

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

In the Matter of the Application of Union Electric)
Company d/b/a Ameren Missouri and Cuivre River) **File No. EO-2012-0085**
Electric Cooperative for Approval of an Addendum)
To an Approved Territorial Agreement)

In the Matter of the Application of Union Electric)
Company d/b/a Ameren Missouri and Cuivre River) **File No. EO-2012-0093**
Electric Cooperative for Approval of an Addendum)
To an Approved Territorial Agreement)

STAFF RECOMMENDATION TO APPROVE APPLICATIONS

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and, for its recommendations on the joint applications of Union Electric Company d/b/a Ameren Missouri and Cuivre River Electric Cooperative that initiated the above cases, states:

1. On September 19 and 27, 2011, Union Electric Company d/b/a Ameren Missouri (“Ameren”) and Cuivre River Electric Cooperative (“Cuivre River”) filed separate joint applications requesting that the Commission approve addenda to two Approved Territorial Agreements. Addendum 1 (File No. EO-2012-0085) would allow Cuivre River to provide electric service to a mobile home and a barn near Troy, Missouri (Township 49N, Range 1W, Section 27, Lincoln County, Missouri). Addendum 2 (File No. EO-2012-0093) would allow Ameren to provide electric service to a residence and shop building currently under construction near Moscow Mills, Missouri (Township 48N, Range 1E, Sections 22, Moscow Mills, Lincoln County, Missouri).

2. On September 26, 2011, the Commission issued an Order in File No. EO-2012-0085 to provide notice of the first application and to set an intervention date

of October 11, 2011. On September 29, 2011, the Commission issued an *Order* in File No. EO-2012-0093 to provide notice of the second application and to set an intervention date of October 13, 2011. No one applied to intervene in either case.

3. The Commission directed its Staff to file its recommendations on the application in File No. EO-2012-0085 by no later than November 3, 2011 and on the application in File No. EO-2012-0093 by no later than November 1, 2011.

4. In reviewing the applications, Staff realized that since all the structures are in Lincoln County, the addenda apply only to the second territorial agreement between Ameren and Cuivre River, which is the territorial agreement regarding parts of Lincoln and Warren Counties. The first territorial agreement is limited to part of St. Charles County and, therefore, is not implicated in the proposed addenda. The Commission approved the first territorial agreement in a March 5, 1993 *Report and Order* in Case No. EO-93-166, (2 Mo.P.S.C. 3d 110), and it approved the second in a September 17, 2002 *Report and Order* in Case No. EO-2002-1091.

5. In its Memorandum, attached hereto as Appendix A, Staff, for the reasons stated therein, recommends the Commission approve the addenda as complying with the case-by-case exception criteria in the second territorial agreement and for being in the public interest. The landowners, Ameren, and Cuivre River all agree that the proposed addenda allow for the provision of electric service in the manner best suited to all parties.

6. As the joint applicants noted in their applications, the Commission-approved second territorial agreement includes the following provisions regarding addenda to change the authorized service provider:

ARTICLE 10

CASE-BY-CASE EXCEPTION PROCEDURE

- 10.1 The parties may agree on a case-by-case basis by an Addendum hereto to allow a Structure to receive service from one party though the Structure is located in the Exclusive Service Area of the other party.
- 10.2 Such Addendum shall be filed with the Executive Secretary of the Commission in the same manner as a motion or other pleading, with a copy submitted to the Office of Public Counsel. There will be no filing fee for these addenda.
- 10.3 Each Addendum shall consist of a statement identifying the Structure, the party to serve the Structure, the justification for the Addendum, and indicating that the parties support the Addendum.
- 10.4 Each Addendum shall be accompanied by a statement, signed by the customer to be served, which acknowledges such customer's receipt of notice of the contemplated electric service to be provided and that the Addendum represents an exception to the territorial boundaries approved by the Commission and shall indicate the customer's consent to be served by the service provided contemplated by the Addendum.
- 10.5 If the Commission Staff or Office of the Public Counsel do not submit a pleading objecting to the Addendum within forty-five (45) days of the filing thereof, the Addendum shall be deemed approved by the aforesaid parties. Each Addendum shall contain a statement in bold uppercase typeface indicating that the Staff or Office of the Public Council have forty-five (45) days to oppose the Addendum or else the Addendum shall be deemed approved by the aforesaid parties.
- 10.6 Each party, pursuant to an executed Addendum, shall have the right to provide temporary service, as defined in Section 393.106 RSMo., until the Commission approves or disapproves the Addendum. No party shall be required to remove any facilities installed pursuant to an agreement until the effective date of an Order of the Commission or a court regarding the removal of same.

Further, Section 394.312.5, RSMo Cum. Supp. 2010, in part, provides:

The commission may approve the application if it determines that approval of the territorial agreement in total is not detrimental to the public interest.

Although these are addenda to a territorial agreement, Staff applied this standard.

7. Being a cooperative organized under Chapter 394 RSMo, Cuivre River is not required to provide annual reports or assessments to the Commission. Ameren Missouri has provided the required annual reports and assessments.

WHEREFORE, the Staff recommends that the Commission approve both the Application for an Addendum to an Approved Territorial Agreement in File No. EO-2012-0085 that designates Cuivre River to provide service to a mobile home and barn near Troy, Missouri, and the Application for an Addendum to an Approved Territorial Agreement in File No. EO-2012-0093 that designates Ameren to provide electric service to a residence and shop building currently under construction near Moscow Mills, Missouri, as being in the public interest.

Respectfully submitted,

/s/ Amy E. Moore

Amy E. Moore

Legal Counsel

Missouri Bar No. 61759

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 25th of October, 2011.

