

MEMORANDUM

TO: Missouri Public Service Commission
Official Case File, Case No. SA-2023-0187

FROM: Jarrod Robertson – Water, Sewer and Steam Department
Andrew Harris – Water, Sewer and Steam Department
Curt Gateley – Water, Sewer and Steam Department
Deborah Bernsen – Customer Experience Department

/s/ Jarrod Robertson 3/10/2023 /s/ Paul Graham 3/10/2023
Case Manager Legal Counsel

SUBJECT: Recommendation of Approval of Application

DATE: March 10, 2023

CASE BACKGROUND

On December 6, 2022, Confluence Rivers Utility Operating Company, Inc. (“Confluence”) filed its *Application and Motion for Waiver* (“Application”) with the Missouri Public Service Commission (“Commission”).

Confluence proposes to acquire all or substantially all of the sewer system assets (minus customer service sewer lines) of the currently un-regulated system (“System”) of Oasis Mobile Home Park, LLC (“Oasis”) and requests that the Commission grant Confluence a Certificate of Convenience and Necessity (“CCN”) to own and operate the acquired assets.

Confluence’s proposed purchase price for the Oasis system is ** [REDACTED] **.

BACKGROUND OF CONFLUENCE

Confluence is an existing regulated water and sewer utility currently providing water service in several service areas throughout Missouri. Confluence is a subsidiary of Central States Water Resources, LLC (“CSWR”). In its Application, Confluence stated it provides water service to approximately 4,400 customers and sewer service to approximately 4,600 customers. Confluence provides these services to customers in Audrain, Boone, Cole, Franklin, Greene, Jefferson, Lincoln, Madison, Montgomery, Perry, Phelps, St. Francois, Taney and Washington Counties in Missouri.

BACKGROUND OF OASIS

Oasis is a Missouri limited liability company (“LLC”), and a subsidiary of Legacy Investments Group, LLC, with its principle office located at 5801 E 187th St, Belton, MO 64012. Oasis is in good standing with the Missouri Secretary of State. Oasis operates a mobile home park in Cass County, MO, which currently serves approximately 60 residents/pads, with the capacity for 81 total residents/pads.

STAFF'S INVESTIGATION

Staff from the Water, Sewer, and Steam Department investigated the Oasis wastewater treatment system's condition, including its performance and compliance with environmental regulations. Staff also reviewed records and correspondence from the Missouri Department of Natural Resources ("DNR"), including an Abatement Order on Consent ("AOC"), No. 2022-WPCB-1725. This AOC, entered between Oasis and DNR effective May 25, 2022, defines terms and timelines under which Oasis must either sell the Wastewater Treatment Facility ("WWTF") 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 the WWTF under a stringent timeline.

Description of the WWTF

The AOC specifies that the WWTF consists of extended aeration, chlorine disinfection, dechlorination, and sludge disposal by contract hauler. Per the AOC, the WWTF has a design flow of 20,000 gallons per day ("gpd") and an actual flow of 19,700 gpd. Additional flow testing data was requested by Staff, conducted through DNR and Oasis collaboration, and was recently reported via email from DNR reflecting a flow of approximately 10,400 gpd. While this lower reported flow indicates available capacity for additional connections, significantly fluctuating flow may also indicate integrity challenges in the collection system. The difference between the flow rate reported in the AOC and the flow rate later reported by DNR could indicate inflow and infiltration ("I&I") into the collection system. I&I often occurs during heavy rain events in collection systems with integrity challenges and can lead to treatment process challenges and potential discharge of partially treated sewage. Plant effluent discharges to the West Fork of East Creek.

DNR Permit and Inspection of WWTF

Details of the AOC include discussion of historical inability of previous ownership operating the system under Permit N. MO-GD00544 (prior to Oasis ownership) to meet permit requirements for discharge of Biochemical Oxygen Demand and Total Residual Chlorine. Additionally, during an inspection conducted by DNR staff on January 9, 2020, sludge was observed in the receiving stream approximately 100 yards downstream of the outfall. Per the AOC, from the time of that inspection to the transfer of ownership to Oasis on January 24, 2022, no improvements were made to demonstrate compliance with the permit requirements.

