

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

In the Matter of the Application of Mike)
Bennett For Change of Electric Supplier)
from Union Electric Company, d/b/a)
AmerenUE, to SEMO Electric)
Cooperative.)

Case No. EO-2007-0199

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and, for its recommendation the Commission (1) approve Mike Bennett's application for a change of electric supplier from Union Electric Company, d/b/a AmerenUE, to SEMO Electric Cooperative and (2) grant AmerenUE's requests that (a) AmerenUE be ordered to cut open the facilities serving Applicant's residence, (b) AmerenUE be authorized to transfer to SEMO (i) the pole where AmerenUE's electric service to Mr. Bennett's residence transitions from overhead to underground lines and (ii) the service conductors to the meter base serving Mr. Bennett's residence and (c) that AmerenUE retain any and all transformers and meters it is using to provide electric service at Mr. Bennett's residence, states:

1. On November 28, 2006, Mike Bennett filed an Application for Change of Electric Supplier from investor-owned and Commission regulated Union Electric Company d/b/a AmerenUE to SEMO Electric Cooperative, a cooperative electric supplier.

2. On November 29, 2006, the Missouri Public Service Commission issued an Order in which it, among other things, ordered Staff to file a recommendation or status report by January 8, 2007. In its Memorandum, attached hereto as Appendix A, the Staff recommends the Commission (1) approve Mr. Bennett's application for a change of electric supplier from Union Electric Company, d/b/a AmerenUE, to SEMO Electric Cooperative and (2) grant AmerenUE's

requests that (a) AmerenUE be ordered to cut open the facilities serving Applicant's residence, (b) AmerenUE be authorized to transfer to SEMO (i) the pole where AmerenUE's electric service to Mr. Bennett's residence transitions from overhead to underground lines and (ii) the service conductors to the meter base serving Mr. Bennett's residence and (c) AmerenUE retain any and all transformers and meters it is using to provide electric service at Mr. Bennett's residence.

3. Section 393.106.2, RSMo 2000, provides, in pertinent part, "[t]he public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential." An applicant for a change of supplier must state "[t]he reasons a change of electrical suppliers is in the public interest." 4 C.S.R. 240-3.140(1)(G).

4. The Staff has found no Missouri court case that defines the standard of "public interest" as used in Section 393.106.2, RSMo 2000. In *State ex rel. City of St. Louis v. Public Service Commission*¹ the Missouri Supreme Court addressed the standard to apply when the Commission authorized acquisition of more than 10% of the stock of a utility where no express standard appeared in the statute. The Staff believes that the following language from that opinion is instructive:

. . . The whole purpose of the act is to protect the public. The public served by the utility is interested in the service rendered by the utility and the price charged therefore; investing public is interested in the value and stability of the securities issued by the utility. *State ex rel. Union Electric Light & Power Co. v. Public Service Commission et al.* (Mo. Sup.) 62 S.W. (2d) 742. In fact the act itself declares this to be the purpose. Section 5251, R.S. 1929 Mo. Stat. Ann. Section 5251, p. 6674), in part reads: "The provisions of this chapter shall be liberally construed with a view to the public welfare, efficient facilities and *substantial justice between patrons and public utilities.*" (Italics ours.)

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¹ 73 S.W.2d 393 (Mo.banc 1934).

The state of Maryland has an identical statute with ours, and the Supreme Court of that state in the case of *Electric Public Utilities Co. v. Public Service Commission*, 154 Md. 445, 140 A. 840, loc. cit. 844, said: “To prevent injury to the public good in the clashing of private interest with the public good in the operation of public utilities, is one of the most important functions of Public Service Commissions. It is not their province to insist that the public shall be benefited, as a condition to change of ownership, but their duty is to see that no such change shall be made as would work to the public detriment. ‘In the public interest,’ in such cases, can reasonably mean no more than ‘not detrimental to the public.’”²

Consonant with the foregoing, it appears that in this context “in the public interest” at least means “not detrimental to the public” and may mean what the Staff considers to be the higher standard of “public benefit.” In evaluating this application, the Staff has reviewed for “public benefit.”

5. AmerenUE is serving Mr. Bennett’s premises through a mile-long feeder that serves no other AmerenUE customer and SEMO has electric facilities near Mr. Bennett’s premises. The mile-long feeder through which AmerenUE is currently serving Mr. Bennett is part of a 34 kV line that previously connected substations, but now only serves Mr. Bennett at a residential voltage.

6. Mr. Bennett has filed this application stating the basis for his request is “numerous outages.” Mr. Bennett, AmerenUE and the Staff anticipate Mr. Bennett will experience improved reliability through fewer outages if his electric supplier is changed to SEMO.

7. Currently Mr. Bennett is billed under AmerenUE’s residential service rates, which include four summer months and eight winter months. If the change of supplier request is granted, Applicant will be billed under SEMO’s rates, which include six summer and six winter months. The result is that Mr. Bennett’s annual energy costs will be determined by Mr.

² *Id.* at 399-400.

