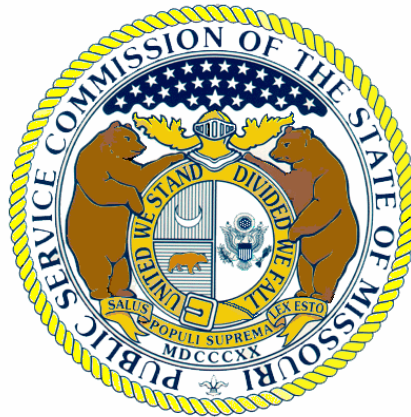


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



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

Case No. WO-2006-0488

REPORT AND ORDER

Issue Date: September 7, 2006

Effective Date: September 17, 2006

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Joint Application of)
Public Water Supply District No. 3 of)
Franklin County, Missouri, and the City of) **Case No. WO-2006-0488**
St. Clair, Missouri, for Approval of a Water)
Service Area Territorial Agreement in)
Franklin County, Missouri)

APPEARANCES

Charles Brent Stewart, Stewart & Keevil, L.L.C., 4603 John Garry Drive, Suite 11, Columbia, Missouri 65203 for Public Water Supply District No. 3 of Franklin County, Missouri, and the City of St. Clair, Missouri.

Lewis R. Mills, Jr., Public Counsel, Office of the Public Counsel, Governor Office Building, Post Office Box 2230, Jefferson City, Missouri 65102, for Office of the Public Counsel and the public.

Keith R. Krueger, Deputy General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: Harold Stearley, Judge.

REPORT AND ORDER

Syllabus: This Report and Order approves the joint application for approval of a territorial agreement, and approves the Unanimous Stipulation and Agreement of the parties regarding that agreement.

Procedural History

On June 21, 2006, Public Water Supply District No. 3 of, Franklin County, Missouri, and the City of St. Clair, Missouri, (collectively referred to as “Applicants”) filed a verified application for approval of a territorial agreement. On June 22, 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 July 12. There were no requests to intervene.

On August 18, 2006, the parties filed a Unanimous Stipulation and Agreement, asking that the Commission approve the territorial agreement and indicating the parties believe that no evidentiary hearing is needed. The Commission’s Staff filed suggestions in support of the stipulation and agreement on August 30, 2006. No party filed a response, or suggestions in opposition, to the stipulation and agreement within the deadline established by the Commission.

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.

The Applicants:

The City of St. Clair, Missouri, is a fourth class city, existing under Chapter 79, RSMo 2000. The City owns and operates a water and sanitary sewer system within its boundaries in Franklin County. The City’s principal office and place of business is located at #1 Paul Parks Drive, St. Clair, Missouri 63077.

Consolidated Public Water Supply District No. 3 of Franklin County, Missouri, is a public water supply district organized under Chapter 247, RSMo 2000. The District

provides water and sanitary sewer service to customers located within the District's water service area in Franklin County in Missouri. The District's principal office and place of business is located at 150 Old Highway 100, Villa Ridge, Missouri 63089.

The Proposed Territorial Agreement

In their joint application, the Applicants submit a territorial agreement for the Commission's approval. Concurrent with the filing of the joint application, the Applicants submitted the fee required by Commission Rule 4 CSR 240-3.625(1)(E) as set forth in Commission Rule 4 CSR 240-3.630.

The territorial agreement specifically designates the boundaries of the water and sewer 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. The water and sewer service of existing customers will not be changed by the agreement, and the agreement acknowledges that it in no way affects or diminishes the rights and duties of any water or sewer service supplier that is not a party to the agreement.

The Unanimous Stipulation and Agreement

On August 18, 2006, the Applicants, along with the Staff of the Commission and the Office of the Public Counsel, filed a Unanimous Stipulation and Agreement requesting that the Commission approve the proposed territorial agreement. The stipulation states that the territorial agreement will allow the Applicants to avoid wasteful duplication of water services within the affected service areas. The stipulation also indicates that 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.

The parties to the stipulation agree that the joint application and the territorial agreement meet the requirements of the applicable statute as well as applicable Commission rules,¹ 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.

The Territorial Agreement

Section 247.172, RSMo 2000, gives the Commission jurisdiction over territorial agreements concerning the sale and distribution of water. Under Section 247.172.4, the Commission may approve such a territorial agreement if the agreement is not detrimental to the public interest. Based on the agreement of the parties expressed in the stipulation and agreement, the Commission finds that the territorial agreement will not be detrimental to the public interest.

The Necessity for an Evidentiary Hearing

In the stipulation and agreement, the parties agree that the Commission does not need to hold an evidentiary hearing before approving the stipulation and agreement and the territorial agreement. Although Section 247.172.4, RSMo 2000, provides that the Commission is to hold an evidentiary hearing to determine whether a territorial agreement

¹ Section 247.172, RSMo 2000; 4 CSR 240-3.625 and 4 CSR 240-3.630.

is to be approved, the parties contend that no hearing is necessary where the case has been resolved by the filing of a unanimous stipulation and agreement, and where no other party has requested a hearing. The Commission agrees that pursuant to the holding of State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri,² the requirement for a hearing was met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence.

Decision

Having considered the Joint Application, the Unanimous Stipulation and Agreement, and Staff's verified memorandum in support of approval, all of which are hereby admitted into evidence, the Commission concludes that the territorial agreement between the City of St. Clair and Consolidated Public Water Supply District No. 3 of Franklin County, Missouri, is in the public interest. The Commission shall approve the Joint Application and the Unanimous Stipulation and Agreement. 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 St. Clair, Missouri, and the Consolidated Public Water Supply District No. 3 of Franklin County, Missouri, on June 21, 2006, is approved.
2. The Unanimous Stipulation and Agreement entered into by the City of St. Clair, Missouri, and the Consolidated Public Water Supply District No. 3 of Franklin County, Missouri, the Staff of the Commission, and the Office of the Public Counsel is approved.

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

3. The territorial agreement entered into by the City of St. Clair, Missouri, and the Consolidated Public Water Supply District No. 3 of Franklin County, Missouri, is approved.

4. Any modifications or amendments in the Territorial Agreement must be reviewed and approved by the Commission.

5. This order shall become effective on September 17, 2006.

6. This case may be closed on September 18, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC.,
concur and certify compliance with the provisions
of Section 536.080, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 7th day of September, 2006.