

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 18<sup>th</sup> day of October, 2023.

In the Matter of the Application of Confluence )  
Rivers Utility Operating Company, Inc. for )  
Certificates of Convenience and Necessity )  
To Provide Water and Sewer Service in an )  
Area of Lincoln County, Missouri (Quail Run) )

**File No. WA-2023-0398**

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

Issue Date: October 18, 2023

Effective Date: November 17, 2023

**Procedural History**

On May 24, 2023, Confluence Rivers Utility Operating Company, Inc. (Confluence) filed the above-referenced applications.<sup>1</sup> Confluence seeks to acquire all or substantially all of the water and sewer system assets of the currently unregulated systems of Lincoln County Water and Sewer, LLC (LCWS).

Confluence 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. Confluence is a “water corporation,” a “sewer corporation,” and “public

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<sup>1</sup> The Commission consolidated File Nos. WA-2023-0398 and SA-2023-0396.

utility” as those terms are defined in Section 386.020, RSMo (Supp. 2022), and is subject to the jurisdiction of the Commission. If the Commission approves Confluence’s application, Confluence would provide water and sewer service for LCWS’ 434 customers.

The Commission issued notice and set a deadline for intervention requests, but received no requests. On September 12, 2023, the Staff of the Commission (Staff) filed its recommendation to approve the transfer of assets and grant a CCN, with certain conditions. On September 22, 2023, Confluence stated that it accepted Staff’s recommended conditions but one, and requested an amendment to that condition. Staff responded on September 25, 2023, accepting Confluence’s requested amendment.

Commission Rule 20 CSR 4240-2.080(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 objected to Confluence’s application or Staff’s recommendation.

## **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 “necessary or convenient for the public service.”<sup>2</sup> The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity that are known as the Tartan factors.

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<sup>2</sup> Section 393.170.3, RSMo. (Supp. 2022).

The *Tartan* 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>

There is a need for the service, as the current customer base has a need and desire for water and sewer service. Confluence is qualified to provide the service, as it Confluence provides service to approximately 4,830 water connections and 5,053 sewer connections throughout Missouri. Confluence has the financial ability to provide the service as the purchase does not have a negative impact on the purchaser's capital structure or financial ratios. The proposal is economically feasible as Confluence has adequate resources to operate its utility systems. The proposal promotes the public interest as the current owner has failed to properly operate and maintain the sewer system. This will be resolved by Confluence purchasing the system and making the appropriate improvements.

Based on the application and Staff's recommendations, the Commission concludes that the factors for granting a certificate of convenience and necessity to Confluence have been satisfied and that it is in the public's interest for Confluence to provide water and sewer service to the customers currently served by LCWS. Further, the Commission finds that Confluence possesses adequate technical, managerial, and financial capacity to operate the water and sewer system it wishes to purchase from

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<sup>3</sup> 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).

LCWS. Thus, the Commission will authorize the transfer of assets and grant Confluence the certificate of convenience and necessity to provide water and sewer service within the proposed service area, subject to the conditions described by Staff.

*Waiver of 60-day Notice Rule*

Confluence's application also asks the Commission to waive the 60-day notice requirement in 20 CSR 4240-4.017(1). Confluence asserts there is good cause for granting such waiver because it has filed a verified declaration that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case. The Commission finds good cause exists to waive the notice requirement, and a waiver of 20 CSR 4240-4.017(1) will be granted.

**THE COMMISSION ORDERS THAT:**

1. Confluence is granted permission to acquire the water and sewer system assets of LCWS.
2. Confluence is granted a certificate of convenience and necessity to provide water and sewer service in the LCWS area described in the map and legal description Confluence provided to Staff, subject to the conditions and requirements contained in Staff's Recommendation, including the filing of tariffs, as set out below:
  - a. The Commission approves existing LCWS water rates for the LCWS systems;
  - b. Confluence shall submit tariff sheets, to become effective before closing on the assets, to include adequately identified service area maps, service area written descriptions, rates and charges to be included in its EFIS tariffs P.S.C. MO No. 12 and 13, applicable to water and sewer service, respectively;

- c. Confluence shall notify the Commission of closing on the assets within 5 days after such closing;
- d. 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, Confluence 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 Confluence determines that the transfer of the assets will not occur;
- e. If Confluence determines that a transfer of the assets will not occur, Confluence shall notify the Commission of such no later than the date of the next status report, as addressed above, after such determination is made, and require Confluence to submit tariff sheets as appropriate that would cancel service area maps and descriptions applicable to the LCWS service area in its water and sewer tariffs, and rate and charges sheets applicable to customers in the LCWS service area in both the water and sewer tariffs;
- f. Confluence shall keep its financial books and records for plant-in-service and operating expenses in accordance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts;
- g. Confluence shall adopt the depreciation rates ordered for Confluence in Case No. WR-2023-0006;
- h. Confluence shall provide training to its call center personnel regarding rates and rules applicable to LCWS customers;
- i. Confluence shall distribute to LCWS customers an informational brochure detailing the rights and responsibilities of the utility and its customers consistent with the requirements of Commission Rule 20 CSR 4240-13, within thirty (30) days of closing on the assets;
- j. Confluence shall provide to the Customer Experience Department ("CXD") Staff an example of its actual communication with LCWS customers regarding its acquisition and operations of the water, and how customers may reach Confluence, within ten (10) days after closing on the assets;
- k. Confluence shall include LCWS customers in its established monthly reporting to the CXD Staff on customer service and billing issues, on an ongoing basis, after closing on the assets;

- l. Confluence shall provide to the CXD Staff a sample of five (5) billing statements from the first three month's billing for LCWS Quail Ridge within ten (10) days of the billings;
- m. Confluence shall file notice in this case outlining completion of the above recommended training, customer communications, notifications and billing within ten (10) days after such communications and notifications;
- n. Confluence shall rehabilitate the existing elevated storage tank or replace with new construction within three years;
- o. Confluence shall repair the lagoon berm within the first year. These repairs will include regrading, filling, and seeding the disturbed areas, as well as placing rip-rap around the inside of the lagoon banks to prevent erosion; and;
- p. Confluence shall install additional treatment for ammonia within three years of the date of closing if proposed aeration enhancement is not successfully achieving ammonia limits.

3. Confluence is authorized to take other actions as may be deemed necessary and appropriate to consummate the transactions proposed in the application.

4. The 60 day notice requirement of Commission Rule 20 CSR 4240-4.017(1) is waived.

5. This order shall become effective on November 17, 2023.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell  
Secretary

Rupp, Chm., Coleman, Holsman, Kolkmeier  
and Hahn CC., concur.

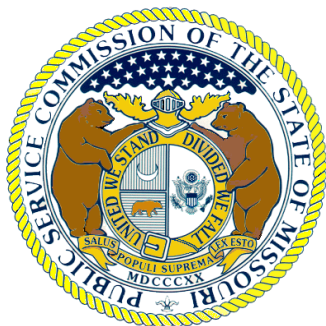
Pridgin, Deputy Chief Regulatory Law Judge

**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 18<sup>th</sup> day of October, 2023.**



*Nancy Dippell*  
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**Nancy Dippell**  
**Secretary**



**MISSOURI PUBLIC SERVICE COMMISSION**

**October 18, 2023**

**File/Case No. WA-2023-0398**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

*Sincerely,*



**Nancy Dippell  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.