

# 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 an )  
Exclusive Service Area for Ozark within a Tract )  
of Land in Greene County, Missouri and )  
Associated Requests for Approval of a Transfer )  
of Facilities and Change of Supplier. )

Case No. EO-2008-0043

## STATEMENT OF POSITION OF THE EMPIRE DISTRICT ELECTRIC COMPANY

Comes now The Empire District Electric Company, by and through its counsel, and for its statement of position relating to the Issue List filed on December 10, 2007, by the Staff of the Commission, respectfully states as follows:

Issue 1: The Empire District Electric Company and Ozark Electric Cooperative seek approval of a territorial agreement that would allow Ozark Electric Cooperative to provide electric service in The Lakes at Shuyler Ridge subdivision exclusive of The Empire District Electric Company. Is that territorial agreement in the public interest?

**Position Statement:** Yes. It also is "in total ... not detrimental to the public interest."

Issue 2: As proposed, is the related sale to Ozark Electric Cooperative of facilities The Empire District Electric Company is using to provide electric service to customers in The Lakes at Shuyler Ridge subdivision not detrimental to the public interest?

**Position Statement:** Yes.

Issue 3: For structures being provided with electric service in The Lakes at Shuyler Ridge subdivision prior to the proposed transfer of facilities to Ozark, is changing the supplier of electric service from The Empire District Electric Company to Ozark Electric Cooperative in the public interest for a reason other than a rate differential?

**Position Statement:** Yes.

Issue 4: Can a rural electric cooperative lawfully add service to new structures in an area annexed by a city with inhabitants of over 1,500 when it does not have a franchise with that city, but it does have a territorial agreement with an electrical corporation regulated by the Public Service Commission which gives the rural electric cooperative exclusivity with respect to that electrical corporation in the provision of electric service in that area annexed by the city? If the rural electric cooperative does have a franchise with the city, does that change the result?

**Position Statement:** This is not a valid or proper issue in this proceeding because it presents a hypothetical question of law. The Commission is not a court and is not a part of the judicial branch of government, and as such, it has no power to declare any principle of law.

**WHEREFORE**, The Empire District Electric Company has stated its position relating to the Issue List filed by the Staff.

Respectfully submitted,

**/s/ Gary W. Duffy**

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Certificate of Service

I hereby certify that copies of the foregoing have been transmitted by electronic mail to all counsel of record this 14<sup>th</sup> day of December 2007.

**/s/ Gary W. Duffy**