

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 22nd day
of February, 2007.

In the Matter of the Application of the Consolidated)
Public Water Supply District No. 1 of Clark County,)
Missouri, and the City of Canton, Missouri, and the) **Case No. WO-2007-0188**
City of LaGrange Missouri for Approval of a Territorial)
Agreement Concerning Territory Encompassing Part of)
Lewis County, Missouri.)

REPORT AND ORDER APPROVING TERRITORIAL AGREEMENT

Issue Date: February 22, 2007

Effective Date: March 4, 2007

Syllabus: This Report and Order approves the joint application for approval of a territorial agreement.

Procedural History

On November 14, 2006, the City of LaGrange, Missouri ("City"), and Consolidated Public Water Supply District No. 1 of Clark County, Missouri ("District") (collectively, "Joint Applicants"), filed a verified joint application for approval of a territorial agreement ("Joint Application"). On November 16, the Commission issued an order directing that notice of the filing be given to the general public and to other potentially interested parties. That order also set an intervention deadline of November 27. There were no requests to intervene.

On January 22, 2007, the Commission's Staff filed its verified recommendation regarding the joint application. Staff recommended the Commission approve the proposed territorial agreement and stated that all parties to the case support its recommendation. On

January 23, 2007, the Commission issued an order setting February 2, 2007, as the deadline to respond to Staff's recommendation or request a hearing in this case. No responses to Staff's recommendation or requests for a hearing were filed.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

1. The City is a special charter city, organized and existing under the provisions of Chapter 81, RSMo 2000. The City owns and operates a water system within its boundaries in Lewis County. The City's principal office is located at 118 South Main Street, LaGrange, Missouri 63448.

2. The District is a public water supply district organized under Chapter 247, RSMo 2000. The District provides water service to customers located within the District's water service area in Clark, Lewis, Knox, and Scotland counties in Missouri. The District's principal place of business is located at P.O. Box 307, Williamstown, Missouri 63474.

3. The territorial agreement submitted for the Commission's approval by the City and the District specifically designates the boundaries of the water service areas of the District and the City. The agreement also sets forth any and all powers granted to the District by the City to operate within the corporate boundaries of the City and any and all powers granted to the City to operate within the boundaries of the District.

4. The water service of existing customers will not be changed by the territorial agreement.

5. The Joint Application and Staff Recommendation both state that the territorial agreement will allow the City and the District to avoid wasteful duplication of water services within the affected service areas.

6. Both the Joint Application and Staff Recommendation state that the territorial agreement will improve the ability of the City and the District to plan for future water service, and will enable customers to know who will provide their water service.

7. Both the Joint Application and Staff Recommendation further state that the joint application and the territorial agreement meet the requirements of the applicable statute as well as applicable Commission rules, and that the territorial agreement is not detrimental to the public interest.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

1. Section 247.172, RSMo 2000, gives the Commission jurisdiction over territorial agreements concerning the sale and distribution of water.

2. Section 247.172.3, RSMo 2000, provides that before becoming effective, all territorial agreements entered into under the provisions of that section, including any subsequent amendments to such agreements, shall receive the approval of the Public Service Commission.

3. Section 247.172.4, RSMo 2000, provides that the Commission may approve such a territorial agreement if the agreement is not detrimental to the public interest.

4. Although Section 247.172.4, RSMo 2000, provides that the Commission is to hold a hearing to determine whether a territorial agreement is to be approved, *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*,¹ holds

¹ 776 S.W. 2d 494 (Mo. App. W.D. 1989).

that the requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence.

Decision

Having considered the Joint Application and Staff's verified recommendation in support of approval, which are hereby admitted into evidence, the Commission concludes that the territorial agreement between the City of LaGrange and Consolidated Public Water Supply District No. 1 of Clark County, Missouri is in the public interest. Furthermore, the Commission determines that the territorial agreement between the City of LaGrange and Consolidated Public Water Supply District No. 1 of Clark County, Missouri, is in the public interest and should be approved. Furthermore, the Commission concludes that no evidentiary hearing is required.

IT IS ORDERED THAT:

1. The joint application for approval of a territorial agreement, filed by the City of LaGrange, Missouri, and Consolidated Public Water Supply District No. 1 of Clark County, Missouri, is approved.
2. This order shall become effective on March 4, 2007.
3. This case may be closed on March 5, 2007.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Voss, Regulatory Law Judge