

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 12<sup>th</sup> day of October, 2022.

In the Matter of Missouri-American Water )  
Company's Application for a Certificate of )  
Convenience and Necessity Authorizing it to )  
Install, Own, Acquire, Construct, Operate, )  
Control, Manage and Maintain a Water )  
System in and around an area of Benton )  
County, Missouri (Pom-Osa Heights )  
Subdivision) )

**File No. WA-2022-0361**

**ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: October 12, 2022

Effective Date: November 11, 2022

On June 21, 2022, Missouri-American Water Company (MAWC) filed an application seeking a certificate of convenience and necessity for authority to acquire and operate the assets of a water system in and around an area of Benton County, Missouri known as the Pom-Osa Heights Subdivision (Pom-Osa), and for expedited treatment of its application. The Pom-Osa water system serves 62 residents and consists of a primary well, a backup well, a 10,000 gallon standpipe for storage, one well house and a water distribution system. MAWC's application also requests a waiver of the 60-day notice requirement contained in Commission Rule 20 CSR 4240-4.017(1) affirming that they had not had contact with the Commission about the subject of its application within 150 days before filing the application.

The Commission issued notice and set a deadline for intervention requests, but received none. The Commission also directed its Staff (Staff) to file a recommendation about MAWC's application. On September 26, Staff recommended the Commission approve MAWC's request for a CCN, with additional conditions and actions to be taken,

which were described in the memorandum accompanying Staff's recommendation. On October 6, MAWC responded to Staff's recommendation, stating that it had no objection to any of Staff's proposed conditions and requesting that the Commission issue its order approving MAWC's application and granting a CCN, as recommended in Staff's memorandum.

MAWC is a "water corporation," a "sewer corporation," and "public utility" as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction of the Commission.

MAWC currently provides water service to approximately 474,000 customers and sewer service to approximately 16,500 customers in Missouri. MAWC is current on its water and sewer Public Service Commission assessment payments, is current on its annual reports, and is in good standing with the Secretary of State's office.

The requested water CCN would allow MAWC to provide water service by acquiring Pom-Osa's existing water system. Pom-Osa has made the decision to exit the water utility business, sell the existing system to MAWC, and rely upon MAWC to properly operate and maintain the existing water system in order that customers will continue to have safe and adequate service. According to information MAWC provided to Staff, the Pom-Osa home owners' association held a meeting on September 12, 2020, and its board passed a motion to move forward with the sale of the Pom-Osa water system to MAWC. The home owners' association is composed of all 62 residents who are served by the current water system and one additional member who uses a private well.

The drinking water system includes two wells (Well #1 and Well #2), a 10,000 gallon standpipe storage tank, one well house, and a water distribution system. There is currently no disinfection equipment. Well house #2 contains a meter, a booster

pump, four (120 gallons/each) hydropneumatic tanks providing typical system pressure ranging from 62 to 64 psi, piping controls, and electrical controls. Staff reported that the system appears to be generally well maintained and in good condition. MAWC has proposed several improvements, including a disinfection system using sodium hyperchlorite, installation of meters and meter pits, installation of flushing valves in the distribution system, and relocation of well controls.

According to Staff, MAWC indicated it was unable to obtain from the subdivision any invoices or supporting documentation of original cost and installation for any plant assets of the Pom-Osa water system, including improvements made in 2007 and 2018. After its investigation, Staff determined the Pom-Osa water system assets are contributed plant and the contributed assets are presumed to be fully depreciated, resulting in a net zero rate base value for those assets. Based on estimated values, Staff determined the net book value of the system to be \$85,391. The proposed purchase price of \$10,000 is \$75,391 below Staff's calculation of the net book value at September 30, 2022, of the Pom-Osa water system assets.

Current customers pay a flat rate of \$45.00 for water service. MAWC proposes charging its approved monthly flat rate of \$48.40 until meters are installed. Once meters are installed MAWC proposes using its existing rates applicable to "Other Missouri" service areas under its water tariff, P.S.C. MO No.13.

## **Decision**

More than ten days have passed since Staff filed its recommendation and no party has objected to MAWC's application or Staff's recommendation.<sup>1</sup> No party has requested

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<sup>1</sup> Commission rule 20 CSR 4240-2.080(13) provides that parties shall be allowed ten days from the date of filing in which to respond to any pleading unless otherwise ordered by the Commission.

an evidentiary hearing.<sup>2</sup> Therefore, the Commission will rule upon MAWC's application.

The Commission may grant a water or sewer corporation a CCN to operate after determining that the construction and operation are either "necessary or convenient for the public service."<sup>3</sup> The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case combined the standards used in several similar certificate cases, and set forth the following criteria: (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.<sup>4</sup> The factors have also been referred to as the "Tartan Factors" or the "Tartan Energy Criteria."

There is a current and future need for water and sewer service. The existing customer base for the water and sewer systems being acquired have both a desire and need for service, as demonstrated by Pom-Osa's vote to sell the system to MAWC. In addition, there is a need for steps to be taken to update the water and sewer systems to ensure provision of safe and adequate service. MAWC has demonstrated that it is qualified to provide the service as it is currently providing safe and reliable water service to 474,000 customers and sewer service to approximately 16,500 customers. MAWC has demonstrated that it has adequate resources to operate the utility systems it owns, to acquire new systems, to undertake construction of new systems and expansions of

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

<sup>3</sup> Section 393.170.3, RSMo.

