

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

In the Matter of the Application of )  
Thomas A. Marshall for Change of )  
Electric Service Provider from SEMO )  
Electric Cooperative to Sikeston Board of )  
Municipal Utilities. )

Case No. EO-2007-0309

**STAFF RESPONSE TO ORDER DIRECTING FILING**

**COMES NOW** Counsel for the Staff of the Missouri Public Service Commission (Staff),  
and in response to the Order Directing Filing dated May 24, 2007, states as follows:

1. On February 15, 2007, Thomas A. Marshall filed an Application for Change of Electric Service Provider from SEMO Electric Cooperative to Sikeston Board of Municipal Utilities.

2. On February 27, 2007, the Missouri Public Service Commission issued an Order in which it, among other things, ordered Staff to investigate the merits of the application, file a report on that investigation, including in the report whether Sections 386.800 and 394.312, RSMo 2000, are applicable, and make a recommendation as to whether the application should be granted by April 10, 2007. Staff requested an extension to May 1, 2007, to make its filings and the Commission granted that request.

3. In its Memorandum, the Staff reported on its investigation and, for the grounds stated in the Memorandum, recommended the Commission deny Mr. Marshall's application for a change of electric service provider from SEMO Electric Cooperative to the Sikeston Board of Municipal Utilities. Staff found no basis upon which the Commission could lawfully determine granting Mr. Marshall's Application would be in the public interest. Furthermore, Mr.

Marshall's stated reason for seeking a change in electric service providers was because of a rate differential, which, pursuant to section 394.315 RSMo, is impermissible.

4. On May 24, 2007, SEMO filed a Motion for Order Granting Relief By Consent of Parties and Canceling Pre-hearing Conference. In this motion, SEMO withdrew its objection to the relief requested by Mr. Marshall and joined in his application to the extent that the relief he seeks may be granted upon mutual consent of the parties. In response, the Commission issued its Order Directing Filing dated May 24, 2007.

5. Section 394.315, RSMo 2000, provides, in pertinent part:

Once a rural electric cooperative, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800, RSMo, and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction.

6. No party has as yet shown any basis for a change of electric supplier as being in the public interest pursuant to section 394.315 RSMo. Counsel for Staff sees no reason to object to a change in electric supplier provided that the statutory requirements are met, and it can be shown that a change of electric supplier is in the public interest.

7. Until such time as it is shown that the change of electric supplier is in the public interest pursuant to section 394.315, Counsel for Staff will not divert from Staff's recommendation that Mr. Marshall's Application for Change of Electric Supplier be denied.

8. Again, Staff Counsel has no objection to a change of electric supplier, but has seen no permissible basis upon which a change of supplier can be ordered. There have not been any facts shown under the statute that adheres to the public interest standard articulated in section 394.315 RSMo.

Respectfully submitted,

/s/ Blane Baker

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 30<sup>th</sup> day of May, 2007.

/s/ Blane Baker