

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 24th day
of November, 2014.

In the Matter of the Application of Black River)	
Electric Cooperative and The City of Fredericktown,)	<u>File No. EO-2015-0096</u>
Missouri for Approval of an Addendum to an)	
Approved Territorial Agreement)	

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

Issue Date: November 24, 2014

Effective Date: December 4, 2014

This decision approves an addendum to the Territorial Agreement between Black River Electric Cooperative (“Black River”) and the City of Fredericktown, Missouri (“Fredericktown”) (collectively, “Applicants”), which will allow Black River to provide electric service to a commercial structure located in Fredericktown’s service territory.

Findings of Fact

On October 13, 2014, Black River and Fredericktown filed a Joint Application for Approval of an Addendum (Addendum No. 2) to an Approved Territorial Agreement. The Staff of the Commission filed its recommendation on November 13, 2014. Staff states that the Addendum is not detrimental to the public interest and recommends Commission approval. More than ten days have elapsed since the filing of Staff’s recommendation, and no party has filed a response to that recommendation.

Black River is a rural electric cooperative pursuant to Chapter 394, RSMo, with its principal place of business in Fredericktown, Missouri. Fredericktown is a Missouri

Fourth Class City which owns, operates and maintains an electrical distribution system to serve Fredericktown.

In File No. EO-2012-0047, the Applicants requested and received Commission approval of a territorial agreement, which designated the boundaries of each Applicant's exclusive service area for new structures. Before approving the original territorial agreement, Applicants entered into Addendum; No. 1, which is included in the Report and Order in EO-2012-0047.

The proposed Addendum No. 2 to that territorial agreement would amend the existing territorial agreement to allow a commercial structure located at 137A Commercial Drive, Fredericktown, Missouri, to receive electric service from Black River even though that structure is located within Fredericktown's exclusive service area. The manager of the property at 137A Commercial Drive stated his desire and consent for Black River to be the electric service provider to the property.

Although the property lies within Fredericktown's exclusive service area, Black River's facilities are much closer to the property. Black River providing electric service to the property would result in the most efficient use of electrical facilities available in that area, and is the most economical solution available for the property.

Based on the information contained in the joint application and on the recommendation of Staff, the Commission finds that the proposed Addendum is not detrimental to the public interest.

Conclusions of Law

Section 394.312, RSMo 2000, gives the Commission jurisdiction over territorial agreements concerning electric service, including any subsequent amendment to such

agreement. Under Section 394.312.4, RSMo 2000, the Commission may approve such a territorial agreement if the agreement is not detrimental to the public interest. As the Commission found in its findings of fact, the Addendum to the territorial agreement will not be detrimental to the public interest.

The existing territorial agreement establishes a procedure for the consideration of addendums to the territorial agreement to allow a new or existing structure to receive service from one company even though the structure is located in the territory of the other company. The submitted addendum is still subject to approval or rejection by the Commission.

Although Section 394.312.4, RSMo 2000, 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

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 submitted Addendum to the territorial agreement between the parties is not detrimental to the public interest and will be approved.

¹ *Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 SW2d 494 (Mo. App. W.D. 1989).

THE COMMISSION ORDERS THAT:

1. The Addendum No. 2 to the territorial agreement between Black River Electric Cooperative and the City of Fredericktown, Missouri is approved.
2. Black River Electric Cooperative is authorized to provide electric service to the property as described in the joint application and as set forth in Addendum No. 2.
3. This order shall become effective on December 4, 2014.
4. This file may be closed on December 5, 2014.



BY THE COMMISSION

Morris L. Woodruff

Morris L. Woodruff
Secretary

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

Pridgin, Deputy Chief Regulatory Law Judge