

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held by telephone/internet  
audio conference on the 8<sup>th</sup> day of  
April, 2020.

In the Matter of the Application of the City of	)	
Union, Missouri and Public Water Supply District	)	
No. 1 of Franklin County, Missouri for Approval of	)	<b>File No. WO-2020-0249</b>
a Second Addendum to Territorial Agreement	)	
Concerning Territory in Franklin County, Missouri	)	

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

Issue Date: April 8, 2020

Effective Date: May 8, 2020

This order approves the Second Addendum (Second Addendum) to the Territorial Agreement between the City of Union, Missouri (The City) and Public Water Supply District No. 1 of Franklin County, Missouri Inc. (The District). The Second Addendum would allow the City provide water service to a parcel of land within the District's service territory.<sup>1</sup>

**Findings of Facts**

1. The City is a fourth class city, existing under Chapter 79 of the Revised Statutes of Missouri. The City owns and operates a waterworks public utility and provides water service to the public under Section 91.450, RSMo. It is a political subdivision of the State of Missouri, and it is not subject to regulation by the Commission except for

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<sup>1</sup> The Second Addendum is attached to this Report and Order as Exhibit A.

purposes of the joint application. The City's principal place of business is located at 500 East Locust Street, Union, Missouri 63084.

2. The District is a public water supply district organized under Chapter 247 of the Revised Statutes of Missouri. The District provides water service to customers located within the District's water service area in Franklin County, Missouri. It is a political subdivision of the state of Missouri and is not subject to regulation by the commission except for purposes of the application. The District's principal place of business is located at 3017 Highway A, Washington, Missouri 63090.

3. On November 19, 2002, in File No. WO-2003-0186, the City and the District filed their *Joint Application for Approval of a Water Service Area Territorial Agreement* ("Initial Application") pursuant to Section 247.172, RSMo. On January 17, 2003, the City, the District, the Office of Public Counsel (Public Counsel), and the Staff of the Commission (Staff) filed a Unanimous Stipulation and Agreement, recommending approval of the Joint Applicants' Initial Application. On March 6, 2003, after an evidentiary hearing, the Commission issued a Report and Order approving the Initial Application.

4. On September 20, 2006, the City and the District requested that the Commission approve an Addendum to said Territorial Agreement. On December 7, 2006, the Commission issued its *Report and Order* finding approving the Addendum.

5. On February 14, 2020, the Joint Applicants filed a Second Addendum. Pursuant to the Second Addendum, the District agreed to transfer a parcel of land from the District's service territory to the City for the right to provide water service to another parcel of land currently within the District's water service area. The parcel is currently undeveloped, and has no customers.

6. On February 25, 2020, the Commission ordered that notice of the application be provided to potentially interested persons and established March 10, 2020 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 joint application by March 20, 2020.

9. On March 20, 2020, Staff filed a recommendation advising the Commission to approve the second addendum. The Office of Public Counsel has not objected to the joint application.

10. Based on the information provided in the application and Staff's recommendation, the Commission finds that the second addendum is in 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. Office of Public Counsel did not file a recommendation or objection. By the terms of the Territorial Agreement, the Office of the Public Counsel is deemed to have approved the second addendum.

E. Section 247.172.5, 7, RSMo 2016, 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 no hearing was requested, the requirement for a hearing was met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence.<sup>2</sup> Therefore, no hearing is necessary for the Commission to make a determination.

### **Decision**

Having considered the joint application and Staff's recommendation in support of approval of the application, the Commission finds that there are no facts in dispute and, therefore, accepts the facts as true. The Commission concludes the Second Addendum between the parties is not detrimental to the public interest and will be approved. In approving the Second Addendum, the Commission is making no ratemaking determinations and reserves the right to consider any ratemaking treatment in a later rate proceeding.

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<sup>2</sup> *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).

**THE COMMISSION ORDERS THAT:**

1. The Second Addendum to the Territorial Agreement between the City of Union, Missouri and Public Water Supply District No. 1 of Franklin County, Missouri Inc., is approved.
2. The City of Union, Missouri is authorized to provide water service to the property described in the Second Addendum, **included with this order as Attachment A.**
3. The City of Union and Public Water Supply District No. 1 of Franklin County, Missouri Inc. are authorized to do such other acts and things, including making, executing, and delivering any and all documents that may be necessary, advisable, or proper to consummate the agreements reflected in the Second Addendum and to implement the authority granted by the Commission in this order.
4. This order shall become effective on May 8, 2020.
5. This file shall be closed on May 9, 2020.



**BY THE COMMISSION**

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and  
Holsman CC., concur.

Pridgin, Regulatory Law Judge

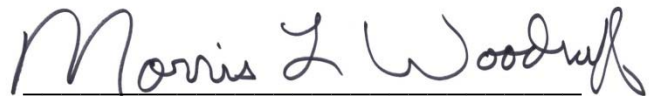
**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 8<sup>th</sup> day of April 2020.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**April 8, 2020**

**File/Case No. WO-2020-0249**

**Missouri Public Service  
Commission**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

**Office of the Public Counsel**

Marc Poston  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@opc.mo.gov

**City of Union, Missouri**

Mark C Piontek  
1200 Jefferson Street  
Washington, MO 63090  
mpiontek@sandbergphoenix.com

**Missouri Public Service  
Commission**

Mark Johnson  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
mark.johnson@psc.mo.gov

**Public Water Supply District No.  
1 of Franklin County**

Mark C Piontek  
1200 Jefferson Street  
Washington, MO 63090  
mpiontek@sandbergphoenix.com

**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**

  
**Morris L. Woodruff**  
**Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.