

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 2nd day of June, 2021.

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 Taos, Missouri)

File No. SA-2021-0120

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY**

Issue Date: June 2, 2021

Effective Date: July 2, 2021

On October 28, 2020, Missouri-American Water Company (MAWC) applied for a certificate of convenience and necessity (CCN) to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in and around the City of Taos, Missouri. MAWC proposes to acquire the sewer system operated by the City of Taos, Missouri (Taos System). MAWC also requests waiver of the 60-day notice requirement under 20 CSR 4240-4.017.

On April 12, 2021, the Staff of the Commission (Staff) recommended that the Commission grant MAWC a CCN subject to specified conditions. Staff filed an amended recommendation on May 13, 2021, after the Commission, at MAWC's request, extended the period for response to Staff's recommendation.

On May 20, 2021, MAWC filed a response to the amended recommendation and stated the company has "no objection" to the conditions and actions recommended by

Staff's amended filing.¹ No objections to Staff's amended recommendation have been received, and the time for responses has expired.² No requests to intervene in this case have been received.

MAWC is a water corporation, sewer corporation, and a public utility subject to Commission jurisdiction.³ MAWC's application indicates the company provides water service to about 470,000 customers in Missouri, as well as sewer service to about 15,000 customers in Callaway, Jefferson, Pettis, Cole, Morgan, Platte, Taney, Stone, Christian, St. Louis, Clinton, Clay, Ray and Warren counties.

The Commission may grant a sewer corporation a certificate of convenience and necessity after determining that such construction and operation are either "necessary or convenient for the public service."⁴ The Commission uses five criteria, sometimes referred to as the "Tartan" factors, to determine necessity or convenience:

- 1) There must be a need for the service;
- 2) The applicant must be qualified to provide the 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.⁵

Based on the verified pleadings and Staff's recommendation, the Commission finds MAWC's application for a CCN to provide sewer service satisfies the criteria and should be granted, subject to the conditions recommended by Staff. The need for service

¹ *Response to the Amended Staff Recommendation*, ¶ 2 (May 20, 2021).

² Commission Rule 20 CSR 4240-2.080(13) allows parties 10 days to respond to pleadings unless otherwise ordered by the Commission.

³ Section 386.020(59), (49), (43), RSMo (Cum. Supp. 2020).

⁴ Section 393.170, RSMo (Cum. Supp. 2020).

⁵ *In re Tartan Energy Co.*, 3 Mo. P.S.C. 173, 177 (1994).

is evident based on the sewer service now being provided by the City of Taos. As Staff recommends, MAWC's qualifications and financial ability are established by its operation of water and sewer systems in Missouri and its demonstrated access to financial resources. Although Staff reports MAWC's acquisition of the Taos System will not generate positive income immediately, Staff advises the impact to MAWC's ratepayers is likely to be negligible. The Commission finds MAWC's operation of the Taos System is economically feasible. Finally, given the affirmative findings on the first four criteria and Taos voters' approval of the sale to MAWC, the Commission finds MAWC's operation of the sewer system will promote the public interest.

No party has objected to issuance of a CCN, nor has any party objected to Staff's recommended conditions or requested a hearing.⁶ The Commission will grant MAWC's application, subject to the conditions recommended by Staff.

Staff's amended recommendation updates Staff's calculation of net book value for the Taos System. Staff's initial recommendation concluded the proposed purchase price for the system exceeded Staff's calculation of net book value of the system.⁷ Staff amended its recommendation after receiving additional information and documentation from MAWC regarding engineering costs.⁸ Staff's amended recommendation concludes the proposed purchase price is below Staff's amended calculation of net book value as of December 31, 2020.⁹

⁶ A requirement for a hearing is met when the opportunity for hearing is provided and a hearing is not requested by a proper party. *State ex rel. Rex Defenderfer Enters., Inc. v. Pub. Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App. W.D. 1989).

⁷ *Staff Recommendation to Grant Certificate of Convenience and Necessity*, Appendix A: Staff's Memorandum, p. 4 (April 12, 2021).