Bennett's actual usage. For the reasons discussed in detail in the Memorandum, Staff believes that it is in the public interest to permit the change of supplier in this case, and that the reasons for the change are other than a rate differential. On December 5, 2006, AmerenUE filed a verified statement recommending that the Commission approve the Application for Change of Electric Supplier as the change is in the public interest and is for a reason other than a rate differential.

8. Because AmerenUE is using a mile-long feeder and associated poles to serve Mr. Bennett's residence, Mr. Bennett has experienced numerous outages and is the only customer being served by the feeder, the public will benefit, i.e., it is in the public interest, if Mr. Bennett's electric service provider is changed from AmerenUE to SEMO since Mr. Bennett should experience fewer outages and AmerenUE, and its customers will no longer incur the expense of maintaining a mile-long feeder to serve only one customer. These bases are other than a rate differential.

9. AmerenUE requested that in its Order the Commission (1) require AmerenUE to cut open the facilities serving Mr. Bennett's residence; (2) require SEMO to return to AmerenUE any and all transformer associated with Mr. Bennett's existing service, and; (3) require SEMO to take title to all existing facilities serving Mr. Bennett's residence after said facilities are cut open by AmerenUE (i) to permit SEMO to obtain maximum use of the existing facilities and (ii) to limit AmerenUE's ongoing liability. The Staff has inquired of SEMO and the only portion of AmerenUE's existing facilities SEMO would use to provide electric service to Mr. Bennett's residence is the pole used by AmerenUE to transition from overhead to underground service and the service conductors to the meter base. The Staff has inquired of AmerenUE and been informed by AmerenUE that would retain its meter and transformer, and expects to remove the

mile-long feeder and associated poles through which it is currently providing electric service only to Mr. Bennett's residence, with the exception of the pole where that service transitions from overhead to underground service. With the foregoing clarifications, the Staff agrees that AmerenUE's requests would allow the proposed change in suppliers to occur in the most efficient and cost-effective manner and Staff therefore supports AmerenUE's requests.

10. While not filed, SEMO has served Staff with a pleading in which it expresses its "willingness and ability to provide electric service to [Mr. Bennett]," a copy of which is provided in Appendix A as Attachment 1.

11. Section 393.190.1, RSMo 2000, requires a public utility to obtain Commission authorization prior to the sale or transfer of any of its assets that are "necessary or useful in the performance of its duties to the public." As discussed in Appendix A, the proposed transfer of assets should be authorized because the change of suppliers should be approved. Once the change of suppliers is approved, the mile-long feeder and associated poles through which it is currently providing electric service to Mr. Bennett, including the pole used by AmerenUE to transition from overhead to underground service, and the service conductors to the meter base will no longer be of value to AmerenUE in the provision of service to its customers. As explained in Appendix A, the pole used by AmerenUE to transition from overhead to underground service and the service conductors to the meter base AmerenUE proposes to transfer to SEMO will not be useful or necessary to AmerenUE's performance of its duties to the public if the Commission approves Mr. Bennett's application to change electric providers to SEMO; therefore, if the Commission grants Mr. Bennett's application, it should also authorize AmerenUE to transfer the aforesaid assets to SEMO.

WHEREFORE, for the foregoing reasons discussed in detail in the Staff's Memorandum, the Staff recommends the Commission issue an Order in which it (1) approves Mike Bennett's application for a change of electric supplier from Union Electric Company, d/b/a AmerenUE, to SEMO Electric Cooperative and (2) grants AmerenUE's requests that (a) AmerenUE be ordered to cut open the facilities serving Applicant's residence, (b) AmerenUE be authorized to transfer to SEMO (i) the pole where AmerenUE's electric service to Mr. Bennett's residence transitions from overhead to underground lines and (ii) the service conductors to the meter base serving Mr. Bennett's residence and (c) AmerenUE retain any and all transformers and meters it is using to provide electric service at Mr. Bennett's residence.

Respectfully submitted,

/s/ Nathan Williams

Nathan Williams
Deputy General Counsel
Missouri Bar No. 35512

Attorney for the Staff of the
Missouri Public Service Commission
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 8th day of January 2007.

/s/ Nathan Williams

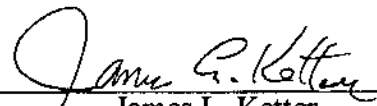
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Bennett For Change of Electric Supplier)	
from Union Electric Company, d/b/a)	Case No. EO-2007-0199
AmerenUE, to SEMO Electric)	
Cooperative.)	

AFFIDAVIT OF JAMES L. KETTER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

James L. Ketter, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Report and Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Report and Investigation was given by him; that he has knowledge of the matters set forth in such Staff Report and Investigation; and that such matters are true to the best of his knowledge and belief.



