

**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 )  
Certificate of Convenience and Necessity and )  
Associated with the Acquisition of Certain )  
Water Assets )

**File No. WA-2023-0003**

**UPDATED STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), through the undersigned counsel, and for its *Updated Staff Recommendation*, respectfully states as follows:

1. On July 1, 2022, Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers”) filed an *Application* with the Missouri Public Service Commission (“Commission”) requesting a Certificate of Convenience and Necessity (“CCN”) to operate and acquire the distribution system servicing the residential neighborhood known as the Margaritaville Subdivision (formerly known as Tan-Tar-A Estates) in Osage Beach. In addition, Confluence Rivers requests a waiver of the 60-day notice requirements of 20 CSR 4240-4.017(1).

2. On July 6, 2022, the Commission ordered Staff to file a recommendation concerning Confluence Rivers’ application or a request for additional time by August 23, 2022. On August 19, 2022, Staff filed its Motion for Extension and on August 26, 2022, the Commission granted Staff’s request for an extension of time, requiring Staff to file a recommendation, or a request further extension, on or before October 24, 2022.

3. On October 24, 2022, Staff filed its *Staff Recommendation* which requested the Commission to order Confluence Rivers to produce documents and provide Staff

clarifications on several issues and on October 26, 2022, the Commission ordered Confluence Rivers to respond to Staff's recommendation. Confluence Rivers provided documents through data requests and explanations in its November 3, 2022, *Response to Staff Recommendation*. On the same day, the Commission ordered Staff to either file a status report or an updated recommendation by November 14, 2022. On November 14, 2022, Staff filed its *Status Report* notifying the Commission that Staff intends to file its recommendation by November 21, 2022. On November 15, 2022, the Commission granted Staff's extension request to file its recommendation on or before November 21, 2022.

4. Pursuant to Section 393.170, RSMo (2018), no water or sewer corporation shall provide service to consumers without first having obtained approval from the Commission.

5. When reviewing whether a utility should be granted a CCN, the Commission typically applies the five Tartan Criteria established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994). The criteria are: (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.

6. In addition to the Tartan Criteria, when considering an application involving existing water and/or sewer systems, the Commission analyzes the Technical, Managerial, and Financial capabilities ("TMF") of the applicant.

7. As explained in *Staff's Memorandum*, attached hereto as Appendix A, Staff conducted an investigation into Confluence Rivers' request. Based on its review,

Staff concludes that Confluence Rivers fulfills the requirements regarding TMF capacities and the Tartan Criteria. Accordingly, Staff asserts that approving Confluence Rivers' application for the issuance of a CCN is necessary and convenient for the public service and is not detrimental to the public interest, and Staff recommends approval with conditions described in Staff's *Memorandum*.

8. Staff intends to open an investigation into whether Tan Tar A State Road, LLC and KK Water Supply are subject to Commission regulation as water corporations under Section 386.020(59).

9. Staff does not oppose Confluence Rivers' request for a waiver of the 60-day notice requirement of 20 CSR 4240-4.017(1).

**WHEREFORE**, Staff respectfully submits this *Updated Staff Recommendation* and requests the Commission approve Confluence Rivers' request for the issuance of a CCN allowing Confluence Rivers to operate and acquire the distribution system servicing the residential neighborhood known as the Margaritaville Subdivision (formerly known as Tan-Tar-A Estates) in Osage Beach, with conditions, to provide water service to the requested service area; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

**/s/ Ron Irving**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 18<sup>th</sup> day of November, 2022.

**/s/ Ron Irving**