In an Engineering Memorandum prepared by 21 Design, additional system detail is provided, including a recommendation that discussions with DNR should occur regarding the abandoned adjacent 1.5 acre lagoon and options for the lagoon that might be available, such as sludge storage. According to DNR the lagoon was removed from a previous operating permit and was never closed or properly modified. Whether DNR will permit the lagoon to be used for sludge storage, as indicated as a possibility by 21 Design, is unknown. DNR has communicated a preference to Staff that the lagoon be closed.

If the lagoon, which is not presently used and useful, is closed by Confluence and sludge storage tankage is constructed in lieu of the lagoon option, the lagoon could be evaluated as having been an acquired liability with an estimated closure cost of \$500,000 (per DR No. 0006.1 response).

If DNR requires closure of the lagoon by Confluence, the prudence of this expense would be evaluated during a future rate case.

Another compliance option that should be considered by Confluence is connection to the City of Belton municipal treatment system. This option would require replacement of the existing treatment system with a lift station, as well as construction of a sewer line to the nearest available connection point. While not adjacent, this point is possibly less than one mile from an access location. If this connection were made, both the lagoon and the existing treatment works could require proper closure, with the accompanying cost liability discussed above.

Still another option for evaluation by Confluence is to upgrade the aeration plant, construct the previously mentioned sludge storage tankage, and remove the lagoon and its footprint from the purchase agreement. In this scenario, the Seller would retain the lagoon and be responsible for compliance with DNR requirements for closure or repurposing the lagoon.

Should the Commission grant the requested CCN, Confluence would then evaluate the options of connecting to the City versus plant rehabilitation to determine which option would provide safe and adequate service and would minimize rate impact to the customer.

Staff Observations of the WWTF

Staff performed an inspection of the sewer system on January 27, 2023. The inspection included an on-site review of the current condition of the system and a discussion with Confluence personnel on proposed capital improvements.

During the inspection, Staff observed the absence of a disinfection contact chamber, absence of flow measurement devices, and absence of safety handrails around the treatment basins. A contact chamber for chlorine is necessary for proper disinfection to occur. Aeration equipment was operational. The abandoned lagoon appeared to be in fair condition. Fencing appeared to be in fair condition. A significant amount of trash and debris is located near the plant, and abandoned storage shed structures and debris are located inside the lagoon fence.

Proposed Improvements for the WWTF

An evaluation of the collection system condition would need to be conducted by Confluence in order to determine the scope and magnitude of any collection system repair. 21 Design anticipates improvements will be necessary to reduce I&I and meet a new operating permit's final effluent limits and recommends flow monitoring installation, smoke testing, video inspection at selected locations.

The Engineering Memorandum lists the following recommended improvements for the WWTF:

- Site grading and access road improvement
- Steel repair and cleanup
- Installation of a chlorine contact/post aeration chamber with ultrasonic level transducer and V-notch weir for flow measurement
- Install a new electrical distribution panel and a manual transfer switch
- Install remote monitoring (Plant)

- Safety handrail installation
- Discharge cleanup and rock erosion
- New blowers and control panels with variable frequency drives
- Site cleanup and shed removal
- Return activated sludge lines and waste activated sludge line installation
- Possible diffuser replacement

Not including the unknowns related to DNR permitting, the construction costs for the improvements identified by 21 Design for the aeration plant at Oasis is ** [REDACTED] **. **

Confluence's preliminary cost estimates are provided in this Memorandum for informational purposes only. Staff will review all investments and the actual costs for all repair and improvements during a future rate case to be filed by Confluence.

In the AGREEMENT FOR SALE OF UTILITY SYSTEM ("Agreement") filed with this application, the following paragraphs discuss assets and liabilities:

- 1A: property used or useful for operation of a sewer system;
- 1B: all sewer service facilities including lagoon(s) used in connection with the sewer system;
- 6B: all liabilities or obligations of Seller ... shall remain liabilities of Seller

The abandoned lagoon is not currently used and useful, and is not used in connection with the sewer system.