James L. Ketter

Subscribed and sworn to before me this 8th day of January, 2007.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



Notary Public

My commission expires 9-21-10

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2007-0199, In the Matter of the Application of Mike Bennett
for Change of Electric Supplier

FROM: James L Ketter, Energy Department – Engineering Analysis

<u>/s/ Lena M. Mantle 01/08/07</u> Energy Department / Date	<u>/s/ Nathan Williams 01/08/07</u> General Counsel's Office / Date
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Subject: Staff Recommendation

Date: January 8, 2007

OVERVIEW

On November 28, 2006, Mike Bennett filed a verified application seeking Commission approval to change his electric supplier from Union Electric Company d/b/a AmerenUE (AmerenUE) to SEMO Electric Cooperative (SEMO). The request is for electric service supplied at 704 State Highway P, New Madrid, Missouri.

On November 29, 2006, the Commission issued a Notice of Request for Change of Electric Supplier, Order Adding Parties, and Order Directing Filings. In that order, AmerenUE and SEMO were added as parties to this case, notice and a filing date of December 29, 2006 for responses to the application. Also, the Staff was directed to file its recommendation no later than January 8, 2007.

STAFF RECOMMENDATION

This Application requests an order from the Commission to authorize a change in electric supplier for Mike Bennett who is presently served by AmerenUE. Frequent electric outages have prompted this request for a change in electric supplier. In its verified statement, AmerenUE states that Mr. Bennett is the only customer on a mile-long feeder and that SEMO electric facilities are close to Mr. Bennett.

The AmerenUE electric poles and conductors currently serving Mr. Bennett are part of a three phase 34 kV line that previously connected substations. Presently, one of the AmerenUE conductors is energized and the voltage is stepped down to residential voltage to serve Mr. Bennett. These AmerenUE facilities will be removed if the change of electric supplier is approved.

It is expected that Mr. Bennett would experience fewer outages if service was supplied by SEMO. AmerenUE and SEMO agree that AmerenUE's release of this customer to SEMO is in the public interest. A pleading from SEMO in which it expresses its "willingness and ability to provide electric service to [Mr. Bennett]" is provided in Attachment 1.

SEMO has expressed to Staff their ability to serve Mr. Bennett from existing overhead electric facilities in the immediate vicinity. The only portion of the existing facilities that SEMO needs to connect electric service is the pole used by AmerenUE to transition from overhead to underground service and the service conductors to the meter base. AmerenUE would retain their meter and their transformer and expects to remove the line and poles that have provided service to Mr. Bennett. The electric suppliers agree that this change is in the public interest for reasons other than a rate differential. Currently, Mr. Bennett is billed under the Union Electric Company Residential Service Rate that includes a rate for four summer months and a lower rate for eight winter months. The SEMO Residential Rate also has seasonal differentials, but the summer period is six months and the winter period is six months. The overall impact on Mr. Bennett's annual energy costs will be determined by Mr. Bennett's actual usage. Mr. Bennett has indicated his desire to change to SEMO as his electric supplier.

Section 393.106.2 RSMo. states that a change of supplier should be granted for reasons other than rates. The Staff has reviewed the application and agrees with the parties that Mr. Bennett should receive more reliable electric service from SEMO. Staff recommends that the Commission not address any ratemaking treatment at this time.

The Staff recommends that the Commission approve this Application for the change in electric supplier as being in the public interest. Staff further recommends that no ratemaking treatment be determined at this time.

AmerenUE states that it has no pending or final unsatisfied judgments or decisions against it from any state or federal agency which involve customer service or rates. AmerenUE has no overdue Commission annual reports or assessment fees. SEMO is a rural electric cooperative and no annual reports or assessments are required from the Commission. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

BEFORE THE PUBLIC SERVICE COMMISSION
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In the matter of the Application of Mike Bennett)
for Change of Electric Supplier,) Case No. EO-2007-0199

**Entry of Appearance and
Statement of Position**

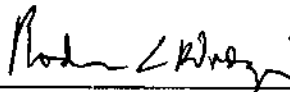
SEMO Electric Cooperative hereby enters its appearance in this proceeding pursuant to Order of the Commission. Copies of all correspondence should be directed to:

Rodric A. Widger
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1111 S. Glenstone, Suite 2-100
Springfield, MO 65804
417-864-6401 (phone)
417-864-4967 (fax)
rwidger@lawofficemo.com.

SEMO Electric Cooperative affirms its willingness and ability to provide electric service to Applicant, but takes no position on the merit of Applicant's request.

Respectfully submitted,

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

By: 
Rodric A. Widger, #31458
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(417) 864-6401 Phone
(417) 864-4967 Facsimile

ATTORNEYS FOR SEMO
ELECTRIC COOPERATIVE

CERTIFICATE OF SERVICE

The undersigned certifies that a complete copy of the foregoing instrument was served upon:

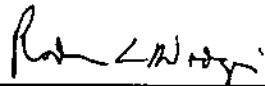
General Counsel's Office
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AmerenUE
Legal Department
1901 Chouteau Avenue
P.O. Box 66149, Mail Code 1310
St. Louis, MO 63166

Mike Bennett
704 State Highway P
New Madrid, MO 63869

by enclosing same in envelopes addressed to said parties at their addresses as disclosed in the pleadings of record herein, with first class postage fully prepaid, and depositing said envelopes in a U.S. Post Office mail box in Springfield, Missouri on December 10, 2006.



Rodric A. Widger