

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

CITY OF O'FALLON, MISSOURI,)	
)	
Complainant,)	
)	
v.)	
)	Case No. WC-2010-0010
MISSOURI-AMERICAN WATER)	
COMPANY and,)	
PUBLIC WATER SUPPLY DISTRICT)	
NO.2 OF ST. CHARLES COUNTY,)	
MISSOURI,)	
)	
Respondents.)	

**PUBLIC WATER SUPPLY DISTRICT NO. 2 OF ST. CHARLES COUNTY,
MISSOURI'S ANSWER TO COMPLAINT**

COMES NOW, Public Water Supply District No. 2 of St. Charles County, Missouri
(hereinafter "the District") and for its answer to the City of O'Fallon, Missouri's (O'Fallon),
complaint, paragraph by paragraph, submits the following to the Missouri Public Service
Commission (Commission):

1. Admitted.
2. Admitted.
3. Admitted.
4. This paragraph is for information only and no response is required from District.
5. Admitted.
6. The District denies paragraph 6 of O'Fallon's complaint to the extent its
allegations are inconsistent with or different from: a) the procedures followed by the parties and
the Commission to approve the Territorial Agreement; or 2) the terms and provisions of the

Territorial Agreement, further answering that the Territorial Agreement speaks for itself. Except as denied herein, District admits paragraph 6.

7. The District admits that O'Fallon is not a party to the Territorial Agreement. Otherwise, the District is without sufficient information sufficient to either admit or deny paragraph 7 and therefore denies the same.

8. The District is without sufficient information sufficient to either admit or deny paragraph 8 and therefore denies the same.

9. It is the District's position that the parties to the Territorial Agreement are bound by its terms and provisions. The District denies that it has ever taken the position that O'Fallon's only option is accepting wholesale water service from the District at District rates. The District is without sufficient information sufficient to either admit or deny the remaining allegations of paragraph 8 and therefore denies the same.

10. District admits that it entered a Water Supply Agreement and a First Amendment to Water Supply Agreement with O'Fallon and true and correct copies of the same are attached to the complaint as Exhibit C and Exhibit D respectively. District denies each and every other allegation of paragraph 10.

11. Paragraph 11 is a quotation from Missouri statutes to which no response is required but by way of answer or defense, the District states that irrespective of the Commission's jurisdiction under Chapter 386, RSMo or Chapter 247, RSMo O'Fallon lacks standing to bring the complaint and the complaint is barred by collateral estoppel.

12. Denied, further answering that O'Fallon's requests for relief should be denied.

13. In response to paragraph 13, District states that the Territorial Agreement speaks for itself and that the reasons, goals and purposes for which its was executed and approved are as

important presently as they were before and when the Territorial Agreement first became effective. Otherwise, the District denies each and every allegation of paragraph 13.

14. In response to paragraph 14 the District admits that the Territorial Agreement has prevented, and continues to prevent, the parties thereto from engaging in wasteful and costly duplication of facilities and services as intended. Otherwise, the District is without sufficient information sufficient to either admit or deny paragraph 14 and therefore denies the same

15. District admits that since the year 2000 there has been growth and development in the geographical areas covered by the Territorial Agreement further answering that the reasons, goals and purposes for which the Territorial Agreement was executed and approved are as important presently as they were before and when the Territorial Agreement first became effective. Otherwise, the District denies each and every allegation of paragraph 15.

16. Denied, further answering that circumstances have not changed substantially since the Commission approved the Territorial Agreement and the Territorial Agreement continues to serve the public interest.

17. District admits that the Territorial Agreement has no effect on any water supplier not a party to the Territorial Agreement including O'Fallon, and that the Territorial Agreement does not affect or diminish O'Fallon's rights and duties, if any, to provide service within the property boundaries designated in the Territorial Agreement. Otherwise, District denies paragraph 17.

18. Denied.

19. Denied.

20. The District denies all other allegations, statements, and declarations contained in O'Fallon's complaint including all allegations, statements and declarations not specifically admitted herein.

AFFIRMATIVE DEFENSES

The following are asserted without waiving any denial or general denial pleaded in the foregoing answer:

1. O'Fallon's complaint fails to state a claim upon which relief can be granted by the Commission.
2. The complaint is an impermissible collateral attack on an order of the Commission barred by Section 386.550, RSMo 2000.
3. O'Fallon lacks standing.
4. The Territorial Agreement was, at the time of its approval, and is, and continues to be, in the public interest.

WHEREFORE, having fully answered O'Fallon's complaint and set forth its defenses, the District respectfully requests the Commission to dismiss the same and enter such other relief the Commission deems just under the circumstances.

Respectfully submitted,

/s/ Mark W. Comley

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing document was served by electronic mail or U.S. Mail, postage prepaid, this 14th day of August, 2009, upon the following:

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