

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 16th day of September, 2020.

In the Matter of Missouri-American Water Company's Application for a Certificate of Convenience and Necessity Authorizing it to Install, Own, Acquire, Construct, Operate, Control, Manage and Maintain a Sewer System in and around the City of Hallsville, Missouri)
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File No. SA-2021-0017

ORDER ON APPLICATION FOR INTERVENTION

Issue Date: September 16, 2020

Effective Date: September 16, 2020

On July 20, 2020, Missouri-American Water Company (MAWC)¹ filed an application seeking a certificate of convenience and necessity (CCN) to install, own, acquire, construct, operate, control, manage and maintain a sewer system in and around Hallsville, Missouri. MAWC's application seeks Commission approval to acquire the City of Hallsville sewer system.

The Commission directed that notice of MAWC's application be given to potentially interested parties and set August 24, 2020, as the deadline for applications to intervene. On August 20, 2020, Boone County Regional Sewer District ("District") applied to intervene. The District's application to intervene indicates it opposes the CCN application and MAWC's proposed acquisition of the Hallsville system.

¹ MAWC is a "water corporation," "sewer corporation," and "public utility" subject to the Commission's jurisdiction. Section 386.020, RSMo (Cum. Supp. 2019). MAWC's application indicates it provides sewer service to about 15,000 customers in multiple Missouri counties, in addition to water service provided to about 470,000 customers in Missouri.

On August 31, 2020, MAWC filed a response opposing the District's application to intervene and contending that the District's interests are no different from that of the general public. MAWC also argued granting intervention will not serve the public interest. On September 8, 2020, the District filed a reply in support of its application.

The District asserts it should be allowed to intervene because, it contends, the District's interests are unique and differ from those of the general public and approval of MAWC's application will have a "direct, negative impact on the District and its ratepayers."² In addition, the District alleges granting intervention will serve the public interest.

The District is a common sewer district organized under Chapter 204, RSMo. According to its application to intervene, the District provides wastewater collection and/or treatment to about 7,148 customers in Boone County, including the Hallsville area. The District now has "cooperative agreements" with the City of Hallsville by which the city system provides service to District customers in two subdivisions in unincorporated Boone County. In its application, the District states it sought to acquire the Hallsville sewer system.

The crux of the District's application to intervene appears to be an underlying contention that it is best suited to acquire the Hallsville system by virtue of its status as a regional, public sewer district. The District contends its interest in this case is different from that of the general public because of its status as a sewer district and its classification, approved by the Missouri Clean Water Commission, as a "Level 2 Continuing Authority" for Boone County, with a service area that includes all of Boone

² *Boone County Regional Sewer District's Application to Intervene*, ¶10 (Aug. 20, 2020).

County not served by a municipal wastewater system. Should MAWC acquire the Hallsville system, the District argues, the District's service area will necessarily expand to include the area served by the Hallsville system because it would no longer be excluded as a municipal wastewater system. The District contends the Commission's approval of MAWC's application would "usurp the District's authority as a Level 2 Continuing Authority in its service area."³ The District also argues MAWC will require an operating permit issued by the Missouri Department of Natural Resources (DNR). DNR's regulations, according to the District, will not allow MAWC, as a Level 3 Continuing Authority, to receive a permit when a "higher continuing authority is available" and certain other conditions exist.⁴ The District contends that it would deny a request from MAWC to waive the District's superior authority and allow MAWC to receive the necessary permit.

The District also argues Commission approval of MAWC's application will have a "direct, negative impact" on the District because, it alleges, the District has statutory authority to set its own rates but would become subject to MAWC's Commission-approved rates under the cooperative agreements the District now has with the City of Hallsville.⁵ The District also alleges it will be harmed should MAWC, after acquiring the Hallsville system, refuse to abide by the terms of the city's agreements with the District. In addition, the District contends any replacement of the Hallsville system by MAWC will be more costly than a replacement by the District, which it argues will harm its ratepayers.

Finally, the District argues that its participation in this case will serve the public interest because of the District's publicly funded role in developing county-wide

³ *District's Reply to MAWC's Response in Opposition to District's Application to Intervene*, ¶19 (Sept. 8, 2020).

⁴ *Id.* at ¶12.

⁵ *Application to Intervene*, ¶10.

wastewater collection and treatment to protect the environment and provide cost-effective service.

MAWC opposes the District's application to intervene, arguing the District's interests are no different than the general public and intervention will not serve the public interest. MAWC argues that the District's authority includes only unincorporated Boone County, and the District has no authority in regard to facilities operated by a municipality, such as Hallsville. In addition, MAWC contends the District's agreements with the City of Hallsville would not apply to MAWC after the company's acquisition of the Hallsville system. MAWC argues the circuit court, rather than the Commission, is the proper forum for any dispute regarding such agreements, so the District should not be able to rely on those agreements as a basis for intervention. Finally, MAWC asserts the City of Hallsville's decision to sell the Hallsville system to MAWC is the result of a proposition approved by city voters in November 2019. MAWC points to the ordinance that called for the election, which specifically proposed that a majority of affirmative votes to sell the system would result in a sale to MAWC. The company points out that MAWC representatives attended public meetings in October 2019 to answer questions about the proposed sale.

Commission Rule 20 CSR 4240-2.075(3) establishes the standard for intervention in cases before the Commission. The Commission may grant an application to intervene if the proposed intervenor "has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case." In the alternative, the Commission may grant intervention when it finds "granting the proposed intervention would serve the public interest."

The Commission has reviewed and considered the District's application and the arguments presented by MAWC and the District. The Commission finds that, as a public sewer district providing wastewater collection and treatment within Boone County and in the vicinity of Hallsville, the District's interest in this case is different from that of the general public. The Commission finds that the District's interest may be adversely affected by a final order in this case, based on the possibility that MAWC's acquisition of the Hallsville system may disrupt services now provided to District customers under cooperative agreements between the City of Hallsville and the District. The fact that a court – and not the Commission – would be the proper forum for resolution of such potential disputes does not preclude intervention in this case based on that interest. In addition, the Commission finds the District's intervention in this case will serve the public interest by providing additional information to inform the Commission's decision.

The District's application to intervene will be granted.

THE COMMISSION ORDERS THAT:

1. Boone County Regional Sewer District's application to intervene is granted.
2. This order shall be effective when issued.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Jacobs, Regulatory Law Judge