

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

In the Matter of the Application of Ozark Border)	<u>File No. EO-2010-0188</u>
Electric Cooperative and the City of Campbell,)	
Missouri for Approval a Written Territorial)	
Agreement Designating the Boundaries of each)	
Electric Service Supplier within the City of)	
Campbell, Dunklin County, Missouri, and)	
Approving the Change of Electric Service Supplier)	
For Customers of the City of Campbell Municipal)	
Electric System)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and files this *Recommendation* for the Missouri Public Service Commission's (Commission) information and consideration. For its *Recommendation*, the Staff states the following:

1. On December 22, 2009, Ozark Border Electric Cooperative (Ozark Border) and the City of Campbell, Missouri (Campbell) (Collectively, the Applicants) applied for an order approving their territorial agreement, and for order approving change of electric supplier.

2. This agreement, known as the "Contract for Purchase and Sale of Distribution Facilities," designates the boundaries of the exclusive service area of Ozark Border for service to persons at existing and new structures in the entirety of the municipal limits of Campbell and provides for the transfer of City customers residing outside Campbell's municipal limits to Ozark Border. This Agreement will facilitate the transfer of all City of Campbell facilities and customers from Campbell to Ozark Border.

3. Sections 394.315 and 91.025 RSMo address the change of supplier from an electric cooperative and from a municipal electric utility to another electric utility, respectively. Section 394.315.2 states that:

“The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential . . .”

Section 394.312.3 states that:

“[t]he commission shall base its final determination regarding such petitions upon a finding that the commission's designation of electric service areas is in the public interest.”

4. For reasons further detailed in its Staff Memorandum, attached hereto as Appendix A, Staff believes that there are sufficient facts for the Commission to find that the change of supplier request is in the public interest for a reason other than a rate differential.

5. Furthermore, approval of the Applicants’ application would render as moot Case Nos. EO-2010-0067, EO-2010-0068, EO-2010-0069, and EO-2010-0070. These four cases all dealt with customers wishing to change their electric service supplier from Campbell to Ozark Border.

WHEREFORE, the Staff recommends that the Commission approve the territorial agreement and request for change of electric supplier in the above captioned case,

Respectfully submitted,

/s/Samuel D. Ritchie

Samuel D. Ritchie

Legal Counsel

Missouri Bar No. 61167

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Missouri Public Service Commission

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel of record this 29th day of January 2010.

/s/ Samuel D. Ritchie_____

MEMORANDUM

TO: Missouri Public Service Commission Official Case File No. EO-2010-0188,
Territorial Agreement and Change in Electric Supplier filed by Ozark Border
Electric Cooperative and the City of Campbell, Missouri.

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

/s/ Daniel I. Beck 01/29/10
Energy Department / Date

/s/ Samuel D. Ritchie 01/29/10
General Counsel's Office / Date

Subject: Staff Recommendation

Date: January 29, 2010

OVERVIEW

Ozark Border Electric Cooperative (Ozark Border) and the City of Campbell, Missouri (Campbell) (or collectively the Applicants) filed a Joint Application with the Commission on December 22, 2009 requesting the approval of the Applicants' territorial agreement and request for change of electric supplier. This Application is to essentially transfer control of the existing municipal electric utility to Ozark Border based on their "Contract for Purchase and Sale of Distribution Facilities." Based on the Joint Application, approximately 955 customers will be affected by this sale, with most of the customers being located within the city limits of Campbell, Missouri. A small number of customers are located outside the city limits of Campbell.

DISCUSSION

The Joint Applicants state in the Joint Application that the request is "in the public interest because it establishes exclusive service obligations that take best advantage of power supply, transmission assets, substations and electric distribution

facilities.” They also state there that future duplication of services will be avoided and that electric customers within the area will know with certainty the supplier of their electric service. Finally, they state that Campbell will exit the retail electricity supply business and the citizens of Campbell will be relieved from the costs and risks of the city maintaining alternative long term power supply contracts.

Campbell has been exploring the possible sale of its electric system for more than a year, and this agreement is the result of that process. Campbell is currently paying a premium for its power supply due to its uncertain future status as an electric provider. This sale will resolve that power supply issue since Ozark Border would be responsible for the supply of power and Campbell will have no future power supply responsibilities. Ozark Border is an established electric supplier with currently over 37,000 members, and it is reasonable to assume that the addition of approximately 955 customers can be accomplished with reasonable modifications to Ozark Border’s existing system.

Staff also notes that there are four (4) change-of-supplier cases (Case Nos. EO-2010-0067, EO-2010-0068, EO-2010-0069, and EO-2010-0070) pending before the Commission in which the proceedings are currently stayed, that are related to this case. In the four change-of-supplier cases, the customers are requesting to change their supplier from Campbell to Ozark Border. On December 16, 2009, the Commission ordered each of the four cases stayed and directed Campbell to “file a status report no later than March 1, 2010 advising the Commission of the results of the February 2010 municipal election regarding the contract for sale and purchase of electric distribution facilities between the City and Ozark Border Electric Cooperative.” If the sale from Campbell to Ozark Border is completed, the four change-of-supplier cases would become moot.

Sections 394.315 and 91.025, RSMo. are the statutes that address the change of supplier from an electric cooperative and from a municipal electric utility to another electric utility, respectively. Section 394.312 addresses territorial agreements and requires that they be in the public interest. The Staff believes there are sufficient facts for the Commission to find that the change of supplier request here is in the public interest for a reason other than rate differential.

Campbell has a municipal utility that provides electric service to its citizens. Therefore, no annual reports or assessments are required by 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 Joint Application.

Ozark Border Electric Cooperative is a rural electric cooperative that provides electric service to its members, 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.

STAFF RECOMMENDATION

The Staff recommends that the Commission approve the Joint Applicants' request for approval of their territorial agreement and change of electric supplier.

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Border Electric Cooperative and the City)
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Written Territorial Agreement)
Designating the Boundaries of each)
Electric Service Supplier within the City)
of Campbell, Dunklin County, Missouri,)
and Approving the Change of Electric)
Service Supplier for Customers of the City)
of Campbell Municipal Electric System)

Case No. EO-2010-0188

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 29 day of January, 2010.



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


Notary Public