

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
File No. EO-2025-0146, In the Matter of the Application of Michael R. Davis for
Change in Electric Supplier from Ozark Electrical Cooperative to The Empire
District Electric Company d/b/a Liberty

FROM: Coty L. King, Senior Compliance Analyst
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/s/ Coty L. King 02/20/2025
Engineering Analysis Dept. / Date

SUBJECT: Staff Memorandum Recommending Denial of Application

DATE: February 20, 2025

STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) deny the Application of Mr. Davis for a Change in Electric Service Suppliers (“Application”) at ** [REDACTED] **, ** from Ozark Electric Cooperative, Inc. (“Ozark Electric”) to The Empire District Electric Company, d/b/a Liberty, (“Empire”), concluding that the Application does not meet the minimum standard for public interest for reasons other than a rate differential pursuant to 393.106.2 and 394.315.2, RSMo (2021)¹ and 20 CSR 4240-3.140.²

¹ Section 394.315.2 states, in relevant part, that “...Once a rural electric cooperative, or its predecessor in interest, lawfully commence supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The 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 and the commission is hereby given jurisdiction over rural electric cooperatives to accomplish the purpose of this section. The commission’s jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction.”

² Section 393.106.2 states, in relevant part, that “...Once an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The 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. The commission’s jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction.”

OVERVIEW

On November 4, 2024, Michael R. Davis filed an application with the Commission requesting a change of electric supplier from Ozark Electric to Empire. Mr. Davis indicated in his application that Ozark Electric implemented a demand charge that altered his electrical bill drastically. He further explains that he had both Ozark Electric and Sun Solar check the system and was told the system is functioning in a proper manner. The customer has made mention of rate-differentials being a contributing factor, both in his Application and in communication with Staff.

In Empire's Response to the Application, filed on November 26, 2024, Empire indicates the change of supplier request is based only on a perceived rate differential³.

In Ozark Electric's Response, filed on November 27, 2024, Ozark Electric indicates the change of supplier request is based only on a perceived rate differential⁴.

Staff is currently not aware of any unsatisfied judgments or decisions against Empire in any state or federal agency or court involving customer service or rates that would have bearing on the immediate case. This is the only open Change of Supplier cases involving Empire District Electric. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

DISCUSSION

In previous Change of Provider Cases, the Commission has identified ten factors⁵ when considering the "...meaning of 'public interest' for a change of supplier." To gather the information necessary to evaluate the ten factors Staff propounded Data Request(s) on Empire concerning the closest facility, cost of construction and communications they have had with Mr. Davis. Staff also propounded Data Request(s) on Ozark Electric on bills and communication. Additionally, Staff spoke with Mr. Davis on January 21, 2025 to further understand Mr. Davis' concerns and to explain and gather information regarding the ten factors. On this call Mr. Davis

³ Case No. EO-2025-0146 Item 4 Page 2 section 6.

⁴ Case No. EO-2025-0146 Item 5 Page 2 section 7.

⁵ Case No. EO-2017-0277.

discussed his frustrations with the solar system and how he has had Ozark Electric and Sun Solar come to his property to ensure his solar system is working properly. Mr. Davis also expressed his concerns on the difference in rates between Ozark Electric and Empire. Specifically, that the demand charges have just gone up for Ozark Electric. Mr. Davis did not state that his service was inadequate or any safety concerns.

The ten factors, along with Staff's analysis are:

- (1) **Whether the customer's needs cannot adequately be met by the present supplier with respect to either the amount or quality of power;**

Mr. Davis has not alleged that Ozark Electric's service reliability is inadequate.

- (2) **Whether there are health or safety issues involving the amount or quality of power;**

Mr. Davis did not allege any electrical safety issues with the current provider.

- (3) **What alternative a customer has considered, including alternative with the present supplier;**

Mr. Davis has been in contact with Ozark Electric. He has had Ozark Electric come to his residence to check and ensure his solar system is working correctly. Mr. Davis states that it all comes down to "Billing/ Production/ Peak Demand/ Service fees."⁶

- (4) **Whether the customer's equipment has been damaged or destroyed as a result of a problem with the electric supply;**

Staff is not aware of any claims by Mr. Davis of damaged equipment as a result of the electric service provided.

- (5) **The effect the loss of the customer would have on the present supplier;**

Ozark Electric has not indicated what possible effects losing this customer may have on its system/operational though any impacts are likely negative on Ozark Electric and its customer base.

⁶ Case No. EO-2025-0146 Item 1 Page 2 section 6.

(6) Whether the change in supplier would result in a duplication of facilities, especially in comparison with the alternatives available from the present supplier, a comparison that should include;

- (i) The distance involved and cost of any new extension, including the burden on others – for example, the need to procure private property easements, and
- (ii) The burden on the customer relating to the cost or time involved, not including the cost of the electricity itself.

Approval of the Application would not result in duplication of any facilities as Empire already has a transformer on the north and south side of Mr. Davis' residence. Estimated construction cost for Empire to set a new pole is \$4,845.88. The Ozark Electric has a circuit that currently provides service to the customer's property.

(7) The overall burden on the customer caused by the inadequate service including any economic burden not related to the cost of electricity itself and any burden not considered with respect to factor 6(ii) above;

Mr. Davis has not alleged that Ozark Electric's service reliability is inadequate. Rather during the phone call on January 21, 2025, Mr. Davis discussed the money lost to the peak demand charge and how solar was a terrible investment.

(8) What efforts have been made by the present supplier to solve or mitigate problems;

As discussed under the third factor, Ozark Electric has been to the customer's residence to perform a check of the solar system. During this check Mr. Davis was told that the solar system is performing as it should.

(9) The impact the Commission's decision may have on economic development on an individual or cumulative basis;

No party has discussed the potential for positive or negative impact to economic development resulting from the approval of the Mr. Davis Application. Economic development is not a significant factor in this Change of Supplier request given that Mr. Davis's has not expressed plans for future development. Economic burden to the Mr. Davis is discussed under factor 7.

(10) The effect the granting of authority for a change of suppliers might have on any territorial agreements between the two suppliers in question, or on the negotiation of territorial agreements between the electric service suppliers.

Staff is unaware of any existing Territorial Agreements between Ozark Electric and Empire, any discussions between Ozark Electric and Empire regarding any Territorial Agreements, or the effect on such negotiations if the Commission should approve the Application.

Besides the ten public interest factors, Staff is concerned that Mr. Davis reported that the main issue is that Ozark Electric has implemented a peak demand charge and this hinders any possibility of savings to be gained from Mr. Davis solar generation.

CONCLUSION

Staff recommends the Commission deny the Application of Mr. Davis. Mr. Davis stated the main reason for the change of service provider is the peak demand charge that Ozark Electric implemented. Empire could seek to implement residential demand charges in the future. Further, Staff itself has recommended the Commission move toward residential demand charges in numerous electric rate cases. Staff also notes that there are neither electrical safety nor duplication concerns with either result and economic development will also be unaffected.

