

Exhibit No.:

Issues:

Witness: James L. Ketter

Sponsoring Party: MO PSC Staff

Type of Exhibit: Rebuttal Testimony

Case No.: EC-2003-0452

Date Testimony Prepared: April 30, 2004

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

REBUTTAL TESTIMONY

OF

JAMES L. KETTER

OZARK BORDER ELECTRIC COOPERATIVE

VS

CITY OF POPLAR BLUFF

CASE NO. EC-2003-0452

Jefferson City, Missouri

April 2004

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

Ozark Border Electric Cooperative
vs.
City of Poplar Bluff

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Case No. EC-2003-0452

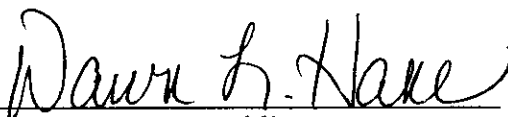
AFFIDAVIT OF JAMES L. KETTER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

James L. Ketter, of lawful age, on his oath states: that he has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 6 pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.


James L. Ketter

Subscribed and sworn to before me this 29th day of April, 2004.


Notary Public

DAWN L. HAKE
Notary Public – State of Missouri
County of Cole

My commission expires My Commission Expires Jan 9, 2005

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JAMES L. KETTER

VS

CASE NO. EC-2003-0452

A. James L. Ketter, P.O. Box 360, Jefferson City, Missouri 65102.

A. I am employed by the Missouri Public Service Commission (MPSC or Commission) as a Utility Regulatory Engineer II in the Engineering Analysis section of the Energy Department.

A. I received a Bachelor of Science degree in Electrical Engineering from the University of Missouri-Columbia in 1970. I served for 4 1/2 years as an officer in the United States Navy and returned to the University of Missouri-Columbia campus to receive an advanced degree. In December 1977 I received a Masters degree in Business Administration from the University of Missouri-Columbia.

I have been employed by the Commission since 1976. As an engineer on the Staff, I have testified before the Commission on certificates for service areas, electric

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1 transmission and power plant certification cases, and territorial agreements. I have also
2 presented testimony on rate design in electric, steam, and gas rate cases. I am a
3 registered Professional Engineer in the state of Missouri; my registration number is E-
4 20056. I am a member of the National Society of Professional Engineers and I am a
5 member of the Jefferson City Chapter of the Missouri Society of Professional Engineers.

6 Q. What is the purpose of your rebuttal testimony?

7 A. Mr. Stanley Estes in his direct testimony on behalf of Ozark Border
8 Electric Cooperative (Ozark Border) references a Territorial Agreement between Ozark
9 Border and City of Poplar Bluff (Poplar Bluff) in Case No. EO-98-143. I will provide
10 historical information on the Territorial Agreement.

11 Q. Describe the provisions of the Territorial Agreement from Case No. EO-
12 98-143.

13 A. The Territorial Agreement was included as Appendix 1 of the Joint
14 Application in Case No. EO-98-143, filed October 3, 1997. The term of the Territorial
15 Agreement is twenty years and covers portions of Butler County, including Poplar Bluff.
16 Three classifications were designated as Zone 1, Zone 2 and Zone 3 with provisions for
17 the provider of electric service within these specific areas. The Territorial Agreement
18 established the provider of electric service for new customers in each zone and provisions
19 for transfer of customers upon annexation by Poplar Bluff in Zone 1 and Zone 2. Ozark
20 Border has the exclusive right to serve new customers in Zone 3. Many other provisions
21 addressed definitions and possible situations that might arise.

22 The Territorial Agreement did not require any current customer to change
23 electrical supplier. Existing customers remained with their present supplier. In areas that

1 may be annexed in Zone 1 and Zone 2 by Poplar Bluff, provisions for the sale of facilities
2 and transfer of electric service provider were set out in the Territorial Agreement. Zone
3 1, Zone 2 and Zone 3 are delineated in the Territorial Agreement with a metes and
4 bounds description of each zone.

5 Q. What are the provisions for electric service for customers in Zone 1?

6 A. In Zone 1, Poplar Bluff has the exclusive right to provide electric service
7 to all new customers after the commencement date of the Territorial Agreement.
8 Although valuation is not an issue in the complaint, if an area in Zone 1 is annexed,
9 Ozark Border agrees to sell its facilities to Poplar Bluff for the “fair and reasonable
10 compensation” delineated in Section 386.800.5, RSMo.

