

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Missouri-American )  
Water Company for a Certificate of )  
Convenience and Necessity Authorizing )  
it to Install, Own, Acquire, Construct, ) File No. \_\_\_\_\_  
Operate, Control, Manage and Maintain )  
A Sewer System in Benton County, )  
Missouri. )

**APPLICATION AND, IF NECESSARY,  
MOTION FOR WAIVER**

**COMES NOW** Missouri-American Water Company (MAWC) pursuant to Sections 393.140 and 393.170, RSMo and 4 CSR 240-2.060, 4 CSR 240-3.305, and 4 CSR 240-4.020(2)(B), and for its Application and, If Necessary, Motion for Waiver, states as follows to the Missouri Public Service Commission (Commission):

**BACKGROUND**

1. This Application is being filed by MAWC to obtain certificates of convenience and necessity to install, own, acquire, construct, operate, control, manage and maintain a sewer system in Benton County, Missouri.

2. The area for which MAWC seeks a certificate is currently served by Benton County Sewer District No. 1 (Benton County Sewer). Benton County Sewer is currently the subject of a civil lawsuit brought against it by the United States and the State of Missouri. The case is pending before the United States District Court for the Western District of Missouri (Case No. 13-00319-CV-W-BP). Voters in the sewer district voted to dissolve the district. The Federal District Court enjoined this dissolution for various reasons. On July 2, 2013, the Federal District Court appointed a receiver and provided that the receiver was to have exclusive

possession and control over all assets and operations of the district, and authorized the receiver to provide information about the sewer system to any potential purchaser, with terms of any proposed sale to be presented to the Court for approval.

3. MAWC has executed an Asset Purchase Agreement (APA) to purchase Benton County Sewer's assets. That APA was approved by the Federal District Court by Order issued August 25, 2014.

### **APPLICANT**

4. MAWC is a Missouri corporation with its principal office and place of business at 727 Craig Road, St. Louis, Missouri 63141. MAWC is a Missouri corporation in good standing. A certified copy of MAWC's certificate of good standing was submitted in Case No. SA-2007-0316 and is incorporated by reference. MAWC currently provides water service to the public in and around the cities of St. Joseph, Joplin, Brunswick, Mexico, Warrensburg, Parkville, Riverside, Jefferson City, and parts of St. Charles, Warren, Jefferson, Morgan, Pettis, Benton, Barry, Stone, Greene, Taney, Christian and Platte Counties, and most all of St. Louis County, Missouri. MAWC currently provides water service to approximately 457,000 customers. MAWC provides sewer service to approximately 4,750 customers in Callaway, Jefferson, Pettis, Cole, Morgan, Platte, Stone, Taney and Warren Counties, Missouri. MAWC is a "water corporation," a "sewer corporation" and a "public utility" as those terms are defined in Section 386.020 RSMo, and is subject to the jurisdiction and supervision of the Commission as provided by law. MAWC has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against MAWC from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred

within three years of the date of this Application other than cases pending before this Commission – Cases Nos. WC-2014-0138, WC-2014-0161, WC-2014-0260, WC-2014-0358, WC-2015-0030, and WO-2014-0362.

5. Communications respecting this Application should be addressed to the undersigned counsel and:

Missouri-American Water Company  
727 Craig Road  
St. Louis, Missouri 63141  
(314) 996-2355  
(314) 997-2451 (facsimile)

Attention: Mr. Kevin Caveny

[kevin.caveny@amwater.com](mailto:kevin.caveny@amwater.com)

#### **CERTIFICATE**

6. MAWC requests permission, approval and a Certificate of Convenience and Necessity to install, own, acquire, construct, operate, control, manage and maintain a sewer system for the public in an area of Benton County, Missouri, as set forth on the map attached to this Application as **Appendix A**. This area is currently the boundary of Benton County Sewer District No. 1. There are approximately 365 customers of the current system.

7. A legal description of the area sought to be certificated for sewer service is attached to this Application as **Appendix B**.

8. Attached hereto and marked as **Appendix C** is a list of ten residents or land owners within the proposed service area.

9. Attached hereto and marked as **Appendix D** is a feasibility study for the sewer system, including estimated expenses and revenues during the first three years of operation by MAWC. No external financing is anticipated.

10. MAWC will not require any franchises or permits from municipalities, counties, or other authorities in connection with the proposed systems.

11. As stated above, MAWC has executed an APA to purchase a sewer system from Benton County Sewer. A copy of the APA governing this transaction is attached hereto as **Appendix E**. Attached as **Appendix F** is a copy of the Order of the Federal District Court approving the APA and authorizing the court-appointed receiver to take any actions necessary to effect execution and performance of the APA.

12. MAWC proposes to provide service pursuant to the existing rates, currently applicable to MAWC's Jefferson City Area operating district for sewer. MAWC proposes to utilize the rules and regulations currently applicable to the Jefferson City Area for sewer.

