

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 31<sup>st</sup> day of January, 2024.

In the Matter of the Application of )  
Confluence Rivers Utility Operating )  
Company, Inc., for Authority to Acquire )  
Certain Sewer Assets in an Area of )  
Warren County, Missouri (North Oak )  
Sewer District, Inc.) )

**File No. SM-2024-0130**

**ORDER APPROVING ACQUISITION OF ASSETS AND GRANTING A  
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: January 31, 2024

Effective Date: February 10, 2024

**Background**

On September 29, 2023,<sup>1</sup> Confluence Rivers Utility Operating Company, Inc. (Confluence Rivers) filed an application requesting that the Commission approve the acquisition of North Oak Sewer District, Inc. (North Oak), and also grant Confluence Rivers a Certificate of Convenience and Necessity (CCN) regarding the North Oak sewer system. The North Oak sewer system is a certificated sewer utility.

The Commission issued notice of the application and set a deadline for the filing of applications to intervene, but no applications to intervene were received. On October 9, Confluence Rivers updated its application with a new legal description and map of the area sought to be served and the area sought to be certificated. The originally filed legal

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<sup>1</sup> All dates refer to 2023 unless otherwise indicated.

description and map contained outdated information, having been filed by North Oak on August 7, 2000.

On January 12, 2024, the Staff of the Commission (Staff) filed its Recommendation with an attached Memorandum. On January 17, 2024, Staff filed a Corrected Memorandum (Corrected Memorandum). The correction was non-substantive and only addressed the File Number in the document header.

Staff's Recommendation and Corrected Memorandum state that Confluence Rivers' application for the issuance of a CCN meets the necessary and convenient for the public service standard, and the transfer of assets would not be detrimental to the public interest. Staff recommended approval of the application subject to 16<sup>2</sup> recommended conditions.

On January 22, 2024, Confluence Rivers filed its response to Staff's recommendation. Confluence Rivers stated that it had no objection to any of Staff's recommended conditions.

No other responses or objections to the application or to Staff's Recommendation were received.<sup>3</sup> No party requested a hearing. The requirement for a hearing is met when the opportunity for a hearing has been provided.<sup>4</sup> Thus, the Commission will rule on the application as amended.

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<sup>2</sup> Lettered a-p in ordered paragraph 3 below.

<sup>3</sup> Commission Rule 20 CSR 4240-2.080(13).

<sup>4</sup> *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

## **Discussion**

Confluence Rivers is a certificated and regulated water and sewer utility providing service to customers in Missouri. Central States Water Resources, LLC is the parent company of Confluence Rivers. Confluence Rivers provides water service to approximately 5,200 customers and sewer service to approximately 5,100 customers across several counties in Missouri.

North Oak is a certificated and regulated sewer utility providing service to customers in Warren County, Missouri. North Oak currently provides sewer services to approximately 20 residential connections (single family homes), four commercial buildings, four apartment buildings, and two mobile home parks.

## **Certificate of Convenience and Necessity**

Section 393.170, RSMo (Supp. 2023), in subsection 2, requires Confluence Rivers to have a CCN, which is granted by the Commission prior to providing sewer service in North Oak service area. Subsection 393.170.3, RSMo, requires that the Commission determine that the services are “necessary or convenient for the public service” to be granted a CCN. The term "necessity" does not mean "essential" or "absolutely indispensable," but rather that the proposed project "would be an improvement justifying its cost," and that the inconvenience to the public occasioned by lack of the proposed service is great enough to amount to a necessity.<sup>5</sup> It is within the Commission's discretion to determine when the evidence indicates the public interest would be served by the

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<sup>5</sup> *State ex rel. Intercon Gas, Inc., v. Pub. Serv. Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. App. 1993), citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216, 219 (Mo. App. 1973), citing *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

award of the certificate.<sup>6</sup> Subsection 393.170.3 permits the Commission to impose the conditions it deems reasonable and necessary for the grant of a CCN.

The Commission has articulated specific criteria when evaluating applications for utility CCNs as follows:

- (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>7</sup>

These criteria are known as the Tartan Factors.<sup>8</sup>

There is a need for the service as the customers of North Oak are already receiving sewer service and will continue to need that service. Additionally, there is a need to repair and upgrade the system, and Confluence Rivers is qualified to provide the service as it is an existing sewer utility subject to the Commission's jurisdiction. Confluence Rivers has the financial ability to acquire the system, as no external financing is needed and Confluence Rivers has demonstrated historically that it has adequate resources to operate utility systems it owns via access to capital from its parent company. The proposed transaction is economically feasible due to its being financially feasible, as well as Confluence Rivers' demonstrated ability to successfully operate other similarly situated small sewer systems in the state of Missouri, its feasibility study provided in its application

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<sup>6</sup> *State ex rel. Ozark Electric Coop. v. Public Service Commission*, 527 S.W.2d 390, 392 (Mo. App. 1975).

<sup>7</sup> *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.).

<sup>8</sup> *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

and other information provided to Staff regarding feasibility, and Confluence Rivers' ability to draw resources from its parent company. The proposal promotes the public interest as the North Oak sewer system is in need of repairs and upgrades. Confluence Rivers has demonstrated the ability to provide safe and adequate service, which also supports a finding of promotion of the public interest.

