

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

In the Matter of the Application of)
Confluence Rivers Utility Operating)
Company, Inc. and United Fiber, LLC)
d/b/a United Fiber MO, LLC, for Authority) **File No. SM-2025-0080**
to Acquire and Sell Certain Sewer Assets)
in an Area of Nodaway and Andrew)
Counties, Missouri.)

STAFF’S REPORT AND RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and for its Staff Report and Recommendation states:

On September 4, 2024,¹ Confluence Rivers Utility Operating Company, Inc. (Confluence Rivers) and United Fiber, LLC d/b/a United Fiber MO, LLC (United Fiber) filed a Joint Application and Motion for waiver (Application) with the Missouri Public Service Commission requesting that the Commission grant United Fiber authority to sell to Confluence Rivers certain sewer assets in an area of Nodaway and Andrew Counties, Missouri. United Fiber currently owns nine sewer systems serving approximately 356 customers in Andrew and Nodaway County. United Fiber is a regulated utility and holds a Certificate of Convenience and Necessity (“CCN”) granted by the Commission for the service area described in United Fiber’s Tariff JS-2024-0175, P.S.C. MO No. 3.

The Application also seeks a Certificate of Convenience and Necessity for Confluence Rivers to construct, install, own, operate, maintain, control and manage sewer systems in the public areas of Nodaway and Andrew Counties currently served by

¹ Unless otherwise indicated, all date references are to 2024.

United Fiber. Finally, the applicants requested a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1). The Commission has set November 1 as the deadline for Staff's recommendation. Staff has fully investigated the Application and has prepared a Memorandum setting out fully and in complete detail its investigation, findings, conclusions, and recommendations. It is attached and incorporated as "Attachment A" to this cover pleading.

Two applications are involved here: United Fiber's application to transfer ownership of the assets; and Confluence Rivers' application for a CCN. Section 393.190, RSMo governs the former, and Section 393.170.3, RSMo governs the latter. With respect to ownership transfer: Before a utility can sell assets that are necessary or useful in the performance of its duties to the public it must obtain approval of the Commission. Section 393.190, RSMo. The purpose of this provision is to ensure the continuation of adequate service to the public served by the utility. The Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest. *State ex rel. City of St. Louis v. Public Service Commission of Missouri*, 335 Mo. 448, 73 S.W.2d 393, 400 (Mo. banc 1934); *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App., E.D. 1980).

Application for CCN

With respect to granting a CCN: The Commission may grant a sewer corporation a certificate of convenience and necessity after determining that such construction and

operation are either “necessary or convenient for the public service.”² The Commission has stated five criteria that it uses to determine necessity or convenience:

- 1) There must be a need for the service;
- 2) The applicant must be qualified to provide the 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.³

As detailed in its Staff Memorandum, Staff concludes that the transfer will not be detrimental to the public interest and satisfies the Tartan factors. The evidence supporting the application for the CCN also supports a finding that the not-detrimental standard is satisfied.

1) Need for Service

There is both a current and future need for sewer service. Sewer service is currently provided to the nine (9) sewer systems and currently holds DNR issued Missouri State Operating Permits.

2) Applicant’s Qualifications

Confluence Rivers is qualified to own and operate the nine (9) sewer systems currently owned and operated by United Fiber. Confluence Rivers is an existing water and sewer corporation and public utility subject to the jurisdiction of the Commission. Confluence Rivers is currently providing water service to approximately 5,800 customers and sewer service to approximately 6,000 customers in several service areas throughout

² Section 393.170.3, RSMo

³ *In re Tartan Energy Co.*, 3 Mo. P.S.C. 173, 177 (1994).

Missouri. Additionally, Confluence Rivers has affiliates that provide water and sewer service in several other states.

3) Applicant's Financial Ability

Staff investigated whether Confluence Rivers has the financial ability to acquire all or substantially all of the sewer system assets of the currently regulated systems of United Fiber and upgrade, own, operate, maintain, or otherwise control and manage said system. Staff has concluded that with the financial support of its parent company, Confluence Rivers is financially able to acquire and service the United Fiber system.

4) Economic Feasibility of the Proposal

Based on the review of Confluence Rivers' financial records and impact to existing customers of United Fiber's nine (9) sewer systems, Staff concludes that the merger from United Fiber to Confluence Rivers is economically feasible.

5) Promotion of the Public Interest

The nine sewer systems are currently under Department of Natural Resources ("DNR") compliance and enforcement actions. Manifestly, bringing those systems into compliance promotes the public interest, an objective that cannot practicably be achieved unless the monthly costs of the needed upgrades are spread through a larger customer base. The addition, on the other hand, of 359 customers to Confluence Rivers also promotes the public interest as those customers will share in the cost of upgrades and operations of Confluence Rivers' total existing system. Based upon Staff's full investigation and findings, Staff concludes that granting the CCNs will promote the public interest.

**Application for Leave
To Transfer Assets**

Section 383.190.1, RSMo, states:

Any person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time of application for any such order, file with the commission a statement, in such form, manner and detail as the commission shall require, as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the corporations involved in such disposition are located. The commission shall send a copy of all information obtained by it as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation or other disposition will have on the tax revenues of various political subdivisions to the county clerk of each county in which any portion of a political subdivision which will be affected by such disposition is located.

