

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 14th
day of September, 2016.

In the Matter Central Rivers Wastewater Utility, Inc.)	
For Certificates of Convenience and Necessity)	
Authorizing it to Construct, Install, Own, Operate,)	<u>File No. SA-2017-0013</u>
Maintain, Control and Manage Sewer Systems)	
In Clay County, Missouri)	

**ORDER GRANTING CERTIFICATES OF
CONVENIENCE AND NECESSITY**

Issue Date: September 14, 2016

Effective Date: October 14, 2016

On July 12, 2016, Central Rivers Wastewater Utility, Inc. ("Central Rivers" or "Company") filed an application with the Missouri Public Service Commission ("Commission") requesting Certificates of Convenience and Necessity ("CCNs") to construct, install, own, operate, maintain, control, and manage sewer systems for the public in certain areas of Clay County, Missouri. Central Rivers is a Missouri general business corporation, with its principal place of business in Kearney, Missouri. The Company is a "sewer corporation" and "public utility" as those terms are defined in Section 386.020, RSMo (Cum.Supp. 2013), and is subject to the jurisdiction of the Commission.

Central Rivers was initially granted a CCN by the Commission in 1999 (Commission Case No. SA-98-530). Since then, Central Rivers has received Commission approval to expand its service territories in Ray, Clay, and Clinton Counties. Currently, Central Rivers provides service to approximately 241 customers in

seven certificated areas.¹ The requested CCNs would allow the company to provide wastewater treatment and collection system operation and maintenance in areas known as Private Gardens, Berkshire Glen, and Wil Mar Estates. Central Rivers currently provides sewer service for areas adjoining the requested expansions and states additional facilities and financing are not necessary to provide service under the requested CCNs.

On August 17, the Commission's Staff filed its Recommendation. Staff conducted an investigation of the proposed expansion. Staff points out in its Recommendation that for each of the proposed expansions, existing customers are located within the proposed areas and are connected to the sewer systems that will be used for the expansion. As part of a Commission-approved Stipulation and Agreement in File No. SC-2015-0152, Central Rivers agreed to file an application for expanded CCNs after it was discovered that the Company was providing service to customers outside of its existing certificated area. Central Rivers is not proposing additional capital investment, new rates, or changes to its revenue and expenses. Therefore, its existing operations will not change if the Commission approves the Company's application.

The Wil Mar Estates expansion includes eight subdivision lots excluded from the original Wil Mar CCN. Staff estimates that the treatment facility is currently operating at approximately 60% of flow capacity.

The proposed Private Gardens expansion covers approximately 42 acres. Central Rivers currently has 45 customers in the area, with only one customer receiving services in the expanded area. The treatment facility is designed for a maximum capacity of 80 to 100 customers. Staff's investigation determined that Central Rivers

¹ Central Rivers was previously granted CCNs in Commission Cases Nos.: SA-2005-0302, SA-2004-0470, SA-2001-304, SA-2000-105, SA-2000-248, SA-2014-0005, and SA-98-530.

has the ability to expand and provide service in Private Gardens in the foreseeable future with no substantial capital cost impact.

The proposed expansion for Berkshire Glen includes two parcels. The first is a subdivision named Walnut Hills Estates, located west of the Berkshire Glen area. The second area, known as the McHenry Addition, is the area where Central Rivers currently provides service to one customer. The treatment facility for this area is designed for 60 to 75 customers and currently provided services to 30 customers. Staff determined there is growth potential in all portions of the proposed expansion and that service can be provided through the terms of Central Rivers' current tariff that allows for extensions. Staff does not foresee any substantial cost impact if the expansion request is approved.

While Staff agrees to the reasonableness of the areas for which Central Rivers is seeking CCNs, Staff proposes modifications of the written service area descriptions to improve clarity and simplicity.² Staff met with Central Rivers to discuss the proposed modifications of the written service area descriptions. Staff recommends the Commission grant Central River's request for CCNs and order the Company to file revised tariff sheets.

