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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

HEARING

December 30, 2003

Jefferson City, Missouri

Volume 2

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In the Matter of the Joint Application )  
of the City of Hannibal, Missouri and )  
Pubic Water Supply District No. 1 of ) Case No.  
Ralls County, Missouri, for Approval of) WO-2004-0163  
Three Territorial Agreements Concerning)  
Water Service Areas in Marion County, )  
Missouri. )

BEFORE: \_\_\_\_\_  
KEVIN A. THOMPSON,  
DEPUTY CHIEF REGULATORY LAW JUDGE.

\_\_\_\_\_

REPORTED BY:  
TRACY L. THORPE, CSR, CCR  
ASSOCIATED COURT REPORTERS

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A P P E A R A N C E S

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FOR: Staff of the Missouri Public Service Commission

1 (Exhibit Nos. 1 through 4 were marked for  
2 identification.)

3 JUDGE THOMPSON: Good morning. We're here in  
4 the matter of joint application of the City of Hannibal,  
5 Missouri and Public Water Supply District No. 1 of Ralls  
6 County, Missouri for approval of three territorial  
7 agreements concerning water service areas in Marion County,  
8 Missouri. This is Case No. WO-2004-0163.

9 My name is Kevin Thompson. I'm the regulatory  
10 law judge assigned to preside over this matter. We will  
11 take oral entries of appearance at this time. Why don't we  
12 begin with counsel for the applicants.

13 MR. STEWART: Charles Brent Stewart of the law  
14 firm Stewart and Keevil, LLC, 4603 John Garry Drive,  
15 Suite 11, Columbia, Missouri 65203, appearing on behalf of  
16 the joint applicants, the City of Hannibal, Missouri and  
17 Public Water Supply District No. 1 of Ralls County,  
18 Missouri.

19 JUDGE THOMPSON: Very well. Thank you.

20 Ms. O'Neill?

21 MS. O'NEILL: Yes. My name is Ruth O'Neill  
22 for the Office of the Public Counsel and the public. Our  
23 address is PO Box 2230, Jefferson City, Missouri 65102.

24 JUDGE THOMPSON: Mr. Snodgrass?

25 MR. SNODGRASS: Yes. Good morning, Judge. My

1 name is Cliff Snodgrass. I represent the interests of the  
2 Staff of the Missouri Public Service Commission. My formal  
3 business address is Governor's Office Building, Suite 800,  
4 200 Madison Street, PO Box 360 here in the big town of  
5 Jefferson City, Missouri 65102-0360.

6 JUDGE THOMPSON: I understand we're going to  
7 hear from Mr. Johansen today?

8 MR. SNODGRASS: Yes, you will, Judge.

9 JUDGE THOMPSON: Why don't you come on up to  
10 the table -- witness chair there. Why don't you spell your  
11 last name for the reporter, please.

12 THE WITNESS: J-o-h-a-n-s-e-n.

13 (Witness sworn.)

14 JUDGE THOMPSON: Please take your seat.

15 You may inquire, Mr. Snodgrass.

16 MR. SNODGRASS: Thank you, Judge.

17 DALE JOHANSEN testified as follows:

18 DIRECT EXAMINATION BY MR. SNODGRASS:

19 Q. Would you please state your name and business  
20 address for the record?

21 A. My name is Dale Johansen, and my business  
22 mailing address is Post Office Box 360, Jefferson City,  
23 Missouri 65102.

24 Q. For whom do you work, in what capacity, sir?

25 A. I work for the Missouri Public Service

1 Commission, and I'm the manager of the Water and Sewer  
2 Department in the Utility Operations Division.

3 Q. How long have you worked for this Commission,  
4 Mr. Johansen?

5 A. I've worked for the Commission a total of just  
6 over 21 1/2 years, and I've been in my current position for  
7 just 8 1/2 years.

8 Q. Have you previously testified in cases before  
9 this Commission, sir?

10 A. Yes, I have. I've testified in numerous cases  
11 before the Commission, including 10 previous cases involving  
12 applications for Commission approval of water service  
13 territorial agreements.

14 Q. Now, Mr. Johansen, have you had occasion to  
15 review what's been previously marked by the court reporter  
16 as Exhibit No. 1 for identification?