Rate and Tariff Matters

Oasis will represent the sole customer on this sewer system. Oasis will continue to provide drinking water through a connection to Public Water Supply District No. 2. According to its Application, Confluence proposes to charge Oasis \$2,867.84 per month. Confluence calculated this rate by multiplying the last known number of occupied pads by the fixed monthly rate applicable to several of Confluence's systems (\$44.81). While this rate likely falls below the cost of service for this system, Staff finds this rate to be reasonable as related systems are of similar design and actual flows, as well as customer counts. After Confluence completes the extensive list of repairs and upgrades listed above, they will seek to recover these costs in a future rate case, at which time new rates will be set.

Additionally, Confluence proposes to use rules governing the rendering of sewer service that are contained within Confluence's existing Commission-approved sewer tariff (PSC Mo No. 21), until such time as the rates and rules are modified according to law.

An appropriate legal description and map for the requested service area were provided by Confluence, and accompany this Memorandum as Attachments A and B, respectively. Staff recommends that this proposed service area map and legal description be approved by the Commission.

A map and a description of the proposed Oasis service area, similar to that shown on the attachments to this memorandum (A and B), will need to be included as new tariff sheets in Confluence's sewer tariff, P.S.C. MO No. 21. The table of contents in Confluence's tariff will also

need to be updated to reflect the addition of the new sheets containing the map and description. Staff recommends that after approval, but before Confluence closes on the utility assets, Confluence submit the new or revised sewer tariff sheets so they may become effective on or before the date Confluence closes on the Oasis assets.

Technical, Managerial, and Financial Capability

In studying most situations involving the acquisition of existing water and/or sewer systems, Staff utilizes the concepts of technical, managerial, and financial capacity, or “TMF,” originally developed by the United States Environmental Protection Agency. Staff has reviewed and stated its position concerning TMF regarding Confluence in previous CCN and transfer of assets cases before the Commission. Staff again reviewed Confluence’s TMF capabilities in the context of this Application, and takes the position that Confluence continues to demonstrate adequate TMF capability.

Technical Capability

As noted above, Confluence is an existing regulated water and sewer utility currently providing water service to approximately 4,400 customers and sewer service to more than 4,600 customers at several facilities throughout Missouri. Confluence’s parent company, Operation of these utilities has been satisfactory to date, and Staff has no reason to believe that this will change. Confluence has employees and contract operators with sufficient technical ability to operate the utilities. As such, it is Staff’s position that Confluence has the requisite technical capacities to acquire and operate the System.

Managerial Capability

Confluence intends to incorporate Oasis into its current billing and customer service system. Confluence’s current customer service representatives will be available to take and process customer inquiries pertaining to billing and/or service issues, make necessary bill adjustments, assist customers entering into payment plans within company guidelines, interact with Staff in working with customer complaints, and manage new customer accounts and the closing of customer accounts. In the operation of its current system, Confluence has demonstrated the requisite managerial abilities to operate the System.

Financial Capability

Confluence and its affiliates have demonstrated ability to utilize available approved financial resources in its other Missouri service areas to undertake rehabilitations, replacements and improvements to substandard water and sewer systems.

Tartan Criteria

It is also customary with most cases involving the issuance of a new CCN for Staff to utilize the Tartan Criteria when analyzing the request. Further, Staff finds it appropriate to utilize the Tartan Criteria when analyzing a request to acquire the CCNs of existing utilities. In the case at hand, Confluence requests approval for the issuance of a new CCN for the System.

The Tartan criteria contemplate: 1) need for service; 2) the utility’s qualifications; 3) the utility’s financial ability; 4) the feasibility of the proposal; and 5) promotion of the public interest.

