

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Missouri-American Water )  
Company for Certificates of Convenience )  
And Necessity Authorizing it to Install, Own, )  
Acquire, Construct, Operate, Control, Manage )  
And Maintain a Water System and a Sewer System )  
In an area of Miller County, Missouri (Isla del Sol )  
Condominium Association, Inc., f/k/a Atlantis )  
Island).

**File No.: SA-2019-0365**

## ORDER DIRECTING NOTICE, SETTING DATE FOR INTERVENTION, AND ORDERING STAFF RECOMMENDATION

Issue Date: May 29, 2019

Effective Date: May 29, 2019

On May 26, 2019, Missouri-American Water Company (the “Company”) filed its *Application and Motion for Waivers* (“Application”). Additionally, on that date, the Company filed a *Motion to Consolidate*. The Company has applied for a CCN authorizing it to install, own, acquire, construct, operate, control, manage, and maintain a water system and a sewer system in an area of Miller County, Missouri (Isla del Sol Condominium Association, Inc., f/k/a Atlantis Island). The Company has requested a waiver of the 60-day notice requirements of 4 CSR 240-4.017. The Company’s *Motion to Consolidate* asks the Commission to consolidate this file with WA-2019-0364, with WA-2019-0364 to be the lead case.

The Commission will issue notice, set a deadline for intervention requests, and direct the filing of a recommendation by the Staff of the Commission.

### THE COMMISSION ORDERS THAT:

1. The Commission’s Data Center shall provide a copy of this order, the *Application*, and the *Motion to Consolidate* to the County Commission of Miller County, Missouri, and to the General Counsel for the Missouri Department of Natural Resources.

2. The Commission's Public Information Officer shall make notice of this order available to the members of the General Assembly representing Miller County, Missouri.

3. Any person wishing to intervene in this matter shall file an application to intervene no later than June 12, 2019. The application shall be filed in the Commission's Electronic Filing and Information System ("EFIS") or with the Secretary of the Commission. Comments on the application can also be made in EFIS.

4. The Staff of the Missouri Public Service Commission shall suggest a date by which it can file a recommendation on the *Application* and the *Motion to Consolidate* no later than June 19, 2019.

5. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Paul T. Graham, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,  
on this 29<sup>th</sup> day of May, 2019.

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

In the Matter of Missouri-American                    )  
Water Company for Certificates of                    )  
Convenience and Necessity Authorizing                    )  
it to Install, Own, Acquire, Construct,                    ) File No. \_\_\_\_\_  
Operate, Control, Manage and Maintain                    )  
a Water System and a Sewer System in                    )  
an area of Miller County, Missouri (Isla                    )  
del Sol Condominium Association, Inc.,                    )  
f/k/a Atlantis Island).

**APPLICATION AND  
MOTION FOR WAIVERS**

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, 4 CSR 240-3.600, and 4 CSR 240-4.017, and for its Application and Motion for Waiver, states as follows to the Missouri Public Service Commission (Commission):

**BACKGROUND**

1. This Application is to obtain a certificate of convenience and necessity for MAWC to install, own, acquire, construct, operate, control, manage and maintain a water system and a sewer system in Miller County, Missouri, in a development known as Isla del Sol Condominiums.

2. 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 Cole, St. Charles, Warren, Jefferson, Morgan, Pettis, Benton, Barry,

Stone, Greene, Taney, Christian, Platte, Newton, Jasper, Lincoln, Washington, Clay, Clinton, Ray, Moniteau Counties, and most all of St. Louis County, Missouri. MAWC currently provides water service to approximately 457,300 customers. MAWC provides sewer service to approximately 13,221 customers in Callaway, Jefferson, Pettis, Cole, Morgan, Platte, Taney, Stone, Christian, Clay, Clinton, Ray, Washington 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. SA-2019-0183 (Timber Springs Estates), SA-2019-0334 (Hillers Creek), WA-2019-0259 (Joplin Reservoir), WC-2019-0178 (Ghasedi), WC-2019-0271 (Eliceiri), WC-2019-0324 (Travis), WO-2018-0373 (ISRS), WO-2019-0184 (ISRS), WF-2019-0206 (Finance), WW-2019-0242 (Working Group).

