

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

May 1, 2001
Jefferson City, Missouri
Volume 1

In the Matter of the Application of)
Missouri-American Water Company and)
the Public Water Supply District)
No. 2 of St. Charles County,) Case No. WO-2001-441
Missouri, for Approval of a)
Territorial Agreement Concerning)
Territory in St. Charles County,)
Missouri.)

VICKY RUTH, Presiding,
REGULATORY LAW JUDGE.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR
ASSOCIATED COURT REPORTERS, INC.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 APPEARANCES:

2 DEAN L. COOPER, Attorney at Law
Brydon, Swearengen & England, P.C.
3 312 East Capitol
P.O. Box 456
4 Jefferson City, Missouri 65102-0456
(573) 635-7166

5
FOR: Missouri-American Water Company.

6
CHARLES BRENT STEWART, Attorney at Law
7 Stewart & Keevil
1001 Cherry Street, Suite 302
8 Columbia, Missouri 65201
(573) 499-0635

9
FOR: Public Water Supply District No. 2 of
10 St. Charles County, Missouri.

11 KEITH R. KRUEGER, Deputy General Counsel
P.O. Box 360
12 Jefferson City, Missouri 65102
(573) 751-3234

13
FOR: Staff of the Missouri Public
14 Service Commission.

15

16

17

18

19

20

21

22

23

24

25

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 P R O C E E D I N G S

2 JUDGE RUTH: Good afternoon. My name is Vicky
3 Ruth, and I'm the Regulatory Law Judge assigned to this
4 case. Today's date is Tuesday, May 1st, 2001. It's 1:35,
5 and we're here for a hearing in Case No. WO-2001-441, In the
6 Matter of the Application of Missouri-American Water Company
7 and the Public Water Supply District No. 2 of St. Charles
8 County, Missouri for Approval of a Territorial Agreement
9 Concerning Territory in St. Charles County, Missouri.

10 Are there any preliminary matters that we need
11 to address before we begin?

12 I will make a note, then, that the Office of
13 the Public Counsel did sign the Stip and Agreement.
14 However, they are not present. And if they come in during
15 the hearing, I'll interrupt and probably make a note for the
16 record that they are present.

17 I'd also like to point out that the parties on
18 April 16th filed a Supplemental Information document
19 requesting that the Commission accept the waiver of
20 condition attached to that supplement, and the Commission
21 does do so.

22 We'll begin with oral entries of appearance.
23 Missouri-American, would you please begin?

24 MR. COOPER: Yes, your Honor. Dean L. Cooper
25 from the law firm of Brydon, Swearngen & England, PC,

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 P.O. Box 456, Jefferson City, Missouri 65102, appearing on
2 behalf of Missouri-American Water Company.

3 JUDGE RUTH: Thank you. And the Water
4 District?

5 MR. STEWART: Charles Brent Stewart of the law
6 firm of Stewart & Keevil, LLC, 1001 Cherry Street,
7 Suite 302, Columbia, Missouri 65201, appearing on behalf of
8 the joint applicant Public Water Supply District No. 2 of
9 St. Charles County, Missouri.

10 JUDGE RUTH: Thank you. And Staff?

11 MR. KRUEGER: Keith R. Krueger for the Staff
12 of the Missouri Public Service. My address is P.O. Box 360,
13 Jefferson City, Missouri 65102.

14 JUDGE RUTH: Thank you. Do the parties wish
15 to make opening statements?

16 MR. COOPER: The Company does not, your Honor.

17 JUDGE RUTH: The Water District?

18 MR. STEWART: No.

19 JUDGE RUTH: Staff?

20 MR. KRUEGER: No.

21 JUDGE RUTH: We will dispense with the opening
22 statements and move to the witness. I understand that Staff
23 will be calling the only witness today; is that correct?

24 MR. KRUEGER: That's correct, your Honor.

25 Staff calls Dale Johansen.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 (Witness sworn.)

2 JUDGE RUTH: Please be seated.

3 DALE JOHANSEN testified as follows:

4 DIRECT EXAMINATION BY MR. KRUEGER:

5 Q. Please state your name and address for the
6 record.

7 A. Dale W. Johansen, Governor Office Building,
8 Suite 500, 200 Madison Street, Jefferson City, Missouri
9 65101.

10 Q. By whom are you employed and in what capacity?

11 A. I'm employed by the Missouri Public Service
12 Commission as the manager of the Water and Sewer Department
13 in the Utility Operations Division.

14 Q. How long have you worked at the Commission in
15 total?

16 A. Just over 18 and a half years.

17 Q. And how long have you been in your current
18 position?

19 A. Nearly six years.

20 Q. Have you previously testified before the
21 Commission?

22 A. Yes, I have. I've testified before the
23 Commission on numerous occasions, including five previous
24 cases involving Commission approval of water service
25 territorial agreements.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 Q. I'm going to hand you what's been marked as
2 Exhibit 1 and ask if you can identify that document?