Based on the application as amended, Staff's Recommendation, Corrected Memorandum and proposed conditions, and Confluence Rivers' response, the Commission concludes that the factors for granting a CCN to Confluence Rivers have been satisfied and that it is in the public interest for Confluence Rivers to provide sewer service to the customers currently served by the North Oak sewer system. Further, the Commission finds that Confluence Rivers possesses, with the assistance of its parent company, adequate technical, managerial, and financial capacity to operate the sewer system. The Commission further finds that the transfer of assets via purchase would not be detrimental to the public interest. Thus, the Commission will authorize the transfer of assets and grant Confluence Rivers the CCN to provide sewer service within the proposed service area, subject to the conditions described by Staff.

### **Rates**

Confluence Rivers proposes to adopt the existing rates of North Oak for sewer service. For example, the current rate being charged by North Oak for a single family residence is \$37.70 per month. The Commission finds that the proposed rates and rules of operation are just and reasonable. The Commission will direct Confluence Rivers to file new or amend its current tariffs, setting out the rates and rules for the North Oak customers.

## **Waiver of 60-day notice rule**

Confluence Rivers also sought a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D). Confluence Rivers verified that it had no communication with the office of the Commission regarding any substantive issue likely to be in this case during the preceding 150 days. The Commission finds good cause to waive the notice requirement.

So that Confluence Rivers may address the repairs and improvements as soon as possible, the Commission finds it is reasonable to make this order effective in less than 30 days.

### **THE COMMISSION ORDERS THAT:**

1. Confluence Rivers' request for waiver from the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D) is granted.
2. Confluence Rivers is granted authority to acquire all or substantially all of the sewer utility assets of North Oak as described in the application as updated on October 9.
3. Upon closing, Confluence Rivers is granted a CCN to install, acquire, build, construct, own, operate, control, manage, and maintain a sewer system in the areas currently served by North Oak, subject to Staff's recommended conditions, as follows:
  - a) For the approved service area, Confluence Rivers shall adopt the existing rates for sewer service of North Oak for the North Oak service area;
  - b) Confluence Rivers shall submit tariff sheets, to become effective before closing on the assets, to include a service area map, service area written description, rates and charges to be included in its tariffs P.S.C. MO No. 31, applicable to sewer service;

- c) Confluence Rivers shall notify the Commission of closing on the assets within five days after such closing;
- d) If closing on the sewer system assets does not take place within 30 days following the effective date of the Commission's order approving such, Confluence Rivers shall submit a status report within five days after this 30-day period regarding the status of closing, and additional status reports within five days after each additional 30-day period, until closing takes place, or until Confluence Rivers determines that the transfer of the assets will not occur;
- e) If Confluence Rivers determines that a transfer of the assets will not occur, Confluence Rivers 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 Rivers shall submit tariff sheets as appropriate that would cancel service area maps and descriptions applicable to the service area in its sewer tariff, and rate and charges sheets applicable to customers in the service area in the sewer tariff;
- f) Confluence Rivers 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 (USOA);
- g) Confluence Rivers shall adhere to the acquisition accounting guidance provided in the USOA so that a request for rate recovery can be properly audited in Confluence Rivers' next rate case;
- h) Confluence Rivers shall utilize the sewer depreciation rates ordered in File No. WR-2023-0006 for the North Oak assets;
- i) Confluence Rivers shall provide training to its call center personnel regarding rates and rules applicable to the sewer customers in the acquired area;
- j) Confluence Rivers shall distribute to the customers in the acquired area 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;
- k) Confluence Rivers shall provide to the Commission's Customer Experience Department (CXD) Staff an example of its actual communication with the North Oak customers regarding its

acquisition and operations of the sewer, and how customers may reach Confluence Rivers, within ten days after closing on the assets;

- l) Confluence Rivers shall provide to the CXD Staff a sample of five billing statements from the first three month's billing for the acquired company within ten days of the billings;
- m) Confluence Rivers shall file notice in this case outlining completion of the above-recommended training, customer communications, notifications and billing for the acquired company within ten days after such communications and notifications;
- n) Confluence Rivers shall include North Oak 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;
- o) Confluence Rivers shall complete cleaning, vegetation removal, solid waste removal, and other deferred maintenance activities within 60 days of closing on the assets;
- p) Confluence Rivers shall complete upgrades, repairs, and safety improvements to the plant to ensure that the wastewater treatment facility can consistently comply with Department of Natural Resources requirements within 30 months of closing on the assets.

4. Upon closing of the asset transfer, Confluence Rivers is authorized to begin providing service in the North Oak service area.

5. The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters in any later proceeding.



6. This order shall become effective on February 10, 2024.



**BY THE COMMISSION**

*Nancy Dippell*

Nancy Dippell  
Secretary

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

Hatcher, Senior 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 31<sup>st</sup> day of January 2024.**



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

**MISSOURI PUBLIC SERVICE COMMISSION**

**January 31, 2024**

**File/Case No. SM-2024-0130**

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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.