

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 1st day of November, 2023.

In the Matter of the Application of Confluence)
Rivers Utility Operating Company, Inc., for a)
Certificate of Convenience and Necessity)
Authorizing it to Install, Own, Acquire,)
Construct, Operate, Control, Manage, and)
Maintain a Sewer System in and around the)
Village of Luray, Missouri)

File No. SA-2023-0437

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

Issue Date: November 1, 2023

Effective Date: December 1, 2023

Procedural History

On June 23, 2023, Confluence Rivers Utility Operating Company, Inc. (Confluence) filed the above-referenced applications. Confluence seeks to acquire all or substantially all of the sewer system assets of the Village of Luray, Missouri (Luray). Confluence also asks for a Certificate of Convenience and Necessity (“CCN”) to install, own, acquire, construct, operate, control, manage, and maintain that sewer system. Confluence is a “water corporation,” a “sewer corporation,” and “public 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 sewer service for Luray’s 47 customers.

The Commission issued notice and set a deadline for intervention requests, but received no requests. On October 16, 2023, the Staff of the Commission (Staff) filed its recommendation to approve the transfer of assets and grant a CCN, with certain conditions. On October 19, 2023, Confluence stated that it accepted Staff's recommended conditions.

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."¹ The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity that are known as the Tartan factors.

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.²

¹ Section 393.170.3, RSMo. (Supp. 2022).

² 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).

There is a need for the service, as the current customer base has a need and desire for sewer service. Confluence is qualified to provide the service, as it provides service to approximately 4,800 water connections and 5,100 sewer connections throughout Missouri. Confluence has the financial ability to provide the service as Confluence has the resources to operate its utility systems, as well as to purchase new systems. The proposal is economically feasible as Confluence has adequate resources to operate its utility systems. The proposal promotes the public interest as Luray 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 Luray. 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 Luray. Thus, the Commission will authorize the transfer of assets and grant Confluence the certificate of convenience and necessity to provide 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 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 Luray.

2. Confluence is granted a certificate of convenience and necessity to provide sewer service in the Luray 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. Confluence shall revise P.S.C. MO No. 13 for the addition of Luray's sewer assets, to become effective before closing on the assets. Also, Confluence shall file tariff sheets for the service area map, service area written description for Luray's sewer assets, and table of contents;
- b. Confluence shall notify the Commission of closing on the assets within 5 days after such closing;
- c. Confluence shall work with the Department of Natural Resources to complete the renewal and transfer of the Operating Permit for the treatment facility;
- d. If closing on the sewer 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 Confluence shall submit tariff sheets as appropriate that would cancel service area maps and descriptions applicable to the Luray service area in its sewer tariff, and rate and

charges sheet applicable to customers in the Luray service area in the sewer tariff;

- 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 provide training to its call center personnel regarding rates and rules applicable to the Luray customers;
- h. Confluence shall distribute to Luray 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 30 days of closing on the assets;
- i. Confluence shall provide to the Customer Experience Department (“CXD”) Staff an example of its actual communication with Luray customers regarding its acquisition and operations of the sewer system, and how customers may reach Confluence, within 10 days after closing on the assets;
- j. Confluence shall include Luray 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;
- k. Confluence shall provide to the CXD Staff a sample of 5 billing statements from the first three month’s billing for Luray within 10 days of the billings;
- l. Confluence shall file notice in this case outlining completion of the above recommended training, customer communications, notifications and billing within 10 days after such communications and notifications.

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 December 1, 2023.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

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

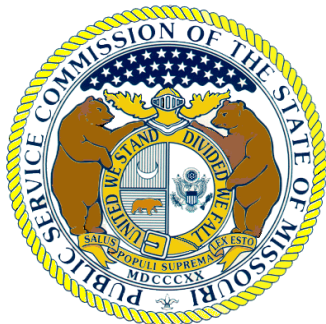
Pridgin, Deputy Chief Regulatory Law Judge

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 1st day of November 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 1, 2023

File/Case No. SA-2023-0437

MO PSC Staff
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel (OPC)
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@psc.mo.gov

Confluence Rivers Utility Operating
Company, Inc.
Dean Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Confluence Rivers Utility Operating
Company, Inc.
Jennifer Hernandez
312 E. Capitol Avenue
PO Box 456
Jefferson City, MO 65102
jhernandez@brydonlaw.com

Confluence Rivers Utility Operating
Company, Inc.
David Woodsmall
1650 Des Peres Road, Suite 303
Des Peres, MO 63131
dwoodsmall@cswrgroup.com

MO PSC Staff
Casi Aslin
200 Madison Street
Jefferson City, MO 65101
casi.aslin@psc.mo.gov

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

Sincerely,



**Nancy Dippell
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.