

ANDERECK, EVANS, MILNE, PEACE & JOHNSON, L.L.C.

ATTORNEYS AT LAW

700 EAST CAPITOL AVENUE

COL. DARWIN MARMADUKE HOUSE

P.O. BOX 1438

JEFFERSON CITY, MISSOURI 65102-1438

TELEPHONE 573-634-3422

FAX 573-634-7822

EUGENE E. ANDERECK

TERRY M. EVANS

ERWIN L. MILNE

JACK PEACE

CRAIG S. JOHNSON

RODRIC A. WIDGER

GEORGE M. JOHNSON

BEVERLY J. FIGG

WILLIAM S. LEWIS

VICTOR S. SCOTT

COREY K. HERRON

LANETTE R. GOOCH

SHAWN BATTAGLER

ROB TROWBRIDGE

JOSEPH M. PAGE

LISA C. CHASE

DEIDRE D. JEWEL

JUDITH E. KOEHLER

ANDREW J. SPORLEDER

OF COUNSEL

MARVIN J. SHARP

PATRICK A. BAUMHOER

GREGORY C. STOCKARD (1904-1993)

PHIL HAUCK (1924-1991)

July 17, 2002

Secretary of PSC
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED³

JUL 19 2002

Re: Case No. EO-2002-1091

Dear Secretary:

**Missouri Public
Service Commission**

Enclosed for filing please find an original and eight (8) copies the Direct Testimony of Dan L. Brown in the above-referenced matter. A copy has been sent to all attorneys of record listed below.

Thank you for seeing this filed.

Sincerely,

Lisa Chase

Lisa Cole Chase

LCC:tr

Enc.

cc: Bill Bobner
General Counsel
Public Counsel

Trenton Office
9th And Washington
Trenton, Missouri 64683
660-359-2244
Fax 660-359-2116

Springfield Office
1111 S. Glenstone
P.O. Box 4929
Springfield, Missouri 65808
417-864-6401
Fax 417-864-4967

Princeton Office
207 North Washington
Princeton, Missouri 64673
660-748-2244
Fax 660-748-4405

Smithville Office
119 E. Main Street
P.O. Box. 654
Smithville, Missouri 64089
816-532-3895
Fax 816-532-3899

EXHIBIT NO. _____
ISSUE: TERRITORIAL AGREEMENT
WITNESS: DAN L. BROWN
TYPE OF EXHIBIT: DIRECT
TESTIMONY
SPONSOR: CUIVRE RIVER ELECTRIC
COOPERATIVE
CASE NO. EO-2002-1091

FILED³
JUL 19 2002

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Union Electric)
Company d/b/a AmerenUE and Cuivre River)
Electric Cooperative for Approval of a Written)
Second Territorial Agreement Designating the Boundaries)
of Each Electric Service Supplier within Portions of)
Lincoln and Warren Counties in Missouri.)

**Missouri Public
Service Commission**
Case No. EO-2002-1091

DIRECT TESTIMONY

OF

DAN L. BROWN

JEFFERSON CITY, MISSOURI

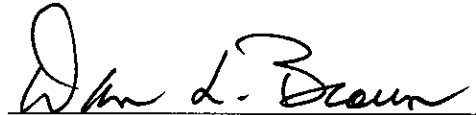
JULY 19, 2002

EXHIBIT NO. _____
ISSUE: TERRITORIAL AGREEMENT
WITNESS: DAN L. BROWN
TYPE OF EXHIBIT: DIRECT
TESTIMONY
SPONSOR: CUIVRE RIVER ELECTRIC
COOPERATIVE
CASE NO. EO-2002-1091

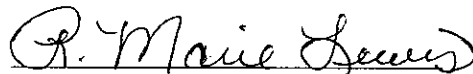
AFFIDAVIT OF DAN L. BROWN

STATE OF MISSOURI)
) ss.
COUNTY OF Lincoln)

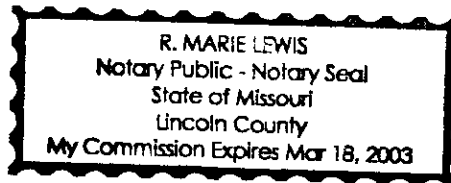
Dan L. Brown, of lawful age, on my oath states, that I have participated in the preparation of the foregoing testimony in question and answer form, consisting of 11 pages, to be presented in this case; that the answers in the foregoing testimony were given by me; that I have knowledge of the matters set forth in such answers; and that such matters are true to the best of my knowledge and belief.


Dan L. Brown

Subscribed and sworn to before me this 12th day of July, 2002.


