

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 14th day of April, 2021.

In the Matter of the Joint Application of The)
Public Water Supply District No. 2 of St.)
Charles County, Missouri and the City of) **File No. WO-2021-0253**
Wentzville, Missouri for Approval of an)
Amendment to their Intergovernmental)
Territorial Agreement)

**REPORT AND ORDER APPROVING SECOND
AMENDMENT TO TERRITORIAL AGREEMENT**

Issue Date: April 14, 2021

Effective Date: May 14, 2021

This order approves the Second Amendment to the territorial agreement between the Public Water Supply District No. 2 of St. Charles County, Missouri (the District) and the City of Wentzville (City) (collectively the “Joint Applicants”).

Findings of Facts

1. The City is a fourth class city, organized and operating under Chapter 79 of the Revised Statutes of Missouri.¹ The City operates a municipally-owned water utility in St. Charles County, Missouri. The City is a political subdivision of the state of Missouri and is not subject to regulation by the Commission except for purposes of this file. The City’s principal place of business is located at 1001 Schroeder Creek, Wentzville, Missouri 63385.

2. The District is a public water supply district organized under Chapter 247 of the Revised Statutes of Missouri. The District provides water service at retail and

¹ All citations to RSMo are to the 2016 edition.

wholesale to customers located within the District's water service area in and around St. Charles County and Warren County, Missouri. The District is a political subdivision of the State of Missouri and is not subject to regulation by the Commission except for purposes of this application. The District's principal place of business is located at 100 Water Drive, O'Fallon, Missouri 63366.

3. On October 17, 2000, in File No. WO-2000-849, the City and the District received the Commission's approval of their original agreement. On November 14, 2011, the Commission approved the first amendment to the original agreement in its Report and Order issued in File no. WO-2012-0088. On February 9, 2021, the City and District filed a Joint Application for Approval of an Amendment to Intergovernmental Territorial Agreement (Application).

4. On February 10, 2021, the Commission ordered that notice of the application be provided to potentially interested persons and established February 25, 2021, as the deadline for submission of requests to intervene. No requests to intervene have been filed. The Commission also directed Staff to file a recommendation regarding the application no later than March 26, 2021.

5. On March 26, 2021, Staff filed a recommendation advising the Commission to approve the Second Amendment. No one has filed an objection, nor has anyone requested a hearing.

6. The Second Amendment provides that all provisions of the Original Agreement and the First Amendment shall remain and continue in full force and effect in all respects except as provided in the Second Amendment.

7. The Second Amendment extends the territorial agreement term an additional twenty years and modifies certain portions of the boundaries of the two water service areas that the City and the District will serve. The Second Amendment will not result in a change of supplier for any current customer of either the City or the District.

8. Based on the information provided in the application and Staff's recommendation, the Commission finds that the Second Amendment in total is not detrimental to the public interest.

Conclusions of Law

a. The Commission has jurisdiction over territorial agreements for the sale and distribution of water under Section 247.172, RSMo. Section 247.172.1, RSMo, provides that “[c]ompetition to sell and distribute water, as between and among public water supply districts, water corporations subject to public service commission jurisdiction, and municipally owned utilities may be displaced by written territorial agreements, but only to the extent hereinafter provided for in this section.”

b. Section 247.172.4, RSMo, states that “[b]efore becoming effective, all territorial agreements entered into under the provisions of this section, including any subsequent amendments to such agreements, or the transfer or assignment of the agreement or any rights or obligations of any party to an agreement, shall receive the approval of the public service commission by report and order.”

c. Pursuant to Section 247.172.5, RSMo, the Commission may approve a territorial agreement if the Commission determines that the territorial agreement in total is not detrimental to the public interest.

d. Section 247.172.5, RSMo, provides that the Commission must hold an evidentiary hearing on the proposed territorial agreement unless an agreement is made between the parties and no one requests a hearing. Since the City and the District filed a joint application therein stating that the parties agreed to the second amendment to the territorial agreement and no one has requested a hearing, no hearing is required.²

Decision

Having considered the joint application and Staff's recommendation in support of approval of the application, the Commission finds that the parties have agreed to the terms and conditions of the Second Amendment and that otherwise no other person has objected thereto. The Commission concludes the Second Amendment between the parties in total is not detrimental to the public interest and will be approved.

THE COMMISSION ORDERS THAT:

1. The Second Amendment to the Territorial Agreement between the City of Wentzville, Missouri and Public Water Supply District No. 2 of St. Charles County, Missouri, is approved.
2. The City and District are authorized to provide water service to the property described in the Second Amendment, included with this order as Attachment A.
3. The City and District are authorized to do such other acts and things, including making, executing, and delivering any and all documents that may be

² See also *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989), stating that the requirement for a hearing is met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence.

necessary, advisable, or proper to effect the terms and conditions of the Second Amendment and to implement the authority granted by the Commission in this order.

4. This order shall become effective on May 14, 2021.
5. This file shall be closed on May 15, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and Holsman CC., concur and certify compliance with the provisions of Section 536.080, RSMo (2016).

Graham, Regulatory Law Judge