

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 29th day
of February, 2012.

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

File No. EO-2012-0192

**REPORT AND ORDER
APPROVING SEVENTH TERRITORIAL AGREEMENT**

Issue Date: February 29, 2012

Effective Date: March 29, 2012

Procedural History

On December 20, 2012, The Empire District Electric Company (“Empire”) and White River Valley Electric Cooperative (“White River”) filed an application under Section 394.312, RSMo¹, seeking approval of a seventh territorial agreement (“Agreement”). The Missouri Public Service Commission (“Commission”) issued notice of the application and set an intervention deadline. There were no requests to intervene. The Staff of the Commission filed its recommendation on February 17, 2012. Staff states that the Agreement designates the service area boundary between White River and Empire regarding structures in certain parts of the cities of Sparta and Forsyth, Missouri, and gives White River the exclusive right to serve an area near a high school in Sparta and structures in a residential housing development in Forsyth. Staff states that the Agreement is not detrimental to the public interest and recommends Commission approval.

¹ Unless otherwise noted, all statutory references are to the Revised Statutes of Missouri, 2010.

Findings of Fact

1. Empire is an “electrical corporation” and “public utility” as defined in Section 386.020, RSMo, with its principal place of business in Joplin, Missouri
2. White River is a rural electric cooperative pursuant to Chapter 394, RSMo, with its principal place of business in Branson, Missouri.
3. The cities of Sparta and Forsyth, Missouri, currently have populations greater than 1,500 inhabitants, so are not “rural areas”.² As a result, White River cannot provide electric service to new structures built within the city limits of Sparta and Forsyth.
4. In the Agreement, Empire and White River specifically designate the boundaries of three exclusive electric service areas within portions of Christian County and Taney County, Missouri, predominantly within the city limits of Sparta and Forsyth, Missouri. The Agreement gives White River the exclusive right to serve an area that includes a new sewer lift station near a high school in Sparta, Missouri, and to serve structures in a residential housing development in Forsyth, Missouri.
5. White River has existing facilities that will adequately serve the areas described in the Agreement. Empire would need to install costly and duplicative facilities in order to provide service to the areas described in the Agreement.
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 areas covered by the Agreement.

² Section 394.020.3, RSMo.

8. The cities of Sparta and Forsyth, Missouri, have passed ordinances consenting to White River using public rights-of-way necessary to provide electric service.

9. Empire and White River have paid the fee set by Commission rule as required under Section 394.312.8, RSMo.

10. The establishment of exclusive service areas in the Agreement will minimize duplication of facilities, allow customers to know with certainty who their provider will be, and allow Empire and White River to avail themselves of prior investment and planning for serving the public.

Conclusions of Law

1. The Commission has jurisdiction over territorial agreements between electric corporations and rural electric cooperatives.³

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

3. The application is in compliance with Section 394.312, RSMo, in that the Agreement specifically describes the areas subject to the Agreement; the Agreement does not affect the rights or duties of any supplier not a party to the Agreement; the designation of such areas is not detrimental to the public interest; and Empire and White River have paid the required fee.

4. The proposed Agreement is not detrimental to the public interest.

³ Section 394.312.1, RSMo.

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

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 seventh territorial agreement between Empire and White River is not detrimental to the public interest and will be approved.

THE COMMISSION ORDERS THAT:

1. The joint application for approval of the seventh territorial agreement between The Empire District Electric Company and White River Valley Electric Cooperative is approved.
2. Empire shall file with the Commission revised tariff sheets amending any descriptions of its service territory in Christian and Taney Counties, Missouri, that may be affected by the Agreement.
3. This order shall become effective on March 29, 2012.
4. This file may be closed on March 30, 2012.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Jarrett and Kenney,
CC., concur.

Bushmann, Regulatory Law Judge