11 Zone 1 contains the area of Poplar Bluff at the time of the Territorial Agreement,
12 plus area outside of the city limits. In this zone, Poplar Bluff is designated the provider
13 of electric service to new customers in anticipation of the expected growth of the city.
14 This delineation seeks to define areas that each provider could serve without duplicating
15 electric facilities and provides for the purchase of Ozark Border members if property in
16 Zone 1 is annexed.

17 Q. What are the provisions for electric service for customers in Zone 2?

18 A. In Zone 2, Ozark Border has the exclusive right to provide electric service
19 to all new customers after the commencement date of the Territorial Agreement. If an
20 area is annexed, Ozark Border agrees to sell its facilities to Poplar Bluff. The terms of
21 the Territorial Agreement provide for a distinction in pricing based upon whether the
22 structure was receiving service from Ozark Border before or after the commencement
23 date of the Territorial Agreement.

1 Q. What are the provisions of the Territorial Agreement for Zone 3?

2 A. In Zone 3, Ozark Border will have the exclusive right to provide electric
3 service to all new customers after the commencement date of the Territorial Agreement.
4 Popular Bluff will have no right to provide new service to structures in Zone 3 for the
5 term of the Territorial Agreement.

6 Q. What benefits were anticipated from the Territorial Agreement for Poplar
7 Bluff and Ozark Border?

8 A. This Territorial Agreement defines areas for exclusive extension of new
9 service by one supplier. Defining the service area for the two utilities was designed to
10 reduce future duplication of facilities. Each supplier could plan its distribution system in
11 a rational manner, knowing which supplier would serve new customers in the designated
12 areas. This will allow each utility to plan for the future growth for each geographic area.
13 This Territorial Agreement was designed to reduce future potential disputes between
14 Popular Bluff and Ozark Border.

15 Q. Have these benefits been realized?

16 A. Prior to this complaint case, the Territorial Agreement has provided the
17 framework for orderly change of supplier as Poplar Bluff expanded by annexation in
18 Zones 1 and Zone 2. As the dispute over the interpretation of the meaning of the notice
19 provisions of the Territorial Agreement continues, annexation by Popular Bluff and
20 operation of the Territorial Agreement also continues. The Territorial Agreement is still
21 in effect but the complaint seeks an interpretation of application of the terms involving
22 notice from Poplar Bluff to Ozark Border within a period of time at or after annexation.

1 The expansion of Poplar Bluff has taken place due to voluntary annexation by
2 which property owners have requested that their property be annexed into the city. When
3 voluntary annexation includes existing Ozark Border members, facilities are subject to
4 sale but duplication of facilities may still occur. Some Ozark Border facilities are
5 required to serve other members not part of the annexation and Poplar Bluff has to
6 extend its electric facilities to provide service. This has resulted in the duplication of
7 electric facilities.

8 In some areas the existing overhead facilities of Ozark Border are duplicated by
9 new underground facilities provided by Poplar Bluff. This has occurred in areas where
10 some, but not all, customers along any given street seek voluntary annexation. Overhead
11 electric facilities of Poplar Bluff are also duplicating some of the existing overhead
12 facilities of Ozark Border.

13 Q. What is the dispute between the parties that is the subject of this
14 complaint?

15 A. Ozark Border is seeking a finding from the Commission that the notice
16 provision contained within paragraph 4B of the Territorial Agreement requires actual
17 written notice of the requested purchase within sixty (60) days of the annexation and
18 other provisions as outlined in the direct testimony of Mr. Estes. If the Commission finds
19 that "constructive notice" is adequate, Ozark Border wants the Commission to find that
20 the Territorial Agreement is not in the public interest and revoke the Territorial
21 Agreement. Section 394.312.6, RSMo. makes reference to the Commission having
22 jurisdiction to hear complaints, and having authority to revoke territorial agreements on
23 the basis that they are not in the public interest. Counsel for the Staff will address the

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1 legal matters relating to the provisions of the Territorial Agreement, state statute, case
2 law, Commission rules and Commission Orders.

3 Q. Does this conclude your direct testimony?

4 A. Yes it does.

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