

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

**FILED<sup>2</sup>**

JAN 25 2007

**Missouri Public  
Service Commission**

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 )  
Exclusive Service Areas for Each within Two )  
Tracts of Land in Greene County and Christian )  
County, Missouri. )

Case No. EO-2007-0029

In the Matter of the Application of The Empire )  
District Electric Company for a Waiver of the )  
Provisions of its Tariff and 4 CSR 240-14.020 )  
With Regard to The Lakes at Shuyler Ridge )  
Subdivision in Conjunction with a Proposed )  
First Territorial Agreement with Ozark Electric )  
Cooperative. )

Case No. EE-2007-0030

**STIPULATION OF FACTS**

On October 24, 2006, the Commission issued an order that included a provision for a Stipulation of Facts to be filed in these consolidated cases by 4 p.m. on November 13, 2006. The undersigned parties agree to the following facts for purposes of these consolidated cases:

1. The Empire District Electric Company ("Empire") is a Kansas corporation certificated by the Missouri Secretary of State to do business in Missouri, with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64801.

2. The Public Service Commission of Missouri ("Commission") has certificated Empire to provide electrical utility service to customers in areas of Missouri and Empire does so.

3. Empire is an "electrical corporation" and a "public utility" as those terms are defined in § 386.020 RSMo 2000, and is subject to the jurisdiction and supervision of the Commission as provided by law.

*Joint* Exhibit No. 1  
Date 12-7-06 Case No. EO-2007-0029  
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4. Empire has no overdue Commission annual reports or assessment fees.

5. Ozark Electric Cooperative ("Ozark") is a rural electric cooperative organized and existing pursuant to Chapter 394 RSMo, with its headquarters office located at 10943 N. Highway 39, Mount Vernon, Missouri. Although certain safety aspects of its operations are subject to the jurisdiction of the Commission, the Commission does not have jurisdiction over the terms and conditions of the electrical service Ozark offers to its members.

6. Ozark is engaged in the distribution of electric energy and service to its members within certain counties in Missouri, including Greene and Christian Counties.

7. Both Empire and Ozark are currently in good standing with the Office of the Missouri Secretary of State.

8. Empire and Ozark have entered into an agreement titled "First Territorial Agreement" ("Agreement") that is dated June 29, 2006 and a copy of which was filed as part of Appendix A to their joint application that initiated the above captioned Case No. EO-2007-0029. That Agreement is admissible as evidence in these consolidated cases.

9. Under the Agreement, Empire would have a service area located in unincorporated areas of both Greene and Christian Counties, Missouri, and abutting the City of Republic, Missouri, exclusive of retail electric competition from Ozark and comprising approximately 4.5 square miles; and Ozark would have a service area exclusive of retail electric competition from Empire in a part of unincorporated Christian County, Missouri, comprising approximately 4.0 square miles, that does not abut the present corporate limits of the City of Republic, Missouri. Both Empire and Ozark currently have authority to serve all of the area that is the subject of the Agreement.

10. Concurrently with Empire and Ozark's filing of the joint application to the Commission for approval of the Agreement, Empire filed an application with the Commission, which initiated Case No. EE-2007-0030, for variances from Commission rule 4 CSR 240-14.020 and Empire's tariff regarding installation costs for electric service and the costs for installation of decorative street lighting for one specific platted subdivision located near Republic, Missouri—The Lakes at Shuyler Ridge.

11. Other than Ozark and Empire, neither Ozark, Empire nor the Staff of the Public Service Commission ("Staff") are aware of any electric service providers providing any electrical service in the territory that is the subject of the Agreement.

12. The 2005-2006 Official Manual of the State of Missouri reflects that the population of the City of Republic, Missouri, was 8,438 in 2000. This means that the area within the corporate limits of the City of Republic is not a "rural area" as that term is defined in section 394.020(3) RSMo.

13. The parties request that the Commission take administrative or official notice of 4 CSR 240-14.010; 4 CSR 240-14.020; 4 CSR 240-14.030; the Amended Order Approving Variance and Denying Motion for Rehearing issued by the Commission on July 6, 1990 in Case No. EO-90-320; the Order Approving Variance issued by the Commission on June 15, 1990 in Case No. EO-90-320; the Order Granting Application for Waiver issued October 17, 1990 by the Commission in Case No. EO-91-75; the Order Granting Waivers issued October 15, 1991 by the Commission in Case No. EO-91-398; and the Order Approving Variances and Tariff issued March 18, 1994 by the Commission in Case No. EO-94-254.

