

**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
OZARK ELECTRIC COOPERATIVE**

Comes now Ozark Electric Cooperative, 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. This issue statement improperly changes the statutory standard for Commission approval of territorial agreements under Section 394.312.4 RSMo. This territorial agreement is consistent with the intent of the Legislature to provide a way for the orderly provision of electric service to the public through displacement of local competition. It should be approved because uncontested facts show that it “in total is 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. The sale of facilities serves to make the parties whole for their respective investments, to make best use of infrastructure construction time and resources, and to avoid new disruptions of right of ways and landscaping.

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. The transfer of service between power suppliers for these customers is an integral part of achieving the public good made available by the territorial agreement.

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 issue, as stated, improperly invites the Commission to exceed its authority conferred in Section 394.312 RSMo. Subject to this objection, Ozark Electric Cooperative states that it is fully vested with statutory powers and franchise authority to carry

out the intent of this territorial agreement regardless of subsequent annexation of the development.

WHEREFORE, Ozark Electric Cooperative has stated its position relating to the Issue List filed by the Staff.

Respectfully submitted,

**ANDERECK, EVANS, MILNE,
WIDGER & JOHNSON, L.L.C.**

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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 14th day of December 2007.

/s/ Rodric A. Widger