Notary Public

My Commission Expires:



1 Q. WHAT IS YOUR NAME?

2 A. Dan L. Brown.

3 Q. BY WHOM ARE YOU EMPLOYED?

4 A. Cuivre River Electric Cooperative, Inc.

5 Q. IN WHAT CAPACITY ARE YOU EMPLOYED?

6 A. I am the CEO/General Manager.

7 Q. WHAT ARE YOUR JOB DUTIES AS GENERAL MANAGER?

8 A. I am in charge of daily operations and am the chief executive officer of the
9 Cooperative.

10 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

11 A. I have received a B.S. degree from the University of Missouri.

12 Q. WHAT IS YOUR EMPLOYMENT HISTORY?

13 A. I have worked for Cuivre River Electric Cooperative for the past 31 years.

14 Q. ARE YOU AUTHORIZED ON BEHALF OF THE COOPERATIVE TO FILE
15 TESTIMONY IN THIS MATTER?

16 A. Yes, I am.

17 Q. WHAT RELIEF ARE THE APPLICANTS IN THIS MATTER REQUESTING
18 FROM THE COMMISSION?

19 A. Cuivre River Cooperative ("Cooperative" or "Cuivre River") requests in its Joint
20 Application with AmerenUE ("Company") that the Commission issue an Order pursuant to
21 Sections 394.312, and 393.170 RSMo. 2000: (1) approving a Second Territorial Agreement
22 between the Company and the Cooperative designating the boundaries of each electric service
23 supplier in Lincoln and Warren Counties in Missouri (the "Second Territorial Agreement"); (2)

1 authorizing the Company and Cooperative to perform in accordance with the terms and
2 conditions of the Second Territorial Agreement; (3) finding the Second Territorial Agreement
3 shall not impair Company's certificates of convenience and necessity, except as specifically
4 limited by said agreement; (4) approving Company's change to its tariffs as illustrated in Exhibit
5 C to the Joint Application; (5) authorizing Company to make offers as described in Section 11 of
6 the Joint Application to potential customers in the Competition Area, which is described in
7 Article 5 of the Second Territorial Agreement, the same constituting a waiver from the
8 Commission's Utility Promotional Practices Rule 4 CSR 240-14.010 et seq.; (6) requiring, if an
9 offer is accepted, that the Company shall issue a report to the Commission Staff within two (2)
10 weeks of its acceptance containing a description of the offer, the location and short description of
11 the new structure to be served, the overall cost to serve the customer, the cost associated with the
12 charges being waived, the annual revenue, and any other evidence that the Company will receive
13 a benefit by providing service to the new structure and such service will benefit its existing
14 customers; and (7) granting, in the event the Commission rejects an offer and within five (5)
15 years of the date of said rejection, the Company the ability to petition the Commission to
16 reconsider its determination by presenting the Commission with new or updated evidence that
17 Company has received a benefit by providing service to the new structure or that such service
18 has benefited its existing customers.

19 This testimony is filed to support the Second Territorial Agreement, and to demonstrate
20 that the Second Territorial Agreement is in the public interest and should be approved.

21 Q. ARE YOU FAMILIAR WITH THE CONTENTS OF THAT SECOND
22 TERRITORIAL AGREEMENT?

1 A. Yes. I was involved in the negotiation of the boundary lines between the
2 Cooperative and Company. I also assisted in the preparation and review of the Application and
3 Agreement. It will also be my responsibility to see that the agreement is followed. I have
4 attached a copy of the Second Territorial Agreement as **Attachments 1** to my testimony, without
5 the Exhibits and schedules because they have already been filed with the Commission.

6 Q. WHAT WERE THE CONSIDERATIONS THAT WENT INTO DIVIDING THE
7 TERRITORY BETWEEN AMERENUE AND CUIVRE RIVER ELECTRIC COOPERATIVE?

8 A. I believe four main issues were taken into consideration. First, both Company
9 and the Cooperative saw that continued duplication of power lines was not efficient; (2)
10 Company's desire to be more efficient by centralizing its service in areas in which it had better
11 servicing capabilities; (3) the Cooperative's desire to plan and construct its distribution system in
12 an organized and efficient manner; and (4) to eliminate future duplication of electric facilities
13 between the Cooperative and Company that, due to population increases, were going to make
14 some areas non-rural, thus stranding the Cooperative's facilities.

