

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 12th day of July, 2023.

In the Matter of the Application of)
Confluence Rivers Utility Operating)
Company, Inc., for Certificates of)
Convenience and Necessity to Provide) **File No. WA-2023-0284**
Water and Sewer Service in an Area of)
Johnson County, Missouri)

**ORDER APPROVING ACQUISITION OF ASSETS AND GRANTING A
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: July 12, 2023

Effective Date: July 22, 2023

Procedural History

On March 14, 2023,¹ Confluence Rivers Utility Operating Company, Inc. (Confluence Rivers) filed an application seeking authority to acquire all or substantially all of the water and sewer systems of the currently unregulated systems of Four Seasons North MHP, LLC (Four Seasons).² Confluence Rivers requested a Certificate of Convenience and Necessity (CCN) to operate the Four Seasons' systems and provide service to the public. Confluence Rivers also requested waiver of the Commission's rule requiring a 60-day notice prior to filing an application.

¹ All dates refer to 2023.

² The Commission consolidated the water application and the sewer application on March 28.

The Commission issued notice of the application and set a deadline for the filing of applications to intervene, but no applications to intervene were received.

On June 20, the Staff of the Commission (Staff) filed its Recommendation with an attached Memorandum. Staff recommended the Commission grant Confluence Rivers the requested CCN subject to certain recommended conditions.

On June 30, Confluence Rivers filed its response stating it had no objection to Staff's recommended conditions.

No other responses or objections to the application or to Staff's recommendation were received.³ The requirement for a hearing is met when the opportunity for a hearing has been provided.⁴ No party requested a hearing. Thus, the Commission will rule on the application.

Confluence Rivers is a certificated and regulated water and sewer utility providing service to customers in Missouri. Central States Water Resources, LLC is the parent company of Confluence Rivers.

Four Seasons provides water and sewer service to approximately 35 mobile home customers in Johnson County, Missouri. The mobile home park is at full capacity and does not anticipate any future growth. Four Seasons does not currently charge for water or sewer services.

³ Commission Rule 20 CSR 4240-2.080(13).

⁴ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

Discussion

Certificate of Convenience and Necessity

Section 393.170, RSMo (Supp. 2022), in subsection 2, requires Confluence Rivers to have a CCN, which is granted by the Commission, prior to providing water or sewer service in the Four Seasons service area. Subsection 393.170.3, RSMo, requires that the Commission determine that the services are “necessary or convenient for the public service.” The term “necessity” does not mean “essential” or “absolutely indispensable,” but rather that the proposed project “would be an improvement justifying its cost,” and that the inconvenience to the public occasioned by lack of the proposed service is great enough to amount to a necessity.⁵ It is within the Commission's discretion to determine when the evidence indicates the public interest would be served by the award of the certificate.⁶ Subsection 393.170.3 permits the Commission to impose the conditions it deems reasonable and necessary for the grant of a CCN.

The Commission has articulated specific criteria when evaluating applications for utility CCNs as follows:

- (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.⁷

⁵ *State ex rel. Intercon Gas, Inc., v. Pub. Serv. Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. App. 1993), citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216, 219 (Mo. App. 1973), citing *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

⁶ *State ex rel. Ozark Electric Coop. v. Public Service Commission*, 527 S.W.2d 390, 392 (Mo. App. 1975).

⁷ *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), 1994 WL 762882, *3 (Mo. P.S.C.).

These criteria are known as the Tartan Factors.⁸

There is a need for the service, as the customers of Four Seasons are already receiving water and sewer service, and will continue to need those services. Additionally, there is a need for maintenance and updates to the systems.⁹ Confluence Rivers is qualified to provide the service, as it is an existing water and sewer utility, subject to the Commission's jurisdiction. Confluence Rivers has the financial ability to acquire the system, as no external financing is needed and Confluence Rivers has demonstrated historically that it has adequate resources to operate the utility systems it owns. The proposed transaction is economically feasible due to its being financially feasible, as well as Confluence Rivers' ability to draw resources from its parent company. The proposal promotes the public interest, as the Four Seasons systems are in need of an operator due to the current owners' decision to sell, as well as needing maintenance and upgrades. Confluence Rivers has demonstrated the ability to provide safe and adequate service, which also supports a finding of promotion of the public interest.

Based on the application and Staff's recommendations and memorandum, the Commission concludes that the factors for granting a CCN to Confluence Rivers have been satisfied and that it is in the public's interest for Confluence Rivers to provide water and sewer service to the customers currently served by Four Seasons. Further, the Commission finds that Confluence Rivers possesses adequate technical, managerial, and financial capacity to operate the sewer system. Thus, the Commission will authorize the transfer of assets and grant Confluence Rivers the CCN to provide water and sewer

⁸ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

⁹ The Missouri Department of Natural Resources (DNR) has found the wastewater treatment plant to be exceeding effluent limits on multiple occasions. Upon expiration of the wastewater permit in February of 2022, Four Seasons has not been able to obtain a renewal.

service within the proposed service area, subject to the unopposed conditions described by Staff.

The Commission will also require Confluence Rivers to include information for Four Seasons customers to be able to contact Confluence Rivers' customer service department by phone, email and website. Four Seasons is not currently charging for water or sewer services; thus, all Four Seasons customers will be receiving a water and sewer bill for the first time.

