

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 24th day of February, 2021.

In the Matter of Missouri-American Water Company for Certificates of Convenience and Necessity Authorizing it to Install, Own, Acquire, Construct, Operate, Control, Manage and Maintain Sewer Systems in and around the City of Trimble, Missouri)
)
)
)
)
)

File No. SA-2021-0074

**ORDER GRANTING CERTIFICATE
OF CONVENIENCE AND NECESSITY**

Issue Date: February 24, 2021

Effective Date: March 26, 2021

On September 17, 2020,¹ Missouri-American Water Company (MAWC) filed an application requesting a Certificate of Convenience and Necessity (CCN) to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in and around Trimble, Missouri. MAWC also requested a waiver of the 60-day notice requirement of 20 CSR 4240-4.017(1).

On September 18, the Commission issued its Order Directing Notice, Setting Intervention Date, and Directing Staff to File a Recommendation. No applications to intervene were filed. The Commission's Staff (Staff) filed a Recommendation on December 3, advising that MAWC's application be approved subject to certain conditions. On December 14, MAWC filed its Response to Staff Recommendation. MAWC stated it had no objection to Staff's conditions and recommended actions.

¹ All date references hereafter will be to 2020, unless otherwise indicated. Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri, as codified in the year 2016.

FINDINGS

MAWC is a Missouri corporation, active and in good standing with the Missouri Secretary of State, with its principal office and place of business in St. Louis, Missouri. MAWC is a “sewer corporation,” water corporation, and “public utility” as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction and supervision of the Commission.² MAWC provides sewer service to approximately 15,000 customers in Callaway, Jefferson, Pettis, Cole, Morgan, Platte, Taney, Stone, Christian, St. Louis, Clinton, Clay, Ray, and Warren Counties, Missouri. MAWC also provides water service to the public in and around the cities of St. Joseph, Joplin, Brunswick, Mexico, Warrensburg, Parkville, Riverside, Jefferson City; parts of Cole, St. Charles, Warren, Jefferson, Morgan, Pettis, Benton, Barry, Stone, Greene, Taney, Christian, Clay, Ray, and Platte Counties; and most of St. Louis County, Missouri. MAWC currently provides water service to approximately 470,000 customers.

The affected assets are in the City of Trimble (Trimble), Clinton County, Missouri. MAWC and Trimble have entered into a Purchase Agreement (Trimble Agreement) providing for MAWC’s purchase of all the sewer utility assets of Trimble. To provide service to the area sought to be certificated, MAWC will also purchase Centennial Acres’ sewer system. Centennial Acres is a residential development of single family lots located near Trimble, Missouri. The sewer system serves approximately 13 homes and has the ability to serve additional undeveloped lots. On August 19, MAWC entered into an Agreement for Purchase of Wastewater System (Centennial Agreement) with Centennial

² Section 386.020 (49), (59) and (43), RSMo.

Acres Association, Inc. (Centennial Acres) providing for MAWC's purchase of all the sewer system assets of Centennial Acres.

Description of Assets

At present Trimble owns and operates a sewer collection system which consists of approximately 24,200 linear feet of gravity sewer line, five lift stations, and a three-cell treatment lagoon, and serves approximately 280 accounts (primarily residential). The sewer system operates under a Missouri Department of Natural Resources (DNR) permit. The City is currently subject to DNR regulations, and the system is generally in good condition, with upgrades to modernize controls for four of the five lift stations as suggested by both MAWC and Staff. As with many aging sewer collection systems, there are inflow and infiltration issues that result in increased flows during significant rain events. Efforts to identify and repair these issues are ongoing. The system has adequate capacity for additional customers.

At present, Centennial Acres owns and operates a residential development comprised of single-family lots. Currently, Centennial Acres provides service to 13 homes, and the system has capacity for construction of up to 10 more homes/connections. The subdivision encompasses 37 acres.

Rates

The Trimble customers currently pay the following for sewer service:

- \$32.00 for the first 1,000 gallons of water used
- \$5.00 for the next 3,000 gallons of water used
- \$5.00 for each 1,000 gallons (or part thereof) over 4000 gallons used

For Trimble customers, MAWC has proposed to provide residential service and rates pursuant to MO PSC No. 26, Sheet No. RT 3.1, applicable to certain named service

areas. The monthly flat rate for sewer service would be \$38.75 for a single-family residence, according to tariffed rates. For Centennial Acres customers, MAWC proposed to maintain the current Centennial Acres customers' sewer rates of \$75 per month. Staff saw no justification for treating these customers differently, who live in close proximity to the Trimble customers and for whom there was no significant difference in the cost of service. Staff recommended that the customers currently being provided service in Centennial Acres should be charged MAWC's currently effective tariff rate from MO PSC No. 26, Sheet No. RT 3.1. The monthly flat rate for sewer service would be \$38.75 for a single-family residence, according to tariffed rates, if MAWC is granted a CCN.

