

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 16th day of December, 2015.

In the Matter of Missouri-American Water Company)
for a Certificate of Convenience and Necessity)
Authorizing It to Install, Own, Acquire, Construct,)
Operate, Control, Manage and Maintain a Water)
System in an Area of St. Charles County, Missouri)

File No. WA-2016-0054

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY AND GRANTING WAIVER**

Issue Date: December 16, 2015

Effective Date: January 15, 2016

On September 4, 2015, Missouri-American Water Company (“MAWC”) filed an application with the Missouri Public Service Commission (“Commission”) requesting that the Commission grant it a Certificate of Convenience and Necessity (“CCN”) to install, own, acquire, construct, operate, control, manage and maintain a water system in St. Charles County, Missouri. MAWC amended parts of its application on October 21, 2015 (collectively, the “Application”). The requested CCN would allow MAWC to provide water service to an existing development known as the Jaxson Estates subdivision. In connection therewith, MAWC requests permission to purchase a water distribution system from Ciana Realty, LLC, the current provider of water to Jaxson Estates.

The Commission issued notice and set a deadline for intervention requests, but no persons requested to intervene in this proceeding. On December 9, 2015, the Commission’s Staff filed its Recommendation and Memorandum to approve the transfer of

assets and the granting of a CCN, subject to certain conditions. Staff advises the Commission to issue an order that:

1. Approves the CCN for MAWC to provide water service in the proposed Jaxson Estates service area as shown in the attached map and boundary description;
2. Requires MAWC to notify the Commission of closing of the assets within five (5) days after such closing;
3. Approves residential flat rates of \$40.00 per month for water service;
4. Approves adoption of rules and regulations currently in effect for water service in its St. Louis Metro service area to apply to water service in the Jaxson Estates service area; Requires MAWC to submit new tariff sheets as described within this memorandum no later than thirty (30) days following the effective date of an order approving the CCN, as 30-day filings, to become effective prior to closing on the assets, for its existing water tariff No. 13, depicting the Jaxson Estates service area with a written description that is consistent with that as included with the Application, a map that is consistent with that as shown by the Attachment A, and a modified rate sheet for the Jaxson Estates service area that retains existing monthly rates;
5. If closing does not take place within thirty (30) days following the effective date of the Commission's order, requires MAWC to submit a status report within five (5) days after this 30-day period regarding the status of closing, and additional status reports within five (5) days after each additional 30-day period, until closing takes place, or until MAWC determines that closing will not occur;
6. Requires MAWC, if it determines that closing will not occur, to notify the Commission of such, after which time the Commission may cancel, or deem null and void, the CCN issued to MAWC, and order replacement of any tariff sheets specifically applicable to the Jaxson Estates service area that may have become effective;
7. Authorizes MAWC to utilize and apply water depreciation rates as shown in Attachment E;
8. Requires MAWC to keep its financial books and records for plant-in-service and operating expenses in accordance with the NARUC Uniform System of Accounts;
9. Requires MAWC to keep operations records including those for customer complaints/inquiries, vehicle, equipment and telephone use records, maintenance activity, service calls and customer account records; and

10. Makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded in any matters pertaining to the granting or transfer of the CCN to MAWC, including expenditures related to the certificated service area, in any later proceeding.

On December 10, 2015, MAWC filed its response, stating that it has no objection to the Staff Recommendation. No other party has objected to the Staff recommendation within the time set by the Commission. Thus, the Commission will rule upon the unopposed application. No party has requested an evidentiary hearing, and no law requires one.¹ Therefore, this action is not a contested case,² and the Commission need not separately state its findings of fact.

The Commission may grant a water 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.”³ The Commission articulated the specific 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.⁴ The Commission finds that MAWC possesses adequate technical, managerial, and financial capacity to operate the water system it wishes to purchase from

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm’n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

² Section 536.010(4), RSMo Supp. 2013.

³ Section 393.170.3, RSMo 2000.

⁴ 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.).

Ciana Realty, LLC. 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 interest for MAWC to provide water service to the customers currently being served by Ciana Realty, LLC. Consequently, based on the Commission's independent and impartial review of the verified filings, the Commission will authorize the transfer of assets and grant MAWC the certificate of convenience and necessity to provide water service within the proposed service area, subject to the conditions described above.

The Application also asked the Commission to waive the 60-day notice requirement under 4 CSR 240-4.020(2), if necessary. MAWC explains that such waiver may not be necessary since matters of this type rarely become contested cases. However, MAWC asserts that good cause exists in this case for granting such waiver because the application was filed as soon as possible due to the nature of this particular transaction. In addition, the applicants state that no purpose would be served to require the applicants to wait sixty days after their agreement to file the application with the Commission. The Commission finds that good cause exists to waive the notice requirement, and a waiver of 4 CSR 240-4.020(2) will be granted.

THE COMMISSION ORDERS THAT:

1. Missouri-American Water Company's request for a waiver of the notice requirement under Commission Rule 4 CSR 240-4.020(2) is granted.
2. Missouri-American Water Company is granted the certificate of convenience and necessity to provide water service within the authorized service area as more particularly described in the Application, subject to the conditions and requirements contained in Staff's Recommendation, including those conditions described in the body of this order.

3. Missouri-American Water Company is authorized to acquire the assets of Ciana Realty, LLC identified in the Application.

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

5. This order shall become effective on January 15, 2016.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

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

Bushmann, Senior Regulatory Law Judge