

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

In the Matter of the Application of)
The Empire District Electric Company and)
Ozark Electric Cooperative for Approval of a) **File No.: EO-2019-0381**
Written Territorial Agreement Designating)
the Boundaries of Exclusive Service)

**SECOND ORDER DIRECTING NOTICE, SETTING INTERVENTION
DEADLINE AND DIRECTING STAFF RECOMMENDATION**

Issue Date: June 10, 2019

Effective Date: June 10, 2019

On June 4, 2019, The Empire District Electric Company (“Empire”) and Ozark Electric Cooperative (“Ozark”) (collectively, “Applicants”), filed a *Joint Application* (“Original Application”)¹ for approval of a written territorial agreement designating the boundaries of exclusive service, asking the Commission to approve their Third Territorial Agreement (“Agreement”) pursuant to 4 CSR 240-2.060, 4 CSR 240-3.130, and Sections 394.312 and 416.041, RSMO. On June 6, 2019, the Commission issued its *Order Directing Notice, Setting Intervention Deadline and Directing Staff Recommendation* (“First Order”). On June 6, 2019, the Staff of the Missouri Public Service Commission filed a *Motion for Order Rejecting Joint Application or Ordering Amendments*. On June 7, 2019, the Applicants filed another *Joint Application* (“Amended Application”). The Commission finds that the *Amended Application* includes a document named “Third Territorial Agreement” (“Agreement”) as Appendix A, and that this Agreement sets out a legal

¹ A subsequent pleading, described below, also denominated “Joint Application,” was filed on June 7, 2019. To avoid confusion, the Commission will refer to the June 4 application as the “Original Application” and to the June 7 application as the “Amended Application.”

description of the parcel of land (the “parcel”), which is the subject of the *Amended Application*. The Commission finds that the *Amended Application’s* legal description of the parcel may appear to those receiving notice to differ from the legal description in the *Original Application*. The Commission further finds that because neither the *Amended Application’s* Agreement nor the legal description contained in the Agreement were a part of the *Original Application*, the Data Center could not have sent copies of same to the County Commission of Christian County, Missouri, and the Commission’s Public Information Office could not have provided notice of same to members of the General Assembly representing Christian County, Missouri, and newspapers serving that county, all as per this Commission’s *First Order*.

The statutes provide that notice of a request to approve a territorial agreement “shall be given to other electrical suppliers pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity.”² Accordingly, the Commission will order that notice of the *Amended Application* will be delivered to elected officials and published in newspapers. With respect to the *Amended Application*, the Commission will also set a deadline for intervention and direct the filing of a staff recommendation.

THE COMMISSION ORDERS THAT:

1. The Commission’s Data Center shall send a copy of this order and the *Joint Application* filed on June 7, 2019, to the County Commission of Christian County, Missouri.

² Section 394.312.4, RSMO 2016.

2. The Commission's Public Information Office shall make notice of this order available to the members of the General Assembly representing Christian County, Missouri, and to the newspapers serving that county.

3. Applications to intervene shall be filed no later than June 28, 2019.

4. The Commission's Staff shall file a recommendation regarding the *Joint Application* no later than July 15, 2019.

5. The deadlines set in this Order supersede those set in the Commission's Order of June 6, 2019.

6. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 10th day of June, 2019.

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

In the Matter of the Application of The)
Empire District Electric Company and)
Ozark Electric Cooperative for Approval)
of a Written Territorial Agreement)
Designating the Boundaries of Exclusive)
Service Areas within Christian County)

File No. _____

JOINT APPLICATION

COME NOW The Empire District Electric Company (Empire) and Ozark Electric Cooperative (Ozark) (collectively, Applicants), by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission (the "Commission"), pursuant to 4 CSR 240-2.060, 4 CSR 240-3.130, and RSMo. §394.312 and §416.041, for an order approving Applicants' Third Territorial Agreement (Agreement), respectfully state as follows:

The Applicants

1. Empire is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64801. Empire is engaged in the business of providing electrical and water utility services in Missouri to customers in its service areas and has a certificate of service authority to provide certain telecommunications services. Empire is an "electrical corporation," a "water corporation," a "telecommunications company" and a "public utility," all as defined in Section 386.020, RSMo, and Empire is subject to the jurisdiction and supervision of the Commission as provided by law. Empire has a wholly owned subsidiary that is a "gas corporation."

2. Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding the filing of this Application. Empire has no overdue Commission annual reports or assessment fees. Empire's documents of incorporation have been previously filed with the Commission in Case No. EF-94-39 and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). A Certificate of Authority from the Missouri Secretary of State to the effect that Empire, a foreign corporation, is duly authorized to do business in the State of Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated herein by reference.

3. Ozark is a rural electric cooperative organized and existing pursuant to Chapter 394, RSMo, with its headquarters located at 10943 N. Highway 39, Mount Vernon, Missouri. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri counties. Ozark has no pending or final judgments or decisions against it from any state or federal agency or court which involve its customer service or rates within the three years immediately preceding the filing of this Joint Application. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for Ozark was filed in Case No. EO-2006-0213 and is incorporated herein by reference.

