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August 8, 2000

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Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. EO-2000-774**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **UNANIMOUS STIPULATION AND AGREEMENT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Dennis L. Frey  
Associate General Counsel  
(573) 751-8700  
(573) 751-9285 (Fax)

DLF/lb  
Enclosure  
cc: Counsel of Record

Exhibit No. 2  
Date 8/15/00 Case No. EO-2000-774  
Reporter TL

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

In the Matter of the Application of Union Electric	)	
Company d/b/a AmerenUE and Intercounty	)	
Electric Cooperative Association for Approval of	)	
a Written Territorial Agreement Designating the	)	Case No. EO-2000-774
Boundaries of Each Electric Service Supplier within	)	
Portions of Gasconade, Maries and Phelps Counties,	)	
in Missouri.	)	

**UNANIMOUS STIPULATION AND AGREEMENT**

**COME NOW** the undersigned parties to this proceeding and for their Unanimous Stipulation and Agreement ("Stipulation and Agreement"), respectfully state as follows:

**I. Procedural History**

1. On May 24, 2000, Union Electric Company d/b/a AmerenUE ("Company" or "AmerenUE") and the Intercounty Electric Cooperative Association ("Cooperative" or "Intercounty") filed a Joint Application pursuant to Section 394.312 RSMo. 1994 (the "Joint Application"), requesting that the Missouri Public Service Commission (the "Commission"): (1) approve a territorial agreement between the Company and the Cooperative designating the boundaries of each electric service supplier in Gasconade, Maries, and Phelps Counties in Missouri (the "Territorial Agreement"); (2) authorize the Company and Cooperative to perform in accordance with the terms and conditions of the Territorial Agreement; (3) find that the Territorial Agreement does not impair Company's certificates of convenience and necessity, except as specifically limited by the Territorial Agreement; and (4) approve changes to Company's tariffs.

2. In the Joint Application, Company and Cooperative seek Commission approval of the Territorial Agreement. Company and Cooperative have agreed to displace competition

between themselves in Gasconade, Maries, and Phelps Counties, as allowed by law, and have set out the terms of the Territorial Agreement, which is attached to the Joint Application and marked as Exhibit A. The Territorial Agreement sets forth the exclusive service area boundaries for new structures of both AmerenUE and Cooperative in Gasconade, Maries, and Phelps Counties. The Territorial Agreement also provides that Company and Cooperative shall be entitled to continue serving those existing structures it was serving as of the date of this Agreement. Thus, Company and Cooperative are not required to transfer any customers and/or facilities to implement the Territorial Agreement.

3. On May 26, 2000, the Commission issued an order and notice concerning, among other things, the intervention of interested parties. Applications for intervention were to be filed no later than June 15, 2000. On June 9, 2000 the City of Rolla, by and through Rolla Municipal Utilities ("Rolla"), filed an Application to Intervene. On June 20, 2000, the Commission issued an order granting Rolla's application to intervene. To date, no other parties have sought to intervene in this case.

4 On June 23, 2000, the Commission issued an order adopting the proposed procedural schedule filed jointly by the parties to this case on June 22, 2000. Among other things the Commission's June 23rd order set the evidentiary hearing on the Territorial Agreement for August 15, 2000 at 8:30 AM.

5. The Staff of the Commission ("Staff"), the Office of the Public Counsel ("OPC"), Company, Cooperative, and Rolla (hereinafter collectively known as "the Parties"), having reviewed the Joint Application, the associated Territorial Agreement, and Rolla's Application to Intervene, and having considered the positions of the Parties and the issues to be resolved in this

case, have entered into this Stipulation and Agreement.

## **II. The Parties Have Reached the Following Stipulation and Agreement:**

### **A. Rolla**

6. The Parties hereto agree that the "Electric Service Areas" of AmerenUE and Intercounty that are described in the Territorial Agreement are only exclusive as between Intercounty and AmerenUE. Further, the Territorial Agreement, and Commission approval of it in Case No. EO-2000-774, shall in no way affect or diminish the present or future rights and duties of Rolla, which is a municipal electric supplier, or any other electric supplier not a party to the Territorial Agreement.

