

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

In the Matter of the Application of The Empire)
District Electric Company and White River Valley)
Electric Cooperative for Approval of a Second)
Amendment of a Written Territorial Agreement) **Case No. EO-2013-0313**
Designating the Boundaries of Exclusive Service)
Areas for Each Applicant within the Missouri Counties)
Of Stone and Taney)

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

Issue Date: January 4, 2013

Effective Date: January 14, 2013

This Report and Order approves the Amendment of a Written Territorial Agreement between The Empire District Electric Company (“Empire”) and White River Valley Electric Cooperative (“White River”). The approved amendment will allow White River to serve three tracts of land in Empire’s service territory.

FINDINGS OF FACT

- 1) Empire is an electrical corporation subject to the Commission’s jurisdiction, and it owns and operates a electrical system and provides electrical service to the public.
- 2) White River is a rural electric cooperative that serves portions of Missouri.
- 3) On January 11, 2007, the Commission approved a territorial agreement between Empire and White River that established exclusive service areas for them.
- 4) On November 29, 2012, Empire and White River filed a Joint Motion for Approval of Second Amendment to the Fifth Territorial Agreement.

5) The proposed addendum would allow White River, with the consent of the Branson School District (“Customer”), to serve three tracts of land located within Empire’s service territory under the territorial agreement.

6) White River has existing facilities nearby to serve the site, which can serve the site with minimal cost to Customer.

7) Empire does not have existing facilities in place to serve Customer.

8) White River is willing to serve Customer.

9) Customer has received a copy of the amendment and has consented to be served by White River.

10) The Staff of the Commission filed a Staff Recommendation to Approve Joint Application on December 21, 2012.

11) Based on the information contained in the Joint Motion and the Staff Recommendation, the Commission finds that the proposed amendment is not detrimental to the public interest.

CONCLUSIONS OF LAW

1) Sections 394.312 and 416.041, RSMo 2000, give the Commission jurisdiction over territorial agreements between electric cooperatives and electrical corporations, including any subsequent amendment to such agreement.

2) Under Subsection 394.312.4, RSMo 2000, the Commission may approve such a territorial agreement if the agreement is in the public interest.

3) Although Section 394.312.4 RSMo provides that the Commission is to hold an evidentiary hearing to determine whether a territorial agreement is to be approved, no party has requested a hearing. The requirement for a hearing is met

when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence.¹ Therefore, no hearing is necessary.

DECISION

Based on its findings of fact and conclusions of law, the Commission determines that the submitted amendment to the existing territorial agreement between the parties is in the public interest and shall be approved.

THE COMMISSION ORDERS THAT:

1. The Second Amendment to the Fifth Territorial Agreement between The Empire District Electric Company and White River Valley Electric Cooperative is approved.
2. The Empire District Electric Company shall file revised tariff sheets to reflect the limitations the amendment places on its service area.
3. This Report and Order shall become effective on January 14, 2013.

BY THE COMMISSION



Shelley Brueggemann
Acting Secretary

(S E A L)

Ronald D. Pridgin, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 4th day of January, 2013.

¹ *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).