

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

In the Matter of the Commission’s )  
Proposed Rule 20 CSR 4240-60.050 )  
and Proposed Rescission of 20 CSR )  
4240-3.305 Relating to Filing ) Case No. SX-2025-0116  
Requirements for Sewer Utility )  
Applications for Certificates of )  
Convenience and Necessity )  
)

**COMMENTS OF THE OFFICE OF THE PUBLIC COUNSEL**

Pursuant to the Public Service Commission (“Commission”) of the State of Missouri’s *Notice of Hearing and Comment Period* filed on November 25, 2024 the Office of the Public Counsel (“OPC”) submits these comments.

The OPC supports the Commission’s initiative to improve its rule defining the filing requirements for sewer utility applications for convenience and necessity (“CCN”). The proposed rule, 20 CSR 4240-60.050, makes significant improvements to rule 20 CSR 4240-3.305. The proposed rule brings clarity, specificity, and transparency to the CCN approval process. Further, the rule provides for evidentiary support to help the Commission approve CCNs that are in the public interest and supported by a thorough review of the necessary facts.

The proposed rule provides public protections, consistent with the Commission’s authority and responsibility to determine whether a CCN application is convenient and necessary for the public service. § 393.170 RSMo. Further, the review process that the proposed rule describes is thorough. This thoroughness allows

the Commission to determine whether one or more conditions on CCN approval is reasonable and necessary, as provided by § 393.170 RSMo.

While the OPC is supportive of the rulemaking, the OPC proposes adding a simple requirement for the petitioning utility. The OPC suggests that the rule require any petitioning utility provide any relevant purchase agreement(s) that set forth the terms of an asset's acquisition, including its purchase price. This provision will ensure that the Commission is aware of every detail that factors into its determination of potential rate impacts, including the existence of an acquisition premium. Whether an acquisition premium exists, and whether the utility intends to seek recovery of the cost of those funds, speaks directly to the question of whether granting the CCN is in the public interest. In 2003, the Missouri Supreme Court acknowledged the importance of considering an acquisition premium when authorizing a public utility to acquire or expand its service territory, stating:

The fact that the acquisition premium recoupment issue could be addressed in a subsequent ratemaking case did not relieve the PSC of the duty of deciding it as a relevant and critical issue when ruling on the proposed merger. While PSC may be unable to speculate about future merger-related rate increases, it can determine whether the acquisition premium was reasonable, and it should have considered it as part of the cost analysis when evaluating whether the proposed merger would be detrimental to the public. The PSC's refusal to consider this issue in conjunction with the other issues raised by the PSC staff may have substantially impacted the weight of the evidence evaluated to approve the merger. The PSC erred when determining whether to approve the merger because it failed to consider and decide all the necessary and essential issues, primarily the issue of UtiliCorp's being allowed to recoup the acquisition premium.

*State ex rel. AG Processing, Inc. v. PSC*, 120 S.W.3d 732, 736 (Mo. 2003). Although *AG Processing* case involved a merger, the same concept applies. The existence of an acquisition premium and its possible recovery in rates is an important consideration when determining whether a CCN is detrimental to the public.

WHEREFORE, the OPC respectfully requests that the Commission adopt the proposed rule with the additional document requirement proposed above.

Respectfully submitted,

**/s/ Anna Kathryn Martin**  
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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 15th day of December, 2024.

/s/ Anna Martin