

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 8th day of
December, 2022.

In the Matter of Confluence Rivers Utility)
Operating Company, Inc., for Certificates of)
Convenience and Necessity to Provide)
Water and Sewer Service in an Area of)
Lincoln County, Missouri)
File No. WA-2023-0026

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

Issue Date: December 8, 2022

Effective Date: December 18, 2022

Procedural History

On July 25, 2022,¹ Confluence Rivers Utility Operating Company, Inc. (Confluence Rivers) filed applications that sought permission and approval to acquire substantially all of the water and sewer utility assets currently owned by Glenmeadows Water and Sewer LLC (Glenmeadows) and for certificates of convenience and necessity (CCN) to construct, install, own, operate, maintain, control, and manage Glenmeadows' water and sewer systems, which are currently not regulated by the Commission. Glenmeadows provides water and sewer services to approximately 230 customers in a fully built-out subdivision in Lincoln County, Missouri.

Confluence Rivers' applications regarding the Glenmeadows water and sewer systems were assigned File No. WA-2023-0026 and File No. SA-2023-0027, respectively.

¹ Unless otherwise noted, all dates refer to the year 2022.

On July 28, the Commission consolidated the two cases and designated File No. WA-2023-0026 as the lead file number.

In its applications to the Commission, Confluence Rivers requested waiver of the 60-day notice of case filing requirement.²

The Commission issued notice and set a deadline for intervention requests, but received no requests to intervene. On November 10, the Staff of the Commission (Staff) filed its recommendation to approve the acquisition of the water and sewer systems and grant CCNs, subject to certain conditions. On November 18, Confluence Rivers filed a response to Staff's recommendation in which it stated that it had no objection to Staff's proposed conditions. The response also requested that, if its application were approved, that the Commission consider an effective date shorter than the 30-day period commonly ordered due to tax, accounting, and future rate case considerations.

On November 21, the Office of the Public Counsel (OPC) responded to the applications and Staff's recommendation. OPC stated that while it did not oppose the acquisition, it would oppose any requested acquisition premium, if Confluence Rivers should request one in a future rate case. Confluence Rivers replied to OPC's response, acknowledging OPC's position. The Commission makes no decision in this order regarding the recovery of an acquisition premium.

No party requested a hearing and the requirement for a hearing is met when the opportunity for a hearing has been provided.³ Thus, the Commission will make a

² Commission Rule 20 CSR 4240-4.017(1).

³ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

determination based on the verified applications, Staff recommendation, and the other responses.

Discussion

Confluence Rivers is a “water corporation,” a “sewer corporation,” and “public utility” as those terms are defined in Section 386.020, RSMo (Supp. 2021), and is subject to the jurisdiction of the Commission. Confluence Rivers currently provides water service to approximately 4,443 customers and sewer service to approximately 4,602 customers in service areas throughout Missouri. In recent years, Confluence Rivers has acquired several existing small water and sewer systems.

Glenmeadows is a limited liability company that provides water and sewer service to approximately 230 customers in the Glenmeadows subdivision near Moscow Mills in Lincoln County, Missouri. On February 25, Central States Water Resources, Inc. (CSWR) entered into a *Purchase and Sale Agreement* with Glenmeadows in which CSWR would purchase substantially all of the water and sewer system assets of Glenmeadows, then assign its rights under the agreement to Confluence Rivers at closing. Confluence Rivers is a subsidiary of CSWR.

Section 393.170, RSMo (Supp. 2021), in subsection 2, requires Confluence Rivers to have CCNs, which are granted by the Commission, prior to providing water or sewer service in the Glenmeadows subdivision service area. Subsection 393.170.3 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.⁴ 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.⁵ Subsection 393.170.3 permits the Commission to impose the conditions it deems reasonable and necessary for the grant of a CCN.

Water System

The Glenmeadows water system consists of a single well, three 11,500 gallon hydropneumatic pressure tanks, and a water distribution system that consists of 1,880 feet of two-inch diameter water mains and 9,420 feet of six-inch diameter water mains. The water system components were installed in 2004 and 2005. The system is not disinfected.

The Missouri Department of Natural Resources (DNR) last inspected the Glenmeadows water system on November 15, 2019. DNR found the system to be in compliance with the Missouri Safe Drinking Water Law. Though it noted that the well appeared to be in good condition, DNR noted that the system does not have a backup well or emergency connection. DNR also noted that the well does not have a pressure gauge, drawdown gauge, or lightning protection, and the three tanks have peeling paint. In all, the DNR inspection report made seven recommendations for the water system.

On October 20, Staff inspected the water system and noted many of the same issues addressed in the DNR inspection report. Staff also noted that the well head was not locked, making it vulnerable to tampering.

⁴ *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).

⁵ *State ex rel. Ozark Electric Coop. v. Public Service Commission*, 527 S.W.2d 390, 392 (Mo. App. 1975).