The record shows that the Commission sent a copy of the application to the county clerks of Nodaway and Andrew Counties, the counties which will be affected by the disposition of this case. The application stated that “[t]he sale and purchase of the referenced assets will not increase the tax revenues of relevant political subdivisions, as both United fiber and Confluence Rivers are profit entities.” The Commission also ordered that any intervention application be filed no later than October 4, 2024. No such application was filed. Based upon these facts and those supporting the CCN application, Staff concludes that granting permission to transfer the assets will not be detrimental to the public interest.

Confluence Rivers is a corporation that is in “good standing” with the Missouri Secretary of State. Confluence Rivers is current with annual report filings with the Commission through calendar year 2022, as documented on the Commission’s Electronic Filing and Information System (“EFIS”). Confluence Rivers is current on its

annual assessment payments. Confluence Rivers has no pending cases which would have an impact on this case.

Confluence Rivers' application includes a sworn statement that it has had no communication with the Office of the Commission (as defined in 20 CSR 4240- 4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case. Good cause for the requested waiver exists in accordance with Commission Rule 20 CSR 4240- 4.017(1)(D) ("Good 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..."). Staff recommends that the Commission Waive the Rule 20 CSR 4240-4.017(1) 60-day notice requirement, grant leave to transfer the assets, and grant Confluence Rivers a CCN to provide and sewer service with the following orders and requirements:

1. Require Confluence Rivers to provide training to its call center personnel regarding rates and rules applicable to the sewer customers in the acquired area;
2. Require Confluence Rivers to distribute to the customers in the acquired service 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 thirty (30) days of closing on the assets;
3. Require Confluence Rivers to provide to the Customer Experience Department ("CXD") Staff an example of its actual communication with the system's customers regarding its acquisition and operation of the sewer system, and how customers may reach Confluence Rivers, within ten (10) days after closing on the assets;

4. Require Confluence Rivers to provide to the CXD Staff a sample of five (5) billing statements from the first three month's billing for the sewer system within ten (10) days of the billings;
5. Require Confluence Rivers to file notice in this case outlining completion of the above-recommended training, customer communications, notifications and billing for the acquired sewer system within ten (10) days after such communications and notifications.
6. Require Confluence Rivers to include the 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.
7. Require Confluence to keep its financial books and records for plant-in-service and operating expenses in accordance with the NARUC Uniform System Of Accounts ("USOA").
8. Require Confluence to adhere to the acquisition accounting guidance provided in the USOA so that a request for rate recovery can be properly audited in Confluence's next rate case.
9. Require Confluence to update United Fiber's rate base value through the closing date of the transaction to reflect any additions, retirements, depreciation and changes in Contributions In Aid of Construction ("CIAC") and maintain the documentation for review in Confluence's next rate case;
10. Require Confluence Rivers to include the 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;

11. Grant Confluence Rivers' request for waiver from 20 CSR 4240-4.017(1);
12. Grant Confluence Rivers a CCN to provide sewer service in the proposed nine (9) sewer systems currently owned and operated by United Fiber;
13. Approve Confluence Rivers' proposed monthly charge of \$21.00 for sewer services, and the rules governing sewer service currently located in Confluence Rivers' sewer tariff P.S.C. Mo No. 31;
14. Require Confluence Rivers to submit tariff sheets, to become effective before closing on United Fiber to include the amended service area map, amended services area written description, rates and charges;
15. Require Confluence Rivers to notify the Commission of closing on United Fiber within five (5) working days after closing;
16. If the closing on United Fiber does not occur within thirty (30) days following the effective date of the Commission's order approving such, require Confluence Rivers 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 Confluence Rivers determines that the transfer of the assets will not occur;
17. If Confluence Rivers determines that a transfer of the assets will not occur, require Confluence Rivers 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 require Confluence Rivers to 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;

18. Require Confluence Rivers to adopt its current depreciation rates for the nine (9) United Fiber sewer systems;
19. Require Confluence Rivers to adhere to the existing AOC or new AOC with DNR ensuring safe and adequate services and ensuring compliance with the Missouri Clean Water Law and its implementing regulations;
20. Authorize United Fiber to sell and transfer sewer utility assets to Confluence Rivers, and transfer the CCN currently held by United Fiber to Confluence Rivers upon closing on the respective systems;
21. Required Confluence Rivers to perform solids removal and maintenance of STEP units for individual customers; and
22. Upon closing of the asset transfer, authorize United Fiber to cease providing sewer service, authorize Confluence Rivers to being providing service, and close United Fiber's current tariff.

WHEREFORE, Staff prays that the Commission will accept this Report and Recommendation as compliant with the Commission's Orders.

Respectively Submitted,

/s/ Paul T. Graham

Paul T. Graham #30416

Senior Staff Counsel

P.O. Box 360

Jefferson City, Mo 65102-0360

(573) 522-8459

Paul.graham@psc.mo.gov

Attorney for the Staff of the

Missouri Public Service Commission

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 first day of November, 2024.

/s/ Paul T. Graham