

OF THE STATE OF MISSOURI

In the Matter of the Joint Application of the City of Hannibal, Missouri and Public Water Supply District No. 1 of Ralls County, Missouri for Approval of a Water Service Territorial Agreement.)
)
) **Case No. WO-2005-0127**
)

REPORT AND ORDER APPROVING
ADDENDUM TO TERRITORIAL AGREEMENT

Issue Date: September 25, 2006

Effective Date: October 5, 2006

This Report and Order approves the Addendum to Water Service Territorial Agreement between the City of Hannibal, Missouri and Public Water Supply District No. 1 of Ralls County, Missouri, which would allow Public Water Supply District No. 1 of Ralls County, Missouri to serve a building located in the City of Hannibal's service territory.

FINDINGS OF FACT

- 1) The City of Hannibal owns and operates a waterworks system and provides water to the public with that system.
- 2) Public Water Supply District No. 1 of Ralls County, Missouri is a public water supply district that serves portions of Ralls, Pike, and Marion Counties in Missouri.
- 3) On January 7, 2005, the Commission approved a territorial agreement between the companies that established exclusive service areas for the companies in and around the City of Hannibal.

4) On July 26, 2006, the City of Hannibal, Missouri and Public Water Supply District No. 1 of Ralls County, Missouri filed an Addendum to Water Service Territorial Agreement.

5) The proposed addendum would allow Public Water Supply District No. 1 of Ralls County, Missouri to serve a building site owned by Mr. Frank Waelder, 4664 West Ely Road, Hannibal, Missouri, which is within the City of Hannibal, Missouri's service territory under the territorial agreement.

6) Public Water Supply District No. 1 of Ralls County, Missouri has existing facilities in place to serve the site.

7) The City of Hannibal, Missouri does not have existing facilities in place to serve the site.

8) Mr. Waelder requests that he be served by Public Water Supply District No. 1 of Ralls County, Missouri and supports the addendum.

9) On September 8, 2006, the Staff of the Commission stated that addendum complies with the original territorial agreement, and that it does not object to the addendum.

10) Based on the information contained in the Joint Application and on Staff's response, the Commission finds that the proposed addendum is not detrimental to the public interest.

CONCLUSIONS OF LAW

1) Section 247.172, RSMo 2000, gives the Commission jurisdiction over territorial agreements concerning water service between public water supply districts and municipally owned utilities, including any subsequent amendment to such agreement.

2) Under Section 247.172.4, the Commission may approve such a territorial agreement if the agreement in total is not detrimental to the public interest.

3) Paragraph 6 of the existing territorial agreement provides that if the Commission's Staff or the Office of the Public Counsel does not file a pleading objecting to the addendum within 45 days, then "the addendum shall be deemed approved by the aforesaid parties."

4) Staff stated that it does not object to the addendum. Public Counsel did not consent or object within 45 days of the filing of the addendum. So by the terms of the territorial agreement, Staff and Public Counsel are deemed to have approved the addendum.

5) Although Section 247.172.4, RSMo 2000, provides that the Commission is to hold an evidentiary hearing to determine whether a territorial agreement is to be approved, no party has requested a hearing. The decision in *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*,¹ 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. Therefore, no hearing is necessary.

DECISION

Based on its findings of fact and conclusions of law, the Commission determines that the submitted addendum to the existing territorial agreement between the parties is not detrimental to the public interest and shall be approved.

IT IS ORDERED THAT:

1. The Addendum to Water Service Territorial Agreement between the City of Hannibal, Missouri and Public Water Supply District No. 1 of Ralls County, Missouri, that the parties filed on July 26, 2006 is approved.

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

2. This Report and Order shall become effective on October 5, 2006.
3. This case shall be closed on October 6, 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)

Ronald D. Pridgin, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 25th day of September, 2006.