

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of the City Of)
Union, Missouri and Public Water Supply)
District No. 1 of Franklin County, Missouri for) **File No. WO-2021-0254**
Approval of a Third Amendment to Territorial)
Agreement Concerning Territory in Franklin)
County, Missouri)

ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF RECOMMENDATION

Issue Date: February 23, 2021

Effective Date: February 23, 2021

On February 9, 2021, the City of Union, Missouri, and Public Water Supply District No. 1 of Franklin County, Missouri, jointly filed an application seeking Commission approval of an amendment to an existing territorial agreement. Section 247.172.4, RSMo (2016) generally requires that the Commission act on the application no later than 120 days after the application was filed, which is June 9, 2021.

The Commission will give notice of this application to the general public and interested persons and set a date for intervention. The Staff of the Missouri Public Service Commission (Staff) will be directed to file a recommendation regarding the application to amend the territorial agreement.

The territorial agreement commenced with the Commission's Report and Order issued in File No. WO-2003-0186. File No. WO-2003-0186 also contains the First Amendment to the territorial agreement. File No. WO-2020-0249 addressed the Second

Amendment. The attachment to the present application is titled Third Amendment and Addendum to Territorial Agreement.¹

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall mail a copy of this notice to the Franklin County Commission.
2. The Commission's Public Policy and Outreach Department shall make notice of this order available to the media serving Franklin County, and to the members of the General Assembly representing Franklin County.
3. Any entity wishing to intervene in this matter shall file an application to do so no later than March 19, 2021.
4. No later than March 26, 2021, Staff shall file its recommendation in this matter.
5. Any entity wishing to request a hearing in this matter shall file an application to do so on or before April 6, 2021.
6. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in dark ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

Charles Hatcher, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo (2016).

Dated at Jefferson City, Missouri,
on this 23rd day of February, 2021.

¹ The caption of File No. WO-2021-0254 has been corrected to show that this is the **third** amendment to the territorial agreement (the error originated with the title of the pleading).

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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Of Union, Missouri and Public Water Supply	)	
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Approval of a Second Amendmen to Territorial	)	
Agreement Concerning Territory in Franklin	)	
County, Missouri	)	

SECOND ADDENDUM TO WATER SERVICE TERRITORIAL AGREEMENT

Come now the City of Union, Missori (“City”) and Public Water Supply District No. 1 of Franklin County, Missouri (“District”)(collectively “Joint Applicants”), by and through counsel, and pursuant to Paragraph 6 of the Territorial Agreement approved by Commission on March 6, 2003 as amended by that First Amendment and Addendum to Territorial Agreement filed with the Commission on September 20, 2006 in the above captioned case and respectfully state as follows:

1. On March 6, 2003 the Commission approved by *Report and Order* the Territorial Agreement submitted by Joint Applicants in this case.

2. Paragraph 6 of the Territorial Agreement provides:

“The parties may agreed on a case-by-case basis by an Addendum hereto to allow a structure to receive service from one party though the structure is located in the service area of the other. Such Addendum referred to above shall be filed with the Executive Secretary of the Missouri Public Service Commission in the same manner as a motion or other pleading, with a copy submitted to the Office of the Public Counsel. Each Addendum shall consist of a notarized satetment identifying the structure, the party to serve the structure and the justification for the Addendum and indicating that the parties support the Addendum. Each Addendum shall be accompanied by a notarized statement,

signed by the customer to be served which acknowledges such customer's receipt of notice of the contemplated service to be provided and that the Addendum represents an exception to the territorial boundaries approved by the Public Service Commission and shall indicate the customer's consent to be served by the Party contemplated by the Addendum. If the Staff of the Public Service Commission or Office of the Public Counsel do not submit a pleading objecting to the Addendum within forty-five (45) days of the filing thereof, the Addendum shall be deemed approved by the aforesaid parties. However, if a pleading in opposition to the Addendum is filed by the above-listed parties, the Commission shall schedule an evidentiary hearing at the earliest reasonable opportunity to determine whether the Addendum should be approved. Each Addendum shall contain a statement in bold uppercase typeface indicating that the Staff of Office of Public Counsel has forty-five (45) days to oppose the Addendum or else the Addendum shall be deemed approved by the aforesaid parties. Each party, pursuant to an executed Addendum, shall have the right to provide temporary service until the Commission approves or disapproves the Addendum. No party shall be required to remove any facilities installed pursuant to an Addendum until the effective date of an Order of the Commission or a court regarding removal of same."

