

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

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| In the Matter of the Application of Laclede Electric |) | |
| Cooperative and the City of St. Robert, Missouri, for |) | |
| Approval of a Written Territorial Agreement |) | |
| Designating the Boundaries of Each Electric Service |) | Case No. EO-2005-0391 |
| Supplier Within the Hickory Valley Subdivision of |) | |
| the City of St. Robert, Pulaski County, Missouri. |) | |

STAFF RECOMMENDATION

Comes now the Staff of the Missouri Public Service Commission (Staff) in response to the Joint Application of Laclede Electric Cooperative (Laclede) and the City of St. Robert (St. Robert) for Approval of a Territorial Agreement for Laclede to provide service to Phases 4, 5 and 6 of the Hickory Valley subdivision within the corporate limits of the City of St. Robert, which is not a “rural area” as defined by Section 394.020(3) RSMo 2000. Also, Laclede’s proposed service to the area in question does not fall within the exception provided by Section 394.080.2. The Staff has reviewed the Joint Application, and the Staff recommends in the following Staff Recommendation (Appendix A) that the Commission approve the proposed Territorial Agreement between Laclede and St. Robert as being in the public interest, pursuant to and consistent with Section 394.312, Section 416.061, 4 CSR 240-2.060, 4 CSR 240-3.130 and 4 CSR 240-3.135.¹ The proposed Territorial Agreement will make effective use of past investment in substation and distribution facilities by Laclede and avoid future duplication of electric service facilities by St. Robert to serve the area in question.

Wherefore the Staff recommends that the Commission issue an Order granting the Joint Application of Laclede Electric Cooperative and the City of St. Robert for approval of their

¹ The Joint Application refers to 4 CSR 240-21.010 which has been rescinded and replaced by 4 CSR 240-3.135.

Territorial Agreement respecting Phases 4, 5 and 6 of the Hickory Valley subdivision within the corporate limits of the City of St. Robert.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/Steven Dottheim

Steven Dottheim

Chief Deputy General Counsel
Missouri Bar No. 29149

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7489 (Telephone)
(573) 751-9285 (Fax)
e-mail: steve.dottheim@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 6th day of July 2005.

/s/ Steven Dottheim

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2005-0391, Joint Application of Laclede Electric
Cooperative and the City of St. Robert for Approval of a Territorial
Agreement for Service to Phases 4, 5 and 6 of the Hickory Valley
Subdivision within the City of St. Robert

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

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| <u>Warren Wood 7/6/05</u> Energy Department / Date | <u>Steven Dottheim 7/6/05</u> General Counsel's Office / Date |
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SUBJECT: Staff Recommendation

DATE: July 6, 2005

OVERVIEW

On April 29, 2005, the Laclede Electric Cooperative (Laclede) and the City of St. Robert, referred to collectively as the “Applicants”, filed a Joint Application with the Missouri Public Service Commission (Commission) seeking approval of the Territorial Agreement for a specific subdivision located within the City of St. Robert. Specifically, the Territorial Agreement addresses the boundaries that encompass Phases 4, 5 and 6 of the Hickory Valley Subdivision within St. Robert, Missouri.

On May 4, 2005, an Order was issued in Case No. EO-2005-0391 that assigned an intervention period. No party intervened in this case. In addition, the Order states “if no proper party is granted intervention and neither the Commission’s Staff nor the Office of the Public Council requests a hearing, the Commission may determine that a hearing is not necessary.”

Chapter 394, RSMo 2000,¹ which is titled Rural Electric Cooperatives, has several sections that generally describe an REC as serving a “rural area”. Under the

¹ All further statutory references are to the Revised Statutes of Missouri 2000 unless otherwise indicated.

definition of a rural area in Section 394.020.3, the area within the city of St. Robert is not a rural area since St. Robert's population is approximately 2,760 which is well above the 1,500 population limit. In addition, the St. Robert Municipal Utility is the predominant supplier of retail electric energy within the city limits of St. Robert and would therefore normally serve any new customer within the city limits. However, Section 394.312 provides for territorial agreements, such as the one filed in this case, which would allow Laclede to serve customers within designated areas of St. Robert.

DISCUSSION

The Joint Application and the Territorial Agreement requests that Laclede Electric Cooperative be allowed to serve new customers within the territory generally described as Phases 4, 5 and 6 of the Hickory Valley subdivision. In discussions with Laclede personnel, Staff determined that Laclede began serving customers in the adjacent area known as Phases 1, 2, and 3 of Hickory Hill subdivision prior to the area being annexed by the City of St. Robert. Now that the area has been annexed, St. Robert Municipal Utilities would normally supply new customers within this territory which is in the city limits. However, since St. Robert Municipal Utilities does not have facilities in the immediate area and Laclede has facilities that can serve Phases 4, 5 and 6 of the Hickory Valley subdivision, the parties are pursuing approval of the Territorial Agreement. The Applicants state that the "establishment of this exclusive service territory for Laclede within the corporate limits of St. Robert 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. It makes most effective use of past

investment in substation and distribution facilities by Laclede while avoiding the necessity of duplicate investment by St. Robert.”

STAFF RECOMMENDATION

The Staff recommends that the Commission approve the Territorial Agreement between Laclede and St. Robert as being in the public interest, pursuant to Section 394.312.2. If Laclede is the electric service provider to Phases 4, 5 and 6 of the Hickory Valley subdivision, an otherwise necessary duplication of facilities is prevented, use of existing facilities is enhanced, and public safety is enhanced.

Given Osage is a rural electric cooperative, the Commission does not require annual reports or assessment fees. Further, Osage states in the Joint Application that it does not have pending action or final unsatisfied decisions against it from any state or federal court involving customer service or rates within three years of the date of filing this Joint Application. Given St. Robert is a municipal utility, the Commission does not require annual reports or assessment fees. Further, St. Robert states in the Joint Application that it does not have pending action or final unsatisfied decisions against it from any state or federal court involving customer service or rates within three years of the date of filing this Joint Application. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.