7. The parties agree that the Territorial Agreement does not in any way limit the existing or future service territory of Rolla, and that Rolla shall be free to serve anywhere it may legally serve without regard to the Territorial Agreement.

8. Intercounty agrees that it will not use the Territorial Agreement or Commission approval of it in any way to attempt to convince potential electric consumers to choose Intercounty as their electric supplier. Further, Intercounty shall not argue, even in the event of a change in any applicable law, that the Territorial Agreement or Commission approval of said agreement in any way entitles Intercounty to serve any given electric load or area, or prohibits Rolla from serving any load or area it may otherwise legally serve now or in the future.

9. AmerenUE agrees that it will not use the Territorial Agreement or Commission approval of it in any way to attempt to convince potential electric consumers to choose

AmerenUE as their electric supplier. Further, AmerenUE shall not argue, even in the event of a change in any applicable law, that the Territorial Agreement or Commission approval of said agreement in any way entitles AmerenUE to serve any given electric load or area, or prohibits Rolla from serving any load or area it may otherwise legally serve now or in the future.

10. The Parties agree that the Territorial Agreement will only be used to apportion consumers as between Intercounty and AmerenUE.

11. The Parties agree that the Territorial Agreement does not and shall not affect the rights of Rolla, AmerenUE, or Intercounty under § 386.800 RSMo. 1994.

12. The Parties intend that this Stipulation and Agreement clarify the terms of the Territorial Agreement and as such, any Party may introduce it into evidence in any future Commission or Court proceeding concerning the Territorial Agreement (all other Parties waiving their right to object) to clarify the nature of the electric service areas defined therein or the rights of AmerenUE, Intercounty, or Rolla to serve any load or area.

#### **B. The Territorial Agreement**

13. The Staff, OPC, Intercounty, and AmerenUE assert and, in consideration of the promises and covenants herein contained and supported by the facts contained, state that the Territorial Agreement between Company and Cooperative is not detrimental to the public interest and therefore should be approved. Rolla takes no position on this matter, but will not oppose approval as set forth herein. Furthermore, Staff, OPC, Intercounty, and AmerenUE assert and state that the finding that the Territorial Agreement is not detrimental to the public interest is supported by the facts contained in the Joint Application.

14. The Staff, OPC, Intercounty, and AmerenUE further assert and state that the Company's illustrative tariff sheets, as shown in Exhibit D to the Joint Application are acceptable in format and substance, provided the following changes are made: (i) Sheet No. 22.1, Gasconade County, Sections: 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36 shall be deleted from the Sections/U.S. Survey listing for Township 44 North, Range 4 West and Township 45 North, Range 4 West, (ii) Sheet No. 26.4, Maries County, Sections 1, 7, 9, 10, 16, 17, and 20 in Township 40 North, Range 7 West, shall be moved from the non-delta/underlined listing to the delta/underlined listing in the same township-range list; and (iii) Sheet No. 26.4, Maries County, Sections 12, 14, 22, 27, and 34 in Township 40 North, Range 8 West, shall be moved from the non-delta/underlined listing to the delta/underlined listing in the same township-range list. With these modifications, the Staff, OPC, Intercounty, and AmerenUE believe that the illustrative tariff sheets reflect the Company's service area changes due to the Territorial Agreement, and that revised tariff sheets based upon the illustrative tariff sheets, and including the aforementioned changes, are in the public interest and therefore should be approved. Rolla takes no position on this matter, but it will not oppose approval as set forth herein. Within 30 days of the effective date of an Order approving the Territorial Agreement, Company agrees to file for review and approval, revised tariff sheets consistent with the illustrative tariff sheets and incorporating the aforementioned changes for the Company's service area in Gasconade, Maries, and Phelps Counties.

