

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day
of June, 2009.

In the Matter of the Application of The Empire)
District Electric Company and White River Valley)
Electric Cooperative for Approval of a Written)
Territorial Agreement Designating the)
Boundaries of Exclusive Service Areas within)
Taney County)

File No. EO-2009-0284

**REPORT AND ORDER
APPROVING TERRITORIAL AGREEMENT**

Issue Date: June 10, 2009

Effective Date: June 20, 2009

Background

On February 3, 2009, The Empire District Electric Company and White River Valley Electric Cooperative filed an application under Section 394.312 RSMo 2008¹, seeking approval of a sixth territorial agreement. The Commission issued notice of the application and set an intervention deadline. There were no requests to intervene. The Commission has 120 days to act on applications for approval of territorial agreement.² The Commission must have therefore acted on this application no later than June 3. However, on May 28, the applicants filed an amended application. The Commission therefore found good cause to extend the 120-day time frame to allow the Staff of the Commission an opportunity to file its recommendation.

¹ Unless otherwise noted, all statutory references are to the Revised Statutes of Missouri, 2008.

² 394.312.4.

The Staff filed its recommendation on June 9. Staff explains that in the agreement, the applicants identified Lot 313 of Lake Taneycomo Acres as an area for exclusive service from White River. However, Lot 313 is covered under the second territorial agreement between the applicants. Through an amendment to the application, Staff states that Lot 313 was appropriately removed from the sixth agreement. Finally, Staff states that the agreement will serve the public interest and recommends Commission approval.

Findings of Fact

1. Empire is an electric corporation as defined in 386.020 with its principal place of business in Joplin, Missouri
2. White River is a rural electric cooperative with its principal place of business in Branson, Missouri.
3. The applicants specifically designate the boundaries of three exclusive electric service areas within portions of Taney County, Missouri.
4. An amendment filed on May 28, eliminates from White River's exclusive service area Lot 313 of Lake Taneycomo Acres in Branson, Missouri, leaving two exclusive service areas.
5. White River has existing facilities that will better serve the two areas described in the application as amended.
6. No existing customers of either Empire or White River will have their electric service changed by the proposed agreement.
7. There are no other electric service providers in the area.

8. The establishment of exclusive service areas will minimize duplication of facilities, allow customers to know with certainty who their provider will be and allow the applicants to appropriately invest in and plan on serving the public.

9. The proposed amendment is not detrimental to the public interest.

10. The applicants have paid the fee set by Commission rule as required under Section 394.312.8.

Conclusions of Law

1. Under Section 394.312.1, the Commission has jurisdiction over territorial agreements between electric corporations and rural electric cooperatives.

2. The Commission has found good cause, as required by 394.312.4, to rule on this application beyond 120 days.³

3. The Commission need not hold an evidentiary hearing prior to approving territorial agreements.⁴

4. The application is in compliance with Section 394.312 in that the agreement specifically describes the areas subject to the agreement, does not affect the rights or duties of any supplier not a party to the agreement, the designation of such areas will serve the public interest, and the applicants have paid the required fee.

Decision

Having considered the joint application and Staff's verified recommendation in support of approval of the application, the Commission finds that there are no facts in dispute and therefore accepts the facts as true. The Commission concludes that the

³ See Commission order issued in this case on June 3, 2009

⁴ *Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 SW2d 494 (Mo. App. W.D. 1989).

territorial agreement between Empire and White River is in the public interest and will be approved.

THE COMMISSION ORDERS THAT:

1. The joint application for approval of the sixth territorial agreement between The Empire District Electric Company and White River Valley Electric Cooperative is approved.
2. This order shall become effective on June 20, 2009.
3. This file shall be closed on June 21, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

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

Jones, Senior Regulatory Law Judge