

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

In the Matter of the Application of Confluence    )  
Rivers Utility Operating Company, Inc., for a    )  
Certificate of Convenience and Necessity and    )  
to Acquire Certain Sewer Assets                    )  
**File No. SA-2022-0299**

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), through counsel, and submits this *Staff Recommendation*.

1. On April 28, 2022, Confluence Rivers Utility Operating Company, Inc. (Confluence) filed an *Application and Motion for Waiver* (Application) requesting Commission authority to acquire the sewer assets owned by Deer Run Estates Property Owners Association (Deer Run), which are located in Madison County, Missouri. Deer Run is a nonprofit corporation providing sewer service to approximately 61 customers near Deer Run Lake, and the Commission does not regulate it. Confluence also requests that the Commission grant it a new Certificate of Convenience and Necessity (CCN) in order to provide service to Deer Run’s sewer customers.

2. On April 29, 2022, the Commission ordered Staff to file a recommendation by June 15, 2022. Staff received extensions so that the current due date of its recommendation is August 29, 2022.

3. In its Application, Confluence also moved for a waiver of the 60 day notice requirement of 20 CSR 4240-4.017. Confluence verified that in the prior 150 days, it had no Commission communication regarding any issue likely to be substantive in this case. Staff does not oppose this request.

4. No party moved to intervene in this case. Nor, to date, has any party submitted public comments.

5. Pursuant to § 393.170, RSMo, no sewer corporation shall provide service to consumers without first obtaining Commission approval.

6. The Commission has articulated criteria to be used when evaluating requests for a CCN: (1) there must be a need for the service, (2) the application 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.<sup>1</sup> These factors are referred to as the "Tartan factors." In addition to the Tartan factors, when considering applications involving existing water and/or sewer systems, the Commission analyzes the applicant's Technical, Managerial, and Financial (TMF) capabilities.

7. As explained in Staff's *Memorandum*, attached, Staff investigated Confluence's request. Based upon this request, Staff determined that Confluence fulfills the requirements of the Tartan factors and possesses the necessary TMF capabilities. Accordingly, Staff posits that issuance of a CCN to Confluence is necessary or convenience for the public service. Staff recommends that the Commission grant Confluence a CCN to provide sewer service to Deer Run customers, subject to the following conditions:

a. Require Confluence to revise P.S.C. MO No. 13 for the addition of Deer Run's sewer assets, to become effective before closing on the assets. Also require

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<sup>1</sup> *In re Intercon Gas, Inc.*, 30 Mo. P.S.C. 554, 561 (1991); *In re Application of Tartan Energy Co.*, 3 Mo. P.S.C.3d 173 (1994).

Confluence to file tariff sheets for the service area map, service area written description for Deer Run's sewer assets, and table of contents;

b. Require Confluence to notify the Commission of closing on the assets within five (5) days after such closing;

c. Require Confluence to work with the Department of Natural Resources to complete the renewal and transfer of the Operating Permit for the treatment facility.

d. If closing on the sewer assets does not take place within thirty (30) days following the effective date of the Commission's order approving such, require Confluence to submit a status report within five (5) days after this thirty (30) day period regarding the status of the closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until Confluence determines that the transfer of the assets will occur.

e. If Confluence determines that a transfer of the assets will not occur, require Confluence to notify the Commission of such, no later than the date of the next status report, as addressed above, after such determination is made, and require Confluence to submit tariff sheets as appropriate that would cancel the service area map and description applicable to Deer Run in its sewer tariff, and rate and charge sheet applicable to customers in the Deer Run service area in the sewer tariff;

f. Require Confluence to keep its financial books and records for plant-in-service and operating expenses in accordance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts;

g. Require Confluence to provide training to its call center personnel regarding rates and rules applicable to the sewer customers in the acquired area.

h. Require Confluence to distribute to the customers in the acquired area 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;

i. Require Confluence to provide to the CXD Staff an example of its actual communication with the sewer customers of the acquired company regarding its acquisition and operations of the sewer system assets, and how customers may reach Confluence, within ten (10) days after closing on the assets;

j. Require Confluence to provide to the CXD Staff a sample of five (5) billing statements from the first month's billing for the acquired company within ten (10) days after the initial bill; and,

k. Require Confluence to file notice in this case outlining completion of the above-recommended training, customer communications, notifications and billing for the acquired company within ten (10) days after such communications and notifications.

8. Staff further recommends that the Commission authorize Confluence and Deer Run to enter into, execute, and perform in accordance with the terms described in the *Agreement for Sale of Utility System*, attached as Appendix A-C to Confluence's Application.

9. The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests a hearing.<sup>2</sup> Should no party or individual request a hearing in this matter, the Commission need not hold a hearing to allow the utility's sale and issue a new CCN to Confluence.

**WHEREFORE**, Staff submits this *Staff Recommendation* for the Commission's information and consideration.

Respectfully submitted,

**/s/ Karen E. Bretz**

Karen E. Bretz  
Deputy Director  
Missouri Bar No. 70632  
Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-751-5472 (Voice)  
573-751-9285 (Fax)  
[Karen.Bretz@psc.mo.gov](mailto:Karen.Bretz@psc.mo.gov)

### **CERTIFICATE OF SERVICE**

I certify that copies of the foregoing have been electronically mailed to all parties and/or counsel of record on this 29th day of August, 2022.

**/s/ Karen E. Bretz**

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<sup>2</sup> *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo.App. W.D. 1989).