

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

JAN 08 2004

In the Matter of the Joint Application of the)
City of Hannibal, Missouri and Public Water)
Supply District No. 1 of Ralls County, Missouri)
for Approval of Three Territorial Agreements)
Concerning Water Service Areas in Marion)
County, Missouri.)

**Missouri Public
Service Commission**

Case No. WO-2004-0163

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW the Staff of the Missouri Public Service Commission (Staff), Public Water Supply District No. 1 of Ralls County, Missouri (District), the City of Hannibal, Missouri (City) and the Office of the Public Counsel (OPC), by their undersigned counsel, and for their Unanimous Stipulation and Agreement (Stipulation) stipulate and agree as follows.

PROCEDURAL HISTORY

1. On December 19, 2002, February 28, 2003 and June 17, 2003, respectively, the District and the City (Joint Applicants) executed a series of three water service territorial agreements (Territorial Agreements) concerning three small tracts of commercial property in Marion County, Missouri. The Joint Applicants entered into these Territorial Agreements pursuant to the provisions of Section 247.172, RSMo 1994. On September 29, 2003, the Joint Applicants filed with the Missouri Public Service Commission (Commission) a Joint Application for Approval of Water Service Area Territorial Agreements (Joint Application) for Commission review and approval of the three Territorial Agreements. Copies of the Territorial Agreements were attached to the Joint Application as Appendix A. The Joint Applicants submitted their Joint

Application to the Commission under the provisions of Commission rules 4 CSR 240-2.060, 4 CSR 240-3.625 and 4 CSR 240-3.630.

2. On September 30, 2003, the Commission issued its Order and Notice, and Order Setting Prehearing Conference and Requiring Proposed Procedural Schedule (Notice Order), which required that notice of the Joint Application be given to the County Commission of Marion County, the members of the General Assembly representing persons residing in Marion County and the newspapers and other media that serve Marion County. The Commission's Notice Order also set October 30, 2003 as the date by which interested parties were to file applications to intervene or requests for hearing with the Commission, directed the Joint Applicants to provide notice to each affected customer, set November 13, 2003 as the date for a prehearing conference and directed the Joint Applicants, the Staff and the OPC (Parties) to file a proposed procedural schedule no later than November 20, 2003.

3. No party submitted an application for intervention or request for hearing in this case on or before the deadline established in the Notice Order, nor has any party submitted a late-filed application for intervention or request for hearing as of the date of this Stipulation.

4. On November 13, 2003, the Parties attended the prehearing conference as scheduled, and agreed upon the following items: (a) that a stipulation in this case was likely; (b) the form of the notice regarding the Territorial Agreements to be sent to the customers that would ultimately be affected by implementation of the agreements; and (c) a proposed procedural schedule.

5. On November 20, 2003, the Staff filed the Parties' Proposed Procedural Schedule as required by the Commission's Notice Order. The Parties' proposed schedule set out December 19, 2003 as the date by which the Parties would file a stipulation and agreement in the

case, and requested that the required evidentiary hearing for the case be held on December 30, 2003.

6. On November 24, 2003, the Commission issued its Order Establishing Procedural Schedule, wherein it adopted the Parties' proposed procedural schedule and set the time for the hearing in this case.

7. On or about December 2, 2003, the District sent notice of the Territorial Agreements to the three customers that will ultimately be affected by the agreements, in which it advised the customers about the agreements and of the addresses for the customers to use to send comments about the agreements to the Staff and the OPC.

**PROVISIONS REGARDING THE TERRITORIAL
AGREEMENTS AND THE JOINT APPLICATION**

8. As previously noted, copies of the Territorial Agreements were attached to the Joint Application, as is required by 4 CSR 240-3.625(1)(A).

9. The Territorial Agreements designate the boundaries of the respective water service areas of the District and the City, as is required by 4 CSR 240-3.625(1)(A).

10. As neither of the Joint Applicants is otherwise subject to the jurisdiction of the Commission, it was not necessary for the Joint Applicants to submit an illustrative tariff reflecting changes in their operations or certification with the Joint Application, as is required by 4 CSR 240-2.060(1)(B) for Commission-regulated entities.

