

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 22nd day of March, 2023.

In the Matter of the Application of Confluence)
Rivers Utility Operating Company, Inc. for a)
Certificate of Convenience and Necessity and) **File No. SA-2023-0187**
to Acquire Certain Sewer Assets in Cass)
County, Missouri.)

**ORDER GRANTING AUTHORITY TO ACQUIRE SEWER ASSETS AND
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: March 22, 2023

Effective Date: April 21, 2023

On December 6, 2022, Confluence Rivers Utility Operating Company, Inc. (Confluence) filed an application seeking a certificate of convenience and necessity (CCN) and authorization to acquire the sewer assets of Oasis MHP LLC (Oasis), a mobile home park in Cass County, Missouri.

On December 7, 2022, the Commission ordered its Staff to file a recommendation regarding Confluence's application, issued notice, and set a deadline for intervention requests. No requests for intervention were received. On March 10, 2023, Staff filed its recommendation in which it recommended the Commission grant Confluence's application with certain conditions. On March 16, 2023, Confluence filed its response to Staff's recommendation stating that it has no objection to the proposed conditions. No other party has objected to Staff's recommendation. No party requested a hearing and the requirement for a hearing is met when the opportunity for a hearing has been provided. Thus, the Commission will make a determination based on the verified

applications, Staff recommendation, and the response to Staff's recommendation filed by Confluence.¹

Confluence is an existing regulated water and sewer utility currently providing water and sewer service in several service areas throughout Missouri. Confluence is a subsidiary of Central States Water Resources, LLC. Confluence provides water service to approximately 4,400 customers and sewer service to approximately 4,600 customers in Audrain, Boone, Cole, Franklin, Greene, Jefferson, Lincoln, Madison, Montgomery, Perry, Phelps, St. Francois, Taney, and Washington Counties in Missouri. Confluence is a corporation that is in "good standing" with the Missouri Secretary of State.

Confluence's application asks the Commission to issue an order authorizing it to acquire the sewer system assets of Oasis, an unregulated utility, and a CCN to operate the acquired asset. Oasis is a Missouri limited liability company, and a subsidiary of Legacy Investments Group, LLC. Oasis operates a mobile home park in Cass County, Missouri, which currently serves approximately 60 residents/pads, with the capacity for 81 total residents/pads. Oasis is an unregulated sewer operation, which has no pending actions before the Commission.

Oasis currently operates its wastewater treatment facility subject to an Abatement Order on Consent between itself and the Missouri Department of Natural Resources. Under that consent order, Oasis must either sell the wastewater treatment facility to a reputable utility company within 365 days of the May 25, 2022 effective date, or retain a professional engineer and begin the process of rehabilitating it under a stringent timeline. This system will require investment after the purchase by Confluence.

¹ See *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. W.D. 1989).

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.”² The Commission often applies the five “Tartan Criteria” established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994) when deciding whether to grant a new CCN. The criteria are: (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 promote the public interest.

Based on the application and Staff's recommendations, the Commission concludes that the factors for granting a certificate of convenience and necessity to Confluence have been satisfied and that it is in the public's interest for Confluence to provide sewer service to the Oasis wastewater treatment facility. Further, the Commission finds that Confluence possesses adequate technical, managerial, and financial capacity to operate the sewer system. The Commission will authorize the certificate of convenience and necessity for Confluence to provide sewer service subject to the conditions described in Staff's recommendation memorandum and within the service area defined in Attachments A and B of the memorandum.

Confluence's application also asks the Commission to waive the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1). Confluence filed an affidavit pursuant to Commission Rule 20 CSR 4240-4.017(1)(D) stating that it has had no communication with the office of the Commission within the preceding 150 days regarding the subject matter of the application. Based on the contents of Confluence's affidavit, the

² Section 393.170.3, RSMo.

Commission finds good cause exists to waive the notice requirement, and a waiver of 20 CSR 4240-4.017(1) will be granted.

THE COMMISSION ORDERS THAT:

1. Confluence's application to acquire the sewer system assets of Oasis is granted.

2. Confluence is granted a certificate of convenience and necessity to provide sewer service to the area described in the revised map and legal description proposed by Staff,³ subject to the conditions and requirements contained in Staff's Recommendation, including the filing of tariffs, as set out below:

- a. Confluence shall revise P.S.C. MO No. 21 for the addition of the System, to become effective before closing on the assets, by filing tariff sheets for the service area map, service area written description for the Oasis system, and a revised table of contents;
- b. Confluence shall notify the Commission of closing on the assets within five (5) days after such closing;
- c. 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, Confluence shall 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;
- d. If Confluence determines that a transfer of the assets will not occur, Confluence 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 Oasis in its sewer tariff, and rate and charge sheet applicable to customers in the Oasis service area in the sewer tariff;

³ *Staff Recommendation*, File No. SA-2023-0187 Attachments A and B (Filed on March 10, 2023).

- e. Confluence 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;
- f. Confluence shall adopt its current depreciation rates for the Oasis system and these rates are attached to Staff's Memorandum, dated March 10, 2023, as Attachment C;⁴
- g. Confluence shall provide training to its call center personnel regarding rates and rules applicable to the sewer customer in the acquired area;
- h. Confluence shall provide to the CXD Staff a copy of the first bill for the acquired company within ten (10) days after the initial bill; and
- i. Confluence shall file notice in this case outlining completion of the above-recommended training and billing for the acquired company within ten (10) days after such training and billing occur.

3. No part of this order shall be construed to preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to utility plant constructed within the new service area, or providing service in the new service area, in any later proceeding.

4. The Commission grants Confluence's request to waive the notice requirement of 20 CSR 4240-4.017(1).

5. This order shall become effective on April 21, 2023.



BY THE COMMISSION

A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary

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

Keeling, Regulatory Law Judge

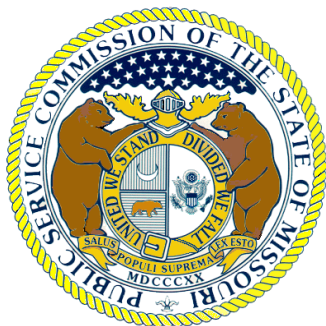
⁴ *Staff Recommendation*, File No. SA-2023-0187 Attachment C (Filed on March 10, 2023).

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 22nd day of March, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 22, 2023

File/Case No. SA-2023-0187

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
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.