3 A. Yes, I can.

4 Q. Can you tell me what it is, please?

5 A. Yes. This is the Joint Application for
6 Approval of a Territorial Agreement which Missouri-American
7 Water Company and Public Water Supply District No. 2 of
8 St. Charles County, Missouri filed with the Commission on
9 February 13th of this year.

10 Attached to the Joint Application as Appendix
11 2 is a copy of the subject Territorial Agreement between the
12 Company and the District. And attached to the Territorial
13 Agreement are Exhibits A and B, which are maps showing the
14 service areas of each of the parties as they will exist upon
15 Commission approval of the agreement.

16 Additional attachments to the Joint
17 Application are Appendix 1, which is a certified copy of the
18 Company's Certificate of Good Standing as issued by the
19 Secretary of State's Office; Appendix 3, which is a set of
20 illustrative tariff sheets as required by Commission rule
21 that the Company will need to file upon Commission approval
22 of the Territorial Agreement; and Appendix 4, which is a
23 written legal description of the boundaries of the service
24 areas of each of the parties as they will exist upon
25 Commission approval of the Territorial Agreement.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 Q. Thank you.

2 In your capacity as manager of the
3 Commission's Water and Sewer Department, have you had an
4 opportunity to review the Joint Application, the Territorial
5 Agreement and the attachments to those documents?

6 A. Yes, I have.

7 Q. Will you please briefly describe your review
8 of these documents.

9 A. I first conducted an overall review of the
10 provisions of the Joint Application, the Territorial
11 Agreement and the attachments to those documents, and I then
12 compared the provisions of the application and the agreement
13 to the statutory requirements that are applicable to water
14 service territorial agreements.

15 Q. Now, you mentioned the statutory requirements.
16 Where are those found?

17 A. They are found in Chapter 247, Section 172 of
18 the Revised Statutes of Missouri.

19 Q. And would you please summarize the applicable
20 statutory requirements as you understand them.

21 A. Yes. First, the Territorial Agreement must
22 specifically designate the boundaries of the water service
23 area of each water service provider subject to the
24 agreement.

25 Second, the agreement must specify the powers

1 granted by the entities subject to the agreement to operate
2 within one another's corporate boundaries.

3 Third, the Commission's approval of a
4 Territorial Agreement shall in no way affect or diminish the
5 rights or duties of any water supplier that is not a party
6 to the agreement to provide service within the boundaries
7 designated in the agreement.

8 And fourth, Commission approval of a
9 Territorial Agreement may come only after an evidentiary
10 hearing is held and after the Commission determines that
11 approval of the agreement is not detrimental to the public
12 interest.

13 Q. Based upon your review of the Joint
14 Application and the Territorial Agreement, is it your
15 opinion that these documents satisfy the applicable
16 statutory requirements?

17 A. Yes, it is. First, Exhibits A and B attached
18 to the Agreement and Appendix 4 attached to the Joint
19 Application designate the boundaries of the water service
20 areas of the Company and the District.

21 Second, the Agreement clearly sets out the
22 powers that each party grants to the other to operate in the
23 respective corporate boundaries.

24 Third, the Joint Application contains a
25 provision acknowledging that the Territorial Agreement in no

1 way affects or diminishes the rights of any water service
2 provider that is not a party to the Agreement to provide
3 service within the boundaries designated in the agreement.

4 And fourth, as a result of the three items I
5 just mentioned and additional items I will cover later in
6 this testimony, it is my opinion that Commission approval of
7 the Agreement would not be detrimental to the public
8 interest.

9 Q. Are you aware of any customer inquiries or
10 complaints that have been received regarding the application
11 or the Territorial Agreement?

12 A. To my knowledge, the Staff has not received
13 any customer contacts of any kind regarding the Joint
14 Application or the Agreement. This is based upon responses
15 to inquiries that I made of my staff and the Commission's
16 Consumer Services Department staff regarding customer
17 contacts that they may have received about the case.

18 Additionally, had any customer contacts been
19 received by other members of the staff, I'm sure I would
20 have been made aware of those contacts.

21 Q. Will any existing customers of either the
22 Company or the Water District experience a change in their
23 water service provider as a result of implementation of this
24 agreement?

25 A. No. As is noted in the Joint Application, the

1 agreement affects only new customers, and no existing
2 customers of either the Company or the District will have
3 their water service supplier changed as a result of the
4 agreement.

5 Q. Is there anything else that you think the
6 Commission should consider in reaching its decision on
7 whether to approve the Joint Application and the Territorial
8 Agreement?

