

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Laclede Electric)
Cooperative and the City of St. Robert, Missouri for)
Approval of a Written Second Territorial Agreement) **Case No. EO-2007-0315**
Designating the Boundaries of Each Electric Service)
Supplier within the Hickory Valley Subdivision of the)
City of St. Robert, Pulaski County, Missouri.)

REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT AND APPROVING STIPULATION AND AGREEMENT

Issue Date: April 12, 2007

Effective Date: April 22, 2007

Syllabus: This Report and Order approves the joint application for approval of a territorial agreement, and approves the Stipulation and Agreement of the parties regarding that agreement.

Procedural History

On February 27, 2007, Laclede Electric Cooperative and the City of St. Robert, Missouri filed a verified Joint Application for Approval of a Written Second Territorial Agreement (Joint Application). On March 1, 2007, 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 March 21, 2007. There were no requests to intervene. The Commission's Staff filed its verified recommendation and memorandum on March 29, 2007, recommending that the Commission approve the Joint Application.

On April 3, 2007, the City, the Cooperative, and the Staff of the Missouri Public Service Commission filed a Stipulation and Agreement, asking that the Commission approve the territorial agreement and indicating that the parties believe that no evidentiary hearing is needed. On April 4, 2007, the Office of the Public Counsel filed a Statement of No Opposition.

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.

St. Robert is a political subdivision of the 4th Class organized and existing under the laws of Missouri. St. Robert owns, operates and maintains an electric distribution system within its corporate limits to serve the residents and inhabitants of the city. The City's principal office is located at 194 Eastlawn Avenue, P.O. Box 1156, St. Robert, Missouri, 65584.

Laclede 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 the City of St. Robert in Pulaski County. The Cooperative's principal place of business is located in Lebanon, Missouri.

In their Joint Application, the City and the Cooperative submit a second territorial agreement for the Commission's approval. The second territorial agreement specifically establishes electric service obligations for new structures in the Hickory Valley Subdivision of St. Robert, Missouri, as between the Joint Applicants. The second territorial 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.

In their April 3, 2006 Stipulation, the City, the Cooperative, and Staff state that the territorial agreement will allow the City and the Cooperative to avoid wasteful duplication of electric services within the affected service area. The Stipulation also indicates that the territorial agreement will make the most effective use of past investment in a substation and distribution facilities of Laclede while avoiding the necessity of duplicate investment by St. Robert, will enable customers to know who will provide their electric service, and will enhance public safety.

The parties to the stipulation further agree that the Joint Application and the territorial agreement meet the requirements of the applicable statutes as well as applicable Commission rules, and that the territorial agreement is not detrimental to the public interest.

On April 4, 2007, the Office of the Public Counsel filed a Statement of No Opposition indicating that, although it was not a signatory to the Stipulation, Public Counsel does not oppose the Stipulation, and waives its right to a hearing pursuant to 4 CSR 240-2.115(2).

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. 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 not detrimental to 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*,¹ holds that the requirement for a hearing is met when the opportunity for hearing is provided and 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, the Stipulation, and Staff's Recommendation, the Commission concludes that the territorial agreement between the City of St. Robert and Laclede Electric Cooperative is not detrimental to the public interest and should be approved. The Commission will also approve the Stipulation and Agreement. Furthermore, the Commission concludes that no evidentiary hearing is required.

¹ 776 S.W. 2d 494 (Mo. App. W.D. 1989).

IT IS ORDERED THAT:

1. The Stipulation and Agreement entered into by the City of St. Robert, Laclede Electric Cooperative, and the Staff of the Commission is approved.
2. The Written Second Territorial Agreement, filed by Laclede Electric Cooperative and the City of St. Robert, Missouri is approved.
3. This order shall become effective on April 22, 2007.
4. This case may be closed on April 23, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Cherlyn D. Voss, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 12th day of April, 2007.