Similar to the TMF capacities, in previous CCN and CCN transfer cases, Staff has investigated these criteria as they relate to this proposed acquisition. Based on Staff's investigation, it is Staff's opinion there is 1) a need for service, as the customers are already receiving service and will continue to need that service; 2) Confluence is a qualified utility based on its current provisions of water and sewer service; 3) Confluence has demonstrated its financial ability by making appropriate investment in its current operations; 4) the proposed rates are feasible and they will be reviewed in Confluence's next rate case; and 5) due to the positive nature of the preceding criteria, and the improvements in service that Confluence can provide, this proposed acquisition is necessary or convenient for the public service.

Depreciation

Staff recommends the use of the sewer depreciation rates utilized in Confluence's last rate case, Case No. WR-2020-0053. This depreciation rate is included as Attachment C.

Rate Base

Confluence did not provide an engineering study estimating remaining rate base for the assets of this previously unregulated system. Based upon the purchase price of ** [REDACTED] **, and the need for extensive repairs and upgrades detailed above, Staff finds it reasonable to assume a rate base of \$0.00 until Confluence files an application for its next rate case. However, because rate base is not required to be determined during this type of acquisition, the Commission is not required to make a finding at this time. As part of a future rate case, Confluence will supply details of the plant investments made and may choose to prepare an engineering study estimating rate base for other assets.

Customer Service and Billing

Oasis is the sole landowner and proposed customer of Confluence associated with this acquisition. Confluence will bill Oasis on a monthly basis and intends to utilize rules presently found in its existing Commission-approved tariffs (PSC Mo No. 21) until these rates and rules are modified according to law. A master meter connected to Confluence's system will enable Oasis to provide sewer service to its individual tenants and is to be provided to the tenants as part of monthly pad rentals.

As the customer, Oasis may contact Confluence in one of several manners utilizing the phone or email. Customer service personnel are available via phone to address customer questions or concerns Monday-Friday, 8:00am to 5:00pm. An emergency toll-free number and email are available 24/7. Confluence presently has a business office located in St. Louis and it can respond to concerns forwarded to it by operations or customer service personnel. Staff recommends that Confluence provide a copy of the first billing statement sent to Oasis to Staff to allow Staff to review billing accuracy.

OTHER ISSUES

- The System is an unregulated sewer operation, which has no obligations to the Commission, and has no pending actions before the Commission.
- Confluence is a corporation that is in "good standing" with the Missouri Secretary of State.

- Confluence is current with annual report filings with the Commission through calendar year 2021, as documented on the Commission's Electronic Filing and Information System (EFIS). Confluence's 2022 annual report is due April 15, 2023.
- Confluence is current on its annual assessment payments through September 1, 2022.
- Confluence has no cases pending before the Commission which will impact the outcome of this application. This acquisition is not considered as part of the current rate case, WR-2023-0006.

STAFF'S RECOMMENDATIONS AND CONCLUSIONS

Staff finds that issuance of a CCN to Confluence is necessary or convenient for the public service. Staff recommends the Commission grant Confluence's Application, authorize Confluence to acquire the unregulated sewer system assets, and grant Confluence a CCN to operate these assets, subject to the following conditions:

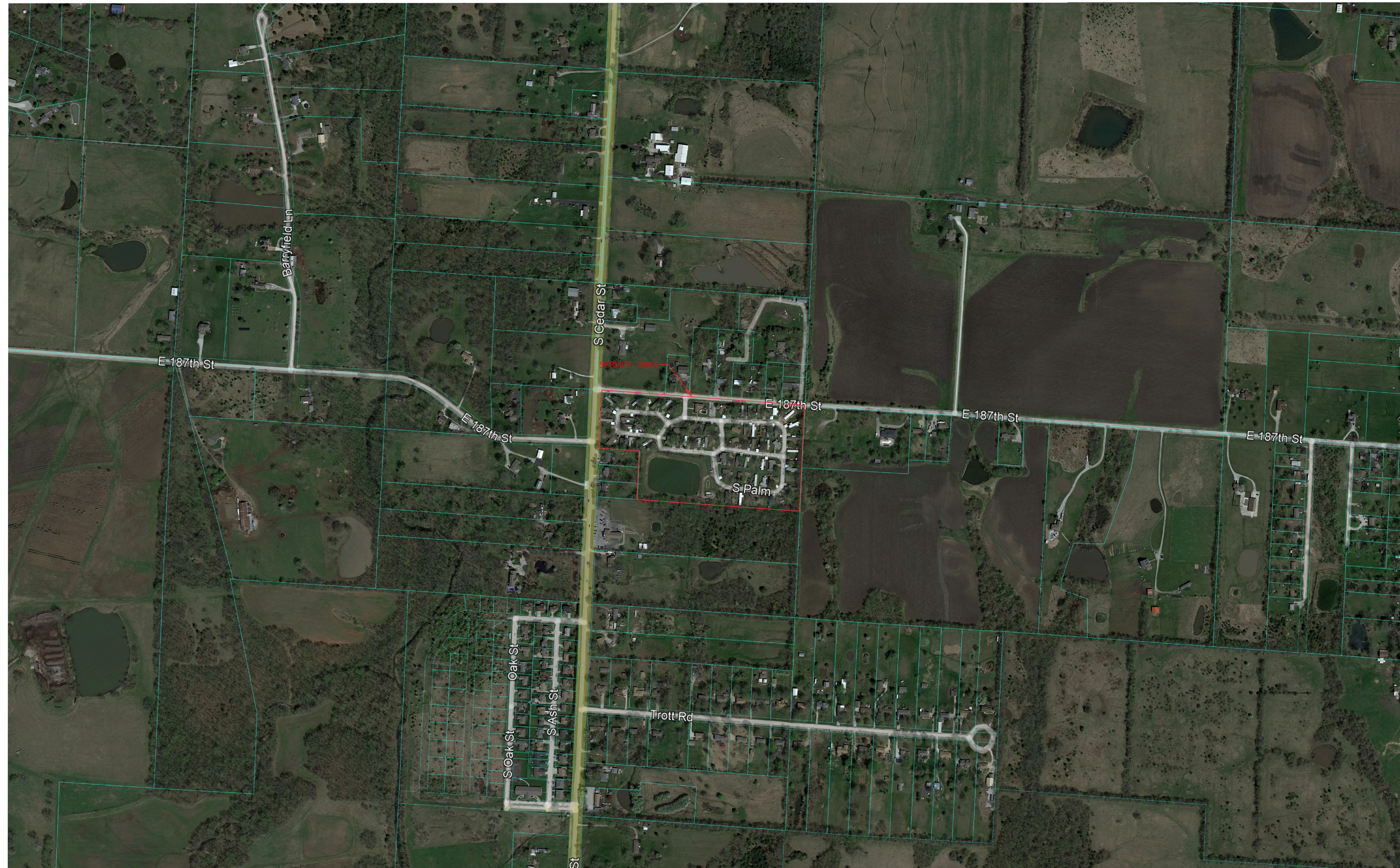
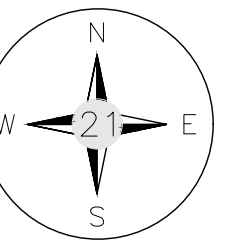
1. Require Confluence to revise P.S.C. MO No. 21 for the addition of the System, to become effective before closing on the assets, by filing tariff sheets for the service area map, service area written description for the Oasis system,, and a revised table of contents;
2. Require Confluence to notify the Commission of closing on the assets within five (5) days after such closing;
3. 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, require Confluence to 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;
4. If Confluence determines that a transfer of the assets will not occur, require Confluence to 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;
5. Require Confluence to 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;
6. Require Confluence Rivers to adopt its current depreciation rates for the Oasis system and these rates are attached as Attachment C;
7. Require Confluence to provide training to its call center personnel regarding rates and rules applicable to the sewer customer in the acquired area;

8. Require Confluence to provide to the CXD Staff a copy of the first bill for the acquired company within ten (10) days after the initial bill; and
9. Require Confluence to 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.