⁸ *Staff's Amended Recommendation to Grant Certificate of Convenience and Necessity*, ¶ 4 (May 13, 2021).

⁹ *Staff's Amended Recommendation to Grant Certificate of Convenience and Necessity*, Appendix A: Revised Memorandum, p. 4 (May 13, 2021).

Staff's amended recommendation reports the City of Taos has not retained all of the records useful to determine net book value of system assets. Staff reports the city used Department of Natural Resources (DNR) grant funds to help finance a 2012 system replacement, so MAWC and Staff were able to recover some relevant documents from DNR by using record requests under Missouri's Sunshine Law.

Because Staff advises all documents useful in determining net book value of the Taos System may not be available and because some useful documents have been obtained from DNR, the Commission will direct Staff and MAWC to preserve all documents now in Staff's and MAWC's possession that relate to the net book value of the Taos System and retain such documents for use in MAWC's next rate case proceeding that includes the Taos System.

In addition, the Commission will grant MAWC's request for waiver of the 60-day notice requirement under 20 CSR 4240-4.017. The Commission finds good cause exists for waiver, based on MAWC's verified declaration that it had no communication with the Office of the Commission regarding substantive issues in the application within 150 days before MAWC filed its application.

THE COMMISSION ORDERS THAT:

1. MAWC is granted a certificate of convenience and necessity to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in and around Taos, Missouri, in the area currently served by the City of Taos, Missouri, subject to the following conditions:

- a. MAWC shall adopt the existing sewer rates for the City of Taos;

- b. MAWC shall submit new and revised tariff sheets to take effect before closing on the Taos System, as provided by Staff's amended recommendation;
- c. MAWC shall notify the Commission within five days of closing on the Taos System;
- d. If closing on the Taos System does not occur within 30 days after the effective date of this order, MAWC shall file a report on the status of the transaction within five days after the initial 30-day period expires and shall file additional status reports within five days after each subsequent 30-day period, until closing takes place or until MAWC files a notice stating closing will not occur;
- e. MAWC shall notify the Commission if MAWC determines it will not acquire the Taos System. In such instance, MAWC shall submit tariff sheets as appropriate and necessary to cancel service area maps, descriptions, rates and rules applicable to the Taos System;
- f. MAWC shall use for the Taos System the depreciation rates required by the Commission in File No. WR-2020-0344;
- g. MAWC shall keep its financial books and records for all utility capital related plant-in-service and operating expenses for the Taos System in accordance with Commission rules and the National Association of Regulatory Utility Commissioners Uniform System of Accounts;
- h. MAWC shall train its call center personnel regarding rates and rules applicable to Taos System customers;

i. After closing, MAWC shall include the Taos System in MAWC's monthly customer service and billing reports to the Commission's Customer Experience Department;

j. Within 10 days after closing, MAWC shall provide to the Customer Experience Department an example of actual communication with Taos System customers regarding the acquisition and operation of the Taos System, including information about how customers may contact MAWC;

k. Within 30 days of closing, MAWC shall distribute to Taos System customers an informational brochure detailing the rights and responsibilities of the utility and customers regarding sewer service, consistent with the requirements of Commission Rule 20 CSR 4240-13;

l. Within 30 days after closing, MAWC shall provide to the Commission's Customer Experience Department a sample of 10 billing statements from MAWC's first month of billing for the Taos System; and

m. MAWC shall file notice when the requirements stated in items (h), (j), (k), and (l) are complete.

2. The Commission makes no finding that precludes the Commission from considering the ratemaking treatment to be afforded any matters in any later proceeding.

3. Staff and MAWC shall preserve all documents now in Staff's and MAWC's possession that relate to the net book value of the Taos System and shall retain such documents for use in MAWC's next rate case proceeding that includes the Taos System.

4. The 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1) is waived for good cause.

5. This order shall be effective on July 2, 2021.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Jacobs, Regulatory Law Judge