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December 29, 2004

EUGENE E. ANDERECK (1923-2004)
GREGORY C. STOCKARD (1904-1993)
PHIL HAUCK (1924-1991)

FILED³

DEC 29 2004

Missouri Public
Service Commission

Secretary
Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

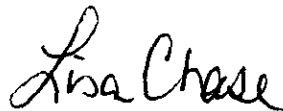
**Re: In the Matter of the Application of Gascosage Electric Cooperative and Three Rivers Electric Cooperative for Approval of a Written Territorial Agreement Designating the Boundaries of Each Electric Service Supplier within Camden, Cole, Franklin, Gasconade, Maries, Miller, Moniteau, Osage, Phelps and Pulaski Counties, Missouri
Case No. EO-2005-0122**

Dear Secretary:

Enclosed for filing please find an original and eight copies of the Applicant's Joint Statement of Position on Issues in the above referenced case.

If you have any questions, please contact me at the number listed above.

Sincerely,



Lisa Cole Chase

LCC:srw

Encl.

CC: John Coffman, OPC
Steve Dottheim, PSC
William Bobnar

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

FILED³
DEC 29 2004

Missouri Public
Service Commission

In the Matter of the Application)
of Gascosage Electric Cooperative)
and Three Rivers Electric Cooperative)
for Approval of a Written)
Territorial Agreement Designating)
the Boundaries of Each Electric)
Service Supplier within Camden, Cole,)
Franklin, Gasconade, Maries, Miller, Moniteau,)
Osage, Phelps, and Pulaski Counties, Missouri.)

Case No. EO-2005-0122

APPLICANTS' JOINT STATEMENT OF POSITION ON ISSUES

COME NOW Applicants, and for *Applicants' Joint Statement of Position on Issues*, state as follows:

Issue 1. Should the Commission approve the Territorial Agreement between Three Rivers and Gascosage as not detrimental to the public interest?

Position: The Commission should approve the Territorial Agreement between Three Rivers and Gascosage as not detrimental to the public interest as submitted.

Issue. 1.A. Does Commission approval of the Territorial Agreement between Three Rivers and Gascosage in any way affect or diminish the rights and duties of any supplier not a party to the agreement or of any electrical corporation authorized by law to provide service within the boundaries designated in such Territorial Agreement?

Position: No.

Issue 1.B. Whether under section 394.312.2 RSMo 2000 (see also Section 394.315.2 RSMo 2000), if the Commission approves the Territorial Agreement between Three Rivers and Gascosage, is either Three Rivers or Gascosage, by virtue of the Territorial Agreement, authorized to serve in any municipality not identified in the Territorial Agreement as having granted to Three Rivers or Gascosage authority to operate within the corporate boundaries of that municipality?

Position: Even without this Territorial Agreement, Three Rivers and Gascosage are authorized to serve any rural area, as well as any city, town or village with a population in excess of 1500 inhabitants, pursuant to the terms of sections 394.020 and 394.080 RSMo. If the Commission approves the Territorial Agreement, the Territorial

Agreement itself does not authorize Three Rivers or Gascosage to operate in municipalities in excess of 1500 inhabitants.

1.C. Should the Commission adopt the language proposed in the rebuttal testimony of AmerenUE witness Larry Merry for Article 4 of the Territorial Agreement between Three Rivers and Gascosage?


Position. No.

1.D. May Three Rivers and Gascosage terminate the Territorial Agreement without the authorization of the Commission?

Position. The effect of entering *into* a Territorial Agreement is to displace competition, and therefore requires Commission approval to overcome anti-trust issues. Section 394.312 RSMo contemplates Commission approval not termination of Territorial Agreements. Section 394.312.6 does provide Commission authority, after a hearing, to terminate a Territorial Agreement when it determines to do so would be in the public interest. Nothing in that provision provides for when *parties* decide to terminate an agreement. Approval of the Territorial Agreement is approval of the terms and conditions of the contract between the parties, and such terms include how the parties will agree to terminate the agreement. The termination provision of Art. 11 is no different than a Territorial Agreement with a specific termination date, it is just a function of the agreement. Notice to the Commission enables the Commission to reflect the termination of the Territorial Agreement in its public documents so the two parties can go back to operating on a competitive basis.

Respectfully Submitted,

**ANDERECK, EVANS, MILNE,
PEACE & JOHNSON L.L.C.**

By 

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**ATTORNEYS FOR GASCOSAGE AND
THREE RIVERS ELECTRIC
COOPERATIVES**

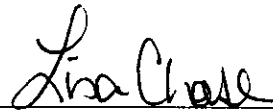
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 28th day of December, 2004, to the following parties:

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