

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

In the Matter of the Application of Confluence)
Rivers Utility Operating Company, Inc., for)
Certificates of Convenience and Necessity) **File No. WA-2024-0048**¹
To Provide Water and Sewer Service in an)
Area of Warren County, Missouri (Lake)
Sherwood Estates))

STAFF’S RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and for its Staff Recommendation, respectfully states as follows:

1. On August 25, 2023, Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers”), filed an Application and Motion for Waiver (“Application”) with the Missouri Public Service Commission (“Commission”) requesting approval of its acquisition of the water and sewer assets of the Lake Sherwood Estates Association (“Lake Sherwood”) in Warren County, Missouri, and granting Confluence Rivers a certificate of convenience and necessity (“CCN”) authorizing it to install, acquire, build, construct, own, operate, control, manage, and maintain water and sewer systems for the public within the specified areas currently served by Lake Sherwood. Confluence Rivers also requested a waiver of the Commission’s 60-day notice requirement under 20 CSR 4240-4.017(1).

2. On September 13, 2023, the Commission consolidated files WA-2024-0048 and SA-2024-0049 and ordered Staff to file a recommendation or status report no later than October 12, 2023, a deadline which was ultimately extended to February 26, 2024.

¹ Consolidated with SA-2024-0049 per order of September 13, 2023.

3. Pursuant to § 393.170, RSMo, no water or sewer corporation shall provide service to consumers without first having obtained approval from the Commission. In determining whether or not to grant such approval, the Commission has traditionally applied the five “Tartan Criteria”:²

- (a) There must be a need for the service;
- (b) the applicant must be qualified to provide the service;
- (c) the applicant must have the financial ability to provide service;
- (d) the applicant’s proposal must be economically feasible; and
- (e) the service must promote the public interest.

4. When considering applications proposing the transfer of the assets of existing water and sewer systems, Staff applies the Technical, Managerial, and Financial (“TMF”) concepts and criteria, all as fully explained in detail in Staff’s Memorandum, attached hereto as Appendix A. Staff has concluded that Confluence Rivers satisfies the TMF criteria for owning and operating Lake Sherwood; and satisfies the Tartan CCN criteria.

5. Accordingly, based on the investigation, findings and conclusions set out in detail in Staff’s Memorandum, Staff recommends that the Commission authorize Confluence Rivers to acquire the Lake Sherwood systems; find that granting the requested CCN is in the public interest; and grant the CCN, subject to the conditions set out in the Staff Memorandum.

6. Based upon Confluence Rivers’ sworn affidavit that no representative of Confluence Rivers has had any communications with the office of the

² *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994).

Missouri Public Service Commission within the one hundred fifty days immediately preceding the application's filing, Staff recommends that the Commission waive the 60-day notice requirement under 20 CSR 4240-4.017(1).

11. No party having requested a hearing after proper notice and opportunity to intervene,³ the Commission need hold none.⁴

WHEREFORE, Staff respectfully submits this Staff Recommendation for the Commission's information and consideration and hereby requests the Commission approve Confluence Rivers' Application, subject to the conditions outlined in Staff Memorandum, attached hereto as Appendix A; and grant such other and further relief as the Commission deems just in the circumstances.

Respectively Submitted,

/s/ Paul T. Graham

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³ See order and notice of August 28, 2023, giving notice and setting a deadline for intervention.

⁴ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 26th day of February, 2024.

/s/ Paul T. Graham