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

Ms. Takisha Walker  
Manager Business Development – Proposal & Integration  
Missouri American Water  
727 Craig Rd  
St. Louis, MO 63141  
O: 314.996.2215  
M: 314.440.9236  
E: [takisha.walker@amwater.com](mailto:takisha.walker@amwater.com)

## **CERTIFICATE**

4. MAWC requests permission, approval and Certificates of Convenience and Necessity to install, own, acquire, construct, operate, control, manage and maintain a water system and a sewer system for the public in an area of Miller County, Missouri, as set forth on the map attached to this Application as **Appendix A**. This area is generally known as the Isla del Sol Condominiums. Isla Del Sol Condominium Association, Inc., f/k/a Atlantis Island is the sole water and sewer customer. The Association in turn provides service to approximately 90 condominiums.

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

6. If this application is granted, the local homeowners association will be MAWC's only customer for both the water and sewer services provided. Accordingly, MAWC requests a waiver from Commission Rule 4 CSR 240-3.305(1)(A)2 and 4 CSR 240-3.600(1)(A)2, which would otherwise require a list of residents or landowners.

7. Attached hereto and marked as **Appendix C-C** is a feasibility study for the water and sewer systems, including estimated expenses and revenues during the first three years of operation by MAWC. No external financing is anticipated. Appendix C-C has been identified as Confidential in accordance with Commission Rule 4 CSR 240-2.135(2)(A)4 and 6, as it contains market specific information and information representing strategies employed in contract negotiations.

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

9. To provide service to the proposed area, MAWC will purchase a water distribution system and sewer system from Rockwood Bank (Seller). A copy of the Asset Purchase Agreement governing this transaction is attached hereto as **Appendix D-C** (Agreement). Appendix D-C has been identified as Confidential in accordance with Commission Rule 4 CSR 240-2.135(2)(A)4 and 6, as market specific information and information representing strategies employed in contract negotiations.

10. MAWC proposes to provide water service pursuant to the existing rules and regulations currently found in its Mo. P.S.C. No. 13 tariff; and pursuant to the rates found on Sheet RT 1.2 of that tariff. MAWC proposes to provide sewer service pursuant to the existing rules and regulations currently found in its Mo. P.S.C. No. 26 tariff; and pursuant to the rates found on Sheet RT 3.1 of that tariff.

11. The grant of the requested certificates (and approval of the underlying transaction) will result in regulated water and sewer services to be provided to the current and future residents of Isla del Sol Condominiums. The systems 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 water and sewer utility services to residents of the State of Missouri and is fully qualified, in all respects, to own and operate the water and sewer systems currently being operated in Isla del Sol Condominiums complex.

#### **MOTION FOR WAIVER**

12. Rule 4 CSR 240-4.017(1) provides that “(a)ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.” A notice was not filed 60 days prior to the filing of this Petition, and MAWC seeks a waiver of the 60-day notice requirement.

13. Rule 4 CSR 240-4.017(1)(D) provides that a waiver may be granted for good cause. Good cause exists in this case. MAWC declares (as verified below) that it has had no communication with the office of the Commission (as defined by Commission Rule 4 CSR 240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case, other than those pleadings filed for record. Accordingly, for good cause shown, MAWC moves for a waiver of the 60-day notice requirement of Rule 4 CSR 240-4.017(1) and acceptance of this Application.

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

- a) install, acquire, build, construct, own, operate, control, manage and maintain a water system and sewer system for the public within the areas referred to above;
- b) acquire the assets identified herein of Isla del Sol Condominium Association, Inc., f/k/a Atlantis Island, from Rockwood Bank; 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,



Dean L. Cooper Mo. Bar 36592  
BRYDON, SWEARENGEN & ENGLAND P.C.  
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Timothy W. Luft, MBE #40506  
Corporate Counsel  
**MISSOURI-AMERICAN WATER COMPANY**  
727 Craig Road  
St. Louis, MO 63141  
(314) 996-2279 telephone  
[timothy.luft@amwater.com](mailto:timothy.luft@amwater.com)

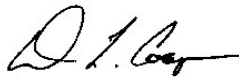
ATTORNEYS FOR MISSOURI-AMERICAN WATER  
COMPANY

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 26<sup>th</sup> day of May, 2019, to:

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

Office of the Public Counsel  
[opc@ded.mo.gov](mailto:opc@ded.mo.gov)



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**AFFIDAVIT**

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

I, Timothy Luft, having been duly sworn upon my oath, state that I am the Vice-President Legal and Corporate Secretary of 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. Additionally, no representative of MAWC has had any communication with the office of the Missouri Public Service Commission as defined in Commission Rule 4 CSR 240-4.015(10) within the immediately preceding 150 days regarding the subject matter of this Application.

