

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 12th day  
of June, 2008.

In the Matter of the Application of Missouri Rural	)	
Electric Cooperative and the City of Palmyra,	)	
Missouri, for Approval of a Written Territorial	)	
Agreement Designating the Boundaries of Each	)	<b><u>Case No. EO-2008-0332</u></b>
Electric Service Supplier Within Portions of	)	
Marion County, Missouri	)	

**REPORT AND ORDER APPROVING UNANIMOUS STIPULATION  
AND AGREEMENT AND APPROVING TERRITORIAL AGREEMENT**

Issue Date: June 12, 2008

Effective Date: June 22, 2008

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

**Procedural History**

On April 10, 2008, Missouri Rural Electric Cooperative and the City of Palmyra, Missouri filed a Joint Application. The parties ask the Commission to find that the proposed territorial agreement, which is attached to this Report and Order as Exhibit A, is not detrimental to the public interest and to approve the agreement.

The Commission issued an Order and Notice that gave interested parties until May 5 to request intervention. No parties applied for intervention.

On May 6, the Commission ordered its Staff to file a Recommendation or, in the alternative, a Status Report regarding when it plans to file its Recommendation. In lieu of that recommendation, Missouri Rural, Palmyra, Staff, and the Office of the Public Counsel

filed a Unanimous Stipulation and Agreement and Waiver of Hearing on June 2, 2008, which is attached as Exhibit B. That agreement stated that the parties agreed that Commission approval of the territorial agreement would not be detrimental to the public interest, and that the parties waive their right to a hearing to determine whether the Commission should approve the territorial agreement.

### **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.

Missouri Rural is a Chapter 394 electric cooperative, with its principal office at 975 West Ross, Palmyra, Missouri. It is engaged in the retail sale and distribution of electricity in rural areas surrounding Palmyra.

Palmyra is a political subdivision and a constitutional charter city as defined under Chapter 82, RSMo 2000. Palmyra owns, operates and maintains an electric distribution system within its corporate limits to serve the residents of Palmyra. Its principal place of business is located at 301 South Main Street, Palmyra, Missouri.

In their joint application, Missouri Rural and Palmyra submit a territorial agreement for the Commission's approval. The territorial agreement specifically designates the boundaries of the exclusive electric service area of Missouri Rural for service to new structures in portions of Marion County, Missouri. It further provides for an exclusive service territory for Missouri Rural in two tracts of land within Marion County, Missouri, and an exclusive service territory for Palmyra in one tract of land within Marion County,

Missouri. The electric service of existing customers will not be changed by the territorial agreement.

The Commission finds that the territorial agreement will allow Missouri Rural and Palmyra to avoid wasteful duplication of electric services within the affected service area. The territorial agreement will also allow customers to know with certainty the supplier of their electric service. 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, the requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence.<sup>1</sup> No party requested a hearing in this matter and, in fact, all parties explicitly waived their right to a hearing; thus, no hearing is necessary.

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<sup>1</sup> *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

### **Decision**

Having considered the Joint Application, the Commission concludes that the territorial agreement between Missouri Rural and Palmyra is in the public interest and shall be approved. Further, the Unanimous Stipulation and Agreement and Waiver of Hearing filed by Missouri Rural, Palmyra, Staff, and the Office of the Public Counsel is approved.

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

1. The Joint Application for approval of a territorial agreement filed by Missouri Rural Electric Cooperative and the City of Palmyra, Missouri is approved.
2. The Unanimous Stipulation and Agreement and Waiver of Hearing filed by Missouri Rural Electric Cooperative, the City of Palmyra, Missouri, the Staff of the Commission, and the Office of the Public Counsel is approved, and the signatories are ordered to comply with its terms.
3. This order shall become effective on June 22, 2008.
4. This case shall be closed on June 23, 2008.

( S E A L )

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

Davis, Chm., Murray, Clayton,  
Jarrett, and Gunn, CC., concur.

Pridgin, Senior Regulatory Law Judge