Attachments

- A. Map of Oasis Service Area
- B. Legal Description for Oasis Service Area
- C. Schedule of Depreciation Rates

SERVICE AREA MAP OASIS MHP (WASTEWATER) CASS COUNTY, MO



Utility Note Disclaimer:

The service area shown hereon are depicted based on a service area map provided by the system manager. 21 Design Group, Inc. performed no field verification of the layout and are unable to determine the exact location at this time. The location represents approximate location only and should not be construed as being 100% accurate. It is shown to provide general service area of the system to assist with ordering title work and preparation of scope for a License Land Surveyor. This sketch should not be used to interpret encroachments.

DATE:	2/27/2023
PROJECT NO:	0596-22
DRAWN BY:	AMD
SCALE:	
SHEET NAME:	SERVICE AREA MAP



Oasis MHP MO Service Area Description:

The area served is part of Cass County, Missouri and is more particularly described as follows:

Part of the North Half of the Northwest Quarter of the Northwest Quarter of Section 25, Township 46, Range 33, in Cass County, Missouri, described as beginning at the Northwest corner of the Northwest Quarter of Section 25, aforesaid, and remaining thence Easterly, along the North line thereof, 1303.29 feet to the Northeast corner of the Northwest Quarter of the Northwest Quarter of Section 25; thence Southerly, along the east line of the North Half of said Quarter Quarter Section, 662.25 feet to the Southeast corner of the North Half of the Northwest Quarter of the Northwest Quarter of Section 25; thence Westerly, along the South line of the North Half of said Quarter Quarter Section, 1004.74 feet; thence Northerly parallel with the West line of the Northwest Quarter of Section 25, 300.00 feet; thence Westerly parallel with the South line of the North half of the Northwest Quarter of the Northwest Quarter of Section 25, 300.00 feet to a point in the West line of the Northwest Quarter of Section 25; thence North along the west line of the Northwest Quarter of Section 25, 362.33 feet to the point of beginning, containing 17.78 acres more or less. Subject to the right-of-way of Missouri State Route Y and subject to the existing County Road. Subject to survey.

Confluence Rivers Utility Operating Company

SCHEDULE OF DEPRECIATION RATES

SEWER Class B, C & D

WR-2020-0053

Villa Ridge, Mill Creek, Gladlo, Roy-L, Willows, Majestic Lakes,
Calvey Brook and Auburn Lakes

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEPRECIATION RATES
COLLECTION PLANT		
311/351	Structures & Improvements	4.0%*
352.1	Collection Sewers (Force)	2.0%*
352.2	Collection Sewers (Gravity)	2.0%*
354	Services	2.0%*
355	Flow Measurement Devices	3.3%*
PUMPING PLANT		
361	Structures and Improvements	4.0%*
362	Receiving Wells	4.0%*
363	Electric Pumping Equipment	10.0%*
TREATMENT & DISPOSAL PLANT		
371	Structures and Improvements	4.0%*
372	Oxidation Lagoons	4.0%*
373	Treatment & Disposal Facilities	5.0%*
374	Plant Sewers	2.5%*
375	Outfall Sewer Lines	2.0%*
GENERAL PLANT		
390	Structures and Improvements	4.0%*
391	Office Furniture & Equipment	5.0%*
391.1	Office Electronic & Computer Equip.	14.3%*
392	Transportation Equipment	13.0%*
393	Other General Equipment/Stores Equipment	10.0%*
394	Tools/Shop/Garage Equip.	5.0%*
395	Lab Equipment	5.0%*
396	Power Operated Equipment	6.7%*
397	Communication Equipment	6.7%*

*Designates a rate proposed in this case, rather than a rate ordered by the Commission in a previous case.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF ANDREW HARRIS

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW ANDREW HARRIS and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation* in Memorandum form; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



ANDREW HARRIS

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 10th day of March 2023.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070



Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF DEBORAH ANN BERNSEN

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

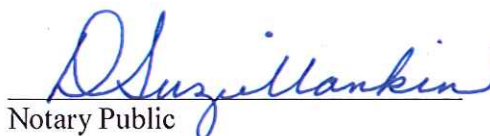
COMES NOW DEBORAH ANN BERNSEN and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation* in Memorandum form; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.


DEBORAH ANN BERNSEN

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 9th day of March 2023.


Notary Public

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070

