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Secretary of PSC
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P. O. Box 360
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FILED²

SEP 12 2003

Re: Case No. EM-2004-0071

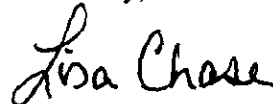
Dear Secretary:

Missouri Public
Service Commission

Enclosed for filing, please find an original and eight copies of the Joint Reply of Howell-Oregon Electric Cooperative and the City of Thayer to Staff's Response to Commission Order Directing Filings in the above cited case.

Thank you for seeing this filed. If you should have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Lisa Cole Chase

LCC:sw

Enc.

Cc: Michael Dandino
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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

SEP 12 2003

Missouri Public
Service Commission

In the matter of the Joint Application
of City of Thayer, Missouri and Howell-Oregon
Electric Cooperative, Inc. for an order approving
proposed Territorial Agreement.

)
)
) Case No. EM-2004-0071
)

**JOINT REPLY OF HOWELL-OREGON ELECTRIC COOPERATIVE AND THE CITY
OF THAYER TO STAFF'S RESPONSE TO COMMISSION ORDER DIRECTING
FILINGS**

COMES NOW Howell-Oregon Electric Cooperative, Inc. ("Howell-Oregon") and the
City of Thayer, by and through their respective counsel of record, and hereby file their Joint
Reply to Staff's Response to the Commission Order Directing Filings, and states as follows:

1. In Staff's Response to the Commission's Order, Staff clearly stated that it is not
opposed to the Addendum No. 1. Staff then cited other territorial agreement orders "to provide a
concise perspective."

2. The Commission approved the Stipulation and the terms of the Territorial
Agreement between Howell-Oregon and the City of Thayer in Case No. EM-92-157 on February
28, 1992. Under the terms of the agreement, the City and Cooperative could agree to allow any
structure in one providers territory to be serviced by the other provider on a case-by-case basis
provided the addendum was supplied to the Public Service Commission. The Stipulation then
provided that Staff could recommend the Commission suspend any addendum filed.
Presumably, Staff would recommend suspension if it found the addendum to be 'detrimental to
the public interest,' as the standard for review of territorial agreements by the Commission is that
such agreements in total are 'not detrimental to the public interest.' § 394.312.4 RSMo. This
approved procedure provides safeguards that enable the Commission to ensure that any addenda

to the Agreement are in the public interest and are thereafter approved by the Commission either implicitly or explicitly.

3. Howell-Oregon and the City of Thayer have complied with the terms of their Territorial Agreement. On May 23, 2003, these two parties filed as an attachment in Case No. EO-2003-0518 to these parties' Application for change of electric supplier to the Thayer High School, the Addendum No. 1 to the Territorial Agreement. On July 30, 2003, Howell-Oregon filed under Case No. EM-92-157 its Notice of Addendum to Approved Territorial Agreement, which it supplemented with attachments of the Territorial Agreement and Addendum No. 1 on July 31, 2003. The Addendum Notice has been given the current Case No. of EM-2004-0071. These parties have complied with the Territorial Agreement by entering into a written agreement and providing a copy of the Addendum to the Public Service Commission.

4. Under the procedures outlined in the Territorial Agreement together with the Stipulation, Staff now has the right to recommend suspension of the Addendum. Staff has not done so. Instead, the Staff has had opportunity to review the Addendum and has specifically stated that it "is not opposed to the Addendum No. 1 filed by Howell-Oregon."¹ Staff has indicated that "it has no objection to the proposed change regarding service to the elementary school under construction and to any future structures built on the Thayer R-II School District campus by the Thayer R-II School District."² These parties note that Staff has also recommended the approval of their Application in Case No. EO-2003-0518 for a change of

¹ See *Staff Response to Commission Order Directing Filings*, Case No. EO-2004-0071, p. 1 (filed on Sept. 5, 2003)

² See *Staff's Motion for Extension of Time to File Briefs*, in this proceeding – In the Matter of the para. 6 (Aug. 25, 2003)

electric supplier for Thayer High School which was requested by the Thayer R-II School District.³

Howell-Oregon and the City of Thayer respectfully request the Commission deem the Addendum to be approved as being in the public interest and conclude this matter.

Respectfully submitted,

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³ *Id.*; see also *Staff Recommendation and Motion for Commission Order Directing Response by Joint Applicants*, EO-2003-0518, Attachment A, Memorandum (filed on July 21, 2003).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served on all Parties of Record, via first-class U.S. Mail, postage prepaid, on this 12th day of September, 2003.

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