

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 27<sup>th</sup> day of September, 2017.

In the Matter of Missouri-American Water Company )  
For Certificates of Convenience and Necessity )  
Authorizing it to Install, Own, Acquire, Construct, ) **File No. SA-2018-0019**  
Operate, Control, Manage and Maintain a Sewer )  
System in an area of St. Louis County, Missouri )  
(Homestead Estates). )

**ORDER GRANTING CERTIFICATE OF  
CONVENIENCE AND NECESSITY**

Issue Date: September 27, 2017

Effective Date: October 27, 2017

Missouri-American Water Company (“MAWC”) filed an application on July 19, 2017, with the Missouri Public Service Commission (“Commission”) requesting a Certificate of Convenience and Necessity (“CCN”) to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in the Homestead Estates subdivision in St. Louis County, Missouri. MAWC is a “water corporation,” a “sewer corporation,” and “public utility” as those terms are defined in Section 386.020, RSMo (2016), and is subject to the jurisdiction of the Commission.

The CCN would allow MAWC to acquire sewer utility assets of the Homestead Estates Association (“Association”), a homeowner’s association not currently subject to the Commission’s jurisdiction. MAWC would provide Homestead Estates subdivision sewer service for 39 current residential customers, with potential for approximately 60 total residential customers. MAWC already provides water service to Homestead Estates subdivision.

The Commission issued notice and set a deadline for intervention requests, but received no requests. On September 5, 2017, the Commission's Staff filed its recommendation to approve the transfer of assets and grant a CCN, with 15 conditions. MAWC wants to charge for sewer service under existing rates, rules, and regulations applicable to its Cedar Hill service area in MO PSC No. 26.

On September 12, 2017, MAWC filed its response to Staff's recommendations. MAWC has no objection to Staff's recommendations. Additionally, MAWC would not seek to recover any acquisition premium associated with this acquisition.

No party has objected to MAWC's application or Staff's recommendation. Thus, the Commission will rule upon the application. No party has requested an evidentiary hearing, and no law requires one.<sup>1</sup> Therefore, this action is not a contested case.<sup>2</sup>

The Commission may grant a sewer corporation a CCN to operate after determining that the construction and operation are either "necessary or convenient for the public service."<sup>3</sup> The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 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

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<sup>1</sup> *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

<sup>2</sup> Section 536.010(4), RSMo.

<sup>3</sup> Section 393.170.3, RSMo.

service must promote the public interest.<sup>4</sup>

There is a need for the service as 39 residents of Homestead Estates currently make use of the existing sewer system. MAWC is qualified to provide the service as it already provides water service to over 450,000 Missouri customers, and sewer service to over 11,000 Missouri customers. MAWC has the financial ability to provide the service as no external financing is anticipated. The proposal is economically feasible according to MAWC's feasibility study, which is not unrealistic given their prior experience and past performance. The proposal promotes the public interest as demonstrated by the Association's members voting unanimously to proceed with MAWC's Asset Purchase Agreement.

Based on the application and Staff's recommendations, the Commission concludes that the factors for granting a certificate of convenience and necessity to MAWC have been satisfied and that it is in the public's interest for MAWC to provide sewer service to the customers currently served by the Association. Further, the Commission finds that MAWC possesses adequate technical, managerial, and financial capacity to operate the sewer system it wishes to purchase from the Association. Thus, the Commission will authorize the transfer of assets and grant MAWC the certificate of convenience and necessity to provide sewer service within the proposed service area, subject to the 15 conditions described by Staff and MAWC's statement that it will not seek to recover any acquisition premium.

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<sup>4</sup> 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).

MAWC's application also asks the Commission to waive the 60-day notice requirement in 4 CSR 240-4.020(2). As of July 30, 2017, the 60-day notice requirement has moved to 4 CSR 240-4.017(1), but a waiver for good cause provision still exists.<sup>5</sup> MAWC asserts there is good cause for granting such waiver; it did not engage in conduct that would constitute a violation of the Commission's ex parte rule, and no asset purchase agreement existed within 60 days prior to filing its application. The Commission finds good cause exists to waive the notice requirement, and a waiver of 4 CSR 240-4.017(1) will be granted.

