

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of July, 2018.

In the Matter of Missouri-American Water Company)
Application for Certificates of Convenience and)
Necessity Authorizing It to Install, Own, Acquire,) **File No. WA-2018-0222**
Construct, Operate, Control, Manage and Maintain)
Water and Sewer Systems in and around the City of)
Lawson, Missouri.)

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

Issue Date: July 19, 2018

Effective Date: July 29, 2018

Procedural History

Missouri-American Water Company (“MAWC”) filed an application on February 12, 2018, with the Missouri Public Service Commission (“Commission”) requesting permission to purchase all of the water and sewer assets of the City of Lawson (“Lawson”). Lawson overwhelmingly approved selling those assets to MAWC in a November 7, 2017 election.

MAWC also asks for a Certificate of Convenience and Necessity (“CCN”) to install, own, acquire, construct, operate, control, manage, and maintain those water and sewer systems in Lawson. MAWC is a “water corporation,” a “sewer corporation,” and “public utility” as those terms are defined in Section 386.020, RSMo (2016), and is subject to the jurisdiction of the Commission. If the Commission approves MAWC’s

application, MAWC would provide water service for Lawson's 933 customers, and sewer service for Lawson's 871 sewer customers.¹

In addition, MAWC requests the Commission permit it to use Section 393.320 RSMo to establish the rate base of the Lawson water and sewer systems. Finally, MAWC asks the Commission to waive the 60-day notice requirement MAWC would otherwise have to give before filing this case.

The Commission issued notice and set a deadline for intervention requests, but received no requests. On May 29, 2018, the Commission's Staff filed its recommendation to approve the transfer of assets and grant a CCN, with certain conditions.

Commission Rule 4 CSR 240-2.080(13) allows parties ten days to respond to pleadings unless otherwise ordered by the Commission. The Commission issued no order to the contrary of that rule, and no party timely objected to MAWC's application or Staff's recommendation. However, on June 15, 2018, the Office of the Public Counsel ("OPC") filed an untimely request for additional time to respond to Staff's Recommendation.²

OPC does not object to MAWC receiving the CCN or request an evidentiary hearing in this matter. However, OPC raises concerns about the novel application of Section 393.320.6 RSMo in calculating the rate base of the assets MAWC wants to purchase and requests the Commission open a separate workshop case for parties to explore how to better implement Section 393.320.6 RSMo in future cases.

¹ The customer counts are approximate.

² OPC's pleading failed to acknowledge its tardiness, and also failed to request leave to file its pleading out of time.

Discussion

Certificate of convenience and necessity

The Commission may grant a water and sewer corporation a CCN to operate after determining that the construction and operation are either “necessary or convenient for the public service.”³ The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in *In Re Intercon Gas, Inc.*⁴

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.⁵

There is a need for the service, as the residents of Lawson currently make use of the existing water and sewer system. MAWC is qualified to provide the service, as it already provides water service to over 450,000 Missouri customers, and sewer service to over 11,000 Missouri customers. MAWC has the financial ability to provide the service because no external financing is anticipated. The proposal is economically feasible according to MAWC's feasibility study, which is realistic given its prior experience and past performance. The proposal promotes the public interest as demonstrated by Lawson's citizens voting to proceed with MAWC's Asset Purchase Agreement.

³ Section 393.170.3, RSMo.

⁴ 30 Mo P.S.C. (N.S.) 554, 561 (1991).

⁵ The factors have also been referred to as the “Tartan Factors” or the “Tartan Energy Criteria.” 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*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994).

Based on the application and Staff's recommendations, the Commission concludes that the factors for granting a certificate of convenience and necessity to MAWC have been satisfied and that it is in the public's interest for MAWC to provide water and sewer service to the customers currently served by Lawson. Further, the Commission finds that MAWC possesses adequate technical, managerial, and financial capacity to operate the water and sewer system it wishes to purchase from Lawson. Thus, the Commission will authorize the transfer of assets and grant MAWC the certificate of convenience and necessity to provide water and sewer service within the proposed service area, subject to the conditions described by Staff.

Rate base

MAWC seeks to establish the ratemaking rate base associated with the Lawson water and sewer assets in this matter pursuant to Section 393.320, RSMo.⁶ That statute states, in pertinent part:

The procedures contained in this section may be chosen by a large water public utility, and if so chosen shall be used by the public service commission to establish the ratemaking rate base of a small water utility during an acquisition.

MAWC is a "large water public utility" as it is a "public utility that regularly provides water service or sewer service to more than eight thousand customer connections and that provides safe and adequate service."⁷ Lawson is a "small water utility" as it is a "water system or sewer system owned by a municipality that regularly

⁶ Per the Staff Recommendation, this is the first time a utility has availed itself of this statutory method of establishing the rate base for purchased assets.

⁷ Section 393.320.1(1) RSMo.

provides water service or sewer service to eight thousand or fewer customer connections.”⁸

Section 393.320.3(1), RSMo requires an appraisal to be performed by three appraisers. Such an appraisal has been performed on the Lawson water and sewer system and is attached to MAWC’s application. The appraisal contains a joint assessment of the fair market value of the water system and sewer system.

Section 393.320.5(1), RSMo states, in part, that the “lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility, shall constitute the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility. . . .” In this case, the purchase price is equal to the appraised value. That value is \$4 million, of which \$2,630,000 is for water assets, and \$1,370,000 for sewer assets. Staff’s Recommendation concurs with MAWC’s appraisal of the Lawson water and sewer assets. Therefore, the appraised value of \$4 million, together with the reasonable and prudent transaction, closing, and transition costs incurred by MAWC, shall constitute the ratemaking rate base.

