

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 27th day of March, 2024.

In the Matter of the Application of Confluence)
Rivers Utility Operating Company, Inc., for)
Certificates of Convenience and Necessity)
To Provide Water and Sewer Service in an)
Area of Warren County, Missouri (Lake)
Sherwood Estates))

File No. WA-2024-0048

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

Issue Date: March 27, 2024

Effective Date: April 26, 2024

Procedural History

On August 25, 2023, Confluence Rivers Utility Operating Company, Inc. (Confluence) filed the above-referenced applications.¹ The applications seek, among other things, authority for Confluence to acquire and operate the water and sewer systems of Lake Sherwood Estates Association (Lake Sherwood). Lake Sherwood held an election on July 10, 2023, and voted to approve the sale of the Lake Sherwood assets.

Confluence also asks for a Certificate of Convenience and Necessity (CCN) to install, own, acquire, construct, operate, control, manage, and maintain those water and sewer systems. Confluence is a “water corporation,” a “sewer corporation,” and “public utility” as those terms are defined in Section 386.020, RSMo (Supp. 2023), and is subject to the jurisdiction of the Commission.

¹ At Confluence’s request, the Commission consolidated this file with File No. SA-2024-0049.

If the Commission approves the application, Confluence would provide water and sewer service for Lake Sherwood's 492 customers.² In addition, Confluence asks the Commission to waive the 60-day notice requirement it would otherwise have to give before filing this case.

The Commission issued notice and set a deadline for intervention requests, but received no requests. On February 26, 2024, the Staff of the Commission (Staff) filed its recommendation to approve the transfer of assets and grant a CCN, with certain conditions. Confluence responded on March 19, 2024 stating that it does not object to Staff's proposed conditions.³

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."⁴ 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

² The customer counts are approximate.

³ Confluence notes that while it and Staff disagree on Lake Sherwood's rate base, the Commission need not determine rate base in this case.

⁴ Section 393.170.3, RSMo. (Supp. 2022).

economically feasible; and (5) the service must promote the public interest.⁵

There is a need for the service, as the residents of Lake Sherwood currently use the existing water and sewer systems. Confluence is qualified to provide the service, as it already provides water service to approximately 5,200 Missouri customers, and sewer service to approximately 5,100 Missouri customers. Confluence has the financial ability to provide the service through access to capital from its parent company. The proposal is economically feasible, as the upgrades and repairs Confluence proposes appear reasonable. The proposal, subject to Staff's conditions, promotes the public interest, as the residents of Lake Sherwood approved the sale of the water and sewer assets in a recent election.

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, with the reasonable and necessary conditions set out by Staff, it is in the public interest for Confluence to provide water and sewer service to Lake Sherwood. Further, the Commission finds that Confluence possesses adequate technical, managerial, and financial capacity to operate the water and sewer system it wishes to purchase. Thus, the Commission will authorize the purchase of assets and grant Confluence the certificate of convenience and necessity to provide water and sewer service within the proposed service area, subject to the conditions described by Staff.

⁵ 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).

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 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 this 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 Lake Sherwood.

2. Confluence is granted certificates of convenience and necessity to provide water and sewer service in the Lake Sherwood service area, as described in Appendices C and D of the application, subject to the conditions and requirements contained in Staff's Memo accompanying the Staff Recommendation, including the filing of tariffs, as set out below:

- a. The Commission approves existing Lake Sherwood water and sewer rates for the Lake Sherwood system;
- b. Confluence shall submit tariff sheets for the Lake Sherwood service area, 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 EFIS tariffs P.S.C. MO No. 12 and 13, applicable to water and sewer service, respectively;
- c. Confluence shall notify the Commission of closing on the assets within five (5) days after such closing;
- d. If closing on the water and sewer system 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 Lake Sherwood service area in its water and sewer tariffs, and rate and charges sheets applicable to customers in the Lake Sherwood service area in both the water and sewer tariffs;
- f. In order for adequate flow monitoring within the water distribution system to occur, and to better enable rapid repairs and ensure all connected customers are appropriately billed for service, within 90 days of closing on the system assets, Confluence will install master meters and complete GIS mapping of the drinking water distribution system and the wastewater collection system. If Confluence finds it is unable to meet this 90-day requirement, Confluence will file notice with the Commission, detailing why it is unable to complete these tasks within the aforementioned timeframe and when Confluence expects to meet this requirement.
- g. Confluence shall keep its financial books and records for plant-in-service and operating expenses in accordance with the NARUC Uniform System of Accounts (USOA);
- h. Confluence shall adopt the depreciation rates ordered in File No. WR-2023-0006;
- i. Confluence shall provide training to its call center personnel regarding rates and rules applicable to the water and sewer customers in the acquired areas;
- j. Confluence shall distribute to the customers in the acquired areas 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 shall provide to the Customer Experience Department (CXD) Staff an example of its actual communication with the Lake Sherwood customers regarding its acquisition and operations of the water and sewer systems, and how customers may reach Confluence, within 10 days after closing on the assets;

- l. Confluence shall provide to the CXD Staff a sample of 5 billing statements for the acquired Company within 10 days of the billings;
- m. Confluence shall include Lake Sherwood's water and sewer 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;
- n. Confluence shall file notice in this case outlining completion of the above-recommended training, customer communications, notifications, and billing for Lake Sherwood 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 April 26, 2024.

BY THE COMMISSION



Nancy Dippell

Nancy Dippell
Secretary

Hahn, Ch., Rupp, Coleman, Holsman
and Kolkmeyer CC., concur.

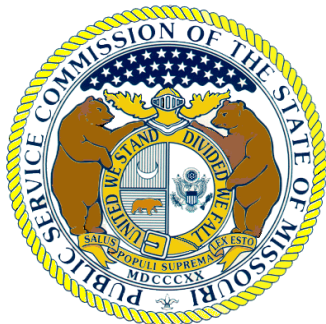
Pridgin, Deputy Chief Regulatory Law Judge

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 27th day of March 2024.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 27, 2024

File/Case No. WA-2024-0048

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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**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.