

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

In the Matter of the Application of The Empire )  
District Electric Company and Ozark Electric )  
Cooperative for Approval of a Written Territorial )  
Agreement Designating the Boundaries of an )  
Exclusive Service Area for Ozark within a Tract of )  
Land in Greene County, Missouri and Associated )  
Requests for Approval of a Transfer of Facilities and )  
Change of Supplier. )

Case No. EO-2008-0043

**PUBLIC COUNSEL'S POSITION STATEMENT  
AND MOTION FOR LEAVE TO LATE FILE**

COMES NOW the Office of the Public Counsel and for its Position Statement and Motion for Leave to Late File states as follows:

The issues as stated in the filed List of Issues, Order of Witnesses and Order of Cross-Examination are set out below, followed by Public Counsel's position on each issue. Because of the press of other matters, Public Counsel did not have an opportunity to research the legal issues raised until after the deadline for filing position statements. This filing is made less than one business day after the deadline. There will be no detriment to the Commission or to any party from this slight delay.

1. The Empire District Electric Company and Ozark Electric Cooperative seek approval of a territorial agreement that would allow Ozark Electric Cooperative to provide electric service in The Lakes at Shuyler Ridge subdivision exclusive of The Empire District Electric Company. Is that territorial agreement in the public interest?

**Public Counsel Position:** The proposed territorial agreement is in the public interest.

2. As proposed, is the related sale to Ozark Electric Cooperative of facilities The Empire District Electric Company is using to provide electric service to customers in The Lakes at Shuyler Ridge subdivision not detrimental to the public interest?

**Public Counsel Position:** The related sale is not detrimental to the public interest.

3. For structures being provided with electric service in The Lakes at Shuyler Ridge subdivision prior to the proposed transfer of facilities to Ozark, is changing the supplier of electric service from The Empire District Electric Company to Ozark Electric Cooperative in the public interest for a reason other than a rate differential?

**Public Counsel Position:** The related change of supplier is in the public interest.

4. Can a rural electric cooperative lawfully add service to new structures in an area annexed by a city with inhabitants of over 1,500 when it does not have a franchise with that city, but it does have a territorial agreement with an electrical corporation regulated by the Public Service Commission which gives the rural electric cooperative exclusivity with respect to that electrical corporation in the provision of electric service in that area annexed by the city?

**Public Counsel Position:** Yes.

A. If the rural electric cooperative does have a franchise with the city, does that change the result?

**Public Counsel Position:** Although it might in some circumstances make the city's position more clear, it is not necessary.

WHEREFORE, Public Counsel respectfully requests that the Commission accept this statement of positions out of time.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Lewis R. Mills, Jr.**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 17<sup>th</sup> day of December 2007:

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**/s/ Lewis R. Mills, Jr.**

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