The Commission issued notice and set a deadline for intervention requests, but no requests were received. No party objected to Staff's recommendation. Therefore, the Commission will evaluate the unopposed application. No party has requested an evidentiary hearing, and no law requires one.³ Therefore, this action is not a contested

² For Wil Mar Estates, Staff's proposed revision of the service area description removes the exclusion in the currently approved area. For Private Gardens, Staff proposes keeping the existing service area description, but adding a section to describe the new area. For Berkshire Glen, Staff recommends a new description and a reference to the service area as the "Berkshire Glen/Walnut Hills Estates."

³ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

case,⁴ and the Commission need not separately state its findings of fact. The Commission may grant a CCN to operate after determining that the operation is either “necessary or convenient for the public service.”⁵

The Commission articulated the specific criteria to be used when evaluating applications for utility CCNs in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and, (5) the service must promote the public interest.⁶ The Commission finds that Central Rivers possesses adequate technical, managerial, and financial capacity to operate the sewer systems in Private Gardens, Berkshire Glen, and Wil Mar Estates.

The Commission concludes that the factors for granting CCNs to Central Rivers have been satisfied and that it is in the public interest for Central Rivers to continue providing sewer service to the customers in the proposed areas. Based on the Commission's independent and impartial review of the verified filings, the Commission will grant Central Rivers CCNs to provide sewer service within the proposed service areas, subject to Staff's recommendation.

The certificates are granted, conditioned upon the compliance of Central Rivers with all of these obligations, as well as the obligations listed below in the ordered paragraphs. Central Rivers is also placed on notice that Section 386.310.1,

⁴ Section 536.010(4), RSMo (Cum.Supp. 2013).

⁵ Section 393.170.3, RSMo 2000.

⁶ The factors have also been referred to as the “Tartan Factors” or the “Tartan Energy Criteria.” See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994), 1994 WL 762882, *3 (Mo. P.S.C.).

RSMo 2000, provides that the Commission can, without first holding a hearing, issue an order in any case “in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property.”

The Application also asks the Commission to waive the 60-day notice requirement under 4 CSR 240-4.020(2), if necessary. Central Rivers asserts that good cause exists for granting such waiver since effective notice of the Application was provided by the Commission’s April 12 approval of the Stipulation and Agreement in File No. SC-2015-0152. Central Rivers also states that it did not engage in conduct that would constitute a violation of the Commission’s ex parte rule. The Commission finds that good cause exists to waive the notice requirement, and a waiver of 4 CSR 240-4.020(2) will be granted.

THE COMMISSION ORDERS THAT:

1. Central Rivers Wastewater Utility, Inc. is granted permission, approval, and a certificate of convenience and necessity to construct, install, own, operate, maintain, control and manage a sewer system for the public in Clay County, in a subdivision described as Wil Mar Estates, located approximately three miles West of Kearney, Missouri, South from Missouri State Highway 92 on State Highway A ½ mile to the entrance of the subdivision. The service area includes platted lots of Wil Mar Estates and Wil Mar Estates First Plat. The Legal Description shall be as detailed in Attachment A of Staff’s August 17, 2016, Memorandum, which shall be attached and incorporated into this order.

2. Central Rivers Wastewater Utility, Inc. is granted permission, approval, and a certificate of convenience and necessity to construct, install, own, operate, maintain, control and manage a sewer system for the public in Clay County, in a

subdivision described as Private Gardens Subdivision, an area generally located in the East Half of Section 19, Township 52 North, Range 31 West, south of NE 120th Street, west of Plattsburg Road, north of NE 112th Street, and platted as Private Gardens in Clay County, Missouri. The Legal Description shall be as detailed in Attachment C of Staff's August 17, 2016, Memorandum, which shall be attached and incorporated into this order.

