

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 60 – Standards of Service by Sewer Utilities

COMMENTS AND STAFF RESPONSES

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 2024 (49 MoReg 1721-1723). The section with changes is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended December 15, 2024, and the commission will hold a public hearing on the proposed amendment on December 18, 2024. The commission received two (2) written comments from parties during the comment period. The comments were generally in support of the proposed rule with a few suggested changes.

COMMENT # 1: Anna Martin, Associate Counsel, on behalf of the Office of the Public Counsel (“OPC”), submitted written comments. Ms. Martin commented that OPC is supportive of the proposed rule, 20 CSR 4240-60.050, but suggested one addition to the rule as follows: “Any petitioning utility provide any relevant purchase agreement(s) that set forth the terms of an asset’s acquisition, including its purchase price.”

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates OPC’s participation in the rulemaking process and agrees with the OPC’s suggestion of adding this requirement of the utilities. Staff proposes adding the following under section (3)(A)12:

12. The applicant shall provide:
 - A. The purchasing agreement that set forth the terms of the acquisition including purchase price; and
 - B. Whether an acquisition premium exist and if the purchasing facility intends to seek recovery of the cost onto ratepayers.

COMMENT # 2: Brian LaGrand submitted written comments on behalf of Missouri American Water Company (“MAWC”). MAWC is generally supportive of the proposed rule, but had several suggested changes as noted in its Appendix A. These changes are broken down in separate paragraphs below:

- (1) The procedures and application requirements contained herein are in addition to the requirements of 20 CSR 4240-2.060(1).
- (2) If the application is for a service area where service is currently provided by an existing sewer system, notice shall be provided to all potential customers within the designated service area within twenty (20) days after the filing of an application for a certificate of convenience and necessity, unless a public vote has been held.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC’s participation in the rulemaking process and agrees with the MAWC’s suggestion of adding “unless a public vote has been held” under subsection (2).

(3) Application for a certificate of convenience and necessity by a sewer company must include the following, if available, or be subject to dismissal if the required information is not submitted within any time period that may be ~~commission~~-established ~~time period~~by the commission:

(A) If the application is for a service area, where service is currently provided by an existing sewer system, the application shall contain the following items:

1. The legal description of the area to be certified;
2. A legible map of the proposed service area of appropriate scale and shall:
 - A. Be created using professional mapping software, or be ~~Be~~ based on a color aerial or satellite photograph;
 - B. Include a defined boundary of the entire service area encompassing all customers;
 - C. Show nearby roads and highways with large and legible labels;
 - D. Include a legend of map features for features shown on the map;
 - E. Include all collection, storage, and treatment features of the sewer system;

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of removing and adding portions to and from subsection (3).

3. A description of the existing collection and treatment system, including:
 - A. Age or, if unknown, the estimated age and a general description of the type of treatment plant (such as "oxidation ditch, constructed in 2001");
 - B. Age or, if unknown, the estimated age and material of the collection system and whether the system is gravity, pressure sewer with septic tanks, or a mixture of both;

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding "or, if unknown, the estimated age" to subsections (3)(A)3.A. and B.

5. A description and copy of all notifications or meetings with existing customers prior to the filing of the application regarding the change in ownership.

- A. If the purchase was subject to a vote of customers and that vote was approved by voters, please provide a copy of all customer notifications, meeting handouts, presentations, and outreach efforts, including documentation that supported the sale of the system. Please also provide a copy of the ballot language in which the voters reviewed when voting for the approval to sell the system and the results of that vote; or
- B. If the purchase was not subject to a vote of customers, provide a copy of all notifications sent to customers by seller or buyer, or if unable to provide a copy of a notification, provide a statement indicating the notification could not be produced and reason it could not be provided.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding "by seller or buyer" to subsections (3)(A)5.B.

10. Provide ~~information and the estimated costs to operate the system, detailed cost,~~ including copies of ~~source documents with invoices any available support documentation,~~ for each of the following:

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of removing and adding portions to and from subsection (3)(A)10.

7. A legible map of the proposed service area, meeting the following requirements:

- A. Be created with professional mapping software, or be based on a color aerial or satellite photograph;
- B. Include a defined boundary of the entire service area, which encompasses all customers;
- C. Show nearby roads and highways with large and legible labels;
- D. Include a legend of the map features;
- E. Include all collection, storage, and treatment features of the sewer system within the service area; and

~~F. Exclude unnecessary surveying information and details.~~

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding "created with professional mapping software, or be" to subsection (3)(B)7.A. Staff agrees that the previous (3)(B)7.F. was unclear, and proposes this be removed.

(C) If the application is for a new structure, such as construction of a new pipeline to convey sewage to a treatment facility that will not involve additional customers, the application shall contain the following items:

- 1. The legal description of the area to be certificated; and
- 2. A legible map of the proposed service area, meeting the following requirements:
 - A. Be created with professional mapping software, or be based on a color aerial or satellite photograph;

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding "created with professional mapping software, or be" to subsection (3)(C)2.A.

~~F. Exclude unnecessary surveying information and details; and~~

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's statement that the previous (3)(C)2.F. was unclear, and proposes this be removed.

3. A report bearing the seal of a professional engineer registered in the state of Missouri, including:

- A. A detailed physical description of the feature to be constructed;
- B. A description of why the new features are necessary;
- C. The cost of the proposed feature and any of the available alternative examined;
- D. A timeline for completion of construction, which incorporates permit requirements from DNR; and

~~E4.~~ The projected impact upon the applicant's revenue requirements.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of removing "the projected impact upon the applicant's revenue requirements" from the engineering report under subsection (3)(C)3.4. and moving it to Subsection (3)(C)4.