

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 27th day of  
April, 2006.

In the Matter of the Application of Tri-State Utility, Inc.,	)	
for a Certificate of Convenience and Necessity	)	
Authorizing It to Enlarge and Extend Its Service Area	)	
and to Construct, Install, Own, Operate, Control,	)	<b><u>Case No. WA-2006-0241</u></b>
Manage, and Maintain a Water System for the Public	)	
Located in an Unincorporated Area in Taney County,	)	
Missouri	)	

**ORDER APPROVING APPLICATION FOR CERTIFICATE OF  
CONVENIENCE AND NECESSITY**

Issue Date: April 27, 2006

Effective Date: May 7, 2006

On December 6, 2005, Tri-State Utility, Inc., (Tri-State or Applicant) filed an Application for a certificate of public convenience and necessity authorizing it to enlarge and extend its service area and to construct, own, and operate a water system for the public in an unincorporated area of Taney County, Missouri. On December 7, the Commission issued an Order and Notice directing any person interested in intervening in this matter to file an application for intervention no later than December 28. The Commission did not receive any requests to intervene.

On February 10, 2006, the Staff of the Commission filed a recommendation advising the Commission to grant the certificate of convenience and necessity to Tri-State for the service area described in its Application, excepting a small portion of the proposed service area that Staff identified as located in adjacent Stone County. The Staff indicated that Tri-

State had informally advised Staff that it had no intention of extending its service into Stone County. Staff recommends that the Applicant be required to submit revised tariff sheets reflecting its authorized service area in Taney County, including the existing and new service areas.

Staff reports that Tri-State is an existing water utility, having filed several certificate cases and sale cases for portions of its service area since the 1970s. Applicant states that it first obtained a certificate from this Commission in Case Number WO-92-257. Applicant provides water service to about 2,900 customers in Taney County, Missouri, in and around Branson. Tri-State's current Application seeks authority to serve residential and commercial developments currently proposed in the expanded service area in unincorporated Taney County. The Applicant's existing service area and the proposed new service area described in Staff's recommendation in Exhibits A and B are located in Taney County, Missouri.

The Staff also notes that it has reviewed the company's compliance with Commission requirements and found no deficiencies with regard to annual reports and annual assessments.

In Staff's opinion, there is a need for the service that Tri-State seeks to provide. If such service is not provided, it is probable that those who are developing the area will obtain a water supply by drilling multiple wells into the aquifer, which would have a negative impact on the quality of the aquifer.

Staff indicates that Tri-State has the technical, managerial, and financial capacities needed to serve the proposed service area. Staff further indicates that Tri-State has adequate capacity to provide service to the existing and proposed area. Service will be

provided to the proposed area by using the “main extension rule” in Tri-State’s tariff. Staff states that granting the certificate will not directly require additional investment in plant, and the expansion of Tri-State’s service area is financially feasible.

The Commission sought additional information from the Staff and Tri-State regarding Tri-State’s cross connection control program and its compliance with Department of Natural Resources regulations. Staff responded with information on March 14 and April 18. Staff reports that Tri-State has required new customers to install backflow prevention devices, where appropriate, for the past seven years. The company has identified approximately 200 additional customers who will be required to install a backflow prevention device. Staff reports that following meetings between Tri-State, DNR and the Staff, that the company is in the process of implementing a policy based on the Staff’s and DNR’s comments. The policy includes modified record-keeping to include tracking the customer-owned backflow prevention devices and their testing, hiring an additional part-time temporary employee to monitor the program, and obtaining testing records from customers who are testing their backflow devices. Staff advises that Tri-State’s implementation of the policy is on schedule. Formal notification of customers will occur in June with a goal of customer compliance in August of this year.

Based on the Application, and the recommendation of its Staff, the Commission will approve Tri-State’s Application to extend and enlarge its service area in Taney County, Missouri.

The Commission reminds the Applicant that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

A) The obligation to file an annual report, as established by Section 393.140(6), RSMo 2000. Failure to comply with this obligation will make the utility liable for a penalty of \$100 and an additional \$100 per day that the violation continues. 4 CSR 240-3.640 requires water utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000. Because assessments are facilitated by order of the Commission, failure to comply with the order will subject the company to penalties ranging from \$100 to \$2000 for each day of noncompliance pursuant to Section 386.570, RSMo 2000.

C) The obligation to provide safe and adequate service at just and reasonable rates, pursuant to Section 393.130, RSMo 2000.

D) The obligation to comply with all relevant state and federal laws and regulations, including but not limited to, rules of this Commission, the Department of Natural Resources, and the Environmental Protection Agency.

E) The obligation to comply with orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

F) The obligation to keep the Commission informed of its current address and telephone number.

This certificate is granted conditioned upon the compliance of the Applicant with all of these obligations.

If the Commission finds, after conducting a hearing, that the Applicant fails to provide safe and adequate service or has defaulted on an obligation issued or guaranteed

as described in Section 393.145, RSMo 2005, then the Commission may petition the circuit court for an order attaching its assets and placing the company under the control of a receiver. As a condition of granting this certificate, the Applicant hereby consents to the appointment of a temporary receiver until such time as a circuit court grants or denies a petition for receivership.

The Applicant is also placed on notice that Section 386.310.1, RSMo 2000, provides that the Commission can, without first holding a hearing, issue an order in any case “in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property.”

The company is reminded that, as a corporation, its officers may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice in Missouri.

The company will be directed to file a copy of its policy implementing the cross-connection control program with the Commission.

**IT IS ORDERED THAT:**

1. Tri-State Utility, Inc., is granted a Certificate of Convenience and Necessity to construct, install, own, operate, control, manage, and maintain a system for the provision of water service, to serve an area in Taney County, Missouri, more particularly described in its Application and Staff’s attachments A and B to its recommendation.
2. This certificate is granted upon the conditions set out in the body of this order.
3. Tri-State Utility, Inc., is ordered to comply with all Missouri statutes and Commission rules.

4. Tri-State Utility, Inc., is ordered to submit water tariff sheets with a map and a metes and bounds description depicting both the existing and the new service area within 20 days of the effective date of this order.

5. The Certificate of Convenience and Necessity granted by this order will become effective on the date tariff sheets accurately depicting the existing and new service areas are effective. Tri-State Utility, Inc., may not operate in its expanded service area without an effective tariff for that area.

6. Nothing in this order should be considered as a finding by the Commission of the reasonableness of the expenditures involved with Tri-State Utility, Inc.'s provision of service in the subject service area, of the value for ratemaking purposes of the properties involved in Tri-State Utility, Inc.'s provision of service, or as an acquiescence to any method of cost determination, cost allocation, or ratemaking principle.

7. The Commission reserves the right to consider the ratemaking treatment to be afforded the costs associated with Tri-State Utility, Inc.'s provision of service in the subject service area in any future ratemaking proceeding or other appropriate Commission proceeding.

8. Tri-State Utility, Inc., shall file a copy of its policy implementing the cross-connection control program by May 27, 2006.

9. This order shall become effective on May 7, 2006.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Reed, Regulatory Law Judge