Rates and Rules

Four Seasons does not presently charge for water or sewer service. Confluence Rivers proposed to charge a flat rate of \$20.00 per month for water service and a flat rate of \$20.00 per month for sewer service, which is consistent with the currently approved water and sewer charges in Confluence Rivers' Missing Well service area. While this rate is expected to be well below the cost of service, it is a step toward an appropriate rate and will help minimize rate shock to the Four Seasons ratepayers. The system will require investment after being acquired by Confluence Rivers, which will result in a request for a rate increase, at some point in the future, once the system upgrades have been completed. Additionally, Confluence Rivers proposed to utilize the rules governing the rendering of service currently found in Confluence Rivers' existing P.S.C. MO No. 12 tariff for water service and P.S.C. MO No. 13 tariff for sewer service, until the Commission orders new rates and rules.

The Commission finds that the proposed rates and rules of operation are just and reasonable. The Commission will direct Confluence Rivers to file new or amend its current tariffs, setting out the rates and rules for the Four Seasons customers.

Waiver of 60-day notice rule

Confluence Rivers also sought a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D). Confluence Rivers verified that it had no communication with the office of the Commission regarding any substantive issue likely to be in this case during the preceding 150 days. The Commission finds good cause to waive the notice requirement.

So that Confluence Rivers may address the repairs and improvements as soon as possible, the Commission finds it is reasonable to make this order effective in less than 30 days.

THE COMMISSION ORDERS THAT:

1. Confluence Rivers' request for waiver from the 60-day notice requirement of Commission rule 20 CSR 4240-4.017(1)(D) is granted.
2. Confluence Rivers is granted authority to acquire substantially all of the water and sewer utility assets of Four Seasons, as described in the application.
3. Upon closing, Confluence Rivers is granted a CCN to install, acquire, build, construct, own, operate, control, manage, and maintain a water and a sewer system in the areas currently served by Four Seasons, subject to the conditions and requirements contained in Staff's recommendation as modified by the Commission, as follows:
 - a) For the approved service area, Confluence Rivers shall apply a monthly charge of \$20.00 for water service, and shall adopt the rules governing water service currently found in Confluence Rivers' water tariff P.S.C. MO No. 12;
 - b) For the approved service area, Confluence Rivers shall apply a monthly charge and \$20.00 for sewer service, and shall adopt the rules governing sewer service currently found in Confluence Rivers' sewer tariff P.S.C. MO No. 13;

- c) Confluence Rivers shall submit tariff sheets, to become effective before closing on the assets, to include a revised service area map, service area written description, rates and charges;
- d) Confluence Rivers shall notify the Commission of closing on the assets within five days after such closing;
- e) If closing on the sewer system assets does not take place within thirty days following the effective date of the Commission's order approving such, Confluence Rivers shall submit a status report within five days after this thirty-day period regarding the status of closing, and additional status reports within five days after each additional thirty day period, until closing takes place, or until Confluence Rivers determines that the transfer of the assets will not occur;
- f) 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 Confluence Rivers shall submit tariff sheets as appropriate that would cancel service area maps and descriptions applicable to the service area in its sewer tariff, and rate and charges sheets applicable to customers in the service area in the sewer tariff;
- g) Confluence Rivers shall keep its financial books and records for plant-in-service and operating expenses in accordance with the NARUC Uniform System of Accounts;
- h) Confluence Rivers shall adopt its current depreciation rates for the Four Seasons systems and these rates are attached as Attachment C to Staff's Memorandum;
- i) Confluence Rivers shall provide training to its call center personnel regarding rates and rules applicable to the sewer customers in the acquired area;
- j) Confluence Rivers shall distribute to the customers in the acquired area an informational brochure detailing the rights and responsibilities of the utility and its customers consistent with the requirements of Commission Rule 20 CSR 4240-13, and include information for customers to be able to contact Confluence Rivers' customer service department by phone, email and website, within thirty days of closing on the assets;
- k) Confluence Rivers shall provide to the Commission's Customer Experience Department (CXD) Staff an example of its actual

communication with the Four Seasons customers regarding its acquisition and operations of the water and sewer systems, and how customers may reach Confluence Rivers, including by phone, email and website, within ten days after closing on the assets;

- l) Confluence Rivers shall provide to the CXD Staff a sample of five billing statements from the first three month's billing for the acquired Company within ten days of the billings;
- m) 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;
- n) Confluence Rivers shall include the Four Seasons water customers in its established monthly reporting to the CXD Staff on customer service and billing issues, on an ongoing basis, after closing on the assets;
- o) Confluence Rivers shall file notice in this File No. once the Staff Recommendations above have been completed.

4. Upon closing of the asset transfer, Confluence Rivers is authorized to begin providing service.

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

6. This order shall become effective on July 22, 2023.



BY THE COMMISSION

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

Nancy Dippell
Secretary

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

Hatcher, 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 12th day of July, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

July 12, 2023

File/Case No. WA-2023-0284

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

Confluence Rivers Utility Operating Company, Inc.
Dean L Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Confluence Rivers Utility Operating Company, Inc.
Jennifer L Hernandez
312 E. Capitol Avenue
PO Box 456
Jefferson City, MO 65102
jhernandez@brydonlaw.com

Confluence Rivers Utility Operating Company, Inc.
David Woodsmall
1650 Des Peres Road, Suite 303
Des Peres, MO 63131
dwoodsmall@cswrgroup.com

Missouri Public Service Commission
Ron Irving
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Ron.Irving@psc.mo.gov

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.