

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Illinois Power Company :  
-vs- :  
Egyptian Electric Cooperative Association : ESA 176  
: :  
Complaint under the Electric Supplier Act :  
regarding service in St. Clair County, Il- :  
linois. :

O R D E R

By the Commission:

On November 20, 1975, Illinois Power Company ("Illinois Power"), an Illinois corporation, filed a complaint under the Electric Supplier Act ("Act") alleging its right to furnish electric service to the Kaskaskia Regional Port District in St. Clair County, Illinois and naming Egyptian Electric Cooperative Association ("Egyptian"), a not-for-profit corporation, as Respondent. On December 23, 1975, Egyptian filed its answer to said complaint.

Pursuant to notice as required by the rules and regulations of this Commission, this cause came on for hearing before a duly authorized Examiner of the Commission at its offices in Springfield, Illinois, on March 11, 1976, with continuances to April 22 and June 23, 1976 at which time the cause was marked "Heard and Taken." Illinois Power and Egyptian each were represented by counsel who presented evidence, both oral and documentary, in support of their respective positions. A member of the Engineering Section of the Commission was also present and participated in said hearings.

Illinois Power and Egyptian filed their briefs on July 20, 1976 and reply briefs of both parties were filed August 13, 1976. Both parties in this cause agree this complaint comes under the provisions of Section 8 of the Electric Supplier Act.

Section 8 of the Electric Supplier Act states:

"In making the determination, the Commission shall act in the public interest and shall give substantial weight to the considerations as to which supplier had existing lines in proximity to the premises proposed to be served, provided such lines are adequate. In addition, the Commission may consider, but with lesser weight, (a) the customer's preference as to which supplier shall furnish the proposed service, (b) which supplier was first furnishing service in the area, (c) the extent to which each supplier assisted in creating the demand for the proposed service, and (d) which supplier can furnish the proposed service with the smaller amount of additional investment."

Illinois Power Company proposes to serve the customer in question by the construction of approximately 2.5 miles of 34.5 KV distribution line. The record also indicates that Egyptian has an existing line, as of July 2, 1965, within one mile of the service location of the customer in question. This line could be extended and made adequate, as that term is defined in the Electric Supplier Act, to serve the customer in question. Thus, Egyptian has a line in proximity to the premises proposed to be served.

The major point of contention in this case revolves around Egyptian's chosen method of serving the customer in question and the cost associated therewith. In lieu of upgrading existing (as of July 2, 1965), 12.5 KV distribution facilities and making a short extension thereof, Egyptian proposed and is now serving the load pending facility via new construction of a substation, three miles of 12.5 KV distribution lines and Southern Illinois Power

Cooperative's (SIPC) construction of 7.5 miles of 69 KV transmission line. Witnesses for Egyptian stated that the transmission line, substation and part of the distribution facilities would be constructed regardless of whether this Commission allowed them to serve the coal handling facility. Egyptian contends that the northern part of its service territory needed support in the immediate future to serve projected loads without consideration of the disputed load.

Illinois Power contends that the construction of facilities by Egyptian and its electric supplier is uneconomical and a duplication of facilities. The Commission notes, based on the record in this case, that although the new 69 KV transmission line constructed by Southern Illinois Power Cooperative parallels an existing Illinois Power 138 KV line and crosses Illinois Power's 345 KV facilities, these various lines all have different, non-duplicative purposes. Illinois Power submitted into evidence two studies of Egyptian's northern service area, one with the load in question and the other without. These studies show that, in Illinois Power's opinion, construction of the substation, 69 KV transmission line and 12.5 KV distribution facilities represent a less desirable plan from an economical standpoint, than upgrading and extending current facilities to serve the area in question based on the above stated two scenarios. The Commission notes that Illinois Power's studies indicate that the facilities in the northern part of Egyptian's service territory need to be upgraded to serve forecasted loads, without the coal handling facility in question, thus, adding weight to Egyptian's contention that the transmission line and substation is needed and would be built regardless of whether it is allowed to serve the customer in question. Because of the manner in which Egyptian has chosen to serve the coal handling facility, the question as to which supplier can furnish the proposed service with the smaller amount of additional investment arises. Illinois Power proposes, as stated above, to serve the proposed load by the extension of three miles of 34.5 KV line at an estimated cost of \$128,000. The following methods of determining Egyptian's costs immediately surface:

1. The cost of the three miles of 12.5 KV line as suggested by Egyptian (approximately \$25,000);
2. the total cost of new facilities constructed in this area by Egyptian and its electric supplier, Southern Illinois Power Cooperative (approximately \$287,000 which includes the new substation, 7.5 miles of 69 KV line and three miles of 12.5 KV line), as suggested by Illinois Power;
3. an allocation of the total cost of new facilities set forth in (2) immediately above; or
4. the cost associated with the upgrading and extending the existing facilities in existence on July 2, 1965 (approximately \$110,000).