3. Pursuant to paragraph 6 of the Territorial Agreement **THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION OR OFFICE OF THE PUBLIC COUNSEL HAS FORTY-FIVE (45) DAYS TO OPPOSE THIS ADDENDUM OR ELSE THIS ADDENDUM SHALL BE DEEMED APPROVED BY THE AFORESAID PARTIES.**

4. On December 1, 2004, the City and District executed the *First Amendment and Addendum to Territorial Agreement* (hereinafter “First Amendment”) which was filed with the Commission on September 20, 2006. Pursuant to Paragraph 6 of the Territorial Agreement, neither the Staff of the Commission or the Office of Public Counsel opposed the First Amendment so it was deemed automatically approved forty five (45) days later.
5. On November 12th, 2019, the City and District executed the *Second Amendment and Addendum to Territorial Agreement* (hereinafter “Second Amendment”), attached hereto and incorporated in full herein by reference as part of this Addendum. Pursuant to the Second Amendment, 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 a parcel of land (specifically described in Exhibit A to the Second Amendment), conditioned upon approval by the Missouri Public Service Commission. Under the Commission approved Territorial Agreement, said parcel lies within the District’s water service area. In order to receive water service to and within said parcel from the District, new District water facilities would have to be installed at considerable cost to all involved. The City, however, currently does have nearby water facilities in place.
6. All of the property owners within the parcel, which is undeveloped, have requested the City to provide water service to their properties. All current property owners have consented to be served by the City and support the filing and Commission approval of this Addendum to the original Territorial Agreement.
7. There are no customers who are currently receiving service from the District whose service will transfer to the City as this parcel is undeveloped.

8. The Joint Applicants recognize that this Addendum represents an exception to the water service territorial boundaries approved by the Commission in Case No. WO-2003-0186, as amended by the *First Amendment and Addendum to Territorial Agreement* and that once effective, this Addendum will allow the City to provide water service to the aforementioned parcel unless and until the Commission, upon proper petition, would authorize a change of water supplier in a subsequent proceeding brought for that purpose.
9. Attached as Exhibit A to the Second Amendment is a copy of the legal description of the property to be added to the City's water service area under the Territorial Agreement if this Addendum becomes effective.
10. To assist the Staff and the Commission in their review, attached as Exhibit B to the Second Amendment is a copy of the legal description of the District's service territory upon approval of this Addendum.

Wherefore, Joint Applicants the City of Union, Missouri and Public Water Supply District No. 1 of Franklin County, Missouri respectfully request that this Second Amendment and Addendum to Territorial Agreement, as originally approved by the Commission in Case No. WO-2003-0186, be approved.

Respectfully submitted,

Sandberg Phoenix & Von Gontard P.C.

By: /s/ Mark C. Piontek
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Attorneys for Joint Applicants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Second Addendum To Water Service Territorial Agreement and appendices, filed in Commission Case No. WO-2003-0186, was delivered to the General Counsel's Office of the Missouri Public Service Commission and to the Office of the Public Counsel by U.S. Mail, firstclass postage prepaid,, this 14th day of February, 2020.

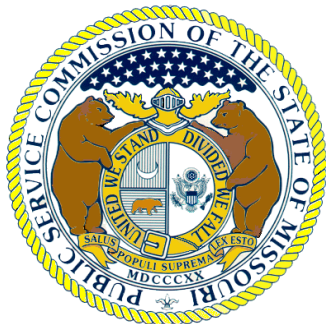
/s/ Mark C. Piontek

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 23rd day of February, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

February 23, 2021

File/Case No. WO-2021-0254

**Missouri Public Service
Commission**

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1 of Franklin County**

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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.