

**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, 2022.

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

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Issue Date: September 14, 2022

Effective Date: October 14, 2022

On April 28, 2022, Confluence Rivers Utility Operating Company, Inc. (Confluence Rivers) filed an application requesting the Commission grant it a Certificate of Convenience and Necessity (CCN) to acquire, own, install, construct, operate, control, manage, and maintain a sewer system in Madison County, Missouri. The requested CCN would allow Confluence Rivers to acquire the assets of the Deer Run Estates Property Owner's Association (Deer Run), an unregulated sewer system. The application also requests a variance of the 60-day notice requirement contained in Commission Rule 20 CSR 4240-4.017(1).

The Commission issued notice and set a deadline for applications to intervene, but received none. The Commission also directed the Staff of the Commission (Staff) to file a recommendation about Confluence Rivers' application. On August 29, 2022, Staff recommended the Commission approve Confluence Rivers' request for a CCN, with conditions. Confluence Rivers has no objection to any of Staff's proposed conditions.

Confluence Rivers is a “water corporation,” a “sewer corporation,” and “public utility” as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction of the Commission.

Confluence Rivers is a subsidiary of Central States Water Resources, LLC, which also owns and operates other water and sewer companies in Missouri. Confluence Rivers currently provides water service to approximately 4,389 customers and sewer service to approximately 4,548 customers in Missouri. Confluence Rivers is current on its water and sewer PSC assessment payments, is current on its annual reports, and is in good standing with the Secretary of State’s office.

Deer Run is a nonprofit corporation with its principal office located in Fredericktown, Missouri. It provides sewer services to approximately 50 customers. Deer Run received the sewer system from the developer as contributed plant. The Commission does not currently regulate Deer Run.

The collection system consists of mostly PVC pipe that gravity flows to a central ten inch ductile iron pipe that runs underneath Deer Lake and Deer Lake’s dam, and then gravity flows into the lagoon. According to the operator, there have been issues with the ten inch pipe getting blocked at the lake’s dam. The treatment system is a two-cell aerated lagoon with chlorination and dechlorination. Sludge is retained in the lagoon. The effluent discharges into Rock Creek. Confluence has proposed several improvements for the sewer system that will phase in over two phases. The phased approach and proposed improvements are consistent with the results of Staff’s review and inspection.

Deer Run charges \$1.70 per 1000 gallons of water usage for the majority of sewer customers.¹ A customer using 5,000 gallons of water per month is currently paying \$8.50 for sewer service. Confluence's proposes a \$20 flat rate, which is considerably lower than the actual cost of service, but is a step in the right direction and reduces rate shock. The actual cost of service will be reviewed as part of Confluence's next rate case.

Decision

More than ten days have passed since Staff filed its recommendation and no party has objected to Confluence Rivers' application or Staff's recommendation.² No party has requested an evidentiary hearing.³ Therefore, the Commission will rule upon Confluence Rivers' application.

The Commission may grant a water or sewer corporation a CCN to operate after determining that the construction and operation are either "necessary or convenient for the public service."⁴ 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 service must

¹ For sewer customers that own their own water well, Deer Run charges a flat rate of \$10 per month.

² Commission rule 20 CSR 4240-2.080(13) provides that parties shall be allowed ten days from the date of filing in which to respond to any pleading unless otherwise ordered by the Commission.

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

⁴ Section 393.170.3, RSMo.

promote the public interest.⁵ These criteria are also known as the Tartan Factors.⁶

There is a current and future need for sewer service. The existing customer base has both a desire and need for service. In addition, there is a need for improvements to the sewer system to ensure provision of safe and adequate service. Confluence Rivers has demonstrated that it is qualified to provide the service as it is currently providing safe and reliable sewer service to approximately 4,548 customers in its Missouri service areas. Confluence Rivers has demonstrated 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, to plan and undertake scheduled capital improvements, and timely respond and resolve emergency issues when they arise. Confluence Rivers has the financial ability to provide the service, and no financing approval is being requested. Confluence Rivers proposes \$20 sewer rates as an interim rate for Deer Run, and the Commission finds the proposed \$20.00 rate to be just and reasonable.

Confluence Rivers' acquiring these systems promotes the public interest. The public interest is a matter of policy to be determined by the Commission,⁷ and it is within the discretion of the Commission to determine when the evidence indicates the public interest would be served.⁸ The sewer system requires repairs and upgrades to continue to provide safe and reliable sewer service to existing and future customers. The Commission finds that granting a CCN to Confluence Rivers promotes the public interest.

⁵ 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).

⁶ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

⁷ *State ex rel. Public Water Supply District No. 8 of Jefferson County v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980).

⁸ *State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri*, 848 S.W.2d 593, 597-598 (Mo. App. 1993).

Based on the application and Staff's recommendation, the Commission concludes that the factors for granting a CCN to Confluence Rivers have been satisfied and that it is in the public interest for Confluence Rivers to provide wastewater treatment services to Deer Run. Therefore, the Commission will grant Confluence Rivers' requested CCN, subject to the conditions described in Staff's recommendation.

THE COMMISSION ORDERS THAT:

1. Confluence Rivers is granted a waiver of the 60-day notice requirement contained in Commission Rule 20 CSR 4240-4.017(1).
2. Confluence Rivers is granted a CCN to install, own, acquire, construct, operate, control, manage, and maintain the Deer Run sewer system.
3. Confluence Rivers shall adopt its proposed sewer rate of a \$20.00 flat rate for sewer service for Deer Run.
4. Confluence shall revise P.S.C. MO No. 13 for the addition of Deer Run's sewer assets, to become effective before closing on the assets. Confluence shall also file tariff sheets for the service area map, service area written description for Deer Run's sewer assets, and table of contents.
5. Confluence shall work with the Department of Natural Resources to complete the renewal and transfer of the Operating Permit for the treatment facility.
6. Confluence Rivers shall notify the Commission of closing on the assets within five days after such closing;
7. If closing on the water and sewer assets does not take place within 30 days following the effective date of the Commission's order approving such, Confluence Rivers shall submit a status report within five days after this 30 day period regarding the status

of the closing, and additional status reports within five days after each additional 30 day period, until closing takes place, or until Confluence Rivers determines that the transfer of the assets will not occur.

8. If Confluence Rivers determines that a transfer of the assets will not occur, Confluence Rivers 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 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.

9. Confluence Rivers shall 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.

10. Confluence shall 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 30 days of closing on the assets.

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

12. Confluence Rivers shall provide to the Customer Experience Department (CXD) Staff an example of its actual communication with the sewer customers of Deer Run regarding its acquisition and operations of the water and sewer system assets, and how customers may reach Confluence, within ten days after closing on the assets.

13. Confluence Rivers shall provide to the CXD Staff a sample of five billing statements from the first month's billing for each of the acquired companies within ten days after the initial bill.

14. Confluence Rivers shall file notice in this case outlining completion of the above-recommended training, customer communications, notifications and billing for each acquired company within ten days after such communications and notifications.

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

16. This order shall become effective on October 14, 2022.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

Silvey, Chm., Coleman, Holsman, and
Kolkmeier CC., concur.
Rupp, C., absent.

Clark, Senior 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 14th day of September, 2022.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 14, 2022

File/Case No. SA-2022-0299

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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**

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