3. Central Rivers Wastewater Utility, Inc. is granted permission, approval, and a certificate of convenience and necessity to construct, install, own, operate, maintain, control and manage a sewer system for the public in Clay County, in an area described as Berkshire Glen/Walnut Hills Estates, an area generally including all of the W ½ of the SW ¼ of section 17, and, the East ½ of the SW ¼ of Section 17, T52N, R31W, Clay County, Missouri, Lying west of Interstate I-35 highway and North of 120th Street, containing about 153 acres, approximately 1.5 miles North of Liberty, Missouri. The Legal Description shall be as detailed in Attachment E of Staff's August 17, 2016, Memorandum, which shall be attached and incorporated into this order.

4. No later than October 24, 2016, Central Rivers Wastewater Utility, Inc. shall submit as a 30-day filing revised tariff sheets Nos. 2, 5, 7, 8, 9, and 12 of its currently effective tariff to replace those sheets depicting the three service areas involved in the Application. The revised depictions shall be consistent with Staff's Recommendation.

5. Central Rivers Wastewater Utility, Inc. shall comply with all Missouri statutes and Commission rules, including the requirements to file its Annual Reports to the Commission and pay all of its Annual Assessments, in accordance with Commission rules, on a timely basis.

6. Nothing in the Staff Recommendation or this order shall bind the Commission on any ratemaking issue in any future rate proceeding.

7. Commission Rule 4 CSR 240-4.020(2) is hereby waived.

8. This order shall become effective on October 14, 2016.

BY THE COMMISSION



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

Morris L. Woodruff
Secretary

Stoll, Kenney, Rupp, and Coleman, CC., concur;
Hall, Chm., absent.

Burton, Senior Regulatory Law Judge.

Description of Service Area: – Wil Mar Estates Subdivision

As modified in Case No. SA-2017-0013

General Description:

A subdivision located approximately three miles West of Kearney Missouri, South from Missouri State Highway 92 on State Highway A ½ mile to the entrance of subdivision. This service area includes platted lots of Wil Mar Estates and Wil Mar Estates First Plat.

Legal Description:

Those portions of Section 36 T53N, R32W and Section 31, T53N, R31 W of the 5th P.M., Clay County, Missouri, described as follows: Beginning at the E ¼ corner of said Section 36 (also the W ¼ corner of said Section 31), thence N00-23-23E, 406.78 feet along the East line of said Section 36 (also the West line of said Section 31), thence N47-57-00W, 620.51 feet; thence S89-55-28W, 810.59 feet to the Easterly right of way line of Missouri Highway "A"; thence N00-02-35E, 614.49 feet along said r.o.w. line; thence N00-03-00E, 174.61 feet along said r.o.w. line; thence N89-55-28E, 1106.74 feet; thence S00-23-23 W, 496.42 feet; thence N89-55-01E, 550.00 feet; thence N00-23-23E, 791.44 feet; thence S89-00-27E, 2096.26 feet; thence South 285.56 feet; thence East 783.20 feet; thence S00-04-00W, 49.11 feet; thence S89-05-15E, 764.29 feet to the East line of the W ½ of the NE ¼ of said Section 31; thence S00-04-00W, 1517.95 feet along said East line to the SE corner of said W ½ NE ¼; thence S89-54-12W, 1317.50 feet to the center of said Section 31; thence S00-00-10W, 1281.28 feet along the East line of the SW ¼ of said Section 31; thence N89-46-58W, 1060.40 feet; thence South 100.00 feet; thence N89-46-58W, 1615.01 feet to the Easterly right of way line of Missouri Highway "A"; thence N00-06-49W, 793.93 feet along said r.o.w. line; thence along a curve to the left having a radius of 607.96 feet, through a central angle of 70-27-13, an arc distance of 747.58 feet along said r.o.w. line to the North line of the SE ¼ of said Section 36; thence N89-55-28E, 367.91 feet along said North line to the point of beginning.

Description of Service Area: – Private Gardens Subdivision

An area generally located in the East Half of Section 19, Township 52 North, Range 31 West, south of NE 120th Street, west of Plattsburg Road, north of NE 112th Street, and platted as Private Gardens in Clay County, Missouri.

