

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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)

ORDER DIRECTING NOTICE AND SETTING DEADLINES FOR INTERVENTION AND STAFF RECOMMENDATION

Issue Date: February 10, 2021

Effective Date: February 10, 2021

On February 9, 2021, Public Water Supply District No. 2 of St. Charles County, Missouri (“District”) and the City of Wentzville, Missouri (“City”) (together, “Joint Applicants”) filed a Joint Application for Approval of an Amendment to Intergovernmental Territorial Agreement (“Joint Application”) to extend the term of their existing territorial agreement¹ an additional twenty years and to modify certain portions of the boundaries of the two water service areas that the City and the District will each serve. The Joint Application states that approval of the proposed amendment will not result in a change of water supplier for any customer currently served by either the District or the City.

The law requires the Commission to rule on an application no later than 120 days from the application’s filing date, and provides the right to a hearing.² The right to a hearing on a territorial agreement signifies a contested case.³ However, a hearing may be waived by agreement of the parties.⁴ The Commission will order notice delivered to

¹ File No. WO-2000-849 (October 17, 2000).

² Section 394.312.4 and 5, RSMo 2016.

³ Section 536.010(4), RSMo 2016.

⁴ Section 394.312.5, RSMo 2016. As required by Sections 536.067(2)(d) and (f), RSMo 2016, the Commission notes that this notice does not require any party to file an answer and the Commission’s rules of discovery are set forth at 20 CSR 4240-2.090.

elected officials and published in newspapers, set a deadline for intervention, and direct the filing of a staff recommendation.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send a copy of this order to the county commissioners of St. Charles County and Warren County, Missouri.

2. The Commission's Public Information Office shall make this notice available to the members of the General Assembly representing St. Charles County and Warren County, Missouri and to the newspapers and other media serving those counties.

3. Any person or entity wishing to intervene in this matter shall file an application to intervene no later than February 25, 2021.

4. The Staff of the Commission shall file a recommendation on the Joint Application no later than March 26, 2021.

5. Any other party wishing to file a recommendation shall do so no later than March 26, 2021.

6. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in blue ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 10th day of February, 2021.

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

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

JOINT APPLICATION FOR APPROVAL OF AN AMENDMENT TO

INTERGOVERNMENTAL TERRITORIAL AGREEMENT

COME NOW Joint Applicants Public Water Supply District No. 2 of St. Charles County, Missouri (“District”) and the City of Wentzville, Missouri (“City of Wentzville”) (collectively “Joint Applicants”), pursuant to Section 247.172 RSMo 2000, 4 CSR 2402.060(1) and 4 CSR 240-3.625, and for their *Joint Application For Approval of An Amendment To Intergovernmental Territorial Agreement*, respectfully state as follows:

1. Applicant District is a public water supply district organized and existing under Chapter 247 RSMo 2000 with its principal place of business located at 100 Water Drive, O’Fallon, Missouri 63366, telephone number (636) 561-3737, fax number (636) 625-3712, email address: kdunn@waterdistrict2.com. The District currently provides water service at retail and wholesale to customers located within the District’s water service area in and around St. Charles County and Warren County, Missouri.

2. Applicant City of Wentzville is a political subdivision of the State of Missouri and a fourth class city organized and operating under Chapter 79 RSMo 2000. Wentzville is located in St. Charles County, Missouri and it operates a municipally-owned water utility. Wentzville’s principal office is located at 1001 Schroeder Creek, Wentzville, Missouri, telephone number (636) 327-5101, fax number (636) 639-6040, email address: susan.spiegel@wentzvillemo.gov.

3. All communications, correspondence, notices, orders and decisions regarding this Joint Application should be sent to undersigned counsel, with a copy sent to:

Mark C. Piontek
Sandberg Phoenix & Von Gontard P.C.
1200 Jefferson Street
Washington, MO 63090
(636) 239-7747
(636) 239-8450 (fax)
mpiontek@sandbergphoenix.com

James C. Hetlage
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714 Locust Street
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jhetlage@lashlybaer.com

4. As neither of the Joint Applicants are subject to the general supervisory and regulatory jurisdiction of the Commission, the provisions of 4 CSR 240-2.060(1)(K) and (L) are not applicable for purposes of this Joint Application.

