

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 10th day of July, 2019.

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 Sewer System in an area of Callaway County,)
Missouri (Hillers Creek Association))

File No.: SA-2019-0334

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

Issue Date: July 10, 2019

Effective Date: August 9, 2019

On May 2, 2019, Missouri-American Water Company (“MAWC”) filed an Application and Motion for Waiver (“Application”) with the Missouri Public Service Commission (“Commission”) seeking a certificate of convenience and necessity (“CCN”) for MAWC to install, own, acquire, construct, operate, control, manage and maintain a sewer system now owned and operated by Hillers Creek Association Sewer System (the “Association”) in Callaway County, Missouri, in a subdivision known as Hillers Creek. The Application also requested a waiver of the 60-day notice requirements of Rule 4 CSR 240-4.017(1).

With the acquisition, MAWC will acquire the Association’s sewage treatment system serving approximately 43 residential customers in the Hillers Creek subdivision. The sewage treatment system is owned by its current customers, and those customers collectively made the decision to sell the system to MAWC after a petition to accept those

terms was circulated among all customers. That petition proposed to adopt MAWC's existing monthly sewer rates and contained signatures representing 32 customers, or approximately 75% of all of the customers. It was approved per the *Meeting Minutes for the April 28, 2019, Hillers Creek Sewer System Annual Meeting*. The current customers own the sewer system and collectively made the decision to sell the system to MAWC per the terms and conditions of the Asset Purchase Agreement included in the Application.

On May 5, 2019, the Commission issued its *Order Directing Notice* that set a deadline for applications to intervene. No application was filed. On May 28, 2019, the Commission ordered its Staff ("Staff") to file a recommendation on the Application. On June 27, 2019, Staff filed its recommendation and supporting memorandum ("Staff's Recommendation"), recommending that the Commission approve the sale of the sewer utility by the Association to MAWC and approve the issuance of a CCN to MAWC for a more limited service area than originally requested,¹ subject to certain conditions. Staff advises the Commission to issue an order that:

1. Approves the CCN for MAWC to provide sewer service in the proposed Hillers Creek service area as set out in Attachments A, B, and C of Staff's Memorandum in support of its Recommendation, as modified and outlined in the conditions below;
2. Approves MAWC's monthly residential flat rate of \$58.13 to apply to Hillers Creek;

¹ In its Application, MAWC requested an approved area that extended well beyond the Hillers Creek subdivision. However, after discussion, the Staff and MAWC settled upon the service area described in Attachments A, B, and C of Staff's Memorandum in support of its Recommendation.

3. Requires MAWC to submit new and revised tariff sheets, to become effective *before* closing on the assets, that include a service area map, a service area written description and sewer rates applicable to sewer service in its Hillers Creek service area to be included in its sewer tariff P.S.C. MO No. 26;
4. Requires MAWC to notify the Commission of closing on the assets within five (5) days after such closing;
5. If closing on the sewer system assets does not take place within thirty (30) days following the effective date of the Commission's order approving such, requires MAWC to submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until MAWC determines that the transfer of assets will not occur;
6. If MAWC determines that a transfer of the assets will not occur, requires MAWC to notify the Commission of such no later than the date of the next status report, as addressed above, after such determination is made and requires MAWC to submit tariff sheets as appropriate and necessary that would cancel service area maps, descriptions and rates applicable to the Hillers Creek service area in its sewer tariff;
7. Requires MAWC to keep its financial books and records for plant-in-service and operating expenses as related to the Hillers Creek operations in accordance with the NARUC Uniform System of Accounts;

8. Adopts for the Hillers Creek assets the depreciation rates ordered for MAWC in File No. WR-2017-0285;
9. Requires MAWC to obtain from the Association, prior to or at closing, all available plant-in-service related records and documents, including but not limited to all plant-in-service original cost documentation, along with depreciation reserve balances, documentation of contribution-in-aid-of-construction transactions, and any capital recovery transactions;
10. Makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the CCN to MAWC, including expenditures related to the certificated service area, in any later proceeding;
11. Requires MAWC to provide training to its call center personnel regarding rates and rules applicable to the Hillers Creek customers;
12. Requires MAWC to include the Hillers Creek customers in its established monthly reporting to the Customer Experience Department Staff on customer service and billing issues, on an ongoing basis, after closing on the assets;
13. Requires MAWC to distribute to the Hillers Creek customers an information brochure detailing the rights and responsibilities of the utility and its customers regarding its sewer service consistent with the requirements of Commission Rule 4 CSR 240.13, within thirty (30) days of closing on the assets;

14. Requires MAWC to provide to the Customer Experience Department Staff an example of its actual communication with the Hillers Creek customers regarding its acquisition and operation of the sewer system assets, and how customers may reach MAWC, within ten (10) days after closing on the assets;
15. Requires MAWC to provide to the Customer Experience Department Staff a sample of ten (10) billing statements from the first month's billing within thirty (30) days after closing on the assets; and
16. Requires MAWC to file notice in this case outlining completion of the above-described training, customer communications, and notifications within ten (10) days after such communications and notifications.

