

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

In the Matter of the Joint Application of the )  
City of Union, Missouri and Public Water )  
Supply District No. 1 of Franklin County, )  
Missouri for Approval of a Territorial )  
Agreement Concerning Territory in )  
Franklin County, Missouri. )

Case No. WO-2003-0186

**UNANIMOUS STIPULATION AND AGREEMENT**

**COME NOW** the Staff of the Missouri Public Service Commission ("Staff"), Public Water Supply District No. 1 of Franklin County, Missouri ("District"), the City of Union, 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 October 21, 2002, the District and the City ("Applicants") executed a Territorial Agreement pursuant to Section 247.172, RSMo 2000. On November 19, 2002, the Applicants filed with the Missouri Public Service Commission ("Commission") a Joint Application for Approval of a Water Service Area Territorial Agreement ("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 21, 2001, the Commission issued its Order and Notice and its Amended Order and Notice ("Notice Order"), which required that the Information Officer of the Commission make notice of the Joint Application available to the members of the General Assembly who represent constituents in Franklin County and the

newspapers and other media that serve Applicants' service areas. The Commission's Notice Order also set December 11, 2002 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 11, 2002, nor has any party submitted a late-filed application for intervention or request for hearing as of the date of this Stipulation.

4. In its Notice Order, the Commission set December 17, 2002 as the date for a prehearing conference, and January 27 and 28 as the dates for the hearing in this matter.

5. On December 17, 2002, the parties attended the prehearing conference as scheduled and agreed upon the following items: (a) a stipulation in this case was likely; (b) there are no existing customers of the District or the City that will have their current water or sewer service supplier changed by the Territorial Agreement; (c) applicants would file an amended Exhibit A to the Territorial Agreement, correcting the legal designation of the boundaries of the territory controlled by the Territorial Agreement; and (d) a proposed procedural schedule.

6. On January 6, 2003, the Staff filed the parties' Jointly Proposed Procedural Schedule. The parties' proposed schedule set out January 17, 2003 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 January 27, 2003.

7. On January 15, 2003, the Commission issued its Order Establishing Procedural Schedule, wherein it set out that the Stipulation and Agreement in this case

is due on or before January 17, 2003, and it scheduled an evidentiary hearing in this case for January 27, 2003, from 1:30 p.m. to 5:00 p.m.

8. On January 14, 2003, the District and City filed a document titled Exhibit A, to replace the original Exhibit A to the Territorial Agreement.

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

9. The Territorial Agreement designates the boundaries of an area within the District's service area, that will be served by the City, as set forth in a legal description attached to the Territorial Agreement as Exhibit A, in its amended form, as filed on January 14, 2003. The result of the Territorial Agreement is that the City will provide water service to customers in two developments, known as Union Mobile Manor and Eagleridge Estates, within the boundary of the District's service area.

10. 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 otherwise required by 4 CSR 240-2.060(13)(B) for Commission-regulated entities.

11. As is noted in the Joint Application, no existing customers of the District or the City will have their current water or sewer service supplier changed by the Territorial Agreement.

12. 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).

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

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

15. 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.

16. 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.

17. 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.

18. The parties agree that the Territorial Agreement meets the requirements of Section 247.172, RSMo 2000.

19. The parties agree that the Territorial Agreement is "not detrimental to the public interest" and that the Commission should so find.

#### **GENERAL PROVISIONS**

20. 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.

21. 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.

22. 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.

23. 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.

24. As is noted in Paragraph 20 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 January 27, 2003.

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

Respectfully Submitted,

**/s/ Victoria L. Kizito**

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)  
573-751-9285 (facsimile)  
[vkizito@mail.state.mo.us](mailto:vkizito@mail.state.mo.us) (e-mail)

Attorney for the Staff of the  
Missouri Public Service Commission

**/s/ John B. Coffman**

John Coffman      MO Bar No. 36591  
Acting Public Counsel  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102  
573-751-5565 (telephone)  
573-751-5562 (facsimile)  
[jcoffman@ded.state.mo.us](mailto:jcoffman@ded.state.mo.us) (e-mail)

Attorney for the Office of the Public Counsel

**/s/ Victoria L. Kizito for Charles Brent Stewart**

Charles Brent Stewart      MO Bar No. 34885  
Stewart & Keevil, L.L.C.  
1001 Cherry Street, Suite 302  
Columbia, MO 65201  
573-499-0635 (telephone)  
573-499-0638 (facsimile)  
[Stewart499@aol.com](mailto:Stewart499@aol.com) (e-mail)

Attorney for the Joint Applicants, and signed on behalf of:

Mark C. Piontek, MoBar #36221  
Lewis, Rice & Fingersh, L.C.  
1200 Jefferson, P.O. Box 397  
Washington, MO 63090  
(636) 239-7747  
(636) 239-8450 (facsimile)  
[mpiontek@lewisrice.com](mailto:mpiontek@lewisrice.com) (e-mail)

Attorney for the Applicant Public Water Supply  
District No. 1 of Franklin County, Missouri

Mark S. Vincent, MoBar #31819  
Vincent & Hoven, P.C.  
316 E. Locust Street  
Union, MO 63084  
(636) 583-5760 (telephone)  
(636) 583-3118 (facsimile)

Attorney for the Applicant City of Union, Missouri

**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facimile or emailed to all counsel of record this 17th day of January 2003.

**/s/ Victoria L. Kizito**

Victoria L. Kizito