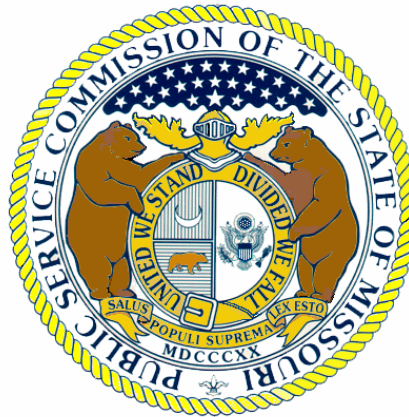


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Laclede Electric)
Cooperative and the City of St. Robert, Missouri, for)
Approval of a Written Territorial Agreement Designating)
the Boundaries of Each Electric Service Supplier within)
the Hickory Valley Subdivision of the City of St. Robert,)
Pulaski County, Missouri.)

Case No. EO-2005-0391

REPORT AND ORDER

Issue Date: August 16, 2005

Effective Date: August 26, 2005

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OF THE STATE OF MISSOURI

In the Matter of the Application of Laclede Electric)
Cooperative and the City of St. Robert, Missouri, for)
Approval of a Written Territorial Agreement Designating) **Case No. EO-2005-0391**
the Boundaries of Each Electric Service Supplier within)
the Hickory Valley Subdivision of the City of St. Robert,)
Pulaski County, Missouri.)

APPEARANCES

Tyce S. Smith, City Attorney, Post Office Box 494, Waynesville, Missouri, 65583-0494, for the City of St. Robert, Missouri.

Rodric A. Widger, Andereck, Evans, Milne, Peace & Johnson, LLC, 1111 South Glenstone, Post Office Box 4929, Springfield, Missouri 65808, for Laclede Electric Cooperative.

Steven Dottheim, Chief Deputy General Counsel, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: Nancy Dippell, Senior Regulatory Law Judge.

REPORT AND ORDER

Syllabus: This Report and Order approves the joint application for approval of a territorial agreement, and approves the Stipulation and Agreement of the parties regarding that agreement.

Procedural History

On April 29, 2005, the City of St. Robert, Missouri, and Laclede Electric Cooperative filed a verified application for approval of a territorial agreement. On May 4,

2005, the Commission issued an order directing that notice of the filing be given to the general public and to other potentially interested parties. That order also set an intervention deadline of May 24, 2005. There were no requests to intervene. On August 11, 2005, the City, the Cooperative, and the Staff of the Missouri Public Service Commission filed a Stipulation and Agreement, asking that the Commission approve the territorial agreement and indicating that the parties believe that no evidentiary hearing is needed. The Commission's Staff also filed suggestions in support of the stipulation and agreement on August 11, 2005.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Applicants:

The City of St. Robert, Missouri, is a fourth class city, existing under Chapter 79, RSMo 2000. The City owns and operates an electric distribution system within its corporate limits in Pulaski County. The City's principal office is located at 194 Eastlawn Avenue, St. Robert, Missouri 65584.

Laclede Electric Cooperative is an electric cooperative organized under Chapter 394, RSMo 2000. The Cooperative provides electric service to customers located within the Cooperative's electric service area including service in and around St. Robert. The Cooperative's principal place of business is located at 1400 East Route 66, Lebanon, Missouri 65536.

The Proposed Territorial Agreement:

In their joint application, the City and the Cooperative submit a territorial agreement for the Commission's approval. The territorial agreement specifically designates the boundaries of the exclusive electric service area of the Cooperative for service to new structures in the Hickory Valley Subdivision of St. Robert, Missouri. The agreement also sets forth any and all powers granted to the Cooperative by the City to operate within the corporate boundaries of the City and any and all powers granted to the City to operate within the boundaries of the Cooperative. The electric service of existing customers will not be changed by the agreement.

The Stipulation and Agreement

On August 11, 2005, the City, the Cooperative, and Staff filed a Stipulation and Agreement requesting that the Commission approve the proposed territorial agreement. The stipulation states that the territorial agreement will allow the City and the Cooperative to avoid wasteful duplication of electric services within the affected service area. The stipulation also indicates that the territorial agreement will make the most effective use of past investment in a substation and distribution facilities of Laclede, will enable customers to know who will provide their electric service, and will enhance public safety.

The parties to the stipulation agree that the joint application and the territorial agreement meet the requirements of the applicable statutes as well as applicable Commission rules, and that the territorial agreement is not detrimental to the public interest.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Territorial Agreement

Sections 394.312 and 416.041, RSMo 2000, give the Commission jurisdiction over territorial agreements between electric cooperatives and municipalities. Under Subsection 394.312.4, RSMo 2000, the Commission may approve such a territorial agreement if the agreement is not detrimental to the public interest. Based on the agreement of the parties expressed in the stipulation and agreement, the Commission finds that the territorial agreement will not be detrimental to the public interest.

The Necessity for an Evidentiary Hearing

In the stipulation and agreement, the parties agree that the Commission does not need to hold an evidentiary hearing before approving the stipulation and agreement and the territorial agreement. Although Subsection 394.321.4, RSMo 2000, provides that the Commission is to hold an evidentiary hearing to determine whether a territorial agreement is to be approved, the parties contend that no hearing is necessary where the case has been resolved by the filing of a unanimous stipulation and agreement, and where no other party has requested a hearing. The Commission agrees that pursuant to the holding of *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*,¹ the requirement for a hearing was met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence.

Decision

Having considered the Joint Application and the Stipulation and Agreement, the Commission concludes that the territorial agreement between the City of St. Robert and Laclede Electric Cooperative is not detrimental to the public interest and should be

¹ 776 S.W. 2d 494 (Mo. App. W.D. 1989).

approved. The Commission will also approve the Joint Application and the Stipulation and Agreement. Furthermore, the Commission concludes that no evidentiary hearing is required.

IT IS THEREFORE ORDERED:

1. That the joint application for approval of a territorial agreement, filed by the City of St. Robert, and Laclede Electric Cooperative, is approved.
2. That the Stipulation and Agreement entered into by the City of St. Robert, Laclede Electric Cooperative, and the Staff of the Commission is approved.
3. That the territorial agreement entered into by the City of St. Robert and Laclede Electric Cooperative, is approved.
4. That this order shall become effective on August 26, 2005.
5. That this case may be closed on August 27, 2005.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Dated at Jefferson City, Missouri,
on this 16th day of August, 2005.