17 A. Yes, I have.

18 Q. Would you tell the Judge what that document  
19 is?

20 A. It's a copy of the joint application for  
21 approval of water service territorial agreements, which  
22 Public Water Supply Water District No. 1 of Ralls County and  
23 the City of Hannibal filed with the Commission on  
24 September 29th, 2003.

25 And attached to that joint application

1 identified as Appendix A are copies of three territorial  
2 agreements between the district and the city which those  
3 entities entered into on December 19th, 2002; February 28th,  
4 2003; and June 17th, 2003 respectively. And included as a  
5 part of each of those territorial agreements is a legal  
6 description of the service area affected by the agreements.

7 Q. Now, Mr. Johansen, in your capacity as manager  
8 of the Commission's Water and Sewer Department, have you had  
9 an opportunity to review this joint application and the  
10 attached territorial agreements?

11 A. Yes.

12 Q. And would you briefly describe your review of  
13 these documents to the court, please?

14 A. Well, first, I conducted a general review of  
15 the application and the agreements. Second, I compared the  
16 provisions of those documents to the statutory requirements  
17 that pertain to water service territorial agreements. And,  
18 third, I compared the provisions of the documents to the  
19 requirements of the Commission rules that pertain to  
20 applications for review and approval of territorial  
21 agreements.

22 Q. Now, regarding the statutory requirements you  
23 just mentioned, where are those found, for the record, to  
24 your knowledge?

25 A. They are found in Chapter 242 -- I'm sorry,

1 Chapter 247, Section 172 of the Revised Statutes of  
2 Missouri.

3 Q. Thank you.

4 Would you please summarize the applicable  
5 statutory requirements as you understand them?

6 A. Certainly. First, the territorial agreement  
7 must specifically designate the boundaries of the water  
8 service areas of each provider subject to the agreement.

9 Second, the agreement must specify the powers  
10 granted by the entities subject to the agreement to operate  
11 within one another's corporate boundaries.

12 Third, the Commission's approval of a  
13 territorial agreement shall in no way affect or diminish the  
14 rights and duties of any water supplier that is not a party  
15 to the agreement to provide service within the boundaries  
16 designated in the agreement.

17 And, fourth, Commission approval of a  
18 territorial agreement may come only after an evidentiary  
19 hearing is held and after the Commission determines that  
20 approval of the agreement is not detrimental to the public  
21 interest.

22 Q. Thank you for that, Mr. Johansen.

23 Now, I know that you're familiar with  
24 Commission rules based on your experience here with the  
25 Commission. Would you briefly advise the court where the

1 applicable rules are that apply to this transaction, in your  
2 opinion?

3 A. Yes. There are three rules that apply here.  
4 And those are found in 4 CSR 240-2.060, 4 CSR 240-3.625 and  
5 4 CSR 240-3.630.

6 Q. And what are the subject of those rules that  
7 you've just talked about and mentioned?

8 A. Section 1 of 4 CSR 240-2.060 contains the  
9 general requirements that all applications filed with the  
10 Commission must meet. 4 CSR 240-3.625 contains the specific  
11 requirements that applications for Commission review and  
12 approval of water service territorial agreements must meet.  
13 And 4 CSR 240-3.630 contains the requirements regarding the  
14 schedule of fees that are applicable to applications for  
15 Commission review and approval of water service territorial  
16 agreements.

17 Q. Now, regarding the statutory requirements that  
18 you previously talked about just a few moments ago, is it  
19 your opinion that the joint application and the territorial  
20 agreements themselves satisfy those statutory requirements?

21 A. Yes, it is. Based on my review of the joint  
22 application and the agreements, it is my opinion that the  
23 statutory requirements have been met for the following  
24 reasons: First, the agreements designate the water service  
25 area that is subject to the agreement, and that's done for



1 each of the agreements; second, the agreements clearly set  
2 out the powers that each party to the agreement grants to  
3 the other to operate in their respect corporate boundaries.

4 Third, the joint application and the  
5 agreements contain provisions acknowledging that neither the  
6 agreements nor the Commission's approval of the agreements  
7 will affect or diminish the rights of any water service  
8 provider that is not a party to the agreement to provide  
9 service within the boundaries designated in the agreements.

10 And, fourth, as a result of the three items I  
11 just mentioned and additional items that I will cover later  
12 in the testimony, it is my opinion that Commission approval  
13 of the agreement would not be detrimental to the public  
14 interest.