14. Ozark and the developer of The Lakes at Shuyler Ridge, a platted subdivision located in the area to be exclusively served by Empire under the Agreement, entered into a

contract titled, "Agreement for the Purchase of Electric Power and Energy," dated September 15, 2005 ("Contract"). Empire filed a copy of that contract as part of Appendix A to its application that initiated Case No. EE-2007-0030. That Contract is admissible as evidence in these consolidated cases.

15. Attached as Appendix 1 are copies of relevant sheets from Empire's electric tariff, in particular PSC Mo. No. 5, Sec. 5, Original Sheets 17c and 17d; rate schedule SPL and rate schedule PL. Those sheets of Empire's electric tariff are admissible as evidence in these consolidated cases.

16. Empire's current electric tariff provisions for installation costs for electric service require that a developer pay Empire all installation costs in advance. Under Empire's tariff, the developer is then entitled to receive a rebate for each lot that receives permanent power from Empire within a five-year period. The rebate represents a package of material and labor that currently has a value of \$2,679 per lot for all subdivisions developed during calendar year 2006, including Phase I of The Lakes at Shuyler Ridge subdivision. For example, Empire's current estimate (including the cost to Empire to purchase certain existing Ozark facilities already installed in Phase I of The Lakes at Shuyler Ridge subdivision) to extend service to Phase I is \$591,772.74. Under Empire's tariff, the developer would only be eligible for \$436,677.00 (163 lots in Phase I x \$2,679 per lot) in rebates; therefore, a balance of \$155,095.74 would be non-refundable to the developer.

17. The second aspect of the Empire variance request deals with the costs for installation of decorative street lighting within The Lakes at Shuyler Ridge. The developer had previously selected a style of decorative street lighting facilities to be supplied by Ozark. Empire's current street light tariff provisions applicable within a city require developers to pay

Empire all cost associated with installing decorative street lighting. Empire then bills the city for the energy necessary for operation of the lights pursuant to its rate schedule SPL at the applicable tariff rate. If the street lighting is installed outside corporate limits, Empire's rate schedule PL applies. Empire's current estimate to install the desired decorative street lighting for Phase I of The Lakes at Schuyler Ridge is \$60,800.00, based on an estimated cost of \$1,600.00 per light for 38 decorative street lights.

18. Ozark has contracted with the developer to install \$57,000.00 of street lighting for Phase I of The Lakes at Shuyler Ridge at no cost to the developer.

19. The Staff has quantified the projected cost to Empire if the Commission grants the requested variances for installation costs for electric service to be \$322,499.74 (for the entire subdivision), that, otherwise, the developer would contribute. This equates to an interest free loan of approximately \$300,000 for seven years with Empire's ratepayers forfeiting the opportunity to collect \$2,679 per undeveloped lot, if development does not take place within five years of installation of facilities. The Staff has quantified the projected cost to Empire if the Commission grants the requested variances for decorative street lighting to be \$163,500 for the 109 decorative street lights for the entire subdivision. Empire has projected in its application, subject to the noted assumptions, that after ten years, Empire's service (priced at current prices) would produce approximately \$5.6 million in revenue compared to \$1.8 million in installation costs for the entire subdivision.

20. No party is seeking an express ratemaking determination on the cost of the variance in this proceeding, or is any party asserting that a ratemaking determination in this case would be appropriate. All parties agree that the Commission, if it grants the variance, should include a provision in the order to the effect that "Nothing in this order shall be considered as a

finding by the Commission of the reasonableness of the expenditures herein involved or as acquiescence in the value placed upon said properties by Empire.”

21. The variances sought by Empire here would apply only to The Lakes at Shuyler Ridge subdivision located in Section 28, Township 28 North, Range 23 West in Greene County, Missouri.

22. Although no homes have been built to date, some development of The Lakes at Shuyler Ridge subdivision has occurred. Roads, sidewalks, fire hydrants, and decorative light poles are in place in Phase I of the subdivision. Electric service, including underground distribution conduit, distribution wiring, electric vaults, and pad mounted transformers, is installed in Phase I.

WHEREFORE, the undersigned submit the foregoing as undisputed facts they agree the Commission may rely on as evidence in both Case Nos. EO-2007-0029 and EE-2007-0030.

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### Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 21<sup>st</sup> day of November 2006.

/s/ Nathan Williams

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I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 22nd day of November 2006.

/s/ Nathan Williams