

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 22<sup>nd</sup> day  
of October, 2015.

In the Matter of TUK LLC for Certificates of )  
Convenience and Necessity Authorizing it to Install, )  
Own, Acquire, Construct, Operate, Control, Manage ) **File No. WA-2015-0169 et al.**  
and Maintain Water and Sewer Systems in Jefferson )  
County, Missouri )

**ORDER APPROVING STIPULATION AND AGREEMENT  
AND GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: October 22, 2015

Effective Date: November 21, 2015

On January 20, 2015, TUK LLC (“TUK”) filed an application with the Missouri Public Service Commission (“Commission”) requesting that the Commission grant it certificates of convenience and necessity (“CCN”) to install, own, acquire, construct, operate, control, manage and maintain water and sewer systems in Jefferson County, Missouri. TUK also requested that the Commission waive Commission rules regarding certain filing requirements. On January 21, 2015, the Commission directed notice and set a deadline for persons to request intervention. The Commission received an intervention request from the Missouri Department of Natural Resources, which was granted on February 24, 2015. The Commission consolidated the separate water and sewer cases, File Nos. WA-2015-0169 and SA-2015-0170, on February 3, 2015.

On May 22, 2015, the Commission’s Staff filed a recommendation, which was corrected on May 28, 2015, that asks the Commission to approve the application, subject to

certain conditions. On June 2, 2015, the Office of the Public Counsel (“OPC”) filed a response to Staff’s recommendation proposing that TUK file a new rate case within 18 months instead of a rate review by Staff after rates become effective. On October 7, 2015, TUK, Staff and OPC filed a pleading titled *Unanimous Stipulation and Agreement* (“Agreement”). However, since the Agreement was not signed by the Missouri Department of Natural Resources, the Agreement is non-unanimous. Commission Rule 4 CSR 240-2.115(2) provides that other parties have seven days in which to object to a non-unanimous stipulation and agreement. If no party files a timely objection to a stipulation and agreement, the Commission may treat it as a unanimous stipulation and agreement. More than seven days have passed since the Agreement was filed, and no party has objected. Therefore, the Commission will treat the Agreement as a unanimous stipulation and agreement.

The Agreement is intended to resolve all issues identified by the parties and recommends that the Commission grant TUK’s application for a sewer CCN, subject to the conditions stated in the Agreement. The Agreement states that TUK will withdraw its request for a water CCN, will not charge for water, and will not connect new water customers unless it later requests and receives a water CCN from the Commission.<sup>1</sup>

The Commission may grant a sewer corporation a certificate of convenience and necessity to operate after determining that the construction and operation are either “necessary or convenient for the public service.”<sup>2</sup> The Commission articulated the specific

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<sup>1</sup> To be a water corporation or public utility subject to the jurisdiction of the Commission, a company must be devoted to public use by making its services available to the general public for gain or compensation. See, Sections 386.020 (43) and (59), RSMo Supp. 2013; *Hurricane Deck Holding Co. v. Public Service Commission of State*, 289 S.W.3d 260, 264 (Mo. App. 2009); *Osage Water Co. v. Miller County Water Authority, Inc.*, 950 S.W. 2d 569, 574 (Mo. App. 1997).

<sup>2</sup> Section 393.170.3, RSMo 2000.

criteria to be used when evaluating applications for utility CCNs 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>3</sup>

Based on the Commission's independent and impartial review of the verified filings, the Commission determines that TUK has satisfied all necessary criteria for the grant of a sewer CCN. TUK's provision of sewer service to the service area described is in the public interest, and the Commission will grant the request for the certificate and approve the Agreement.

**THE COMMISSION ORDERS THAT:**

1. TUK LLC is granted permission, approval, and a certificate of convenience and necessity to install, own, acquire, construct, operate, control, manage and maintain a sewer system in Jefferson County, Missouri, as more particularly described in its application and in the parties' Agreement.

2. The Agreement filed on October 7, 2015, is approved. The signatory parties are ordered to comply with the Agreement, which is incorporated herein in its entirety as if fully set forth. The Agreement shall be attached to this order as Appendix A.

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<sup>3</sup>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), 1994 WL 762882, \*3 (Mo. P.S.C.).


3. The certificate of convenience and necessity is granted subject to the conditions set out in the Agreement.

4. TUK LLC's request for a waiver from Commission Rules 4 CSR 240-3.305(1)(A)5 and 4 CSR 240-3.600(1)(A)5 regarding the requirement to file a feasibility study is granted.

5. Nothing in the Staff recommendation, the Agreement, or this order shall bind the Commission on any ratemaking issue in any future rate proceeding.

6. This order shall become effective on November 21, 2015.

**BY THE COMMISSION**



Morris L. Woodruff  
Secretary



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

Bushmann, Senior Regulatory Law Judge