

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 50 – Water 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 1719-1721). 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 4240-50.060, but suggested one addition to the rule as follows: “[A]ny petitioning utility provide the relevant purchase agreement(s) that set forth the terms of any relevant 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.

COMMENT # 2: Anna Martin, on behalf of OPC, submitted additional comments in regards to two specific unexplained differences between the proposed water rule and the proposed sewer rule. One difference is Rule 20 CSR 4240-60.050 (sewer) includes an entire section with subsections, requiring “a rate base calculation following the commission approved Uniform System of Accounts (“USOA”) requirements with workpapers and supporting documents for the assets to be acquired.” This requirement does not appear in the 20 CSR 4240-50.060 proposed water rule. The other difference is (3)(A)9D, requiring the utility to provide “Estimated corporate allocation/expense including a detailed explanation of how the allocations were calculated” is included in 20 CSR 4240-60.050 (sewer proposed rule) but not in the proposed water rule of 20 CSR 4240-50.060.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates OPC’s participation in the rulemaking process and agrees with OPC that these paragraphs from the sewer rule were inadvertently deleted from the water rule. Staff agrees these paragraphs should be re-inserted into the water rule of 20 CSR 4240-50.060. Staff proposes adding the following under sections (3)(A)11 and 12.

11. A rate base calculation following the commission approved Uniform System of Accounts (USOA) requirements with workpapers and supporting documentation for the assets to be acquired. All workpapers and supporting documents for the valuation of the water utility assets being acquired shall include, but not be limited to, the following:

- A. A list of all USOA accounts that are in use or expected to be in use based on the capital improvements identified in 4;
 - B. The existing plant in service balance by USOA account number for each plant item;
 - C. Copies of invoices for the original purchase, installation, and subsequent capital repairs and additions, if any;
 - D. The current depreciation reserve for each USOA account with supporting backup calculations showing how the amounts were derived and depreciation rates used; and
 - E. The amount of Contribution in Aid of Construction (CIAC).
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 ratepayer.

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 water utility, 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 water utility shall 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 water utility, 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 that meets the following requirements:
 - 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 features of the water system within the service area;

MAWC had an additional comment stating the language in subsection E was very broad, and asked what it included, and noted that some info may not be fully known at the time the app is filed.

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), and will provide clarification on language in subsection E at the hearing.

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.

9. 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)9.

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; and

E. Includes all treatment, storage, and distribution system of the water 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. MAWC had an additional comment stating the language in subsection E was very broad, and asked what it included, and noted that some info may not be fully known at the time the app is filed. Staff will address this comment at the hearing. 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;
 - B. Include defined boundaries of the entire service area(s);
 - C. Show nearby roads and highways with large and legible labels;
 - D. Include a legend of map features; and
 - E. Include all water treatment, storage, and distribution features of the water system with the service area.
 - 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 suggestion of adding “created with professional mapping software, or be” to subsection (3)(C)2.A. Staff further 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

~~4.E.~~ 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.