<sup>4</sup> See 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*, File No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994).

existing systems, to plan and undertake scheduled capital improvements, and timely respond and resolve emergency issues when they arise. MAWC has the financial ability to provide the service, and no external financing approval is being requested.

MAWC's acquisition of these systems promotes the public interest. The public interest is a matter of policy to be determined by the Commission,<sup>5</sup> and it is within the discretion of the Commission to determine when the evidence indicates the public interest would be served.<sup>6</sup> The Commission finds that granting a CCN to MAWC, with the conditions and actions proposed by Staff, promotes the public interest.

Based on the application and Staff's recommendation, the Commission finds that MAWC has complied with the requirements of Sections 393.140 and 393.170, RSMo., and concludes that it is in the public interest for MAWC to provide water services to Pom-Osa, with the conditions as set out by Staff. The Commission also finds that MAWC had no communication with the Commission about the subject of the application within one hundred fifty days before the filing of the application. Therefore, the Commission will grant MAWC's requested CCN, order the conditions described in Staff's recommendation and memorandum, and waive the 60-day notice requirements of Commission Rule 20 CSR 4240-4.017.

**THE COMMISSION ORDERS THAT:**

1. MAWC is granted a waiver for this application of the 60-day notice requirement contained in Commission Rule 20 CSR 4240-4.017(1).

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<sup>5</sup> *State ex rel. Public Water Supply District No. 8 of Jefferson County v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980).

<sup>6</sup> *State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri*, 848 S.W.2d 593, 597-598 (Mo. App. 1993).

2. MAWC is granted a CCN to own, install, construct, operate, control, manage, and maintain the water assets of Pom-Osa and to provide water service in the Pom-Osa service area.

3. MAWC shall install meters for each customer within the Pom-Osa service area within three years of closing on the assets.

4. MAWC's recommended monthly rate of \$48.40 is approved until meters are installed for each customer, or the cost of service is examined in a future rate case.

5. MAWC shall submit tariff sheets, to become effective before closing on the assets, to include water rates, a service area map, and service area written description, applicable specifically to water service in its Pom-Osa service area, to be included in its EFIS water tariff P.S.C. MO No. 13.

6. MAWC shall notify the Commission of closing on the assets within five (5) days after the closing.

7. If MAWC does not close on the water system assets within thirty (30) days following the effective date of this order, MAWC shall submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until MAWC determines that the transfer of the assets will not occur.

8. If MAWC determines that a sale of the assets will not occur, MAWC 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 MAWC shall submit tariff sheets, as appropriate, in its water tariff that would cancel service area maps and descriptions and rate sheets applicable to customers in the Pom-Osa area.

9. MAWC shall keep financial books and records for plant-in-service and operating expenses for the Pom-Osa water system in accordance with the NARUC Uniform System of Accounts.

10. The depreciation rates ordered for MAWC in File No. WR-2020-0344 are hereby adopted for Pom-Osa water assets.

11. MAWC shall obtain from Pom-Osa, as possible prior to or at closing, all records and documents, including but not limited to all plant-in-service original cost documentation, along with depreciation reserve balances, documentation of contribution–in-aid-of construction transactions, and any capital recovery transactions.

12. MAWC shall provide training to its call center personnel regarding rates and rules applicable to the Pom-Osa water system customers.

13. MAWC shall include the Pom-Osa water system customers in its established monthly reporting to the Commission Customer Experience Department Staff (CXD Staff) on customer service and billing issues, on an ongoing basis, after closing on the assets.

14. MAWC shall, within thirty (30) days of closing on the assets, distribute to the Pom-Osa water system customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its water service, consistent with the requirements of Chapter 13 of the Commission Rules (20 CSR 4240-13).

15. MAWC shall provide to the CXD Staff an example of its actual communication with the Pom-Osa water system customers regarding its acquisition and operations of the water system assets, and how customers may reach MAWC, within ten (10) days after closing on the assets.

16. MAWC shall provide to the CXD Staff a sample of ten (10) billing statements from the first month's billing within thirty (30) days after closing on the assets.

17. MAWC shall file notice in this case outlining completion of the above-recommended training, customer communications, and notifications within ten (10) days after such communications and notifications.

18. MAWC shall file notice in this case when it is ready to change its Pom-Osa customers from flat-rate to metered service thirty (30) days before it intends to do so.

19. MAWC shall provide to the CXD Staff a copy of the communication that it will send to Pom-Osa customers about changing rates within ten (10) days of filing notice in this case of its intent to do so.

20. MAWC shall file notice in this case once the conditions in Ordered Paragraphs 4-20 above have been completed.

21. This order shall become effective on November 11, 2022.



**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.

Keeling, 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 12<sup>th</sup> day of October, 2022.**



  
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**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**October 12, 2022**

**File/Case No. WA-2022-0361**

**Missouri Public Service  
Commission**

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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**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.