

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

CASE NO. 9470

*
In the matter of the application of the Missouri *
Public Service Corporation for a blanket certi- *
ficate of convenience and necessity, authorizing *
it to construct, operate, and maintain extensions *
to its electric transmission and distribution *
lines (exclusive of incorporated municipalities) *
in all or portions of Jackson, Lafayette, Pettis, *
Johnson, Cass, Bates, Henry, Benton, St. Clair, *
Vernon, Cedar, Barton, Dade, Harrison, Mercer, *
Grundy and Daviess Counties; and to authorize *
a proposed territorial boundary line in Living- *
ston County; all within the State of Missouri; *
all of the territory and territorial boundary *
lines in the above mentioned Counties, being *
more fully shown and described on the maps and *
in the descriptions attached hereto, marked *
Exhibits A-1 to A-19, inclusive. *
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REPORT AND ORDER

This case is before the Commission upon the application of the Missouri Public Service Corporation, hereinafter referred to as the applicant, for an order granting it a certificate of convenience and necessity to construct, maintain and operate, as a public utility, electric transmission and distribution lines for the purpose of furnishing electric service to the public in the counties of Jackson, Lafayette, Pettis, Johnson, Cass, Bates, Henry, Benton, St. Clair, Vernon, Cedar, Barton, Dade, Harrison, Mercer, Grundy and Daviess, all in the State of Missouri. The areas within said counties in which the applicant seeks authority to construct the electric lines, as the public convenience and necessity require, are more fully hereinafter described.

In Livingston County, in which applicant now maintains and operates electric transmission lines, it asks that the Commission designate in this case the rural area of that county in which the applicant shall be

expected to construct and maintain electric lines for the purpose of serving the public located therein. It has heretofore received a certificate of convenience and necessity to construct, maintain and operate lines along designated routes, those lines now being in operation, but has not received authority to construct any additional lines along other routes. The County Court has not authorized it to locate electric pole lines along and across any other highways of that county.

The case was heard by the Commission at Jefferson City, Missouri, after due notice had been given, on the 17th day of December, 1937, at which time all interested parties were given an opportunity to be heard.

The applicant is a Missouri corporation engaged as a public utility in the rendition of water, gas and electric service in cities and towns, as well as rural areas adjacent to said cities and towns, in the aforesaid counties. Its principal operating office and postoffice address is Warrensburg, Missouri.

The evidence shows that the applicant has received, by orders of the respective county courts hereinabove named, with the exception of Livingston County, authority to construct, maintain and operate electric distribution lines along and across the public streets, roads and alleys, and other public places and grounds in each of the counties above named. Certified copies of the court orders of those counties are filed as a part of the application in this case. The applicant has also been granted authority by the various municipalities wherein it now operates in the aforesaid counties to construct, maintain and operate electric transmission lines and distribution systems within the corporate limits of the said towns and villages. As a condition precedent to the granting of a certificate of convenience and necessity by this Commission in any of the towns now served, or for the construction of electric lines along certain routes in the above counties, the applicant has presented to the Commission proof that it had received the required consent of the proper municipal authorities or orders of the respective county courts for the location of the proposed pole line

or lines along and across the streets, roads and highways of said incorporated or unincorporated areas, as the jurisdiction of the local authorities may require.

Attached to the application, marked Exhibits "A-1" to "A-19" inclusive, are maps and verbal descriptions of the respective areas of the counties in which the applicant seeks a certificate of convenience and necessity in this case to extend its lines. These exhibits show that the applicant does not ask that the authority sought cover all the counties above named. We note that the entire areas of Benton, Johnson and Harrison are included, while only portions of the others are included. A general map, marked Exhibit "A-1", shows the exact location of the lines delineating the territory in which the applicant seeks a certificate at this time, with the exception of Livingston County.

At the hearing the applicant corrected its petition wherein it describes the boundary line heretofore determined in a formal action before this Commission between the areas now served by the applicant and the Kansas City Power & Light Company. The two parties are in agreement in this description.

In Livingston County the applicant does not have authority from the county court to locate its lines as it may desire along the highways of that county, so without such consent of local authority it does not include in its petition a request for a certificate of convenience and necessity for that county, but asks that the Commission declare the line it has shown in its exhibit, and proposes to have it as a matter of record, as outlining the area in Livingston County wherein it should be expected to operate and extend service as against other public utilities which are now operating and may be called upon to serve the remaining portions of the county. As we mentioned above, it now has a line in that area, the northwestern part of Livingston County, and is operating a distribution system in the town of Chula. For these it has been granted, from time to time, certificates of convenience and necessity for the construction of

the lines it now has in operation and for the operation of those lines.

The Prosecuting Attorney of Livingston County appeared at the hearing and asked that the case be continued in order that the county could have more time to look into this case, but upon further presentation of the issues involved and the position of the applicant, it was determined that the hearing should be held. It was apparent at the hearing that the applicant was not in a position to present a request for any authority of any kind concerning its operations in Livingston County, and in reviewing the evidence submitted the Commission now finds that in view of Section 5193 of the 1929 Revised Statutes of Missouri, the applicant was in no position to present any request for authority to operate in Livingston County. It is now operating at certain points in that county, but should it desire to extend its lines, our understanding of the law is that it will be required to seek a certificate of convenience and necessity for any further extension, and as a condition precedent to the granting of such authority, it must show that it has received the consent of the county court either for the specific line or for a prescribed area, as the court may determine. Our view of the position of the applicant in this case insofar as Livingston County is concerned is that the applicant can only ask to have the record show the area in which it professes its willingness to furnish the service should anyone want it and the conditions warrant the extension. The Commission has no power to grant any right or privilege upon such request. Nothing further need be said on that point in this case.

The Consumers Public Service Company, with headquarters at Brookfield, Missouri, now engaged in furnishing electric service in Iman, Sullivan, possibly Grundy and Mercer Counties, appeared and was opposed to the applicant's proposed line wherein it runs north and south along the east side of the City of Princeton. The Consumers Public Service Company states that it now has a line extending to Princeton over which it purchases from the municipal plant at Princeton electrical energy for transmission

over that line to its transmission system used in furnishing electric service to a number of cities and towns in those counties. The Consumers Public Service Company did not indicate that it had any demand for service in the area involved at this time, and did not indicate when it may be called upon to furnish the service. The applicant likewise did not indicate that it had any calls for service in that particular area at this time. This conflict will be discussed further below.

The evidence shows that the applicant has paid the \$5.00 filing fee required by law.

Attached to the application, marked Exhibits "B-1" to "B-17" inclusive, are certified copies of the orders of the county courts that have granted the applicant authority to construct electric transmission and distribution lines along and across the highways of the respective counties. The counties are Jackson, Lafayette, Pettis, Johnson, Cass, Bates, Henry, Benton, St. Clair, Vernon, Cedar, Barton, Dade, Harrison, Mercer, Grundy and Daviess.

The applicant also files as Exhibits "C" to "C-11" inclusive, a list of the names of other electric utilities whose systems are adjacent to the territory in which it is located and in which it seeks the authority herein named. Copies of correspondence it has had with those utilities pertaining to this matter are also attached. Also, as Exhibits "D" to "D-20", is a list of the names of other public utilities, communication and pipeline, whose lines may be affected by the applicant's construction from time to time, together with correspondence it has had with those utilities. Its Exhibit "E" lists the names of all parties who are interested as owners or operators of telephone lines, mutual, individually owned or otherwise, to whom letters were sent setting forth the authority the applicant is asking in this case. All these parties were given notices of the hearing herein.

The applicant states that before constructing any of its

transmission lines along the state highways it will secure from the State Highway Commission such authority as may be required by law for the proposed construction.

Applicant states that because of the increasing demand for electric service it is required continuously to extend and expand its transmission and distribution system, and that under the procedure it has heretofore followed under the laws of the State of Missouri, it has made an application for each extension, regardless of size, to serve new customers. During the year 1937, up to the date of the hearing, it made application for some 10 minor extensions, and it now has filed with it requests for service by parties located in rural territory, some of them very anxious to get the service at an early date. The applicant further states that each of these smaller extensions heretofore made have cost anywhere from \$31.00 to \$55.00 per extension. It claims that in some instances the cost of securing the certificate of convenience and necessity has amounted to more than the actual cost of constructing the physical property. By this case it hopes to eliminate that added cost, as well as expedite its procedure in arranging to take care of requests for service.

Applicant states that the transmission and distribution lines it will construct from time to time will be constructed in conformity with the National Electrical Safety Code, its specific rules and regulations on file with the Commission, and as the laws of the State of Missouri and the rules of this Commission may require. It further states that said lines and all equipment connected therewith will be maintained in a reasonably safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the service of other aerial lines.

In carrying out any construction program for which it now seeks authority, the applicant states that before the construction of any extension or before any major change is made in the location, phase or

voltage of any existing electric transmission line in the territory described in this proceeding, it will give at least fifteen days' notice to any and all other public utility or utilities whose lines or system may be affected. In giving such notice applicant agrees to show, in sufficient detail, what the proposed construction or alteration will be, to enable the representatives of the affected utilities to determine what action they may desire to take with reference thereto. Wherever such extensions or major alterations may cause inductive or other electrical interference with the existing lines of other public utility or utilities, the expense, if any, incurred in making such changes shall be determined by agreement between the parties operating such lines and the applicant, and in case of failure of the parties to reach such agreement in settlement thereof, the matter may be submitted to the Commission for arbitration and determination in the manner provided for in Section 118 of the original Act creating the Public Service Commission of the State of Missouri, now Section 5241 of the 1929 Revised Statutes of Missouri.

Counsel for the Barton County Electric Cooperative and the Ozark Electric Cooperative appeared in the interest of those cooperative associations. Those associations, incorporated under the laws of the State of Missouri, are composed of residents within the prescribed county or area who have associated themselves together and incorporated for the purpose of borrowing from the Federal Government, through the Rural Electrification Administration, funds necessary to construct rural lines within the area for the purpose of securing for themselves electric service. Their special interest in this case is that they be given notice the same as any other public utility by the applicant prior to the construction of any line the applicant may determine is required in the area in which it now seeks a certificate and in which the cooperative will operate. We see no reason why that information should not be given to the cooperative as well as to any other public utility. It must be understood, however, that with the granting

of the authority herein sought by the applicant all parties of interest now existing in the counties have notice of the applicant's authority, and further, that if at any time in the future the applicant determines to construct a line along a given highway, it will give notice to those utilities who may have lines along or across that particular highway or route of the line, whose service or the operation of whose line may be adversely affected by the construction and operation of the proposed line. If there is no other line along the highway or across it that may be crossed or paralleled by the construction of the applicant at the particular time, we see no reason why notice should be given to any utility, including the cooperative who may have lines in other parts of the county but not affected by the particular construction.

It is not understood by the Commission that the applicant is seeking exclusive authority to operate in the area, but authority to extend its electric lines from its present system or from the system that it may have in existence at any given time in the future, in order that prospective customers adjacent to the then existing system can receive electric service as promptly as possible and at minimum expense. It is required, 325 Mo. 1217, 315 SW (2) 67, to secure from this Commission a certificate of convenience and necessity before beginning any work to extend its service to new customers who reside outside of incorporated cities, towns and villages within the area herein prescribed. In order to avoid delay in securing that authority, which in turn delays the customer from receiving the service and increases the cost of the construction, it claims it seeks authority to extend its lines to new customers within the prescribed area in conformity with its extension rule now in effect or the extension rule it may have in effect at the time an extension is to be made.

A utility, under 315 Mo. 312, 286 SW 84, is required to extend its lines to a new customer or customers who will comply with the terms

and requirements of that utility's extension rule. Likewise the Commission cannot require the utility to extend its lines to any new customer except in conformity with the existing extension rule that may be filed and in effect. So it is not understood that the applicant intends to change its practice in extending its lines to new customers within the prescribed area, but will continue to extend its lines in conformity with its extension rule, taking into account the various conditions, including economic conditions, surrounding each and every proposed extension. Of course the reasonableness of its extension rule can be examined at any time conditions may warrant. It therefore appears to the Commission beneficial to the public and desirous to allow the applicant to use its funds to make extensions where expected revenues will justify at as low cost as good construction will permit, so that the public served will have the benefit of the lowest possible rates for the service to be rendered. Should the Cooperative have electric lines in operation along the route wherein the applicant may desire to build electric lines, the applicant, of course, will give the Cooperative notice of the proposed construction, and if the parties cannot agree upon the issues involved the matter may be submitted to the Commission for arbitration.

With reference to the objections made by the Consumers Public Service Company mentioned above, we see no reason at this time for making any changes in the line as proposed for Mercer County, because neither the applicant nor the Consumers Public Service Company has submitted to the Commission any proof that they expect in the near future to make any extensions in the rural area adjacent to the city of Princeton. Should the applicant have a request to extend its lines in that area that may adversely affect the Consumers Public Service Company but not now served by the Consumers Public Service Company, the matter can be brought to the attention of the Commission for determination of the particular issues that

may be involved at that time, and should the Consumers Public Service Company have a request for service in the area now proposed to be covered by the applicant, it will be required to bring the matter to the attention of the Commission for a certificate of convenience and necessity to serve the area not heretofore served by it. Thereupon the applicant will be given proper notice of any proposed extension into the area included by the applicant in the present case.

