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April 21, 2004

FILED

APR 21 2004

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Secretary
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P.O. Box 360
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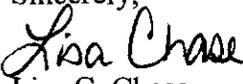
Missouri Public
Service Commission

Re: Citizen Electric Corporation's Response To Second Order Directing Filing
Case No. ED-2004-0223

Dear Secretary:

Enclosed for filing please find the original and eight copies of Citizen Electric Corporation's Response To Second Order Directing Filing.

Thank you for seeing this filed. If you should have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Lisa C. Chase

LCC:lw

Encl.

CC: Public Service Commission
Office of Public Counsel

FILED

APR 21 2004

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of the Application of Citizens)
Electric Corporation for Cancellation) Case No. ED-2004-0223
of its Tariffs, P.S.C. Mo. Nos. 2 and 7.)

CITIZENS ELECTRIC CORPORATION'S RESPONSE TO
SECOND ORDER DIRECTING FILING

COMES NOW Citizens Electric Corporation, by and through its counsel of record, Andereck, Evans, Milne, Peace & Johnson, L.L.C., and in response to the Commission's Second Order Directing Filing, states as follows:

1. On November 13, 2003, Citizens filed its Application to cancel its Tariffs, P.S.C. Mo. Nos. 2 and 7, in response to statutory section 393.110.2 taking effect. Section 393.110.2 RSMo. Provides:

Notwithstanding any provision in chapter 386, RSMo, or this chapter to the contrary, the public service commission shall not have jurisdiction over the rates, financing, accounting, or management over any electrical corporation which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation, and which holds a certificate of public convenience and necessity to serve a majority of its consumer-owners in counties of the third classification as of August 28, 2003. Nothing in this section shall be construed as amending or superceding the commission's authority granted pursuant to subsection 1 of section 386.310, RSMo, section 386.800, RSMo, section 393.106, RSMo, and section 394.312, RSMo.

2. On December 18, 2003, Staff filed the Staff Response to Order Directing Filing and the Staff Recommendation. Initially, Staff recommended the Commission approve cancellation of Citizens' tariffs as requested, but also recommended cancellation of Citizens' Certificates of Public Convenience and Necessity. On January 26, 2004, in Staff's Reply to Citizens' Response, Staff indicated that it no longer recommended the Commission cancel Citizens'

Certificates of Public Convenience and Necessity. In that filing, Staff requested the Commission direct Citizens to provide further information regarding what Citizens maintains are the Commission's powers over Citizens following Section 393.110.2 RSMo. taking effect.

3. On April 9, 2004, the Commission issued its Second Order Directing Filing which directed Citizens to file a supplemental pleading or brief in response to Staff's request.

4. Section 393.110.2 RSMo specifically provides that "[n]otwithstanding any provision in Chapter 386, RSMo, or this chapter to the contrary, the public service commission shall not have jurisdiction over the rates, financing, accounting, or management" of a corporation such as Citizens. Thus, to the extent Chapters 386 and 393 RSMo and regulations promulgated pursuant thereto pertain to the Commission's power and oversight of an electric corporation's "rates, financing, accounting, or management," they no longer apply to Citizens.

5. Section 393.110.2 RSMo also specifically sets forth certain powers the Commission retains over Citizens. Section 393.110.2 RSMo states in part:

Nothing in this section shall be construed as amending or superceding the commission's authority granted pursuant to subsection 1 of section 386.310, RSMo, section 386.800, RSMo, section 393.106, RSMo, and section 394.312, RSMo.

The Commission specifically retains the following powers: 1) under Section 386.310.1 RSMo, the Commission retains powers over Citizens for safety purposes; 2) under Section 386.800 RSMo, the Commission retains powers over the terms by which a municipality may provide service outside of its corporate

boundaries, including pursuant to an approved territorial agreement between a municipality and an electric corporation or cooperative, and pursuant to a lawful municipal annexation and the provisions of section 386.800 which address service in the annexed area to new structures as well as existing structures currently served by an electric corporation or cooperative; 3) under Section 393.106 RSMo (commonly referred to as the “anti-flip-flop rule”), the Commission retains powers over changes of electric suppliers on the basis that it is in the public interest for a reason other than rate differential; and 4) under Section 394.312 RSMo, the Commission retains jurisdiction over the certificated area served by Citizens and any territorial agreements with respect to Citizens’ service territory.

6. Section 393.110.2 RSMo relieved the Commission of jurisdiction over Citizens’ rates, financing, accounting, and management matters. The Commission retains jurisdiction over other corporate matters such as certificated service areas and territorial agreements, safety and service reliability, and changes of supplier and applications for customer exchanges.

7. In an effort to facilitate a common understanding of the new provisions under Section 393.110.2 RSMo, Citizens engaged in discussions with Staff throughout the summer and fall of 2003. On October 7, 2003, Citizens met with several Staff members from the Commission’s General Counsel, Auditing, Energy Engineering Analysis, and Energy Economic Analysis divisions to discuss the effects of Section 393.110.2. Based upon this meeting, Citizens believes that the Commission will continue to regulate it as to reliability and safety and that Citizens will continue to adhere to the NESC requirements. Citizens agreed to

furnish outage information to Staff on an informal basis, but understood that it is no longer required to file an annual report, monthly surveillance reports, or outage reports. Citizens also understood that it would no longer be assessed annual fees. In addition, Citizens requested that any consumer complaints received by the Missouri Public Service Commission be forwarded directly to Citizens' Chief Executive Officer, currently Tony Campbell.

8. Citizens has cooperated with Staff in reaching a common understanding of how to implement Section 393.110.2 RSMo and has operated in good faith based on the common understanding reached with Staff in October 2003. It is Citizens' understanding that the Commission has retained the powers as discussed herein. Citizens has appreciated Staff's cooperation and fruitful discussions and believes that any specific issues that may arise in the future with respect to implementation of Section 393.110.2 RSMo can and should be handled in the same cooperative, informal manner which has the added benefit of being more efficient and cost effective than a formal proceeding before the Commission.

WHEREFORE, Citizens respectfully requests that its tariffs be cancelled, that its Certificates of Public Convenience and Necessity be retained, and that the Commission close this docket.

Respectfully Submitted,

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

By *Lisa Chase*

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ATTORNEYS FOR CITIZENS
ELECTRIC CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was hand-delivered, and/or mailed, postage prepaid, to General Counsel of the Missouri Public Service Commission and of the Office of Public Counsel this 21st day of April, 2004.

Lisa Chase

Lisa Cole Chase