

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 11th day of
March, 2015.

In the Matter of the Application of Marshall Municipal)	
Utilities and Central Missouri Electric Cooperative, Inc.)	<u>File No. EO-2015-0137</u>
For Approval of an Amendment to an Approved)	
Territorial Agreement.)	

**REPORT AND ORDER APPROVING
AMENDMENT TO TERRITORIAL AGREEMENT**

Issue Date: March 11, 2015

Effective Date: March 20, 2015

PROCEDURAL HISTORY

On November 25, 2014, Marshall Municipal Utilities (“Marshall”) and Central Missouri Electric Cooperative, Inc. (“Central Missouri”)(jointly, “Applicants”) filed a joint application under §§ 394.312 and 416.041, RSMo.¹ Applicants seek approval to amend a territorial agreement. The 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 January 9, 2015. Staff states that the requested amendment will authorize Marshall to provide electric service to a new structure (a horse arena) built on property owned by Missouri Valley College (“Missouri Valley”). This property lies in an area exclusively served by Central Missouri under the terms of Applicants’ existing territorial agreement. Staff’s recommendation states that this proposed amendment is not detrimental to the public interest and recommends Commission approval.

¹ All statutory references are to the 2000 Missouri Revised Statutes, as cumulatively supplemented.

However, Staff's recommendation also states there is no indication that Kansas City Power and Light Company ("KCP&L") received notice of the application, even though the new structure is located within KCP&L's Missouri service territory.²

On January 12, the Commission issued an order directing notice be provided to KCP&L and setting a deadline for the submission of responses to Staff's recommendation. On January 26, KCP&L submitted a response indicating that it has no objections to Staff's recommendation. No other responses were received.

FINDINGS OF FACTS

1. Marshall is a municipally owned electric utility, operated under the direction of a Board of Public Works for the City of Marshall, Missouri. Marshall is authorized to provide electric service to customers that lie primarily within the corporate limits of the City of Marshall.

2. Central Missouri is a rural electric cooperative organized under Chapter 394 RSMo, with its principal office located in Sedalia, Missouri. Central Missouri provides electric service to its members in three counties, including Saline County.

3. In a March 8, 1996 *Report and Order*, the Commission approved a territorial agreement ("Territorial Agreement") between the Applicants (Case No. EO-96-165). The Territorial Agreement designated specific areas in Saline County, Missouri, in which Applicants would provide electric service, exclusive of the other.

4. On or about November 3, 2014, Applicants entered into an agreement to amend the Territorial Agreement, titled, "Amendment to Territorial Agreement Between Marshall Municipal Utilities and Central Missouri Electric Cooperative, Inc." ("Amendment"). The

² Pursuant to § 394.312.6, RSMo, a Commission-approved territorial agreement shall not affect or diminish the rights of any supplier not a party to the agreement to provide service within the boundaries designated in the territorial agreement.

Amendment alters the existing Territorial Agreement to allow Marshall to provide service to a new structure owned by Missouri Valley that is located just outside the current corporate limits of Marshall, Missouri, and within Central Missouri's exclusive service area.

5. The new structure is a horse arena that is replacing an existing structure that Marshall currently serves under the Territorial Agreement. Marshall's facilities are closer than Central Missouri's to the new structure. Marshall can serve the new structure via a service drop, whereas Central Missouri would need to construct an extension of approximately one mile in order to provide electric service.

6. Allowing Marshall to service the new horse arena is both economical and practical, even though it will require a minimal extension of Marshall's existing facilities. Marshall can adequately serve the area described in the Amendment.

7. Missouri Valley supports the Amendment. No other customer of Marshall or Central Missouri will be impacted by the changes in the Amendment.

8. Missouri Valley's new horse arena is located within Kansas City Power & Light Company's ("KCP&L") service territory.

CONCLUSIONS OF LAW

Sections 394.312 and 91.025, RSMo, give the Commission jurisdiction over territorial agreements between electric cooperatives and municipally owned electric utilities. Pursuant to § 386.800, RSMo, a municipally owned electric utility may provide retail electric energy to a structure located outside its corporate boundaries if the service is provided pursuant to an approved territorial agreement under § 394.312.

The Territorial Agreement does not include a provision detailing procedures for addressing proposed exceptions, such as the current request. While this may be uncommon for territorial agreements, under § 394.312.4, the Applicants must receive approval for the Amendment from the Commission and notice must be provided to other electrical suppliers. KCP&L was provided notice of the proposed amendment and indicated it has no objections to Staff's recommendation to approve the Amendment. The Commission's approval of the Amendment will not impact KCP&L's rights and duties as a supplier in the same service area.³

Section 394.312.5 requires the Commission to hold an evidentiary hearing to determine if a territorial agreement should be approved, except when the matter is resolved by a stipulation and agreement and all parties agree to waive their right to a hearing. All parties to this matter are in agreement that the Commission should approve the Amendment. Even though no formal agreement to waive the hearing was submitted, the Commission need not hold a hearing since the opportunity for a hearing was provided and no party requested an opportunity to present evidence.⁴

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 Amendment, which amends the Territorial Agreement between Central Missouri and Marshall is not detrimental to the public interest and should be approved.

³ § 394.312.6.

⁴ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Com'n of State of Mo.*, 776 S.W.2d 494 (Mo. App.W.D. 1989).

THE COMMISSION ORDERS THAT:

1. The *Joint Application for Approval of an Amendment to an Approved Territorial Agreement* between Marshall Municipal Utilities and Central Missouri Electric Cooperative, Inc. is approved.
2. This order shall become effective on March 20, 2015.
3. This file shall be closed on March 23, 2015.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
Hall, and Rupp, CC., concur.

Burton, Regulatory Law Judge.