15 Q. WHAT DO YOU MEAN WHEN YOU SAY THAT YOUR ARE TRYING TO
16 PLAN YOUR DISTRIBUTION SYSTEM IN A MORE EFFICIENT MANNER

17 A. Cuivre River is a distribution cooperative that currently serves approximately
18 44,650 customers in East-Central Missouri. Cooperative currently serves in and near
19 municipalities that exceed 1,500 inhabitants, which is considered a non-rural area. Each time a
20 municipality annexes new territory into its city limits, the Cooperative can no longer serve any
21 new facilities. The Cooperative's facilities can only be used to serve its then existing members.
22 This territorial agreement with AmerenUE will establish a service area for Cuivre River that will
23 definitively define a service area for the Cooperative. Cuivre River will be able to minimize its

1 investment in and around Troy and Wright City and the immediate surrounding areas of those
2 two cities, in exchange for the service area in and around Moscow Mills and St. Paul as well as
3 rural areas near Troy and Wright City. Having a defined service area pursuant to this territorial
4 agreement enables Cuivre River to maximize investment in its facilities by avoiding future
5 duplication of electric facilities between the Cooperative and Company in areas with population
6 increases, make long-term plans for its facilities by properly locating future substations, adding
7 3-phase lines and facilities, and establishing loop services which will provide better quality of
8 service to our members.

9 Q. WHAT PUBLIC INTEREST BENEFITS ARE ADVANCED BY THE
10 CONTRACT AND AGREEMENT?

11 A. The Second Territorial Agreement is in the public interest because it establishes exclusive
12 service areas for new structures for the Applicants in Lincoln and Warren Counties. The
13 establishment of exclusive service areas will allow the Applicants to more accurately plan for
14 future growth and fully utilize their investments. The Second Territorial Agreement will remove
15 incentives to duplicate of electric service facilities, guarding economic efficiencies and
16 benefiting the public safety and aesthetics.

17 Because the Second Territorial Agreement only establishes exclusive service areas for the
18 Applicants, it does not restrict in any way the operation of any other electric service providers.
19 Because the Second Territorial Agreement does not require the transfer of any facilities or
20 customers between the Applicants, no existing customers are impacted. Further, this Agreement
21 will also allow future customers to know with certainty the supplier of their electric service.

1 The Second Territorial Agreement also resolves a dispute between the Applicants with
2 respect to Wright City, Moscow Mills, and St. Paul, municipalities whose populations according
3 to the 2000 decennial census are in excess of 1500. The Second Territorial Agreement avoids
4 the needs for the Commission to hear and decide whether the Cooperative has the right to serve
5 new structures in these municipalities as the “predominate supplier” at the time the decennial
6 census declared the city in excess of 1500 population pursuant to RSMo. Section 394.080.5
7 2000.

8 Q. DO YOU HAVE ANY UNDERSTANDING IF AMERENUE WILL NEED
9 ANY ADDITIONAL CERTIFICATES OF CONVENIENCE AND NECESSITY TO SERVE
10 THE TERRITORY AS SET OUT IN THIS TERRITORIAL AGREEMENT?

11 A. I understand that AmerenUE will **not need** new Certificates to be issued by the
12 Commission to serve in the area as described in this territorial agreement.

13 Q. IS THIS THE BEST AGREEMENT THAT COULD BE REACHED BETWEEN
14 THE PARTIES?

15 A. This Agreement was the result of negotiations between the parties with both sides
16 making concessions. It took about seven (7) months to establish the boundary lines of the
17 agreement. We believe it will be beneficial to both parties and the public involved. We look
18 forward to working with the Agreement. We feel the Agreement is fair to both parties and will
19 serve both the Cooperative and Company well.

20 Q. DOES THE AGREEMENT PROVIDE FOR THE EXCHANGE OF ANY
21 CUSTOMERS OR FACILITIES?

22 A. No.

1 Q. WHAT ACTIONS WERE TAKEN BY THE COOPERATIVE IN ANALYZING
2 THE TERRITORIAL AGREEMENT AND ITS EFFECT ON THE COOPERATIVE?

3 A. The Board of Directors carefully considered the pros and cons of establishing
4 exclusive service territories, and ultimately decided that enhanced public safety, less right-of-
5 way for line duplication, and the ability to better plan for future growth weighed in favor of
6 entering into a Second Territorial Agreement with Company.

7 Q. WHAT RESOURCES DOES CUIVRE RIVER HAVE THAT WILL PERMIT IT
8 TO PROPERLY AND EFFECTIVELY SERVE THE TERRITORY SET ASIDE TO IT IN THE
9 TERRITORIAL AGREEMENT.

10 A. The Cooperative has 130 full time employees along with adequate equipment and
11 office facilities. The Cooperative is committed to providing the necessary employees and
12 equipment to maintain and enhance service to any new member and to its existing members in
13 the designated territory. Cuivre River currently has 10 electric contractor crews building and
14 extending new lines as well as retiring and replacing old lines. Cuivre River also has 15 contract
15 right of way crews to perform the Cooperative's right of way clearing.