/s/ Amy E. Moore

MEMORANDUM

TO: Missouri Public Service Commission Official Case File Nos. EO-2012-0085 and EO-2012-0093, Two Case-by-Case Addenda to Second Territorial Agreement Between Cuivre River Electric Cooperative and Union Electric Company d/b/a Ameren Missouri

FROM: Daniel I. Beck, Energy Department – Engineering Analysis

/s/ Daniel I. Beck 10/25/11
Energy Department / Date

/s/ Amy E. Moore 10/25/11
General Counsel's Office / Date

Subject: Staff Recommendation to approve addenda to second territorial agreement

Date: October 25, 2011

OVERVIEW

On September 19 and 27, 2011, Cuivre River Electric Cooperative and Union Electric Company d/b/a Ameren Missouri filed separate applications with the Missouri Public Service Commission each seeking Commission approval of case-by-case addenda to two territorial agreements to allow new structures in territory exclusive to each under the territorial agreements to be served by the other. The first of these two territorial agreements is limited to territory in St. Charles County. The Commission approved that agreement in a March 5, 1993 *Report and Order* in Case No. EO-93-166, (2 Mo.P.S.C. 3d 110). The second territorial agreement is limited to territory in Lincoln and Warren counties. The Commission approved that agreement in a September 17, 2002 *Report and Order* in Case No. EO-2002-1091. In both applications the locations of the proposed new structures are in Lincoln County; therefore, Staff's review, analysis and recommendations are limited to the second territorial agreement. The intervention

deadlines the Commission set in each file passed without anyone seeking to intervene.

The Commission's Staff recommends the Commission find the addenda are not detrimental to the public interest and approve each.

DISCUSSION

The two Applications describe the two Territorial Agreements between the parties that the Commission previously approved in Case Nos. EO-93-166¹ and EO-2002-1091². In Case No. EO-93-166 the Commission approved the "Territorial Agreement" for new structures in part of St. Charles County and in Case No. EO-2002-1091 the Commission approved the "Second Territorial Agreement" for new structures erected in parts of Lincoln and Warren counties. These Agreements include provisions for addenda to be filed on a case-by-case basis to modify them to allow a new structure to receive service from one party although the structure is located in the territory exclusive to the other party. The Applications are for two new structures that are both to be located in Lincoln County. Addendum No. 1 would allow a mobile home and barn owned by Mr. Ricky L. Schulte, Sr., on Snyder Road near Troy, Missouri, to receive service from the Cuivre River. Addendum No. 2 would allow a residence and shop building owned by Larry and Peggy Taylor on Carter Road near Moscow Mills, Missouri, to be served by Ameren Missouri. These two locations are approximately eleven (11) miles apart.

The Applications state that service to these new structures would be both economic and practical if the addenda are approved. Both Ameren Missouri and Cuivre

¹ Both Applications state that the first territorial agreement between these two utilities was approved in Case No. EM-96-6 but both Addendums state the Case Number was EO-93-166. Staff has determined that Case No. EO-93-166 is the correct case number.

² Both Applications state that the second territorial agreement between these two utilities was approved in Case No. EO-2002-0191 while the Addendums do not reference a case number. Staff has determined that Case No. EO-2002-1091 is the correct case number.

River would need to extend their facilities to serve these structures, but if the addenda are approved it will minimize the extensions. More specifically, the first Application states that service to the Schulte structures by Cuivre River is the most cost-effective because it will eliminate the need for Ameren Missouri to construct electric service facilities that would duplicate existing Cuivre River facilities. The second Application states that service to the Taylors' structures by Ameren Missouri is the most cost-effective because Ameren Missouri's existing facilities are much closer to the Taylors' location than are those of Cuivre River.

Both Applications include each of the items required by Article 10 of the Second Territorial Agreement for an addendum to the Territorial Agreements. (A copy of Article 10 is furnished in the Applications.) This includes, but is not limited to, Affidavits by a representative of the Cooperative, a representative of the Company, and the landowner(s) stating their support of and agreement by all the parties that would be directly affected by these Applications.

Staff notes that the Application for approval of Addendum No. 2 states that the Taylor structures are located in Township 49N while the attached Addendum states that the property is in Township 48N. Staff has verified that the property is located in Township 48N by comparing the Appendix 5 Map to geographical mapping software from several internet sources.

STAFF RECOMMENDATION

Staff recommends that the Commission approve both of these Addenda to the Second Territorial Agreement between Cuivre River and Ameren Missouri. The legal standard for Commission approval of territorial agreements is that they be “not detrimental to the public interest” per 393.312.4, RSMo. Staff maintains that it is in the public interest to serve these structures with facilities that are the most economical and that avoid duplication of existing facilities.

As a cooperative, Cuivre River is not required to provide annual reports or assessments to the Commission. Ameren Missouri has provided the required annual reports and assessments. Appendices 2 to each of the Applications includes the same list of pending or appellate cases involving Ameren Missouri and the Commission. Staff maintains that the two Application Cases do not affect or are not affected by any other cases before the Commission.

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Electric Company d/b/a Ameren Missouri)
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Approved Territorial Agreement)

File No. EO-2012-0085

In the Matter of the Application of Union)
Electric Company d/b/a Ameren Missouri)
and Cuivre River Electric Cooperative for)
Approval of an Addendum to an)
Approved Territorial Agreement)

File No. EO-2012-0093

AFFIDAVIT OF DANIEL I. BECK

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Daniel I. Beck, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



Daniel I. Beck

Subscribed and sworn to before me this 25th day of October, 2011.




Notary Public