The Commission believes that there may be some merit in measuring cost against what it would be to make the existing lines adequate since Egyptian should not be compelled to use a short sighted plan, in its judgment, in order to win the right to serve a customer and thus close its eyes to what is considered to be reasonable long range planning. Although Illinois Power's engineers disagree with the method of serving the area in question, this Commission's review of Egyptian's plan to serve said area indicates that it is not unreasonable.

However, it would appear public interest would dictate that the Commission consider the actual monies expended in the serving of a customer, not what may have been expended under alternative plans. Thus, the Commission believes the proper method lies with

some allocation of those costs incurred by Egyptian and its electric supplier. The Commission has rejected alternative (1) stated above because it does not believe it to be within the intent of the Act to ignore the cost associated with Egyptian's wholesale energy supplier when clearly such costs, at least to some degree, are being incurred to serve the disputed load. With respect to allocation, one method lies with allocating the cost of all facilities constructed as set forth in alternative (2) above in proportion to the docks demand divided by the facility's total capability to serve - approximately 14.3% in this case. Under this method, the cost to serve by Egyptian is approximately \$63,000, which is \$25,000 for distribution and 14.3% of other facilities' costs. Thus, the use of this method favors Egyptian over Illinois Power. Should the cost be determined in accordance with the plan calling for an upgrading of the existing facilities as of July 2, 1965 and making a short extension thereto, Egyptian again would be favored. Only in the instance where total costs incurred by both Egyptian and Southern Illinois Power Cooperative are considered, does the cost issue fall in favor of Illinois Power. In light of the evidence in this case where it is shown by both parties that the northern area of Egyptian's territory is growing exclusive of the load of the coal handling facility, the Commission believes that the position advocated by Illinois Power for the measuring of Egyptian's cost should be rejected. In any event, the Commission notes that the issue of which supplier can furnish the proposed service with the smaller amount of additional investment may, according to the Electric Supplier Act, be considered by the Commission but with lesser weight than that attached to the issue of proximity to the premises proposed to be served.

In considering the remaining points set forth in Section 8 of the Electric Supplier Act, the record shows that (1) neither electric supplier assisted in creating the demand for the proposed service, (2) Egyptian was the supplier first furnishing service in the area, and (3) the customer in question has indicated a preference or at least the acceptability of service from Egyptian.

The Commission, having considered all of the evidence, both oral and documentary, presented in this proceeding and being fully advised in the premises, is of the opinion and finds that:

- (1) Egyptian Electric Cooperative Association is an Illinois not-for-profit corporation engaged in furnishing and distributing electric energy and is an electric supplier within the meaning of the Electric Supplier's Act, as amended;
- (2) Illinois Power Company is a corporation organized and existing under and by virtue of the laws of the State of Illinois; it owns and operates, with charter powers to do so, electric transmission lines and distribution systems in the State of Illinois; it is a public utility within the meaning of "An Act concerning public utilities," approved June 22, 1921, as amended, and is an electric supplier within the meaning of the "Electric Supplier Act", as amended;
- (3) the Commission has jurisdiction of the parties and of the subject matter herein;
- (4) a copy of the complaint filed in this case was served by the Secretary of the Commission upon the Respondent, Egyptian Electric Cooperative, and notice of all hearings scheduled in this cause were mailed by the Secretary of the Commission to the parties in accordance with the Rules of Practice of the Commission in such cases;

- (5) the statement of facts contained in the prefatory portion of this order are supported by evidence and are hereby adopted as findings of fact;
- (6) Egyptian Electric Cooperative has proximity to the premises for delivery of electric power to the proposed customer by virtue of its existing, as of July 2, 1965, 12.5 KV line as shown on Respondent's Exhibit 1 entered into evidence in this cause;
- (7) the customer has indicated a preference or at least the acceptability of Egyptian Electric Cooperative's service; Egyptian Electric Cooperative was first furnishing service in the immediate area; neither supplier assisted in creating the demand for the proposed service; Egyptian Electric Cooperative Association can provide the service with the smaller amount of additional investment; and
- (8) public interest requires that Egyptian Electric Cooperative Association furnish electric service to the Kaskaskia Regional Port District's coal handling facility.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Egyptian Electric Cooperative Association be, and it is hereby entitled to render electric service to the service point of the Kaskaskia Regional Port District in St. Clair County, Illinois.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that all objections and motions made in this proceeding that remain undisposed of are hereby considered disposed of and in a manner consistent with the ultimate conclusions herein contained.

By order of the Commission this 7th day of September, 1977.

*Alvin J. Feldman*  
Chairman

EXAMINER	<i>CUF</i>
SECRETARY	<i>CUF</i>
Supervisor	<i>JE</i>

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