15 Q. And shifting gears for a moment from the  
16 statute to the rules, regarding the Commission rules that  
17 you previously discussed in your testimony, is it your  
18 opinion that the requirements found in those rules have been  
19 met in this particular instance?

20 A. Yes, it is. Again, based upon my review of  
21 the joint application, the fact that the joint applicants  
22 tendered the necessary filing fee at the time they filed the  
23 application, it is my opinion that the applicable  
24 requirements of the rules have been met.

25 Q. All right. Now, Mr. Johansen, this question I

1 think -- I'd like for you to listen to it carefully. Will  
2 any existing customers of either the district or the city  
3 experience a change in their water service provider as a  
4 result of this agreement?

5 A. Existing customers will not be affected, but  
6 there are three customers that, in fact, are new customers  
7 that are in the district's boundaries that are being served  
8 and will continue to be served by the city under the terms  
9 of the agreements.

10 Q. All right. And, in fact, the city offered  
11 consideration to the district for those agreements, did they  
12 not?

13 A. That's correct.

14 Q. Have you had occasion to look over what's been  
15 previously marked by the court reporter as Group Exhibit  
16 No. 2?

17 A. Yes.

18 Q. Would you tell the court what that group  
19 exhibit is?

20 A. Exhibit No. 2 consists of three letters. One  
21 to the Quality Inn and Suites, one to the Perry State Bank  
22 and one to the United Industries Credit Union, which are the  
23 three commercial customers that are in the district's  
24 service area but are being served by the city under the  
25 terms of the territorial agreements.

1 Q. Thank you, sir.

2 Are you aware of -- personally aware in your  
3 capacity as manager of the Water and Sewer Department, of  
4 any customer inquiries or complaints that have been received  
5 regarding the joint application for the territorial  
6 agreements we're talking about here?

7 A. No. I've not received any contacts regarding  
8 the application or the agreements. And, to my knowledge, no  
9 other member of the Commission Staff has received any  
10 contacts regarding these. And I would note that if other  
11 members of the Staff had received any contacts, I'm sure I  
12 would have been made aware of them.

13 Additionally, Ms. O'Neill of the Public  
14 Counsel has informed me that her office has not received any  
15 inquiries regarding the application or the agreements.

16 Q. All right. Now, is there anything else  
17 regarding the territorial agreements that you think the  
18 Commission should consider in reaching its decision on this  
19 case?

20 A. Yes. There are five additional items to which  
21 I believe the Commission should give positive consideration.  
22 First, implementation of the agreements will enable the  
23 parties to avoid wasteful and costly duplication of  
24 facilities and services in the areas that are the subject of  
25 the agreements.

1                   Second, implementation of the agreements will  
2       preclude destructive competition that might otherwise arise  
3       between the parties.

4                   Third, implementation of the agreements will  
5       improve the ability of the parties to plan for future water  
6       service and enable prospective customers to know who will be  
7       providing their service.

8                   Fourth, implementation of the agreements will  
9       establish a method for the parties to the agreements to  
10      amend the service territories in the future.

11                  And, fifth, I would ask the Commission to note  
12      that it is my opinion that the parties to the agreement have  
13      both the technical ability and the system capacity to  
14      provide adequate service to the affected customers in the  
15      agreed-upon service areas.

16                  Q.      Mr. Johansen, have you had occasion to look  
17      over what has previously been marked by the court reporter  
18      as Exhibit No. 3?

19                  A.      Yes, I have.

20                  Q.      Are you familiar with that document?

21                  A.      Yes, I am.

22                  Q.      Would you advise the court what it is?

23                  A.      Exhibit 3 is a copy of the Unanimous  
24      Stipulation and Agreement that the district, the city, the  
25      Commission Staff, and the Public Counsel entered into and

1 filed in this case on December 19th, 2003.

2 Q. Are you familiar with the terms of this

3 Stipulation and Agreement, sir?

4 A. Yes, I am.

5 Q. And did you participate in the development of

6 this Stipulation and Agreement?

7 A. Yes, I did.

8 Q. Do you recommend that this Commission approve

9 the Stipulation and Agreement identified as Exhibit No. 3?