More specifically described as follows: All that part of the East one half of Section 19 and a part of the Northeast Quarter of Section 20, both in Township 52, Range 31, Clay County, Missouri described as follows: Commencing at the Southeast corner of said Section 19; thence North 0 degrees, 01 minutes, 51 seconds West along the East line of said Section 19, also being the East Line of SHAVERS HEAVEN CREST, a subdivision of land in Clay County, Missouri, a distance of 1814.97 feet to the Point of Beginning of the tract herein to be described; thence North 89 degrees, 41 minutes, 46 seconds West along the North line of said SHAVERS HEAVEN CREST and its Westerly prolongation thereof, a distance of 2624.80 feet to the West Line of the Southeast Quarter of said Section 19; thence North 0 degrees, 25 minutes, 41 seconds East along said West line, a distance of 828.16 feet to the center of said Section 19; thence North 0 degrees, 24 minutes, 01 seconds East along the West line of the Northeast Quarter of said Section 19, a distance of 1493.20 feet; thence South 89 degrees, 37 minutes, 34 seconds East a distance of 2858.21 feet to a point on the centerline of Lightburne-Plattsburg Road, (the following 5 courses are along said road centerline); thence South 2 degrees, 51 minutes, 39 seconds West, a distance 782.98 feet; thence Southwesterly along a curve to the right being tangent to the last described course, and having a radius of 1300.00 feet, an arc distance of 310.33 feet; thence South 16 degrees, 32 minutes, 18 seconds West, a distance of 339.19 feet; thence Southerly along a curve to the left being tangent to the last described course, and having a radius of 1510.00 feet, an arc distance of 436.57 feet; thence South 0 degrees, 01 minutes, 51 seconds East, a distance of 473.59 feet to the Point of Beginning. Said tract of land contains 145.84 Acres more or less.

Service area addition with Case No. SA-2017-0013:

Part of the East half of the Northwest Quarter of Section 19, Township 52, Range 31 in Clay County, Missouri described as follows: Beginning at the Northeast corner of said East half; thence West along the North line of said East half and along NE 120th Street a distance of 660.0 feet; thence South at right angles a distance of 650.0 feet; thence Southwest along a line that deflects 14 degrees 48 minutes 19 seconds to the right (from said line produced) a distance of 200.0 feet; thence South along a line which deflects 14 degrees 48 minutes 19 seconds to the left (from said line last produced) a distance of 1,770.72 feet to a point on the South line of said East half; thence East along said South line a distance of 697.40 feet to the Southeast corner of said East half; thence North along the East line of said East half a distance of 2,617.62 feet to the point of beginning.

SA-2017-0013
Staff Memorandum Attachments
August 17, 2016

Description of Service Area: – Berkshire Glen/Walnut Hills Estates

As modified in Case No. SA-2017-0013
Includes McHenry Addition

Generally includes all of the W 1/2 of the SE 1/4 of section 17, and, the East 1/2 of the SW 1/4 of Section 17, T52N, R31W, Clay County, Missouri, Lying west of Interstate I-35 highway and North of 120th Street, containing about 153 acres. This service area is about 1.5 miles North of Liberty, MO.

More particularly described as: Beginning at the Center of said Section 17, thence North 89° 31' 56" East 1303.1 feet; thence South 0° 08' 01" West 1626 feet; thence South 22° West 1107 feet (generally along the I-35 Right-of-Way); thence West along 120th Street approximately 2186 feet; thence North 2647 feet; thence East 1323 feet to the Point of Beginning.

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 14th day of September 2016.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 14, 2016

File/Case No. SA-2017-0013

**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

James Owen
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

**Central Rivers Wastewater
Utility, Inc.**

Dean L Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

**Missouri Public Service
Commission**

Whitney Payne
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Whitney.Payne@psc.mo.gov

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Morris L. Woodruff". The signature is fluid and cursive, with the first name "Morris" being the most prominent.

**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.