplar Bluff being allowed to expand into this territory. The public interest will be harmed because the City will be unable to provide for the electrical needs of its consumers and Ozark Border Electric Cooperative will only be able to provide for the electrical needs of its consumers at higher rates with less reliability.

14. Pursuant to Section 394.312.4 the Commission is required to hold evidentiary hearings prior to approval or disapproval of a Territorial Agreement. As the Commission's Report and Order attached hereto as Exhibit 2 indicates, no evidentiary hearing was held prior to approval of the Territorial Agreement between Union

Electric Company and the City of Poplar Bluff.

Pursuant to Section 394.312(6) if, after a hearing, the Commission determines that a Territorial Agreement is not in the public interest, it has the authority to suspend or revoke the Territorial Agreement.

WHEREFORE, Ozark Border Electric Cooperative requests the Commission to suspend or revoke the Territorial Agreement between Union Electric Company and the City of Poplar Bluff on the grounds that is it not in the public interest because there has been no hearing at which Union Electric Company and the City of Poplar Bluff proved that the Agreement was not contrary to the public interest and because the Agreement is not, in fact, in the public interest because it adversely affects the safe, reliable and lowest reasonable cost supply of electricity to consumers within the territory set aside to the City of Poplar Bluff pursuant to the Territorial Agreement.

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