5. On October 17, 2000, the Commission issued its Report and Order in Case No. WO-2000-849 wherein the Commission approved the Intergovernmental Territorial Agreement (“Territorial Agreement”) entered into by the Joint Applicants. Consistent with Section 247.172 RSMo 2000, that Territorial Agreement specified the respective water service area boundaries as between the Joint Applicants and did not affect the water service territories of any suppliers not a party to the Territorial Agreement.

6. On November 14, 2011, the Commission issued its Report and Order in Case No. WO-2012-0088 wherein the Commission approved the *First Amendment to Intergovernmental Territorial Agreement* entered into by the Joint Applicants.

7. Paragraph twelve (12) of the Commission-approved Territorial Agreement provides that “[n]either the boundaries described by this Agreement nor any term of this Agreement may be modified, repealed or changed except by a writing mutually approved by the respective parties and by the Missouri Public Service Commission”.

8. Since the time that the Commission first approved the Territorial Agreement, Joint Applicants subsequently have determined that an amendment to the Territorial Agreement is

needed to extend the term thereof an additional twenty (20) years and to modify certain portions of the boundaries of the two water service areas that the City and the District will each serve.

9. Accordingly, Joint Applicants have executed the *Second Amendment To Intergovernmental Territorial Agreement* (“the Amendment”), attached hereto and incorporated herein by reference as **Attachment A**, and hereby request that the Commission approve same as expeditiously as possible.

10. As neither of the Joint Applicants or their operations are otherwise regulated by the Commission, 4 CSR 240-3.625(B) does not apply for purposes of this Joint Application.

11. Commission approval of the Amendment will *not* result in a change of water supplier for any customer currently served by either the District or by the City of Wentzville.

12. Approval of Joint Applicants’ request to amend their Territorial Agreement is in the public interest because both Joint Applicants are public entities whose respective governing bodies have determined that the Amendment to be in the public interest and beneficial to their respective ratepayers. Approval of the Amendment is furthermore in the public interest as it is consistent with the public policy underlying Section 247.172 RSMo which allows for competing water suppliers to replace destructive competition in favor of voluntary, negotiated service area agreements.

13. Joint Applicants’ counsel has been advised that no filing fee is required for submission of amendments to previously-approved territorial agreements.

WHEREFORE, Joint Applicants the Public Water Supply District No. 2 of St. Charles County, Missouri and the City of Wentzville, Missouri request that the Commission approve the Amendment to their water service area Territorial Agreement.

Respectfully submitted,

Sandberg Phoenix & Von Gontard P.C.

By: /s/ Mark C. Piontek
Mark C. Piontek - #36221
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(636) 239-8450 (fax)
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Attorneys for Public Water Supply District No. 2
Of St. Charles County, Missouri

Lashly & Baer, P.C.

By: /s/ James C. Hetlage
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714 Locust Street
St. Louis, Missouri 63101
(314) 436-8322
(314) 621-6844 (fax)
jhetlage@lashlybaer.com

Attorneys for the City of Wentzville, Missouri

VERIFICATION AND
CERTIFICATE OF SERVICE

We, Mark C. Piontek and James C. Hetlage, verify that we've been authorized and directed to file this Joint Application on behalf of the Joint Applicants in this case and we hereby certify that a true and correct copy of the foregoing document and attachments were sent via electronic transmission to the General Counsel's Office and the Office of the Public Counsel this 9th day of February, 2021.

/s/ Mark C. Piontek

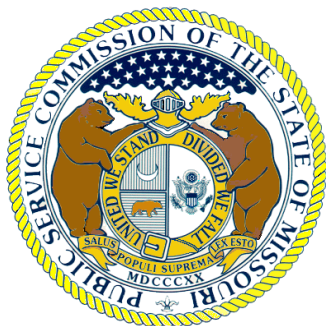
/s/ James C. Hetlage

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 10th day of February, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

February 10, 2021

File/Case No. WO-2020-0253

**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

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City of Wentzville, Missouri

James C Hetlage
714 Locust Street
St. Louis, MO 63101
jhetlage@lashlybaer.com

County of St. Charles, Missouri

County Commission Clerk
201 North Second Street, Room
541
c/o County Registrar
St. Charles, MO 63301
Registrar@sccmo.org

County of Warren, Missouri

County Commission Clerk
101 Mockingbird Ln. Ste. 300
Warrenton, MO 63383
dstotler@warrencountymo.org

**Public Water Supply District
No. 2 of St. Charles 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**

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