

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 26th day  
of October, 2006.

In the Matter of the Application of Ozark Electric	)	
Cooperative and City Utilities of Springfield, Missouri,	)	
for Approval of a Written Territorial Agreement for	)	<b><u>Case No. EO-2007-0080</u></b>
Service at a Designated Location within the City	)	
Limits of Springfield, Missouri.	)	

**REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT**

Issue Date: October 26, 2006

Effective Date: November 5, 2006

**Syllabus:** This Report and Order approves the joint application for approval of a territorial agreement.

**Procedural History**

On August 18, 2006, Ozark Electric Cooperative and City Utilities of Springfield, Missouri, filed a verified application for approval of a territorial agreement. On August 24, 2006, the Commission issued an order directing that notice of the filing be given to the general public and to other potentially interested parties. That order also set an intervention deadline of September 13, 2006. There were no requests to intervene. On September 19, 2006, the Staff of the Missouri Public Service Commission filed a Motion for Determination on the Pleadings stating that no party has requested a hearing and that it is appropriate for the Commission to make its determination based on the verified pleadings. Staff filed its verified recommendation and memorandum on October 20, 2006.

## **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.

City Utilities of Springfield, Missouri, is the name under which the City of Springfield, Missouri, operates its electric, gas, and water utilities and its mass transit system. Springfield is a constitutional charter city of the state of Missouri and operates under the Missouri Constitution and the Springfield City Charter. The City's principal office is located at 301 East Central, Springfield, Missouri 65802.

Ozark Electric Cooperative is an electric cooperative organized under Chapter 394, RSMo 2000. The Cooperative provides electric service to customers located within the Cooperative's electric service area including service in and around Springfield. The Cooperative's principal place of business is located in Mount Vernon, Missouri.

In their joint application, the City and the Cooperative submit a territorial agreement for the Commission's approval. The territorial agreement specifically designates the boundaries of the exclusive electric service area of the Cooperative for service to a sewage pump station inside the city limits. The agreement also sets forth any and all powers granted to the Cooperative by the City to operate within the corporate boundaries of the City and any and all powers granted to the City to operate within the boundaries of the Cooperative. The electric service of existing customers will not be changed by the territorial agreement.

The City plans to construct a sewage pump station along Farm Road 103, inside the city limits. Although the City has a single-phase electric line along this road, the pump

station will require three-phase service. In order to provide three-phase service the City would have to reconstruct approximately two miles of this electric line at a cost of more than \$200,000. The Cooperative has a three-phase electric line that is adjacent to the subject property. The Cooperative's line is capable of providing service to the pump station.

The Commission finds that the territorial agreement will allow the City and the Cooperative to avoid wasteful duplication of electric services within the affected service area. The territorial agreement will also allow the most efficient use of current facilities and save the City taxpayers more than \$200,000. 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, *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*,<sup>1</sup> holds that the requirement for a hearing is met when the opportunity for hearing is provided and

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<sup>1</sup> 776 S.W. 2d 494 (Mo. App. W.D. 1989).

no proper party requests the opportunity to present evidence. No party requested a hearing in this matter; thus, no hearing is necessary.

### **Decision**

Having considered the Joint Application and Staff Recommendation the Commission concludes that the territorial agreement between the City Utilities of Springfield and Ozark Electric Cooperative areas is in the public interest and shall be approved.

#### **IT IS ORDERED THAT:**

1. That the joint application for approval of a territorial agreement, filed by the City Utilities of Springfield, Missouri, and Ozark Electric Cooperative is approved.
2. That the First Electric Service Territorial Agreement entered into by the City Utilities of Springfield, Missouri, and Ozark Electric Cooperative is approved.
3. That this order shall become effective on November 5, 2006.
4. That this case may be closed on November 6, 2006.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Gaw, Clayton,  
and Appling, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge