

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of The Empire District )  
Electric Company and White River Valley Electric )  
Cooperative for Approval of a Seventh Written Territorial )  
Agreement Designating the Boundaries of Exclusive )  
Service Areas within Christian and Taney Counties. )

**File No. EO-2012-0192**

## ORDER DIRECTING NOTICE OF APPLICATION FOR APPROVAL OF TERRITORIAL AGREEMENT AND ORDER DIRECTING FILING

Issue Date: December 21, 2011

Effective Date: December 21, 2011

On December 20, 2011, The Empire District Electric Company and White River Valley Electric Cooperative (collectively, "Applicants") filed a joint application with the Missouri Public Service Commission ("Commission") for approval of a seventh territorial agreement. The Applicants propose to specifically designate the boundaries of three exclusive service areas within portions of Christian and Taney County in southwest Missouri. The Applicants state that approval of the seventh territorial agreement will not require transfer of any facilities or customers between the Applicants and will not change the present boundaries of any certificated service area.

The law requires the Commission to rule on the application no later than 120 days from the application's filing date,<sup>1</sup> and provides the right to a hearing.<sup>2</sup> The right to a hearing on a territorial agreement signifies a contested case.<sup>3</sup> A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities<sup>4</sup>

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<sup>1</sup> Section 394.312.4, RSMo Supp. 2010.

<sup>2</sup> Section 394.312.5, RSMo Supp. 2010.

<sup>3</sup> Section 536.010(4), RSMo Supp. 2010.

<sup>4</sup> Sections 536.060(3) and 536.063(3), RSMo 2000.

and a decision without a hearing,<sup>5</sup> including by stipulation and agreement.<sup>6</sup> This notice does not require any party to file an answer.<sup>7</sup> The Commission's rules of discovery are set forth at 4 CSR 240-2.090.

The statutes provide that "notice of such filing 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."<sup>8</sup> No such regulation contains any provision for notice, and the application alleges that there are no other electrical suppliers in the area subject to the agreement. Therefore, the Commission will order notice delivered to elected officials and published in newspapers, 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 to the county commissioners of Christian County and Taney County, Missouri.
2. The Commission's Public Information Office shall send notice to the members of the General Assembly representing Christian County and Taney County, Missouri and to the newspapers and other media serving those counties.
3. Any motion to intervene shall be filed no later than January 20, 2012.
4. The Commission's staff shall file a recommendation on the application no later than February 3, 2012.

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<sup>5</sup> Sections 536.060, RSMo 2000.

<sup>6</sup> Section 394.312.5, RSMo Supp. 2010; 4 CSR 240-2.115.

<sup>7</sup> Section 536.067(2)(d), RSMo 2000.

<sup>8</sup> Section 394.312.4, RSMo Supp. 2010.

5. This order is effective upon issuance.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed  
Secretary

( S E A L )

Michael Bushmann, Regulatory Law  
Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 21st day of December, 2011.