

MEMORANDUM

TO: Missouri Public Service Commission Official Case File No. EO-2009-0159,
Transfer of a Portion of The Empire District Electric Company's System to
the City of Monett and for a Change in Electric Supplier for approximately
100 Customers

FROM: Daniel I. Beck, Energy Department – Engineering Analysis

/s/ Lena M. Mantle 01/26/09
Energy Department / Date

/s/ Robert S. Berlin 01/26/09
General Counsel's Office / Date

Subject: Staff Recommendation

Date: January 26, 2009

OVERVIEW

On October 28, 2008, The Empire District Electric Company (Empire) filed an Application seeking to “relinquish that portion of its certificated area coincident with the Annexed Areas and to sell and transfer a portion of the Company's works and systems located therein.” Since that time, there have been several filings discussing what approval is or is not needed to complete this transaction. In the Staff's opinion, the Application seeks to sell and transfer a portion of its works and systems but also implicitly seeks a change of suppliers for approximately 100 customers in the Valley View Estates and Heim Trailer Court – the areas annexed by the city of Monett. Both areas are located in Lawrence County (Monett is located in both Lawrence and Barry Counties). The Staff will not rehash these filings here but would state that granting approval for both the sale/transfer of the assets and a change of supplier is consistent with past practices of the Commission. The Staff also notes that similar filings are sometimes accompanied by territorial agreements but the Staff agrees with Empire that a Territorial Agreement is not needed in this case.

DISCUSSION

This Application explains that Empire currently serves approximately 100 customers in the Valley View Estates and Heim Trailer Court areas that are primarily residential but also include private outdoor lighting accounts and commercial accounts. It explains that Monett annexed these areas in the 2003 to 2005 timeframe and Monett expressed an interest in serving the customers in the annexed areas at that time, but an agreement was not reached. The proposed agreement that is a part of this Application

addresses Empire's works and system facilities that would allow the City of Monett to serve these customers.

As part of the application, "Empire proposes to relinquish that portion of the service area coincident with the Annexed Areas." The Staff has reviewed the Company's tariffs and notes that P.S.C. Mo. No. 5, Sec. B, Original Sheet 18 shows that Empire, under the "Lawrence County" heading, serves "All of County". Since the Commission doesn't certificate municipal utilities, the Staff maintains that the service area for Empire does not need to be modified for this Application.

The Application states "The purchased price for the facilities, which is based on the depreciated book value of the assets that Empire proposes to sell to the City, will be \$56,052.14. Empire would retain all of the meters and there would be five (5) locations where the physical isolation would take place that would accomplish the "cutover" from Empire to Monett. The Staff notes that any rate making treatment of the proposed sale should be dealt with in the context of Empire's next rate case.

As noted in the "Reply of Empire District Electric Company to Staff's Response to Application," Empire has provided a list of customer names and addresses to the Staff as of March 2008. Since Appendix 3 to the Application, "Agreement for Sale of Electric Utility Facilities", includes a requirement that Empire provide Monett with a list of information that includes the customer name and service address, the Staff recommends that the Commission require Empire to provide a current list of the names and addresses of the affected customers as contemplated in 4 CSR 240-3.140(1)(I). Commission rule 4 CSR 240-3.140(2) allows for information to be provided to supplement the Application as long as it is furnished prior to the granting of the authority sought. Staff also notes from Empire's Reply that the City of Monett published a corrected notice regarding the annexation of the two areas.

The Application states that the transfer may result in improved reliability since Monett's substation is closer to the customer loads and Empire will no longer be serving customers in what amounts to two "islands" surrounded by Monett's customers. Based on discussions Staff has had with the Company, the Staff agrees that the change of supplier of nearly 100 customers in the two areas annexed by the City would improve reliability, reduce customer confusion, and provide for quicker emergency response because power supply and customer support personnel are in closer proximity to customer loads in the two annexed areas. For these reasons, the Staff believes this Application meets the standard for a change of supplier and is in the public interest for a reason other than rate differential.

STAFF RECOMMENDATION

The Staff recommends that the Commission approve this Application of Empire; however, the Staff recommends several conditions and modifications:

1. The Commission should require Empire to file a current list of affected customers and addresses; and
2. Although the Application clearly states that the assets are being transferred at Empire's book value, the Commission's Order should state that no rate making treatment is being granted at this time but will instead be determined in subsequent rate cases; and
3. The Commission should not order Empire "to relinquish that portion of its certificated area coincident with the Annexed Areas" but instead should grant Empire and Monett a change in electric supplier as being in the public interest for a reason other than a rate differential.

The City of Monett has a municipal utility that provides electric service to its citizens, and no annual reports or assessments are required from the Commission. The Staff is not aware of any pending or final judgments or decisions against it from any state or federal agency that involve its customer service or rates within the three years immediately preceding the filing of the Application.

Empire states that it has no pending or final unsatisfied judgments or decisions against it from any state or federal agency which involve customer service or rates, which have occurred within the three years immediately preceding this filing. Empire has no overdue Commission annual reports or assessment fees. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

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

In the Matter of the Application of The)
Empire District Electric Company for)
Authority to Sell and Transfer Part of its)
Works or System to the City of Monett,)
Missouri)

Case No. EO-2009-0159

AFFIDAVIT OF DANIEL I. BECK

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Daniel I. Beck, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was given by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



Daniel I. Beck

Subscribed and sworn to before me this 23rd day of January, 2009.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



Notary Public