

**BEFORE THE PUBLIC SERVICE COMMISSION
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

LIST OF ISSUES, ORDER OF WITNESSES AND ORDER OF CROSS-EXAMINATION

COMES NOW the Staff of the Missouri Public Service Commission and, as ordered by the Commission, submits the following list of issues, order of witnesses and order of cross-examination:

1. In its Order Adopting Procedural Schedule the Commission stated:

The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

2. Commission Rule 4 CSR 240-2.080(21) provides:

Any list of issues ordered by the commission must contain one (1) or more questions presented for decision, stated in the following form per issue: in three (3) separate sentences, with factual and legal premises, followed by a short question; in no more than seventy-five (75) words; and with enough facts woven in that the commission will understand how the question arises in the case.

(A) The questions must be clear and brief, using the style of the following examples of issue statements, which illustrate the clarity and brevity that the parties should aim for:

1. Example A: The Administrative Procedures Act does not require the same administrative law judge to hear the case and write the final order. ABC Utility Company filed an appeal based on the fact that the administrative law judge who wrote the final order was not the administrative law judge who heard

the case. Is it reversible error for one administrative law judge to hear the case and a different administrative law judge to write the final opinion?

2. Example B: For purposes of establishing rates, ABC Utility Company is entitled to include in its costs expenses relating to items that are used or useful in providing services to its customers. ABC Utility Company has spent money to clean up environmental damages resulting from the operation of manufactured gas plants some 70 to 80 years ago. Should ABC Utility Company be allowed to include these expenses among its costs in establishing its future natural gas rates?

3. The parties are unable to comply with the requirements of Commission Rule 4 CSR 240-2.080(21); however, the Staff has solicited input from all, and obtained input from most, of the parties in preparing the list of issues presented below. Therefore, the Staff requests, pursuant to 4 CSR 240-2.015, that, for good cause, the Commission grant a variance from the requirements of 4 CSR 240-2.080(21).

4. Pursuant to the Commission's order, the Staff, with input from the other parties, has assembled the following list of issues, order of witnesses and order of cross-examination. The listing of issues below is not necessarily to be considered as an agreement by any party upon the characterization of the issue presented. Indeed, in the subsequent proceedings and filings of briefs, some parties may argue that they are addressing issues not listed or may state that they consider a particular issue to not be, or to no longer be, before the Commission for decision. Effort has been made to be non-argumentative in how questions are phrased. The parties do not necessarily agree that their effort has been successful in every instance. No party has been permitted a veto over the content of this document. This "non-binding" listing of issues is not to be construed as impairing any party's ability to argue about any of these issues or related matters, or to restrict the scope of its response to arguments made by other parties.

5. Following is the list of issues the Staff has assembled for this case.

LIST OF ISSUES

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?

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?

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?

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?

A. If the rural electric cooperative does have a franchise with the city, does that change the result?

LIST OF WITNESSES and ORDER OF CROSS-EXAMINATION

Michael E. Palmer (The Empire District Electric Company)

Order of cross-examination: Ozark Electric Cooperative, Public Counsel, Staff

Patrick Prewitt (Ozark Electric Cooperative)

Order of cross-examination: The Empire District Electric Company, Public Counsel, Staff

Daniel I. Beck (Staff)

Order of cross-examination: Public Counsel, Ozark Electric Cooperative, The Empire District Electric Company

WHEREFORE, the Staff respectfully requests a variance from 4 CSR 240-2.080(21), and submits the foregoing list of issues, list of witnesses and order of cross-examination.

Respectfully submitted,

/s/ Nathan Williams

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 10th day of December 2007.

/s/ Nathan Williams