Correspondence and Communication

4. Correspondence, communications, orders, and decisions in regard to this Application should be directed to:

Sarah B. Knowlton, # 71361

General Counsel – Central Region
116 North Main Street
Concord, New Hampshire 03301
Telephone: (603) 724-2123
Facsimile: (603) 386-6583
Email: sarah.knowlton@libertyutilites.com

Megan E. Ray
Andereck, Evans, Lewis, Figg & Battagler, L.L.C.
3816 S. Greystone Court, Suite B
Springfield, MO 65804
Telephone: 417-864-6401
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William D. Steinmeier
William D. Steinmeier, P.C.
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
Telephone: 573-659-8672
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Email: wds@wdspsc.com

The Territorial Agreement

5. **The Service Areas.** Subject to the terms and conditions of the Third Territorial Agreement between Ozark Electric Cooperative and The Empire District Electric Company (the “Agreement”), the Applicants have agreed to a boundary change affecting a small parcel of land within the City of Ozark, as described in Section 1 of the Third Territorial Agreement. Applicants have attached a copy of the Agreement to this Application as **Appendix A**, which is incorporated by reference into this Application and made a part hereof for all purposes. As required by 4 CSR 240-3.130(1)(A), a metes and bounds description, and a map, of the area affected by the Third Territorial Agreement are a part of the Agreement and are incorporated by reference into this Application and made part hereof for all purposes. Each Applicant will continue to have

service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Territorial Agreement.

The purpose of this Third Territorial Agreement is to allow Ozark to provide electrical service to an electronic sign on a small tract of land within the city limits of Ozark, Missouri, owned by Mr. Ron Kisse. Ozark already provides electrical service to the tract, serving a pre-existing building operated by CenturyLink, and can hang an additional meter on an existing pole to provide electricity to Mr. Kisse's sign.

6. **No Changes of Suppliers.** The Agreement does not require transfer of any facilities or customers between the Applicants, so no list of structures and persons whose utility service would be changed by the Agreement, as required by 4 CSR 240-3.130(1)(E), is included.

7. **Tariff.** In accordance with 4 CSR 240-3.130(2), Empire will supply the referenced "illustrative tariff" when it has been prepared.

8. **Other Electric Suppliers.** To Applicants' knowledge and belief, there are no other electric suppliers serving in the areas covered by this Agreement.

9. **Public Interest.** The Agreement is not detrimental to the public interest and the proposed change in electric service area designation is in the public interest, because the Agreement allows Ozark to provide electric service to the electronic sign in the most efficient manner possible. This will prevent duplication of electric service facilities and will allow the Applicants to avail themselves of prior investment and planning for serving the public.

Application Fee

10. The Commission's filing fee required by 4 CSR 240-3.130(3) is submitted herewith. Pursuant to the Agreement, the Commission's filing fee is being split between the Applicants.

WHEREFORE, Applicants respectfully request that the Commission issue its report and order: (a) finding that the designation of electric service areas is not detrimental to the public interest and approving the Applicants' Third Territorial Agreement; and (b) authorizing Applicants to perform in accordance with the terms and conditions of the Agreement.

Respectfully submitted,

ATTORNEYS FOR THE EMPIRE
DISTRICT ELECTRIC COMPANY:



Sarah B. Knowlton, # 71361
General Counsel – Central Region
116 North Main Street
Concord, New Hampshire 03301
Telephone: (603) 724-2123
Email: sarah.knowlton@libertyutilites.com

ATTORNEYS FOR OZARK
ELECTRIC COOPERATIVE:



Megan E. Ray #62037
Andereck, Evans, Lewis, Figg & Battagler, L.L.C.
3816 S. Greystone Court, Suite B
Springfield, MO 65804
Telephone: 417-864-6401
Facsimile: 417-864-4967
Email: mray@lawofficemo.com

ATTORNEY FOR RON KISSEE:

A handwritten signature in black ink, appearing to read "William D. Steinmeier", written over a horizontal line.

William D. Steinmeier, #25689

WILLIAM D. STEINMEIER, P.C.

2031 Tower Drive

P.O. Box 104595

Jefferson City, MO 65110-4595

Phone: 573-659-8672

Fax: 573-636-2305

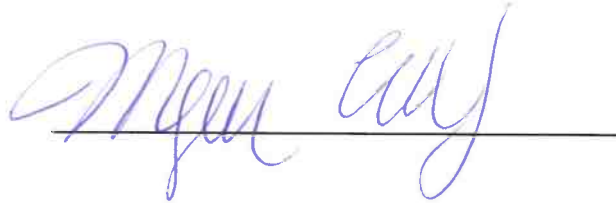
Email: wds@wdspsc.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on June 4, 2019, to the following:

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounsel@psc.mo.gov



STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 10th day of June 2019.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 10, 2019

File/Case No. EO-2019-0381

**Missouri Public Service
Commission**
Staff Counsel Department
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P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel
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County of Christian, Missouri
County Commission Clerk
100 W Church, Rm. 206
Christian County Courthouse
Ozark, MO 65721

**Empire District Electric Company,
The**
Sarah Knowlton
116 North Main Street
Concord, NH 03301
sarah.knowlton@libertyutilities.com

Ozark Electric Cooperative, Inc.
Megan E Ray
3816 S Greystone Ct., Suite B
Springfield, MO 65804
mray@lawofficemo.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.