

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

In the Matter of the Application of The     )  
Empire District Electric Company and     )  
Ozark Electric Cooperative for Approval     )  
of a Written Territorial Agreement     )  
Designating the Boundaries of Exclusive     )  
Service Areas for Each within Two     )  
Tracts of Land in Greene County and     )  
Christian County, Missouri     )

Case No. \_\_\_\_\_

**JOINT APPLICATION**

COME NOW The Empire District Electric Company ("Empire") and Ozark Electric Cooperative ("Ozark"), hereinafter referred to collectively as "Applicants," by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission ("Commission"), pursuant to 4 CSR 240-2.060 (1) and (13), 4 CSR 240-21.010, and Section 394.312 RSMo. 2005, for an order approving Applicants' Territorial Agreement, respectfully state as follows:

1.     **The Applicants** - Empire is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64801. Empire is engaged in the business of providing electrical and water utility services in Missouri to customers in its service areas and has a certificate of service authority to provide certain telecommunications services. Empire is an "electrical corporation," a "water corporation," a "telecommunications company" and a "public utility" as those terms are defined in § 386.020 RSMo. 2000, and is subject to the jurisdiction and supervision of the Missouri Public Service Commission ("Commission") as provided by law. As of June

1, 2006, Empire has a wholly owned subsidiary that is a “gas corporation.” Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or which involve challenges to its rates, which have occurred within the three years immediately preceding the filing of this application. Empire has no overdue Commission annual reports or assessment fees. Empire’s documents of incorporation have been previously filed with the Commission in Case No. EF-94-39 and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). A Certificate of Authority from the Missouri Secretary of State to the effect that Empire, a foreign corporation, is duly authorized to do business in the State of Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated herein by reference.

2. Ozark is a rural electric cooperative organized and existing pursuant to Chapter 394 RSMo, with its headquarters office located at 10943 N. Highway 39, Mount Vernon, Missouri. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri Counties. Ozark has no pending or final judgments or decisions against it from any state or federal agency or court which involve its customer service or rates within the three years immediately preceding the filing of this Joint Application. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for Ozark was most recently filed in Case No. EO-2006-0213 and is incorporated herein by reference.

3. **Correspondence and Communication** - Correspondence, communications, and orders in regard to this Application should be directed to

Gary W. Duffy  
Brydon, Swearngen & England, P.C.  
312 E. Capitol Avenue

P.O. Box 456  
Jefferson City, MO 65102-0456  
Direct telephone: 269-979-5504  
Email: gwduffy@comcast.net

Rodric A. Widger  
Andereck, Evans, Milne, Peace & Widger, L.L.C.  
1111 S. Glenstone Ave., Ste. 2-100  
Springfield, MO 65804  
(417) 864-6401 (Telephone)  
(417) 864-4967 (fax)  
Email: rwidger@lawofficemo.com

4.     **The Territorial Agreement** - Subject to the terms and conditions of an Agreement, known as the "First Territorial Agreement" between Empire and Ozark, Applicants have specifically designated the boundaries of two exclusive electric service areas within two tracts of land south of the City of Republic, Missouri, and situated within Greene County and Christian County, Missouri, which are more particularly described in the Agreement. Applicants have attached a copy of the Agreement to this Application as **Appendix A**, which is incorporated by reference into this Application and made a part hereof for all purposes. A metes and bounds description of the two exclusive service areas and maps depicting the service areas are a part of the Agreement and are incorporated by reference into this Application and made part hereof for all purposes. The "First Territorial Agreement" establishes separate exclusive service territories for Empire and Ozark for more orderly future development of electric service to the public. The First Territorial Agreement is expressly contingent upon the Commission's approval of an Application for Variance which is being filed by Empire contemporaneously herewith. As explained in the Application for Variance, these two things are interdependent and therefore the approval of the Commission for both is necessary for them to become effective.

5.     **No Changes of Suppliers.** The Territorial Agreement does not require transfer of any facilities or customers between the Applicants, so no list of persons

whose utility service would be changed by the agreement, as required by 4 CSR 240-3.130(1)(D), is included.