9 A. Yes. There are three additional items that I
10 believe the Commission should consider. First, it is clear
11 that implementation of the Agreement will enable the Company
12 and the District to avoid wasteful and costly duplication of
13 facilities and services in the areas that are the subject of
14 the agreement.

15 Second, implementation of the Agreement will
16 also preclude any destructive competition that might
17 otherwise arise between the Company and the District in the
18 subject service areas.

19 I believe that both of these items are clearly
20 to the benefit of the customers of the Company and the
21 District and should thus be given positive consideration by
22 the Commission in its deliberations.

23 And third, I would also like the Commission to
24 note that it is my opinion that each of the parties to the
25 Agreement have both the ability and the facilities necessary

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 to provide safe and adequate service to the customers in the
2 service areas that are the subject of the Agreement.

3 Q. I'm now going to hand you what's been marked
4 as Exhibit 2 and ask if you can identify that document for
5 me, please?

6 A. Yes, I can. This is the Unanimous Stipulation
7 and Agreement that the Company, the District, the Commission
8 Staff and the Office of Public Counsel filed in this case on
9 April 16th, 2001.

10 Q. Are you familiar with the terms of the
11 Stipulation?

12 A. Yes, I am.

13 Q. And did you participate in the development of
14 the stipulation?

15 A. Yes, I did.

16 Q. Do you recommend that the Commission approve
17 the Stipulation and Agreement?

18 A. Yes, I do.

19 Q. I'm now going to hand you a document that's
20 been marked as Exhibit 3 and ask if you can identify that,
21 please?

22 A. Yes. This is a pleading titled Supplemental
23 Information which the Company and the District filed in this
24 case on April 16th, 2001. This document includes an
25 attachment that modifies one of the provisions of the

1 original Territorial Agreement.

2 Q. Which provision of the Territorial Agreement
3 does that document modify?

4 A. The provision modified is paragraph 7 which
5 deals with the time frame in which all necessary actions
6 must be completed in order for the Territorial Agreement to
7 remain valid. The modification contained in the attachment
8 to Exhibit No. 3 extends that date from March 1, 2001 to
9 June 15th, 2001.

10 Q. Now, is it your understanding that the parties
11 to the Territorial Agreement have submitted the necessary
12 fees to the Commission for its consideration of the
13 Territorial Agreement?

14 A. Yes, it is. As noted in the Joint
15 Application, the parties to the Agreement submitted the
16 initial filing fee required by the Commission's rules
17 concurrent with the filing of the application.

18 Q. Do you have anything further to add for the
19 Commission's consideration?

20 A. No, I do not.

21 Q. Is that your final answer?

22 A. Yes, that is my final answer.

23 MR. KRUEGER: Nothing further. Oh, we would
24 offer at this time Exhibits 1, 2 and 3, your Honor.

25 JUDGE RUTH: Are there any objections to

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 Exhibits 1, 2 and 3, the Joint Application, the Unanimous
2 Stip and Agreement and Supplemental Information?

3 (No response.)

4 Seeing no objections, those three Exhibits 1,
5 2 and 3 are admitted into the record.

6 (EXHIBIT NOS. 1, 2 AND 3 WERE RECEIVED INTO
7 EVIDENCE.)

8 JUDGE RUTH: Thank you. I do not have any
9 questions for the witness. Missouri-American, do you?

10 MR. COOPER: No questions, your Honor.

11 JUDGE RUTH: Water District?

12 MR. STEWART: No questions, your Honor.

13 JUDGE RUTH: Then I assume you are finished
14 with your witness?

15 MR. KRUEGER: That's all I have, your Honor.

16 JUDGE RUTH: You may step down.

17 (Witness excused.)

18 And it's my understanding, then, that the
19 Water District and Missouri-American do not intend to call
20 any witnesses; is that correct?

21 MR. COOPER: That's correct, your Honor.

22 JUDGE RUTH: Do the parties have anything
23 further?

24 MR. KRUEGER: Nothing further from Staff, your
25 Honor.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1 JUDGE RUTH: Okay.

2 MR. COOPER: Nothing for the Company.

3 JUDGE RUTH: Then that will conclude today's
4 hearing. Thank you very much.

5 WHEREUPON, the hearing of this case was
6 concluded.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888) 636-7551

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

STAFF'S EVIDENCE:

DALE JOHANSEN
Direct Examination by Mr. Krueger 5

EXHIBITS INDEX

	MARKED	REC'D
EXHIBIT NO. 1		
Joint Application for Approval of Territorial Agreement	3	13
EXHIBIT NO. 2		
Unanimous Stipulation and Agreement	3	13
EXHIBIT NO. 3		
Supplemental Information	3	13