11. As noted in the Joint Application, implementation of the Territorial Agreements will not result in any existing customers of either the District or the City having their water supplier changed at this time. As a result, it was not necessary for the Joint Applicants to submit a listing of customers affected by the Territorial Agreements with the Joint Application, as is required by 4 CSR 240-3.625(1)(D). (Service to three commercial customers will, however,

ultimately change under the agreements, and those are the customers to whom the District sent notice of the agreements.)

12. Concurrent with the filing of the Joint Application, the Joint Applicants submitted to the Commission the filing fee required by 4 CSR 240-3.625(1)(E), as is established by 4 CSR 240-3.630(1).

13. The Territorial Agreements specify any and all powers granted to the District by the City to operate within the corporate boundaries of the City.

14. The Territorial Agreements specify any and all powers granted to the City to operate within the boundaries of the District.

15. The Territorial Agreements will enable the Joint Applicants to avoid wasteful and costly duplication of water utility services within the affected service areas and will displace destructive competition between the Joint Applicants, all to the benefit of the Joint Applicants' respective customers. As a result, the Territorial Agreements are in the public interest.

16. The Territorial Agreements will improve the ability of the Joint Applicants to plan for future water service, will enable customers to know who will provide their water service and will establish a method for the Joint Applicants to amend their service territories in the future.

17. The Joint Application and the Territorial Agreements contain provisions acknowledging that the agreements shall in no way affect or diminish the rights and duties of any water supplier that is not a party to the agreements to provide service within the service areas set forth in the agreements.

18. The Territorial Agreements contain provisions acknowledging that any amendments to the agreement must receive the approval of the Commission.

19. The Parties agree that the Joint Application and the Territorial Agreements meet the requirements of Section 247.172, RSMo 2000, and that the Joint Application meets the requirements of the applicable Commission rules.

20. The Parties agree that the Territorial Agreements are "not detrimental to the public interest" and that the Commission should so find.

GENERAL PROVISIONS

21. The Parties agree that the testimony to be provided at the evidentiary hearing for this case will be limited to the Staff calling one witness to provide testimony in support of the Territorial Agreements, the Joint Application and this Stipulation, unless otherwise requested by the Commission in advance of the hearing. The Joint Applicants will, however, have representatives available at the evidentiary hearing to answer questions from the Commission and the presiding officer.

22. This Stipulation has resulted from negotiations among the Parties and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then this Stipulation shall be void and no signatory shall be bound by any of the agreements or provisions hereof. The stipulations and agreements herein are specific to the resolution of this proceeding, and are all made without prejudice to the rights of the parties to take other positions in other proceedings.

23. Inasmuch as there will be an evidentiary hearing in this case, as required by statute, the Staff shall only submit a memorandum explaining its rationale for entering into this Stipulation if the Commission requests such a memorandum in advance of the evidentiary hearing. Each party to the case shall be served with a copy of any such memorandum and shall be entitled to submit to the Commission, within five business days of receipt of Staff's

memorandum, a responsive memorandum that shall also be served on all parties. All memoranda submitted to the Commission under the terms of this paragraph shall be considered privileged in the same manner as are settlement discussions under the Commission's rules and shall thus be maintained on a confidential basis by all parties. Such memoranda shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding, whether or not the Commission approves and adopts this Stipulation. The contents of any memorandum submitted to the Commission under the terms of this paragraph by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation, whether or not the Commission approves and adopts this Stipulation.

24. The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

25. As is noted in Paragraph 21 above, the Staff will provide its testimony in support of the Territorial Agreements, the Joint Application and this Stipulation at the evidentiary hearing for this case, which is scheduled for December 30, 2003 at 10:00 a.m.

WHEREFORE, the Parties respectfully request that the Commission issue its Order approving the Territorial Agreements, the Joint Application and this Stipulation.

Respectfully Submitted,

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/s/ Cliff E. Snodgrass

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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 19th day of December 2003.

/s/ Cliff E. Snodgrass