16 Cuivre River is a member of the rural electric cooperative system in Missouri. The
17 electric cooperatives in Missouri have banded together to create an economic entity comprised of
18 a generation cooperative, six transmission cooperatives and forty distribution cooperatives in
19 Missouri. Cuivre River is a distribution cooperative. Distribution cooperatives deliver
20 electricity at retail to their member consumers who are end users of electricity. Cooperative has
21 over 45,000 accounts, 130 employees, over 4,600 miles of energized line, and over \$123 Million
22 dollars in total assets. Cooperative has a long term all requirements contract with Central
23 Electric Power Cooperative ("Central Electric") under which Central Electric is responsible to

1 deliver all of Cooperative's bulk power requirements. Central Electric has eight members
2 including Cuivre River, all of whom are distribution electric cooperatives. Central Electric has
3 106 employees, over 1570 miles of transmission line at voltages of 69 kv or higher, and
4 approximately \$160,000,000 in assets. Central Electric has a long term all requirements contract
5 with Associated Electric Cooperative, Inc. under which Associated is responsible to provide all
6 of the bulk power requirements Central Electric may need to serve Central Electric's member
7 cooperatives. Associated has six members all of whom are transmission cooperatives like
8 Central Electric. Associated has approximately 700 employees, over 3,000 megawatts of
9 generation capacity, and over \$2,000,000,000 in assets. Under the all requirements contracts and
10 the investments made by the rural electric cooperatives in Missouri, Cooperative is well situated
11 to be able to provide for all of the foreseeable electric power needs in the area set aside to it
12 under the Territorial Agreement with Union Electric Company. Cooperative is a borrower from
13 the National Rural Utilities Cooperative Finance Corporation. Cooperative has available all the
14 financial resources necessary to fund any expansion of plant needed by Cooperative to serve the
15 designated area. The Cooperative has available on a long term basis all the financial,
16 transmission, generation, and other resources needed to serve the electric needs of its current and
17 future members.

18 Q. ARE THERE ANY CUSTOMERS OF THE COOPERATIVE IN THE
19 TERRITORY ASSIGNED TO AmerenUE UNDER THE AGREEMENT AND VICE VERSA?

20 A. Yes. Customers will continue to be served by their existing power supplier.

21 Q. ARE THERE ANY PROVISIONS IN THE TERRITORIAL AGREEMENT TO
22 HANDLE EXCEPTIONS TO THE SERVICE TERRITORIES ALLOTTED?

1 A. Yes. It has an addendum procedure similar to that approved by the Commission
2 in Case No. EO-95-400.

3 Q. HOW WILL EXCEPTIONS BE HANDLED.

4 A. Article 10 of the Agreement provides that the parties may agree on a case by case
5 basis by an addendum to the Agreement to allow a structure to receive service from one party
6 even though the structure is located in the electric service area of the other party. Any addendum
7 will be filed with the Missouri Public Service Commission with a copy to the Office of Public
8 Counsel. Each addendum will be accompanied by a notarized statement indicating that the party
9 in whose territory the structure will be located and the party who will serve the structure support
10 the addendum. Each addendum will be accompanied by a statement, signed by the customer to
11 be served, which acknowledges such customer's receipt of notice of the contemplated electric
12 service to be provided, and that the Addendum represents an exception to the territorial
13 boundaries approved by the Commission and shall indicate the customer's consent to be served
14 by the service provider contemplated by the Addendum. If the Staff and Office of Public
15 Counsel do not submit a pleading objecting to the addendum within 45 days of the filing, the
16 addendum shall be deemed approved by the Staff and Office of Public Counsel.

17 If a pleading in opposition to the addendum is filed, then the Commission shall schedule
18 an evidentiary hearing at the earliest opportunity to determine whether the addendum should be
19 approved.

20 Pending approval of the addendum, each party shall have the right to provide temporary
21 service so that a consumer is not left without service while the addendum is being acted upon.

1 These addenda would only apply to new structures and not to structures receiving service
2 as of the effective date of the Commission's order approving this proposed Territorial
3 Agreement.

4 It is my understanding that the Commission has approved this addendum procedure in
5 other cases and is the Commission's preferred method for handling case by case exceptions to
6 territorial agreements.

7 I do not expect very many exceptions to arise.

8 Q WHAT OTHER POWER SUPPLIERS HAVE ELECTRIC DISTRIBUTION
9 FACILITIES IN THE AREA COVERED BY THIS AGREEMENT?

10 A. No other electrical corporation or electric cooperative is supplying retail electric
11 energy within the area that is subject to the Second Territorial Agreement. There are no
12 municipal electric supply systems operated within the area covered by the Second Territorial
13 Agreement.

14 Q. HAS ANY PARTY INTERVENED OR OTHERWISE PARTICIPATED IN
15 THIS PROCEEDING.

16 A. No.

17 Q. ARE YOU ASKING THAT THE COMMISSION APPROVE THE ENTIRE
18 AGREEMENT AS PRESENTED?

19 A. Yes.

20 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY.

21 A. Yes, it does.