Confluence Rivers proposes to make the following investments for the water system: (1) install remote monitoring, (2) well house repairs and maintenance, (3) install backup generator, (4) electrical improvements, (5) building expansion for booster skid addition, (6) pressure transducer installation, (7) magnetic flow meter installation, (8) booster pump and control panel installation, (9) miscellaneous piping and valve replacement, (10) convert hydropneumatic tanks to ground storage, (11) paint tanks, and (12) installation of sodium hypochlorite dosing system.

Sewer System

The Glenmeadows sewer system consists of a mechanical plant that has the following components: flow equalization, extended aeration, aerated sludge holding tank, chlorination, dechlorination, and sludge. The design flow for the system is 80,000 gallons per day (gpd) and the actual flow is 37,000 gpd. The collection system consists of 12,342 feet of eight-inch PVC gravity pipe and 58 manholes. The sewer system components were installed in 2004 and 2005.

DNR last inspected the Glenmeadows sewer system on March 6-7, 2019. The inspection resulted in issuance of a Notice of Violation for (1) causing pollution to the waters of the state, (2) discharging sludge into the waters of the state, and (3) operating without a valid Missouri State Operating Permit (MSOP). Based on a reply by the system's chief operator to DNR that the sludge in the stream had been removed and disposed of properly and that their legal counsel was working on getting the facility back into compliance with a valid MSOP, DNR renewed Glenmeadows' permit, with an effective date of November 1, 2019, and an expiration date of December 31, 2023.

On October 20, Staff inspected the sewer system. Staff noted that, overall, the sewer system was poorly maintained and was in extremely poor condition. The grates that are over the flow equalization, extended aeration and aerated sludge holding tank were severely rusted, literally falling apart, and needed to be replaced immediately for safety reasons. Leaves and debris were clogging the skimmers in the clarifiers. The clarifiers were full of sludge and plants were growing in the clarifiers from the sludge build-up. Large amounts of sludge were found in the chlorine contact chamber. Staff also noted that the bar screen was in a hard to reach location and was completely clogged and covered with rags, debris, and disposable wipes. Staff observed that the sewer plant was discharging during their site visit and sludge was visible in the adjacent stream. There was no sign identifying the outfall, which was a violation of their DNR permit.

Confluence Rivers proposes to make the following investments for the sewer system: (1) install a flow meter at inlet or outfall with remote monitoring system; (2) install a new electrical distribution panel and a manual transfer switch to allow for the use of a portable generator for use in emergency situations; (3) replace the grating on top of the equalization tanks; (4) install foam insulation and roof tin panels for walls and ceiling in blower building; (5) replace airlifts that feed the plant with duplex grinder pump systems with Variable Frequency Drive (VFD) motors in each equalization tank; (6) increase the size of the air headers for the extended aeration, digester aeration, and pre-equalization processes; (7) install a new triplex blower system for extended aeration; (8) install new control panels with VFD motors for blowers; (9) add new density current baffles in the clarifiers; (10) replace existing chlorine disinfection system with a new UV disinfection system with necessary equipment; (11) create a GIS map of the sewer

system collection system; (12) for the sewer system collection system, install flow monitoring, perform smoke testing, perform video inspection at selected locations, evaluate systems and create GIS based maintenance priority list; and (13) address immediate non-compliance items like sludge being released in the discharging creek and no outfall identification.

Decision

The Commission may grant a water and sewer corporation a CCN to operate after determining that the construction and operation are “necessary or convenient for the public service.”⁶ The Commission has stated five criteria that it uses 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.⁷

On November 10, Staff filed its recommendation with an attached memorandum. The recommendation concludes that Confluence Rivers’ applications satisfy these standards, which are often referred to as the “Tartan” criteria or factors.

In its applications, Confluence Rivers states that there is no other same or similar water or sewer services available in the area served by Glenmeadows. Staff concludes that the existing Glenmeadows customers have a current and future desire and need for water and sewer services. Staff advises that, as an existing water and sewer corporation

⁶ Section 393.170.3, RSMo (Supp. 2021).

⁷ *In re Tartan Energy Co.*, 3 Mo. P.S.C. 173, 177 (1994).

providing service to over 4,600 water customers and over 4,400 sewer customers, Confluence Rivers is qualified to provide the services.

Staff reports that Confluence Rivers has the financial capacity to acquire the water and sewer systems through access to capital from its parent company, CSWR. This purchase is being made with a capital infusion and as a result, the purchase does not have a negative impact on Confluence Rivers' capital structure or financial ratios.

Staff reports that Confluence Rivers anticipates no need for additional external financing to complete this acquisition. The feasibility of Confluence Rivers' providing water and sewer service in the acquired service area is also supported by Confluence Rivers demonstrating, over numerous years, that it has adequate resources to operate the utility systems it owns, to acquire new systems, to undertake construction of new systems and expand existing systems, to plan and undertake scheduled capital improvements, and to timely respond and resolve emergency issues when such situations arise.

