

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 9th day of
September, 2008.

In the Matter of the Application of Grundy)
Electric Cooperative, Inc. and the City of)
Trenton, Missouri for Approval of a Written)
Territorial Agreement Designating the Boundaries)
of each Electric Service Supplier within a Tract)
of Land Annexed in City Bill No. 25, Ordinance)
No. 02-25 to Extend the Corporate Boundaries of)
the City of Trenton, Grundy County, Missouri)

Case No. EO-2008-0414

**REPORT AND ORDER APPROVING UNANIMOUS STIPULATION
AND AGREEMENT AND APPROVING TERRITORIAL AGREEMENT**

Issue Date: September 9, 2008

Effective Date: September 19, 2008

Syllabus: This Report and Order approves a Unanimous Stipulation and Agreement and joint application for approval of a territorial agreement.

Procedural History

On June 27, 2008, Grundy Electric Cooperative, Inc. ("Grundy") and the City of Trenton, Missouri ("Trenton") filed a Joint Application. The parties ask the Commission to find that the proposed territorial agreement, which is attached to this Report and Order as Exhibit A, is not detrimental to the public interest and to approve the agreement.

The Commission issued an Order and Notice that gave interested parties until July 23 to request intervention. No parties applied for intervention.

On August 13, the Commission ordered its Staff to file a Recommendation or, in the alternative, a Status Report regarding when it plans to file its Recommendation. In lieu

of that recommendation, Grundy, Trenton, Staff, and the Office of the Public Counsel filed a Unanimous Stipulation and Agreement and Waiver of Hearing on August 29, 2008, which is attached as Exhibit B. That agreement stated that the parties agreed that Commission approval of the territorial agreement would not be detrimental to the public interest, and that the parties waive their right to a hearing to determine whether the Commission should approve the territorial agreement.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, including the verified pleadings which are hereby admitted into evidence, makes the following findings of fact.

Grundy is a Chapter 394 electric cooperative, with its principal office at 4100 Oklahoma Ave., Trenton, Missouri. It is engaged in the retail sale and distribution of electricity within certain areas of Missouri, including portions of Grundy County.

Trenton is a political subdivision of the 3rd Class organized and existing under the laws of Missouri. Trenton owns, operates and maintains an electric distribution system within its corporate limits to serve the residents of Trenton. Its principal place of business is located at 1100 Main Street, Trenton, Missouri.

In their joint application, Grundy and Trenton submit a territorial agreement for the Commission's approval. The territorial agreement specifically designates the boundaries of the exclusive electric service area of Grundy for service to new structures in a tract of land annexed in City Bill No. 25, Ordinance No. 02-25 to extend the corporate boundaries of the City of Trenton, Missouri. It further provides for an exclusive service territory for Grundy in a single tract of land. The electric service of existing customers will

not be changed by the territorial agreement, except for the provision that allows Grundy, currently served by Trenton, to provide service to itself.

The Commission finds that the territorial agreement will allow Grundy and Trenton to avoid wasteful duplication of electric services within the affected service area. The territorial agreement will also allow customers to know with certainty the supplier of their electric service. The Commission finds that the territorial agreement is in the public interest.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Sections 394.312 and 416.041, RSMo 2000, give the Commission jurisdiction over territorial agreements between electric cooperatives and municipalities. Under Subsection 394.312.4, RSMo 2000, the Commission may approve such a territorial agreement if the agreement is in the public interest. Based on the facts contained in the verified pleadings, the Commission finds that the territorial agreement is in the public interest.

Although Subsection 394.312.4, RSMo 2000, provides that the Commission is to hold a hearing to determine whether a territorial agreement is to be approved, the requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence.¹ No party requested a hearing in this matter and, in fact, all parties explicitly waived their right to a hearing; thus, no hearing is necessary.

¹ *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

Decision

Having considered the Joint Application, the Commission concludes that the territorial agreement between Grundy and Trenton is in the public interest and shall be approved. Further, the Unanimous Stipulation and Agreement and Waiver of Hearing filed by Grundy, Trenton, Staff, and the Office of the Public Counsel is approved.

IT IS ORDERED THAT:

1. The Joint Application for approval of a territorial agreement filed by Grundy Electric Cooperative, Inc. and the City of Trenton, Missouri is approved.
2. The Unanimous Stipulation and Agreement and Waiver of Hearing filed by Grundy Electric Cooperative, Inc., the City of Trenton, Missouri, the Staff of the Commission, and the Office of the Public Counsel is approved, and the signatories are ordered to comply with its terms.
3. This order shall become effective on September 19, 2008.
4. This case shall be closed on September 20, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton,
Jarrett, and Gunn, CC., concur.

Dale, Chief Regulatory Law Judge