Upon the evidence herein submitted, the Commission finds that the authority herein sought and that which the Commission can give should be granted. We find that similar authority has been granted to other utilities, and our records show that the granting of such authority has, in no instance, affected adversely the interests of the public served. Such authority has been granted the Union Electric Company of Missouri, the Kansas City Power & Light Company, The Empire District Electric Company, the Ozark Utilities Company and the Lawrence County Water, Light & Cold Storage Company.

After due consideration, it is therefore

ORDERED: 1. That the Missouri Public Service Corporation be and is hereby authorized to construct, maintain and operate electric transmission lines and distribution systems over, along and across the highways of the Counties of Jackson, Lafayette, Pettis, Johnson, Cass, Bates, Henry, Benton, St. Clair, Vernon, Cedar, Barton, Dade, Harrison, Mercer, Grundy and Daviess, and along such other routes as may be properly provided in said counties, and along private rights-of-way as may be secured by the applicant, all in the State of Missouri, with authority to furnish electric service to all persons in the area for which this certificate is granted and in conformity with the extension rules that the applicant, from time to time, may have on file with this Commission and in effect, such area being fully described on the map filed herein by the applicant, attached to its application and marked Exhibit "A-1", with the boundary line changed as shown by the testimony taken in the hearing, wherein the applicant amended

the boundary between it and the Kansas City Power & Light Company. The aforesaid map is hereby referred to, with the said correction, and made a part of this order. The authority herein granted, however, does not grant permission to serve within the corporate limits of any municipality unless the consent of the proper municipal authorities shall first have been obtained, and until a certificate of convenience and necessity for the operation in said municipal area shall have been secured from this Commission.

ORDERED: 2. That said electric transmission and power lines and all equipment connected therewith shall be constructed so as to conform to the specific rules and regulations contained in the National Electrical Safety Code, issued by the United States Bureau of Standards, and where said transmission lines cross the tracks of any railroad company, said crossing shall be constructed so as to conform to the specific rules and regulations contained in the Commission's General Order No. 24, issued August 17, 1925. Furthermore, that said applicant herein shall maintain and operate said transmission lines and all equipment connected therewith in a reasonably safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the service of other aerial lines, and shall give reasonable notice to any other utility whose service might be affected by any proposed construction or change; and that the Commission fully retain jurisdiction of the parties and the subject matter of this proceeding, on the evidence now before the Commission, for the purpose of making such further order or orders as may be necessary.

ORDERED: 3. Wherever said electric transmission lines may or do parallel aerial lines belonging to or operated by other companies or individuals or cross such line or lines or come in close proximity thereto so as to cause induction or other electrical interference, thereby making necessary changes in said line or lines or in the said line or lines of the

applicant for the general benefit and safety of the public, the expense, if any accrued in making such changes shall be determined by an agreement between the parties operating such lines and the applicant, and in case of failure of the parties to reach such agreement in settlement thereof, the matter may be submitted to the Public Service Commission for arbitration and determination as provided for in Section 118 of the Original Act creating the Public Service Commission of this State, now Section 5241 of the Revised Statutes of Missouri for 1929.

ORDERED: 4. That before beginning the construction of any electrical power and transmission line in the territory herein designated and before a change is made in the location, phase or voltage of any electric line that may be in operation, the applicant shall give all other utilities, associations or persons whose lines are or may be affected by such change or construction at least 15 days' written notice, showing in sufficient detail what the proposed construction or change will be to enable competent representatives of those utilities, associations or persons to determine what action the particular utility or utilities, associations or persons may desire to take with reference thereto.

ORDERED: 5. That this order shall take effect ten days after the date hereof, and that the Secretary of the Commission shall forthwith serve on all parties interested herein, a certified copy of this report and order, and that the applicant and all other interested parties shall notify the Commission before the effective date of this order, in the manner prescribed by Section 25 of the Public Service Commission Law, (Sec. 5145, R. S. Mo. 1929), whether the terms of this order are accepted and will be obeyed.

BY THE COMMISSION,

Mary Fidler
MARY FIDLER

ACTING SECRETARY.

James, Chr., Anderson, Boyer,
Nortoni and Ferguson, CC. Concur.

Dated at Jefferson City, Missouri,
this the 18th day of January, 1938.