MAWC did not file an objection to Staff's Recommendation, and no other party objected to the Staff's Recommendation. Further, no party has requested an evidentiary hearing in this matter and no law requires one.² Therefore, this action is not a contested case,³ and the Commission need not separately state its findings of fact.

The Commission may grant a sewer corporation a certificate of convenience and necessity to operate after determining that the construction or operation are either "necessary or convenient for the public service."⁴ MAWC is a sewer corporation under Missouri law,⁵ subject to the regulation, supervision and control of the Commission with regard to providing sewer service to the public. The Commission articulated the specific

² See *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

³ Section 536.010(4), RSMO 2016.

⁴ Section 393.170.3 RSMO 2000.

⁵ Section 386.020(49), RSMO 2016

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.⁶

If the requested certificate is granted and the proposed sale and transfer occurs, those customers currently being served by the Association will receive their sewer service from MAWC. MAWC now provides water service to more than 457,000 customers and sewer service to more than 13,000 customers in several service areas throughout Missouri. In recent years, MAWC has acquired several small existing water and sewer systems. MAWC's size and its ability to gain access to the financial resources necessary to maintain or improve service will benefit customers currently served by the Association. The Commission has been satisfied with MAWC's technical, management, and financial capabilities in previous CCN and transfer of asset cases, and finds the same in regard to the Association in this case. MAWC has demonstrated over many years that it has adequate resources to operate utility systems that it owns, to acquire new systems, to undertake construction of new systems and expansions of existing systems, to plan and undertake scheduled capital improvements, and to respond and resolve emergency issues in a timely manner when such situations arise.

⁶ 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.).

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 the Association.

If the proposed sale and transfer is approved, those customers currently being served by the Association will receive their sewer service from MAWC. The Commission further finds that the application of MAWC's monthly residential flat rate of \$58.13 to Hillers Creek is just and reasonable.⁷ Consequently, based on the Commission's independent and impartial review of the verified filings, the Commission will grant MAWC the certificate of convenience and necessity to provide water service within the proposed service area, subject to the conditions described above. In making these findings, the Commission is making no ratemaking determination regarding any potential future regulatory oversight.

Rule 4 CSR 240-4.017 (1)(D) provides that a party may request a waiver of the 60-day notice requirement of the rule for good cause. It states that "[g]ood cause for waiver may include, among other things, a verified declaration from the filing party 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" MAWC's verified

⁷ Staff reports that the president of the Association stated that a current rate of \$66 per quarter was adequate only for direct operating expenses and did not include such expenses as return on capital investment, depreciation, and billing costs. Thus, the \$58.13 per month rate here approved will result in a substantial increase in rates. The Staff reports that while undertaking the decision to sell the sewer system, the current customers (who all are also the current owners) were aware of the proposal for them to be converted to MAWC's existing monthly rates for sewer rates if the sale occurred and were aware of the amount of those rates. Pages 3-4, Memorandum in support of Staff Recommendation.

Application so states. The Commission finds good cause to waive the 60-day notice requirement.

The COMMISSION ORDERS THAT:

1. The 60-days' notice requirements of Rule 4 CSR 240.4.017(1) are waived, and Missouri-American Water Company is granted leave to proceed on its Application and Motion for Waiver.

2. Missouri-American Water Company is granted a certificate of convenience and necessity to provide water service within the authorized service area as more particularly described in Attachments A, B, and C of Staff's Memorandum in support of its Recommendation, subject to the conditions described in the body of this order.

3. Missouri-American Water, Company is authorized to acquire the assets of Hillers Creek Association Sewer System identified in the Application.

4. Missouri-American Water Company is authorized to take all 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 August 9, 2019.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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

Graham, Regulatory Law Judge

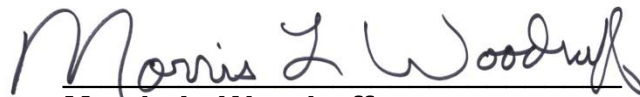
STATE OF MISSOURI

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 10th day of July 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

July 10, 2019

File/Case No. SA-2019-0334

**Missouri Public Service
Commission**

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

Sincerely,



**Morris L. Woodruff
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.