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## Missouri Public Service Commission

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February 1, 2002

ROBERT J. QUINN, JR.  
Executive Director

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. PRENGER  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge  
DANA R. JOYCE  
General Counsel

**FILED**

FEB 01 2002

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. WO-2002-226-In the Matter of the Joint Application of the City of Pacific, Missouri and Public Water Supply District No. 3 of Franklin County, Missouri for Approval of a Territorial Agreement Concerning Water Service Territories in Franklin County, Missouri.**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **UNANIMOUS STIPULATION AND AGREEMENT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Victoria L. Kizito  
(573) 751-6726 (Telephone)  
(573) 751-9285 (Fax)

Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

FEB 01 2002

Missouri Public  
Service Commission

In the Matter of the Joint Application of the )  
City of Pacific, Missouri and Public Water )  
Supply District No. 3 of Franklin County, )  
Missouri for Approval of a Territorial )  
Agreement Concerning Water Service )  
Territories in Franklin County, Missouri. )

Case No. WO-2002-226

**UNANIMOUS STIPULATION AND AGREEMENT**

**COME NOW** the Staff of the Missouri Public Service Commission ("Staff"), Public Water Supply District No. 3 of Franklin County, Missouri ("District"), the City of Pacific, 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 June 19, 2001, the District and the City ("Applicants") executed a Territorial Agreement pursuant to Section 247.172, RSMo 2000. On November 9, 2001, the Applicants filed with the Missouri Public Service Commission ("Commission") a Joint Application for Commission review and approval of the Territorial Agreement. A copy of the Territorial Agreement was attached to the Joint Application as Appendix A.

2. On November 15, 2001, the Commission issued its Order Directing Notice ("Notice Order"), which required that notice of the Joint Application be given no later than November 26, 2001 to the County Commission of Franklin County, the members of the General Assembly representing persons residing in Franklin County and the newspapers and other media that serve Franklin County. The Commission's Notice

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Order also set December 17, 2001 as the date by which interested parties were to file applications to intervene or requests for hearing with the Commission.

3. No party submitted an application for intervention or request for hearing in this case on or before December 17, 2001, nor has any party submitted a late-filed application for intervention or request for hearing as of the date of this Stipulation.

4. On December 18, 2001, the Commission issued its Order Setting Prehearing Conference and Requiring Filing of Procedural Schedule ("Scheduling Order") setting January 3, 2002 as the date for a prehearing conference, and directing the Applicants, the Staff and the OPC ("Parties") to jointly file a proposed procedural schedule on or before January 11, 2002.

5. On January 3, 2002, the Parties attended the prehearing conference as scheduled and agreed upon the following items: (a) that a stipulation in this case was likely; (b) that a notice regarding the Territorial Agreement should be sent to the customers that would be affected by implementation of the Agreement (all of which are currently customers of the District); and (c) a proposed procedural schedule.

6. On January 4, 2002, the District sent a notice regarding the Territorial Agreement to the customers that would be affected by implementation of the Agreement, a copy of which is attached hereto as Schedule 1.

7. On January 11, 2002, the Staff filed the Parties' Jointly Proposed Procedural Schedule as required by the Commission's Scheduling Order. The Parties' proposed schedule set out February 1, 2002 as the date by which the Parties would file a stipulation and agreement in the case, and requested that the required evidentiary hearing for this case be held on February 7, 2002.

8. On January 15, 2002, the Commission issued its Order Adopting Procedural Schedule, wherein it scheduled an evidentiary hearing in this case for February 7, 2002, beginning at 10:00 a.m.

9. On January 31, 2002, the District and City filed a document titled Waiver of Condition ("Waiver"), which modifies the portion of paragraph 8 of the Territorial Agreement that sets forth the date by which Commission action must be taken on the Agreement. Specifically, the Waiver changes that date from June 1, 2001 to March 31, 2002.

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

10. The Territorial Agreement designates the boundaries of the respective water service areas of the District and the City, as set forth in a legal description attached to the Territorial Agreement and as depicted on maps attached to the Territorial Agreement as Exhibits A, B and C.

11. As neither of the Applicants is otherwise subject to the jurisdiction of the Commission, it was not necessary for the 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(13)(B) for Commission-regulated entities.

12. As is noted in the Joint Application, forty-nine (49) customers will have their water service provider changed as a result of approval the Territorial Agreement. As required by Commission rule 4 CSR 240-2.060(13)(D), a listing of those customers was attached to the Joint Application as Appendix B. As is noted in Paragraphs 5 and 6 herein, the affected customers are all currently customers of the District and the District sent a notice regarding the Agreement to the affected customers on January 4, 2002.

13. Concurrent with the filing of the Joint Application, the Applicants submitted to the Commission the filing fee required by 4 CSR 240-2.060(13)(E), as established by 4 CSR 240-51.010(1).

14. The Territorial Agreement specifies any and all powers granted to the District by the City to operate within the corporate boundaries of the City.

15. The Territorial Agreement specifies any and all powers granted to the City to operate within the boundaries of the District.