Staff reports that the Glenmeadows sewer system has not been properly operated and maintained. As owners of the Glenmeadows water and sewer systems, Confluence Rivers would make improvements to both systems and better serve those customers by providing safe and adequate service, thereby promoting the public interest.

The Commission finds that there is a need for water and sewer service in the Glenmeadows subdivision service area and Confluence Rivers is qualified to provide that service. The Commission finds that Confluence Rivers has the financial ability to acquire the Glenmeadows water and sewer systems and adequately operate them in the future and that it is economically feasible for Confluence Rivers to do so. The Commission

further finds that granting the CCNs with the reasonable and necessary conditions proposed by Staff will promote the public interest.

The Commission finds that Confluence Rivers' ownership and operation of the Glenmeadows water and sewer system is necessary and convenient to the public service of the Glenmeadows subdivision customers. Therefore, the Commission will grant Confluence Rivers CCNs for the service areas currently served by those systems. No objections to Staff's recommended conditions were received and the Commission finds that Staff's conditions are reasonable and necessary. Therefore, the Commission will grant the CCNs, subject to those conditions.

Confluence Rivers' applications also asked the Commission to waive the 60-day notice requirement in 20 CSR 4240-4.017(1). The Commission finds good cause exists for waiver based on Confluence Rivers' verified declaration that it had no communication with the Commission regarding substantive issues likely to arise in this file within 150 days before filing its applications. Further, the Commission finds it reasonable for this order to become effective in less than 30 days, as requested.

THE COMMISSION ORDERS THAT:

1. The 60-day notice of case filing requirement is waived for good cause found, pursuant to 20 CSR 4240-4.017(1)(D).
2. Confluence Rivers is granted permission to acquire substantially all of the water and sewer utility assets of Glenmeadows pursuant to a *Purchase and Sales Agreement* dated February 25, 2022, between Glenmeadows and CSWR.
3. Upon closing, Confluence Rivers is granted certificates of convenience and necessity to provide water and sewer service in the Glenmeadows service area, subject

to the conditions and requirements contained in Staff's recommendation, as set out below:

- a. Confluence Rivers shall adopt the existing water and sewer rates for the Glenmeadows systems;
- b. Confluence Rivers shall submit tariff sheets, to become effective before closing on the assets, to include a service area map, service area written description, rates and charges to be included in its tariffs P.S.C. MO No. 12 and 13, applicable to water and sewer service, respectively;
- c. Confluence Rivers shall notify the Commission of closing on the assets within five days after such closing;
- d. If closing on the water and sewer system assets does not take place within 30 days following the effective date of this Commission order, Confluence Rivers shall submit a status report within five days after this 30-day period regarding the status of closing and additional status reports within five days after each additional 30-day period until closing takes place, or until Confluence Rivers determines that the transfer of the assets will not occur;
- e. 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 Glenmeadows service area in its water and sewer tariffs, and rate and charges sheets applicable to customers in the Glenmeadows service area in both the water and sewer tariffs;
- f. 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 the depreciation rates ordered for it in File Nos. WA-2013-0117 and SA-2013-0354 for the Glenmeadows assets;

- i. Confluence Rivers shall provide training to its call center personnel regarding rates and rules applicable to the water and sewer⁸ customers in the acquired area;
- j. Confluence Rivers shall distribute to the Glenmeadows customers an informational brochure detailing the rights and responsibilities of the utility and its customers consistent with the requirements of Commission Rules in 20 CSR 4240-13 within 30 days of closing on the assets;
- k. Within ten days after closing on the assets, Confluence Rivers shall provide to Staff's Customer Experience Department (CXD Staff) an example of its actual communication with the Glenmeadows customers regarding its acquisition and operations of the water and sewer system assets,⁹ and how customers may reach Confluence Rivers;
- l. Confluence Rivers shall provide to the CXD Staff a sample of five billing statements from the first month's billing within 30 days of closing on the assets; and
- m. Confluence Rivers shall file notice in this case outlining completion of the above-recommended training, customer communications, notifications and billing within ten days after such communications and notifications are completed.

4. Confluence Rivers is authorized to take other actions as may be deemed necessary and appropriate to consummate the transactions proposed in the applications.

5. The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the CCNs to Confluence Rivers, including proposed expenditures related to the certificated service area as discussed in the body of this order, in any later proceeding.

6. This order shall become effective on December 18, 2022.

⁸ The words "and sewer" have been inserted with the understanding that the phrase "water and sewer" was meant by Staff to be included in the condition.

⁹ The words "and sewer system assets" have been inserted with the understanding that the phrase "water and sewer system assets" was meant by Staff to be included in the condition.



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.

Seyer, 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 8th day of December, 2022.**





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 8, 2022

File/Case No. WA-2023-0026

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

Sincerely,



**Morris L. Woodruff
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.