10 A. Yes, I do.

11 Q. Now, Mr. Johansen, have you had occasion to

12 look over what's been previously marked by the court

13 reporter as Exhibit No. 4?

14 A. Yes, I have.

15 Q. Would you advise the court what that exhibit

16 is?

17 A. This is an updated version of the territorial

18 agreement between the district and the city for the hotel

19 property in the CERV subdivision. This is -- was one of the

20 original exhibits in Appendix A to the application.

21 And what this exhibit reflects is that

22 approval signature of the United States Department of

23 Agriculture has now been received, which did not exist at

24 the time the application was originally filed.

25 Q. And would it be a fair statement that this

1 territorial agreement goes to the Quality Motel Suite  
2 particular customer?

3 A. Yes.

4 Q. All right. Mr. Johansen, do you have anything  
5 further to add at this time for the record?

6 A. I do not.

7 MR. SNODGRASS: Your Honor, at this time I  
8 would ask that Exhibits 1 through 4 that have previously  
9 been identified be admitted into the record.

10 JUDGE THOMPSON: Do I hear any objections to  
11 the receipt of Exhibits 1 through 4?

12 MS. O'NEILL: No objection.

13 MR. STEWART: No objection.

14 JUDGE THOMPSON: Hearing no objections,  
15 Exhibits 1 through 4 are received and made a part of the  
16 record of this proceeding.

17 (Exhibit Nos. 1 through 4 were received into  
18 evidence.)

19 MR. SNODGRASS: Your Honor, at this time I  
20 would tender the witness for any cross-examination the  
21 parties wish to go forward with at this time.

22 JUDGE THOMPSON: Thank you, Mr. Snodgrass.

23 Ms. O'Neill?

24 MS. O'NEILL: No questions, your Honor.

25 JUDGE THOMPSON: Mr. Stewart?

1                   MR. STEWART: No questions, your Honor.

2           QUESTIONS BY JUDGE THOMPSON:

3           Q.       Mr. Johansen, I understand that the three

4           properties that are the subject of this agreement or part of

5           the subject of this agreement are already being served by

6           the city; is that correct?

7           A.       That's correct.

8           Q.       And they're located in territories otherwise

9           that would be that of the district's?

10          A.       Correct.

11          Q.       Okay. And there's going to be compensation

12          paid by the city to the district?

13          A.       Correct.

14          Q.       And that's going to be on an ongoing basis as

15          far as you know?

16          A.       With regard to the agreement applying to the

17          United Industries Credit Union, I believe -- it appears to

18          me that that is a one-time payment --

19          Q.       Okay.

20          A.       -- of -- and that amount is \$5,000. And I

21          believe that's -- it appears to be that's also the case for

22          the agreement pertaining to the area where Perry State Bank

23          is located.

24          Q.       Okay.

25          A.       And regarding the third agreement, which has

1 to do with the Quality Inn and Suites, that also appears to  
2 me to be a compensation of a single lump sum payment, and  
3 the amount of that payment is \$53,517.

4 JUDGE THOMPSON: Okay. I have no further  
5 questions.

6 Recross based on my questions, Ms. O'Neill?

7 MS. O'NEILL: No questions.

8 JUDGE THOMPSON: Mr. Stewart?

9 MR. STEWART: No questions.

10 JUDGE THOMPSON: Redirect, Mr. Snodgrass?

11 MR. SNODGRASS: None, Judge.

12 JUDGE THOMPSON: You may step down. Thank you  
13 very much, Mr. Johansen.

14 MR. SNODGRASS: That would conclude Staff's  
15 presentation in this matter, your Honor.

16 JUDGE THOMPSON: Very well. Do either of the  
17 other parties have any witnesses?

18 MS. O'NEILL: I have no witnesses to present.

19 MR. STEWART: Your Honor, I have no witnesses,  
20 but I do have with me Bob Chriscinske and Gary Anger. Bob's  
21 with the City of Hannibal and Gary is with the district, if  
22 the Bench has any questions of them, but I was not planning  
23 to call them as a witness.

24 JUDGE THOMPSON: Very well. I have no  
25 questions. Thank you for traveling down here, gentlemen.



1                   If there's nothing further, then we will  
2       adjourn the hearing at this time.  
3                   Hearing nothing further, we are adjourned.  
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I N D E X

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