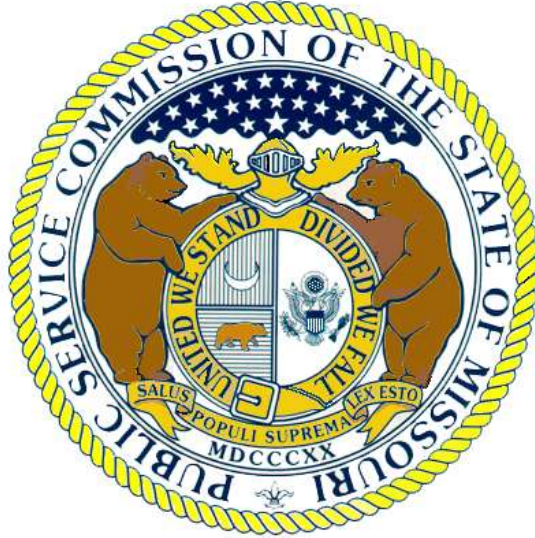


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Joint Application of)
Missouri-American Water Company and Audrain Public)
Water Supply District No. 1 for Approval of a Territorial)
Agreement Concerning Territory in Audrain County,)
Missouri)

File No. WO-2017-0191

REPORT AND ORDER

Issue Date: April 6, 2017

Effective Date: May 6, 2017

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Water Supply District No. 1 for Approval of a Territorial) **File No. WO-2017-0191**
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Missouri)

REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT

Issue Date: April 6, 2017

Effective Date: May 6, 2017

This decision approves a territorial agreement between Missouri-American Water Company (MAWC) and Audrain Public Water Supply District No. 1 (the District). The territorial agreement designates exclusive service territories in Audrain County, Missouri.

Findings of Fact

On January 10, 2017, MAWC and the District filed a Joint Application requesting approval of their territorial agreement setting out exclusive service territories in Audrain County, Missouri. The Staff of the Missouri Public Service Commission (Staff) filed its recommendation on March 17, 2017, advising the Commission that the proposed territorial agreement is not detrimental to the public interest and recommending that it be approved with certain conditions.

MAWC is a water corporation, sewer corporation, and public utility organized and existing under the laws of the State of Missouri, with its principal place of business located at 727 Craig Road, St. Louis, Missouri 63141. MAWC is engaged in providing water and sewer services to the public in portions of Missouri as a public utility under the jurisdiction of the Missouri Public Service Commission.

The District is a Missouri public water supply district, created and operating pursuant to the Revised Statutes of Missouri, Section 247.172, et seq., with the right to exclusively provide water service to a defined tract of land in Audrain County, Missouri. A portion of the District's service territory falls within the geographical limits of the City of Mexico, Missouri.

Pursuant to a franchise agreement with the City of Mexico, Missouri, and a Commission-granted certificate of public convenience and necessity, MAWC provides water service to certain customers within the city limits. The District's service territory and MAWC's service territory in the City of Mexico, Missouri, currently overlap. A dispute arose regarding the certificate granted by the Commission and each entity's right to service customers within the city limits pursuant to Sections 247.010 and 247.670, RSMo. Thus, to resolve these issues, the parties have entered into the territorial agreement.

The proposed territorial agreement, attached to the joint application, shows and describes to the extent practical the boundaries designated for the District's and MAWC's respective exclusive service areas within the city limits. All customers in Mexico, Missouri, shall remain with their current service providers with the exception of customers at: 2781, 2797, 2813, 2825, 2871, 2875, 2935, 2977, and 3100 S. Clark; and 440 Kelley Parkway. New customers will be served by MAWC.

No other regulated water service provider operates in the specific areas sought to be designated by the applicants. Staff noted in its recommendation that the joint application includes a map with the city limits designated, but it does not include a legal description as required by 4 CSR 240-3.625(1)(A). However, Staff notes that the

approval of this territorial agreement is part of the resolution of a “federal case”¹ and in Staff’s opinion is not detrimental to the public interest. Therefore, Staff recommends that the applicants be given additional time to file the legal description and that the Commission’s report and order include a provision requiring that MAWC revise its tariff within ten days after the effective date of the report and order.

According to the facts as evidenced in the verified application and in Staff’s verified recommendation, the proposed territorial agreement is not detrimental to the public interest because it will prevent future duplication of facilities, may result in economic efficiencies and future cost savings, and may benefit the public safety. The agreement will also provide certainty for future customers regarding their water service provider and may enhance community development. Additionally, establishing these boundaries will lessen the chances of future disputes.

In addition to recommending approval of the application, Staff recommended the following conditions:

- That MAWC be required to submit, within six months from the issue date of this Report and Order, a legal description of the corporate limits of the City of Mexico as they existed on September 30, 2016, pursuant to paragraph 5.(B) of the Joint Applicant’s Territorial Agreement; and
- Require MAWC to submit a First Received Certificated Area Sheet No. CA9.1 in its water tariff P.S.C. MO No. 13, or alternatively a new Original Certificated Area Sheet No. CA 9.2, within ten days after the effective date of an order from the Commission approving the territorial agreement, depicting the approved territorial agreement boundary.

¹ *Staff Recommendation for Joint Application for Approval of Territorial Agreement*, Exhibit A, p. 4.

Based on the information contained in the verified joint application and recommendation of Staff, the Commission finds that the proposed territorial agreement is not detrimental to the public interest.

Conclusions of Law

Section 247.172, RSMo, gives the Commission jurisdiction over territorial agreements concerning water service between public water supply districts and water corporations subject to Public Service Commission jurisdiction, including any subsequent amendment to such agreement. Under Section 247.172.5, the Commission may approve such a territorial agreement if the agreement in total is not detrimental to the public interest. As the Commission found in its findings of fact, the territorial agreement will not be detrimental to the public interest.

Although Section 247.172.5 RSMo, provides that the Commission is to hold an evidentiary hearing to determine whether a territorial agreement is to be approved, no party has requested a hearing. The requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence.² Notice was given and no party requested a hearing. Therefore, no hearing is necessary.

Decision

Based on its findings of fact and conclusions of law, the Commission determines that the submitted territorial agreement between MAWC and the District is not detrimental to the public interest and shall be approved.

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

THE COMMISSION ORDERS THAT:

1. The Territorial Agreement between Missouri-American Water Company and Audrain Public Water Supply District No. 1 designating exclusive service territories in Audrain County, Missouri is approved with the conditions set out in Ordered Paragraphs 2 and 3.

2. Missouri-American Water Company shall submit, within six months from the issue date of this Report and Order, a legal description of the corporate limits of the City of Mexico as they existed on September 30, 2016, pursuant to paragraph 5.(B) of the Joint Applicant's Territorial Agreement.

3. Missouri-American Water Company shall submit a First Received Certificated Area Sheet No. CA9.1 in its water tariff P.S.C. MO No. 13, or alternatively a new Original Certificated Area Sheet No. CA 9.2 depicting the approved territorial agreement boundary, within ten days after the effective date of this Report and Order.

4. This order shall become effective on May 6, 2017.



BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney,
Rupp, and Coleman, CC., concur
and certify compliance with the
provisions of Section 536.080, RSMo.

Dippell, Senior Regular Law Judge

Dated at Jefferson City, Missouri
on this 6th day of April, 2017.

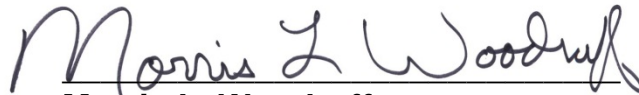
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 6th day of April 2017.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 6, 2017

File/Case No. WO-2017-0191

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.