

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 7th day of
November, 2006.

In the Matter of the Application of the City of Centralia,)	
Missouri and Public Water Supply District No. 10 of)	
Boone County, Missouri, for Approval of a Second)	<u>Case No. WO-2007-0091</u>
Amendment to a Written Territorial Agreement)	
Concerning Territory within Boone County, Missouri.)	

ORDER APPROVING AMENDMENT TO TERRITORIAL AGREEMENT

Issue Date: November 7, 2006

Effective Date: November 17, 2006

Syllabus: This order approves the application for approval of a second amendment to a territorial agreement and approves the proposed second amendment to the territorial agreement.

Procedural History

On August 29, 2006, the Public Water Supply District No. 10 of Boone County, Missouri ("the District"), and the City of Centralia, Missouri ("the City"), filed a joint application seeking approval of a second amendment to a written territorial agreement concerning territory within Boone County, Missouri ("Joint Application"). On October 6, 2006, 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 October 18. There were no requests to intervene.

The Commission issued an order directing its Staff to file a recommendation concerning the Joint Application. On October 3, the Commission Staff timely filed its

verified recommendation regarding the Joint Application and proposed second amendment. The Staff recommended that the Joint Application and the proposed second amendment be approved given that the amendment meets the requirements of Section 247.172, RSMo 2000,¹ meets the requirements of the applicable Commission rules, and is not detrimental to the public interest.

Discussion

The Applicants:

The City of Centralia, Missouri, is a fourth class city, existing under Chapter 79, RSMo. The City owns and operates a waterworks public utility and provides water service to the public under Section 91.450, RSMo. The City is a political subdivision of the State of Missouri and is not subject to regulation by the Commission except for purposes of the joint application and as specified in Section 386.250(3). The City's principal place of business is located at 114 South Rollins Street, Centralia, Missouri 65240.

Public Water Supply District No. 10 of Boone County, Missouri, is a public water supply district organized under Chapter 247, RSMo. The District provides water service to customers located within the District's water service area in Boone, Audrain and Randolph Counties, 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 the application and as specified in Section 386.250(3). The District's principal place of business is located at 22601 North March Road, Centralia, Missouri 65240.

¹ All references to the Revised Statutes of Missouri are to the 2000 edition unless otherwise noted.

The Proposed Second Amendment to the Territorial Agreement:

The Commission approved a territorial agreement between the Joint Applicants on February 7, 2002, in Case No. WO-2002-208. In that agreement the parties agreed that thereafter they might include additional areas in the City's water service area, excluding the same from the District's service area. The Joint Applicant's previously executed a First Amendment To Territorial Agreement pursuant to Section 247.172, RSMo 2000, which was approved by the Commission on November 23, 2004, in Case No. WO-2005-0084. The Joint Applicants have executed and filed with the Commission a proposed second amendment to their territorial agreement.

In the proposed second amendment, the Applicants propose to transfer two tracts of land from the District to the City's service area. The tracts are designated Tract A and Tract B in the proposed second amendment. Neither tract currently has water service. Although within the District's service area, the tracts are not located near any District water lines. For the right to include Tract A in the City's service area, the City agrees to pay the District \$3,000. For the right to include Tract B in the City's service area, the City agrees to pay the District \$25,000.

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over the territorial agreement and amendments thereof concerning the sale and distribution of water under Section 247.172. Although Section 247.172.4, RSMo, provides that the Commission is to hold a hearing to determine whether a territorial agreement is to be approved, *State ex rel. Deffenderfer Enterprises,*

Inc. v. Public Service Comm'n of the State of Missouri,² holds that the requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. Since no proper party sought intervention and neither Staff nor the Office of the Public Counsel requested a hearing, the Commission finds that a hearing is not needed.

Under Section 247.172.4, RSMo, the Commission may approve amendments to a territorial agreement if the amendment is not detrimental to the public interest. In making a determination as to whether or not a territorial agreement is detrimental to the public interest, the Commission considers four factors.³

The first factor is the extent to which the agreement eliminates or avoids unnecessary duplication of facilities. The Commission concludes that because the relevant property currently has no water service, duplication of facilities is not an issue.

Second, the Commission will consider the ability of each party to the territorial agreement to provide adequate service to the customers in its exclusive service area. Only two tracts will be transferred from the District to the City. The parties state that no existing customers will be affected by this change. Also, in the verified application, the Applicants state that neither the City nor the District have against them in the last three years any pending actions or unsatisfied judgments concerning customer service or rates. The Commission concludes that the Applicants will be able to provide adequate service to the customers in their perspective service areas.

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

³ *In re the Application of Union Electric Company and Black River Electric Cooperative*, 4 Mo PSC3d 66, 68-72 (*Report & Order*, iss'd September 15, 1995).

The third area of Commission inquiry is the likely effect of the amendment on customers of the Joint Applicants. Again, the proposed second amendment affects only two tracts of land. The parties state that no existing customers will be affected. The Commission therefore concludes that the proposed second amendment will have no effect on the existing customers of the Joint Applicants.

Fourth, the Commission will consider other cost and safety benefits attributed to the proposed amendment. Applicants state in the application that the properties to be transferred from the District to the City are in or adjacent to the City's corporate boundary, immediately adjacent to existing city water mains, and are not near District water lines. Further, Applicants state that the City has current water mains of a size and location better suited to supply the large volume water usage projected by customers in the two tracts than does the District. The Commission concludes that implementation of the proposed amendment to the Territorial agreement will result in cost benefits.

Decision

Having considered the verified Staff Recommendation, Joint Application, and proposed amendment, the Commission concludes that the proposed amendment to the territorial agreement between the City of Centralia and Public Supply District No. 10 of Boone County is in the public interest and should be approved.

IT IS ORDERED THAT:

1. The joint application for approval of a second amendment to a written territorial agreement concerning territory within Boone County, filed by Missouri Public Water Supply District No. 10 of Boone County, Missouri, and the City of Centralia, Missouri, on August 29, 2006, is approved.

2. The proposed second amendment to the territorial agreement entered into by the City of Centralia and Public Water Supply District No. 10 is approved.

3. This order shall become effective on November 17, 2006.

4. This case may be closed on November 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.

Voss, Regulatory Law Judge