13. The grant of the requested certificate (and approval of the underlying transaction) will result in regulated sewer service to be provided to the current and future residents of the subject territory. The assets of Benton County Sewer would be acquired by MAWC, a Missouri public utility, and be subject to the jurisdiction of the Commission. MAWC has considerable expertise and experience in providing sewer utility services to residents of the State of Missouri and is fully qualified, in all respects, to own and operate the systems currently being operated by Benton County Sewer.

## **CONTINGENT REQUEST FOR WAIVER**

14. This case is not likely to be a contested case within the meaning of Commission rule 4 CSR 240-4.020(2) because previous applications addressing the same issues presented in this filing have generally not become contested proceedings. However, in the event that the Commission nevertheless concludes that the filing of this Application is likely to be a contested case, Applicants request a waiver of the sixty (60) day notice for good cause shown as permitted by Commission rule 4 CSR 240-4.020(2)(B).

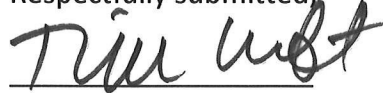
15. The reason for this request relates to the nature of an asset purchase negotiation under the oversight of the Federal District Court that resulted in the execution of the subject Agreement and the filing of this Application. Sixty days prior to the filing, the parties did not have an agreement or an order from the Federal District Court approving such agreement. Further, because of the nature of a transaction such as this, this Application has been filed as soon as possible. It would serve no purpose to wait sixty days before filing the application for Commission approval. Accordingly, to the extent that the Commission may find it to be applicable, the parties request a waiver from the provisions of Commission Rule 4 CSR 240-4.020(2) to allow for the filing of this Application.

**WHEREFORE**, MAWC requests the Commission grant it permission, approval and a Certificate of Convenience and Necessity authorizing MAWC to:

- a) install, acquire, build, construct, own, operate, control, manage and maintain a sewer system for the public within the areas referred to above;
- b) acquire the assets identified herein of Benton County Sewer; and,

c) take such other actions as may be deemed necessary and appropriate to accomplish the purposes of the Agreement and the Application and to consummate related transactions in accordance with the Agreement.

Respectfully submitted,



Timothy W. Luft, MBE #40506

Corporate Counsel

**MISSOURI-AMERICAN WATER COMPANY**

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St. Louis, MO 63141

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(314) 997-2451 facsimile

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Facsimile: (573) 635-0427

[dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)

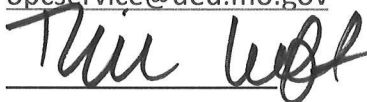
**ATTORNEYS FOR MISSOURI-AMERICAN WATER  
COMPANY**

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 9<sup>th</sup> day of September, 2014, to:

Kevin Thompson  
General Counsel's Office  
[Kevin.Thompson@psc.mo.gov](mailto:Kevin.Thompson@psc.mo.gov)  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

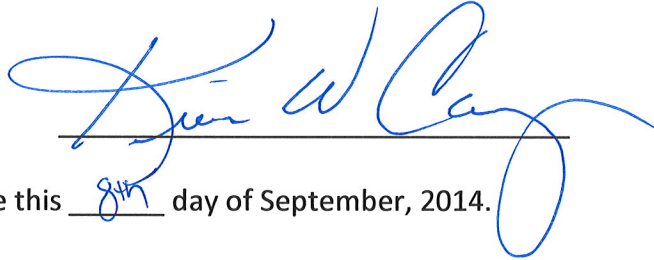
Christina Baker  
Office of the Public Counsel  
[christina.baker@ded.mo.gov](mailto:christina.baker@ded.mo.gov)  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)



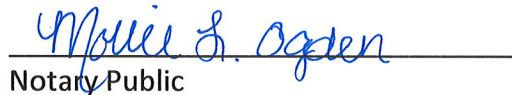
**AFFIDAVIT**

State of Missouri     )  
                                  )     ss  
County of St. Louis    )

I, Kevin Caveny, having been duly sworn upon my oath, state that I am the Project Manager – Business Development for Missouri-American Water Company, that I am duly authorized to make this affidavit on behalf of MAWC, that the matters and things stated in the foregoing application and appendices thereto are true and correct of the best of my information, knowledge and belief.

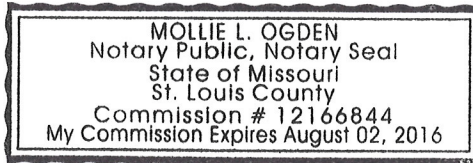
  
\_\_\_\_\_

Subscribed and sworn before me this 8<sup>th</sup> day of September, 2014.

  
\_\_\_\_\_

Notary Public

My Commission Expires August 2, 2016



## **APPENDICES**

Appendix A Map of Area

Appendix B Legal Description

Appendix C List of Ten Residents or Land Owners

Appendix D Feasibility Study (water and sewer)

Appendix E Asset Purchase Agreement

Appendix F Order, dated August 25, 2104, Case No. 13-00319-CV-W-BP