Service Area

In its Application, MAWC requested a service area for Trimble that was limited to the city limits of Trimble. Staff and MAWC worked together to develop a proposed service area that was expanded from that requested in the application. The proposed expanded service area map is shown in Attachment A to Staff's Recommendation, and the modified written description is shown in Attachment B of Staff's Recommendation. Staff recommends that this proposed service area be approved, and that this service area be depicted in MAWC's tariff. Because the newly proposed service area is larger than that originally proposed, on January 15, 2021, the Commission issued a First Amended Order Directing Notice and Setting Deadline for Intervention. It contained Attachments A and B and ordered that they be provided to members of the media and General Assembly representing Clinton County, Missouri; the county commission of Clinton County, Missouri; and the Missouri Department of Natural Resources. It set January 29, 2021, as a deadline for intervention. No requests to intervene or other pleadings were filed.

Certificate of Convenience and Necessity

The Commission may grant a water and sewer corporation a certificate of convenience and necessity to operate after determining that the construction and operation are either “necessary or convenient for the public service.”³ 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.), 561 (1991). The *Intercon* case combined the standards used in several similar certificate cases, and 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.⁴

The Trimble assets and system in question currently serve about 280 sewer accounts, and the Centennial Acres assets and system serve 13 customers. There is a need for the service. Tartan criterion one is satisfied. That MAWC is qualified is established in that MAWC is an existing water and sewer corporation currently providing water service to approximately 470,000 customers and sewer service to more than 15,000 customers in several service areas throughout Missouri. Tartan criterion two is satisfied. MAWC anticipates no external financing and has demonstrated over many years that it has adequate resources to operate utility systems it owns, to acquire new systems, to undertake construction of new systems and expansions of existing systems,

³ Section 393.170.3, RSMo.

⁴The factors have been referred to as the “Tartan Factors” or the “Tartan Energy Criteria.” See Report and Ord, *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.W.C.).

to plan and undertake scheduled capital improvements, and timely respond and resolve emergency issues when such situations arise. Tartan criterion three is satisfied. MAWC's acquisition of these systems allows for economies of scale with future plant investments, spreading fixed costs over a larger customer base, future development opportunities within the requested certificated areas and the potential for expanded certificated area requests in the future. MAWC's feasibility study indicates that the purchase of the City of Trimble's sewer assets will generate positive income, but that the Centennial Acres sewer purchase will generate negative income, with a net positive income between the two systems. Tartan criterion four is satisfied. Positive findings with respect to the first four Tartan factors supports a finding that granting a CCN will promote the public interest.⁵

Based upon the information provided in the Application and in the verified Recommendation of Staff, the Commission finds the operation of the sewer system now serving Trimble and Centennial Acre's customers described in this order is either "necessary or convenient for the public service."⁶ The Commission finds, however, that the applicant's proposal that Centennial Acres customers continue to pay MAWC their current sewer rate of \$75 per month should not be approved and that the customers currently being provided service in Centennial Acres should be charged MAWC's currently effective tariff rate from MO PSC No. 26, Sheet No. RT 3.1. The monthly flat

⁵ File GA-94-127 (EFIS ga94127xxxxx), *In the Matter of the Application of Tartan Energy Company, LC, d/b/a Southern Missouri Gas Company for a Certificate of Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Control, Manage, and Maintain Gas Facilities and to Render Gas Service in and to Residents of Certain Areas of Wright, Texas, Howell, Webster, Greene and Douglas Counties, Including the Incorporated Municipalities of Seymour, Cabool, Houston, Licking, Mt. Grove, Mt. View, W Plains*

⁶ Section 393.170.3, RSMo.

rate for sewer service will be \$38.75 for a single-family resident, according to MAWC's tariffed rates.

DECISION

The Commission finds that granting MAWC a CCN is necessary or convenient for the public service and will grant MAWC a CCN to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in and around Trimble, Missouri, for the service area described in Attachments A and B attached to Staff's Recommendation, subject to the Commission Staff's recommended conditions. The Commission will grant the Application and Motion for Waiver. The Commission, however, will deny MAWC's request for authority to continue to charge the Centennial Acres customers their current sewer rate of \$75 per month and will order MAWC to charge those customers MAWC's currently effective tariff flat monthly rate from MO PSC No. 26, Sheet No. RT 3.1 of \$38.75 for a single-family resident.