Also, the Commission appreciates OPC’s concerns about the application of Section 393.320 going forward. The Commission will address OPC’s request to open a working case in a future order.

⁸ Section 393.320.1(2) RSMo.

Waiver of 60-day notice rule

MAWC's application also asks the Commission to waive the 60-day notice requirement in 4 CSR 240-4.017(1). MAWC asserts there is good cause for granting such waiver because it did not engage in conduct that would constitute a violation of the Commission's ex parte rule, and no asset purchase agreement existed within 60 days prior to filing its application. The Commission finds good cause exists to waive the notice requirement, and a waiver of 4 CSR 240-4.017(1) will be granted.

THE COMMISSION ORDERS THAT:

1. Missouri-American Water Company is granted a certificate of convenience and necessity to provide water and sewer service in the City of Lawson area described in the map and legal description Missouri-American Water Company provided to Staff, subject to the conditions and requirements contained in Staff's Recommendation, including the filing of tariffs, as set out below:

- a. Missouri-American Water Company shall apply the existing inside-city water and sewer rates, and shall honor commitments made to the City of Lawson as noted herein, applicable to customers in Missouri-American Water Company's water and sewer approved service areas;
- b. Missouri-American Water Company shall submit tariff sheets, to become effective before closing on the assets, to include the Lawson water system in its 'All Missouri Service Areas Outside of St. Louis County and Outside of Mexico', to include a service area map, and service area written description to be included in its EFIS water tariff P.S.C. MO No. 13, and water rates, applicable specifically to water service in its Lawson service area;
- c. Missouri-American Water Company shall submit tariff sheets, to become effective before closing on the assets, to include the Lawson sewer system in its 'Pettis County (Maplewood, Quail Run, Brooking Park, Westlake Village), Fenton, Hickory Hills, Temple Terrace, Anna Meadows, Jaxon Estates' service areas', to include

a service area map, and service area written description to be included in its EFIS sewer tariff P.S.C. MO No. 26, and sewer rates, applicable specifically to sewer service in its Lawson service area;

- d. The City of Lawson or Missouri-American Water Company shall notify the Commission of closing on the assets within 5 days after such closing;
- e. If closing on the water and sewer system assets does not take place within 30 days following the effective date of the Commission's order approving such, Missouri-American Water Company shall submit a status report within 5 days after this 30-day period regarding the status of closing and additional status reports within 5 days after each additional 30-day period until closing takes place, or until Missouri-American Water Company determines that the transfer of the assets will not occur;
- f. If Missouri-American Water Company determines that a transfer of the assets will not occur, it shall notify the Commission no later than the date of the next status report, as addressed above, after such determination is made. In addition, Missouri-American Water Company shall submit tariff sheets as appropriate that would cancel service area maps and descriptions applicable to the City of Lawson service area in its water tariff; and rate sheets applicable to customers in the City of Lawson water and sewer tariffs;
- g. Missouri-American Water Company shall develop a plan to book all of the Lawson plant assets, with the concurrence of Staff and/or with the assistance of Staff, for original cost, depreciation reserve, and contributions (CIAC) for appropriate plant accounts, such that current rate base is broken down as \$2,630,000 for the water system, and \$1,370,000 for the sewer system, along with reasonable and prudent transaction, closing, and transition costs. This plan should be submitted to Staff for review within 60 days after closing on the assets;
- h. Missouri-American Water Company shall book the estimated original cost of the North Highway 69 sewage lift station, and book an accompanying CIAC offset equal to the estimated original cost of this lift station prior to the next rate case;
- i. Missouri-American Water Company shall ensure that a backup water supply arrangement is obtained following acquisition of the Lawson systems to ensure reliable service to the City of Lawson service area via the Vibbard water pump station or other prudent means.

- j. Missouri-American Water Company shall keep its financial books and records for plant-in-service and operating expenses in accordance with the NARUC Uniform System of Accounts;
- k. Missouri-American Water Company shall Adopt for Lawson Water and Sewer assets the depreciation rates ordered for MAWC in Case No. WR-2015-0301;
- l. Missouri-American Water Company shall provide an example of its actual communication with the Lawson service area customers regarding its acquisition and operations of the Lawson water and sewer system assets, and how customers may reach MAWC, within 10 days after closing on the assets;
- m. Missouri-American Water Company shall obtain from Lawson, as best 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;
- n. Except as required by §393.320 RSMo, 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 CCN to MAWC, including expenditures related to the certificated service area, in any later proceeding;
- o. Missouri-American Water Company shall include the Lawson customers in its established monthly reporting to the Customer Experience Department (“CXD”) Staff on customer service and billing issues within thirty (30) days of closing on the assets;
- p. Missouri-American Water Company shall distribute to the Lawson customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its sewer service, consistent with the requirements of Commission Rule 4 CSR 240-13, within thirty (30) days of closing on the assets;
- q. Missouri-American Water Company shall provide to the CXD Staff a sample of ten (10) billing statements from the first month’s billing within thirty (30) days of closing on the assets; and,
- r. Missouri-American Water Company shall file notice in this case once Staff Recommendations o., p., and q. above have been completed.

2. Missouri-American Water Company is authorized to acquire the City of Lawson's water and sewer assets identified in the application.

3. Missouri-American Water Company is authorized to take other actions as may be deemed necessary and appropriate to consummate the transactions proposed in the application.

4. Commission Rule 4 CSR 240-4.017(1) is waived.

5. This order shall become effective on July 29, 2018.

6. This file shall be closed on July 30, 2018.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Kenney, Rupp, Coleman, and
Silvey, CC., concur.

Pridgin, Deputy Chief 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 19th day of July 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

July 19, 2018

File/Case No. WA-2018-0222

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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.