6. **Authority** -- Empire already has a certificate of public convenience and necessity to provide utility service in this portion of Greene County and Christian County, Missouri. As a result, Empire has not included with this application an “illustrative tariff” reflecting proposed changes to its certification, as required by 4 CSR 240-3.130(1), since there will be no changes in the present boundaries of its certificated area as a result of this proceeding.

7. **Other Electric Suppliers** – To Applicants’ knowledge and belief there are no other electric suppliers serving in the area covered by this Territorial Agreement.

8. **Agreement is in the Public Interest** - The Territorial Agreement is in the public interest because it establishes exclusive service obligations for new structures as between the Joint Applicants in the described areas. The establishment of exclusive service territories will prevent future duplication of electric service facilities and will also allow electric service customers within the area to know with certainty the supplier of their electric service. The Agreement will allow the City of Republic, Missouri, to proceed with annexation of rural areas without disrupting the plans and investment of developers and electric suppliers.

9. Each Applicant will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Territorial Agreement.

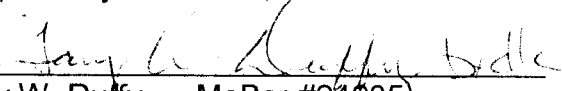
10. **Application Fee** - The Commission's filing fee required by 4 CSR 240-3.135(1) and 4 CSR 240-3.130(1)(E) is submitted herewith, as reflected in the check from Applicant Ozark in the amount of \$ 517 .<sup>00</sup>.

WHEREFORE, Applicants respectfully request that the Commission issue its order:

(a) Finding that the designation of electric service area is not detrimental to the public interest and approving the Applicants’ Territorial Agreement; and

(b) Authorizing Applicants to perform in accordance with the terms and conditions of the Agreement.

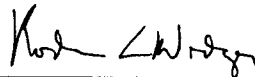
Respectfully submitted,



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Gary W. Duffy MoBar #24905  
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Direct email: gwduffy@comcast.net

ATTORNEYS FOR THE  
EMPIRE DISTRICT ELECTRIC COMPANY



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Rodric A. Widger MoBar # 31458  
Andereck, Evans, Milne, Peace & Widger, L.L.C.  
1111 S. Glenstone Ave., Ste. 2-100  
Springfield, MO 65804  
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(417) 864-4967 (fax)  
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ATTORNEYS FOR OZARK  
ELECTRIC COOPERATIVE

**VERIFICATION**

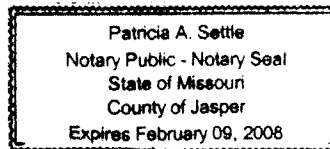
STATE OF MISSOURI     )  
                                      )ss  
COUNTY OF JASPER     )

Being first duly sworn, Michael E. Palmer states as follows: that he is the Vice President – Commercial Operations of The Empire District Electric Company and that he has read the foregoing application and the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief and that the law firm of Brydon, Swearengen & England P.C. is authorized by The Empire District Electric Company to make this filing and represent it in this matter.

Michael E. Palmer  
Michael E. Palmer

Subscribed and sworn to before me this 29<sup>th</sup> day of June, 2006.

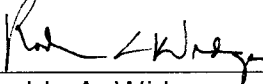
Patricia A. Settle  
\_\_\_\_\_, Notary Public



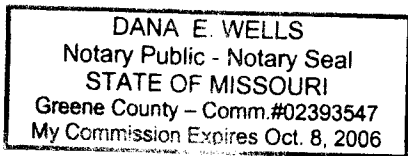
VERIFICATION


STATE OF MISSOURI     )  
  )ss  
COUNTY OF GREENE     )

Being first duly sworn, Rodric A. Widger states as follows: that he has read the foregoing application and the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief and that the law firm of Andereck, Evans, Milne, Peace & Widger, LLC, is authorized by Ozark Electric Cooperative to make this filing and represent it in this matter.

  
\_\_\_\_\_  
Rodric A. Widger

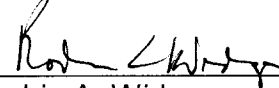
Subscribed and sworn to before me this 17 day of July, 2006.



  
\_\_\_\_\_  
\_\_\_\_\_, Notary Public

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing application was served by U.S. Mail this 18<sup>th</sup> day of July, 2006 upon the Office of the Public Counsel and the Office of the General Counsel.

  
\_\_\_\_\_  
Rodric A. Widger