16. The Territorial Agreement will enable the Applicants to avoid wasteful and costly duplication of water utility services within the affected service areas and will displace destructive competition between the Applicants, all to the benefit of the Applicants' respective customers.

17. The Territorial Agreement will improve the ability of the 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 Applicants to amend their service territories in the future.

18. The Joint Application acknowledges that the Agreement in no way affects or diminishes the rights and duties of any water supplier that is not a party to the Agreement to provide service within the boundaries designated in the Agreement.

19. The Parties agree that the Territorial Agreement meets the requirements of Section 247.172, RSMo 2000.

20. The Parties agree that the Territorial Agreement is "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 Agreement, the Joint Application and this Stipulation, unless otherwise requested by the Commission in advance of the hearing. The Applicants will, however, both 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

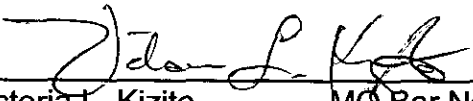
of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding, whether or not the Commission approves and adopts this Stipulation. The contents of any memorandum submitted to the Commission under the terms of this paragraph by any party are its own and are not 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.

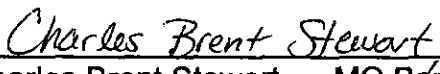
25. As is noted in Paragraph 21 above, the Staff will provide its testimony in support of the Territorial Agreement, the Joint Application and this Stipulation at the evidentiary hearing for this case, which is scheduled for February 7, 2002.

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

Respectfully Submitted,

  
Victoria L. Kizito MO Bar No. 46244  
Associate General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-751-6726 (telephone)  
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Attorney for the Staff of the  
Missouri Public Service Commission

 by   
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Attorney for the Joint Applicants

  
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Assistant Public Counsel  
Office of the Public Counsel  
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Jefferson City, MO 65102  
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573-751-5562 (facsimile)  
[roneill1@mail.state.mo.us](mailto:roneill1@mail.state.mo.us) (e-mail)

Attorney for the Office of the Public Counsel

**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record, as shown on the attached service list, this 1st day of February 2002.

  
Victoria L. Kizito

January 4, 2002

Customer name & address

Dear Customer:

On November 9, 2001 Public Water Supply District No. 3 of Franklin County, Missouri ("District") submitted a Joint Application with the City of Pacific, Missouri ("City") for approval of a water service area territorial agreement before the Missouri Public Service Commission (Commission) pursuant to Section 247.172 RSMo 2000. This law allows water service providers to negotiate changes to their respective service territories and submit such changes to the Commission for review and approval.

By this Joint Application, the District and the City are seeking to change the boundaries of their existing water service areas. If approved by the Commission, you will no longer receive your water service from the District but will become a water customer of the City.

This change of water supplier will result in lower rates for your water service.

Set out below is a comparison of the District's current customer rates and the current rates charged by the City.

| <u>Type of Charge</u>                                                                               | <u>District Rates</u> | <u>City Rates</u> |
|-----------------------------------------------------------------------------------------------------|-----------------------|-------------------|
| <u>Monthly Minimum Charge</u><br><u>(includes 1,000 gallons)</u><br><u>(includes 2,000 gallons)</u> | <u>\$ 10.00</u>       | <u>\$ 7.45</u>    |
| <u>Usage Over 1,000/2,000 gallons</u><br><u>(per 1,000 gallons)</u>                                 | <u>\$ 4.05</u>        | <u>\$ 3.25</u>    |
| <u>Total Monthly Bill</u><br><u>(at 6,000 gallons usage)</u>                                        | <u>\$ 30.25</u>       | <u>\$ 20.14</u>   |

The Staff of the Commission (Commission Staff) is conducting an independent investigation of the Joint Application and will present its recommendation to the Commission during an evidentiary hearing. This hearing is scheduled for March 8, 2002 at the Commission's offices located at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri.

The Office of the Public Counsel (Public Counsel), a state agency responsible for representing the interests of the consumer before the Commission, also will be reviewing the Joint Application and will be participating in the hearing.

SCHEDULE 1

Any customer who has questions or comments regarding the Joint Application should contact the Public Counsel, *within 30 days of the date of this notice*. To do so, please use the addresses, telephone numbers or fax numbers shown below. The Public Counsel will respond to all such customer contacts.

Office of the Public Counsel  
Attn: Ruth O'Neil  
P.O. Box 7800  
Jefferson City, MO 65102  
Phone: 573/751-4057  
Fax: 573/751-5562

Sincerely,  
PWSD#3 of Franklin County

Bob Hathcock  
Local Manager

**Service List for**

**WO-2002-226**

**Revised: January 11, 2002, (cgo)**

**Office of the Public Counsel**

**P.O. Box 7800**

**Jefferson City, MO 65102**

**Gene Scott**

**Presiding Commissioner**

**Franklin County Courthouse**

**300 E. Main St. Ste 200**

**Union, MO 63084**

**Charles Brent Stewart**

**John Doe Miller**

**Stewart & Keevil, L.L.C.**

**1001 Cherry Street, Suite 302**

**Columbia, MO 65201**