The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the CCN to MAWC, including expenditures related to the certificated service area, in any later proceeding.

The Commission further finds based on MAWC's sworn application that MAWC has had no communications with the Commission within 150 days prior to its application regarding any substantive issue likely to be in the case. Good cause, accordingly, exists for granting a waiver of the 60-day notice requirement of Rule 20 CSR 4240-4.017(1)(D).

THE COMMISSION ORDERS THAT:

1. MAWC is granted a waiver of the sixty-day notice requirement provided for in Commission Rule 20 CSR 4240-4.017(1).

2. The Application and Motion for Waiver is granted subject to the conditions set out in this order, except that that part of MAWC's application proposing Centennial Acres' customers continue to pay MAWC their current sewer rate of \$75 per month is not approved. Those customers shall be charged MAWC's currently effective flat rate of \$38.75 per month for a single-family resident established in MO PSC No. 26, Sheet No. RT 3.1. MAWC's adoption of sewer rates pursuant to MAWC's current sewer tariff MO PSC No. 26 for both the City of Trimble and Centennial Acres is approved.

3. MAWC is granted a CCN to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in and around Trimble, Missouri, for the service area described in Attachments A and B attached to Staff's Recommendation, subject to the following Commission Staff's recommended conditions:

a. MAWC shall submit newly created and/or revised tariff sheets, to become effective before closing on the assets, that include:

- i. Index (Sheet No. IN 1.1)
- ii. Index (Sheet No. IN 1.3)
- iii. Index (Sheet No. IN 1.4)
- iv. Index (Sheet No. IN 1.5)
- v. Rules (Sheet No. 13.4)
- vi. Sewer rates (Sheet No. RT 3.1)
- vii. Sewer charges (Sheet No. SC 1.1)
- viii. Service area map (Sheet No. MP 18.1)
- ix. Service area written description (Sheet No. CA 17.1)

b. MAWC shall notify the Commission of closing on the assets within five days after such closing.

- c. If closing on the sewer system assets does not take place within thirty (30) days following the effective date of this order, MAWC shall submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until MAWC determines that the transfer of the assets will not occur.
- d. If MAWC determines that a transfer of the assets will not occur, MAWC shall notify the Commission of such no later than the date of the next status report, as addressed above, after such determination is made, and MAWC shall submit tariff sheets as appropriate and necessary that will cancel service area maps, descriptions, rates and rules applicable to the Trimble and Centennial Acres service areas in its sewer tariff.
- e. MAWC shall keep its financial books and records for plant-in-service and operating expenses in accordance with the NARUC Uniform System of Accounts.
- f. MAWC shall adopt for the Trimble and Centennial Acres sewer assets the depreciation rates ordered for MAWC in Case No. WR-2017-0285.
- g. MAWC shall obtain from Trimble and Centennial Acres prior to or at closing, all available plant-in-service related records and documents, including but not limited to all plant-in-service original cost documentation, along with depreciation reserve balances, documentation of contribution-in-aid-of construction transactions, and any capital recovery transactions.

- h. MAWC shall provide training to its call center personnel regarding rates and rules applicable to Trimble and Centennial Acres customers.
 - i. MAWC shall include the Trimble and Centennial Acres customers in its established monthly reporting to the Customer Experience Department (“CXD”) Staff on customer service and billing issues, on an ongoing basis, after closing on the assets.
 - j. MAWC shall distribute to the Trimble and Centennial customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its sewer service, consistent with the requirements of Commission Rule 20 CSR 4240-13, within thirty (30) days of closing on the assets.
 - k. MAWC shall provide to the CXD Staff an example of its actual communication with the Trimble and Centennial customers regarding its acquisition and operations of the sewer system assets, and how customers may reach MAWC, within ten (10) days after closing on the assets;
 - l. MAWC shall provide to the CXD Staff a sample of ten (10) billing statements from the first month’s billing within thirty (30) days after closing on the assets; and,
 - m. MAWC shall file notice in this case outlining completion of the above-recommended training, customer communications, and notifications within ten (10) days after such communications and notifications.
4. MAWC is authorized to do and perform, or cause to be done and performed, all such acts and things, as well as make, execute and deliver any and all documents as

may be necessary, advisable and proper to the end that the intent and purposes of the approved transaction may be fully effectuated.

5. This order shall become effective on March 26, 2021.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Graham, Regulatory Law Judge