15. The Parties further assert and state that in regard to the revised tariff sheets to be filed by the Company, AmerenUE may, at its discretion, either: (a) leave the Congressional Townships in Gasconade County listed below as they are listed in the Illustrative Tariffs (i.e.,

listing all 36 sections), or (b) change Sections/U.S. Surveys column to read "All land sections and surveys therein." for the following Townships /Ranges:

42 North, 5 West  
42 North, 6 West  
43 North, 5 West  
43 North, 6 West  
44 North, 5 West  
44 North, 6 West  
45 North, 5 West  
45 North, 6 West

16. AmerenUE has on its illustrative tariff sheets the following footnote: "In the underscored Sections/U.S. Surveys above, Company's right and obligation to serve in [County Name] is limited by the terms of the Territorial Agreement between Company and Intercounty Electric Cooperative approved in Case No. EO-2000-774". This language shall be interpreted (i) to permit AmerenUE, in accordance with Article 2 of the Territorial Agreement, to continue to serve all other Existing Structures that it is serving on the Effective Date of the Agreement regardless of their location (even if that location is in the exclusive service area of Cooperative); (ii) for those sections divided by the Territorial Agreement boundary, to permit AmerenUE, in accordance with Article 2 of the Territorial Agreement, to serve all New Structures in the Electric Service Area of AmerenUE in those divided sections; and (iii) to allow AmerenUE to serve customers in accordance with Article 9 of the Territorial Agreement, the Case-by-Case Exception Procedure, without having to file with the Commission for a certificate of convenience and necessity or to revise its tariffs.

17. This Stipulation and Agreement shall be binding upon the successors and assigns of Company and Cooperative.

### **III. General Matters**

18. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation and Agreement in total, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all stipulations are made without prejudice to the rights of the signatories to take other positions in other proceedings.

19. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the Parties and participants waive, with respect to the issues resolved herein: their respective rights, pursuant to §536.080 RSMo. 1994, to present testimony, to cross-examine witnesses, and to present oral argument or written briefs; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo. 1994; their respective rights to seek rehearing pursuant to §386.500 RSMo. 1994; and their respective rights to seek judicial review pursuant to §386.510 RSMo. 1994. Notwithstanding the foregoing each party may present oral testimony at the evidentiary hearing supporting the fact that the Territorial Agreement is not detrimental to the public interest. The Parties agree to cooperate with each other in presenting for approval to the Commission this Stipulation and Agreement, and will take no action, direct or indirect, in opposition to the request for approval of this Stipulation and Agreement.

20. The Staff shall file suggestions or a memorandum in support of this Stipulation and Agreement, and the other parties shall have the right to file responsive suggestions or prepared testimony.



21. The Staff shall have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties and participants with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

22. None of the Parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any rate-making principle or any method of cost determination or cost allocation underlying or allegedly underlying the Stipulation and Agreement, except as the Commission finds that the Territorial Agreement is in the public interest.

**WHEREFORE**, the Parties respectfully request the Commission to issue its Order:

A. Finding that the designated electric service areas are not detrimental to the public interest and approving the Territorial Agreement, (Exhibit A to the Joint Application);

B. Authorizing Company and Cooperative to perform in accordance with the terms and conditions of the Agreement;

C. Finding that the Territorial Agreement does not impair Company's certificates of convenience and necessity, except as specifically limited by the Agreement; and

D. Directing that AmerenUE file, within thirty days of the effective date of said Commission Order, revised tariff sheets with respect to its service area in Gasconade, Maries, and Phelps Counties, as illustrated in Exhibit D to the Joint Application, and incorporating the

changes set forth in Paragraph 14 hereinabove.

E. Authorizing Company to enter into, execute, and perform in accordance with the terms of all other documents reasonably necessary and incidental to the performance of the transactions which are the subject of the Agreement;

F. Approving all of the terms of this Stipulation and Agreement.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

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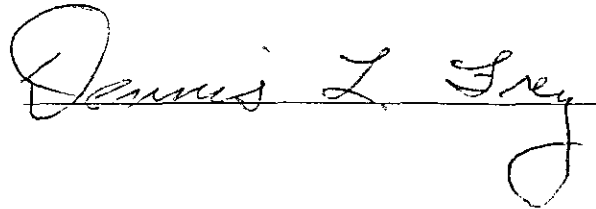
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Attorney for Intercounty Electric  
Cooperative Association

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 8th day of August 2000.

A handwritten signature in cursive script, reading "Dennis L. Grey", is written over a horizontal line.

**SERVICE LIST FOR**  
**CASE NO: EO-2000-774**  
**August 8, 2000**

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