Tim Luft

Subscribed and sworn before me this 20<sup>th</sup> day of May, 2019.

Mary Beth Hercules  
Notary Public

My Commission Expires April 26, 2020



## **APPENDICES**

Appendix A	Map of Area
Appendix B	Legal Description
Appendix C-C	Feasibility Study - Confidential
Appendix D-C	Asset Purchase Agreement - Confidential

**BEFORE THE PUBLIC SERVICE COMMISSION  
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In the Matter of Missouri-American	)	
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it to Install, Own, Acquire, Construct,	)	File No. WA-2019-0364
Operate, Control, Manage and Maintain	)	SA-2019-0365
a Water System and a Sewer System in	)	
an area of Miller County, Missouri (Isla	)	
del Sol Condominium Association, Inc.,	)	
f/k/a Atlantis Island).		

**MOTION TO CONSOLIDATE**

**COMES NOW** Missouri-American Water Company (MAWC) and, as its Motion to Consolidate, states as follows to the Missouri Public Service Commission (Commission):

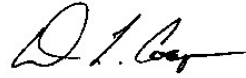
1. MAWC has filed an Application with the Commission for certificates of convenience and necessity related to a Water System and a Sewer System in an area of Miller County, Missouri (Isla del Sol Condominium Association, Inc., f/k/a Atlantis Island. Two case numbers have resulted from these filings (WA-2019-0364 and SA-2019-0365).

2. Both the subject water and sewer matters concern operations owned by Isla del Sol Condominium Association, Inc., f/k/a Atlantis Island. There are common questions of law and fact in the above-referenced cases and the consolidation of Files Nos. WA-2019-0364 and SA-2019-0365 would be administratively expedient in that it would simplify the filings to be made by MAWC and the other parties to these matters.

3. Commission Rule “4 CSR 240-2.110(3) allows the Commission to consolidate pending actions involving related questions of law or fact.” Order Consolidating Cases, *In the Matter of the Application of Oakview Water and Sewer Company, LLC*, Case No. WA-2007-0201 (December 4, 2006).

**WHEREFORE**, MAWC requests a Commission order consolidating Files Nos. WA-2019-0364 and SA-2019-0365, with File No. WA-2019-0364 being the lead case.

Respectfully submitted,



\_\_\_\_\_  
Dean L. Cooper Mo. Bar 36592  
BRYDON, SWEARENGEN & ENGLAND P.C.  
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P.O. Box 456  
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Timothy W. Luft, MBE #40506  
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[timothy.luft@amwater.com](mailto:timothy.luft@amwater.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 26<sup>th</sup> day of May, 2019, to:

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

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

  
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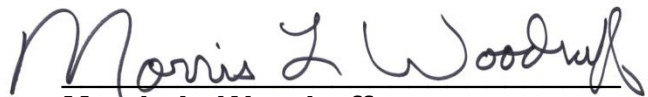
**STATE OF MISSOURI**

**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 29<sup>th</sup> day of May 2019.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**May 29, 2019**

**File/Case No. SA-2019-0365**

**Missouri Public Service  
Commission**

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**

Marc Poston  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@psc.mo.gov

**County of Miller, Missouri**

County Commission Clerk  
2001 Hwy. 52, Miller County  
Courthouse  
PO Box 12  
Tuscumbia, MO 65082

**Missouri Department of Natural  
Resources**

Legal Department  
1101 Riverside Drive  
P.O. Box 176  
Jefferson City, MO 65102-0176

**Missouri-American Water  
Company**

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312 East Capitol  
P.O. Box 456  
Jefferson City, MO 65102  
dcooper@brydonlaw.com

**Missouri-American Water  
Company**

Timothy W Luft  
727 Craig Road  
St. Louis, MO 63141  
Timothy.Luft@amwater.com

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

**Sincerely,**



**Morris L. Woodruff  
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.