**THE COMMISSION ORDERS THAT:**

1. Missouri-American Water Company is granted a certificate of convenience and necessity to provide sewer service to the Homestead Estates subdivision described in the revised map and legal description MAWC provided to Staff<sup>6</sup>, subject to the conditions and requirements contained in Staff's Recommendation, including the filing of tariffs, as set out below:

- a. Missouri-American Water Company shall apply the existing sewer rates and service charges that currently apply to its Cedar Hill service area, except Connection Charges and Capacity Charges included on the Schedule of Service Charges applicable to MAWC's Cedar Hill service area shall not apply to the Homestead Estates service area;
- b. Missouri-American Water Company shall submit new tariff sheets, to become effective before closing on the assets, including a service area map, service area metes and bounds description, and either new tariff sheets or revised tariff sheets with notations showing approved rates and service charges, to be included in its sewer tariff PSC MO No. 26;

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<sup>5</sup> 4 CSR 240-4.017(1) (D) states what good cause for waiver may include.

<sup>6</sup> *Staff Recommendations* File No. SA-2018-0019 Attachments A and B (Filed on September 5, 2017).

- c. Missouri-American Water Company's existing approved depreciation rates for sewer assets shall apply to the Homestead Estates service area assets;
- d. If the closing on the sewer system assets does not take place within 30 days following the effective date of the Commission's order approving such, Missouri-American Water Company shall submit a status report within five days after this 30-day period regarding the status of closing and additional status reports within five days after each additional 30-day period until closing takes place, or until Missouri-American Water Company determines that the transfer of the assets will not occur;
- e. If Missouri-American Water Company determines that a transfer of the assets will not occur, it shall notify the Commission no later than the date of the next status report, as addressed above, after such determination is made. In addition, Missouri-American Water Company shall submit tariff sheets as appropriate that would cancel service area maps and descriptions applicable to the Homestead Estates service area in its sewer tariffs;
- f. Missouri-American Water Company shall keep its financial books and records for Homestead Estates plant-in-service and operating expenses in accordance with the NARUC Uniform System of Accounts;
- g. Missouri-American Water Company shall provide an example of its actual communication with the Homestead Estates service area customers regarding its acquisition and operations of the Homestead Estates sewer system assets, and how customers may reach Missouri-American Water Company, within ten days after closing on the assets;
- h. Missouri-American Water Company shall obtain from Homestead Estates, as best as possible prior to or at closing, all records and documents, including but not limited to all plant-in-service original cost documentation, depreciation reserve balances, documentation of contributions-in-aid-of-construction (CIAC) transactions, and any capital recovery transactions;
- i. Missouri-American Water Company shall provide in its next general rate case an analysis documenting its proposed rate base values for Homestead Estate's sewer system assets, including an appropriate offset for associated CIAC;

- j. The Commission specifically makes no finding that would preclude it from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the certificate of convenience and necessity to Missouri-American Water Company, including expenditures related to the Homestead Estates certificated service area, in any later proceeding;
- k. Missouri-American Water Company shall ensure adherence to Commission Rules at 4 CSR 240-13 with respect to Homestead Estates customers;
- l. Missouri-American Water Company shall include the Homestead Estates customers in its established monthly reporting to the Staff Consumer & Management Analysis Unit (CMAU) on customer service and billing issues;
- m. Missouri-American Water Company shall distribute to the Homestead Estates 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 Rules at 4 CSR 240-13.-4- (2) (A-L), within ten days of closing on the assets;
- n. Missouri-American Water Company shall provide adequate training for the correct application of rates and rules, including sewer charges, to all customer service representatives prior to Homestead Estates customers receiving their first bill from Missouri-American Water Company that include sewer charges; and,
- o. Missouri-American Water Company shall provide to the CMAU staff a sample of ten billing statements from the first month's billing within 30 days of such billing.

2. Missouri-American Water Company is authorized to acquire Homestead Estates Association's assets identified in the application.

3. Missouri-American Water Company is authorized to take other actions as may be deemed necessary and appropriate to consummate the transactions proposed in the applications.

4. This order shall become effective on October 27, 2017.



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

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

Clark, Regulatory Law Judge

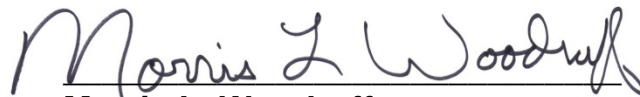
**STATE OF MISSOURI**

**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 27<sup>th</sup> day of September 2017.



  
Morris L. Woodruff  
Secretary



**MISSOURI PUBLIC SERVICE COMMISSION**

**September 27, 2017**

**File/Case No. SA-2018-0019**

**Missouri Public Service  
Commission**

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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**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.