

John R. Ashcroft

Secretary of State / Administrative Rules

RULE TRANSMITTAL

Administrative Rules Stamp

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By Administrative Rules SOS at 10:53 am, Feb 28, 2025

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JCAR Stamp

By JCAR at 1:21 pm, Jan 29, 2025

Rule Number 20 CSR 4240-60.050

Use a SEPARATE rule transmittal sheet for EACH individual rulemaking.

Name of person(s) Administrative Rules can contact with questions about this rule:

Content Nancy Dippell Phone 573-751-8518 Fax 573-526-6010

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Data Entry Kayla Kliethermes Phone 573-751-4256 Fax 573-526-6010

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Interagency mailing address Public Service Commission, 9th Floor Gov. Office Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

Emergency Rulemaking > Rule Amendment Rescission Termination

Effective date for the emergency _____

Proposed Rulemaking > Rule Amendment Rescission

Rule Action Notice

In Addition

Rule Under Consideration

Request for Non-Substantive Change

Statement of Actual Cost

Order of Rulemaking > Withdrawal Adoption Amendment Rescission

Effective date for the order _____

Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? NO

YES—LIST THE SECTIONS/SUBSECTIONS WITH CHANGES:

Section (3) and Subsections (3)(A), (3)(B), and (3)(C)



Missouri Public Service Commission

MAIDA J. COLEMAN
Commissioner

KAYLA HAHN
Chair

JASON R. HOLSMAN
Commissioner

GLEN KOLKMEYER
Commissioner

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JOHN P. MITCHELL
Commissioner

Sarah Schappe
Director
Joint Committee on Administration Rules
State Capitol, Room B8A
Jefferson City, Missouri 65101

Re: 20 CSR 4240-60.050 Filing Requirements for Sewer Utility Applications for Certificates of Convenience and Necessity

Dear Director Schappe,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: *section 386.250, RSMo 2016.*

If there are any questions regarding the content of this order of rulemaking, please contact:

Nancy Dippell, Secretary
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8518
Nancy.Dippell@psc.mo.gov

A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary to the Commission



Enclosures



Michael L. Parson

GOVERNOR
STATE OF MISSOURI

January 6, 2025

Ms. Kayla Hahn
Public Service Commission
PO Box 360
Jefferson City, MO 65102

Dear Ms. Hahn:

This Office has received your Final Orders and rescissions for the following regulations:

- 20 CSR 4240-50.060 Filing Requirements for Water Utility Applications for Certificates of Convenience and Necessity
- 20 CSR 4240-3.600 Filing Requirements for Water Utility Applications for Certificates of Convenience and Necessity
- 20 CSR 4240-60.050 Filing Requirements for Sewer Utility Applications for Certificates of Convenience and Necessity
- 20 CSR 4240-3.305 Filing Requirements for Sewer Utility Applications for Certificates of Convenience and Necessity
- 20 CSR 4240-10.175 Customer Information of Electrical Corporations, Gas Corporations, Heating Companies, Water Corporations, and Sewer Corporations
- 20 CSR 4240-20.017 HVAC Services Affiliate Transactions
- 20 CSR 4240-80.017 HVAC Services Affiliate Transactions
- 20 CSR 4240-10.165 HVAC Services Affiliate Transactions
- 20 CSR 4240-40.017 HVAC Services Affiliate Transactions
- 20 CSR 4240-10.155 Affiliate Transactions
- 20 CSR 4240-80.015 Affiliate Transactions
- 20 CSR 4240-20.015 Affiliate Transactions
- 20 CSR 4240-40.015 Affiliate Transactions
- 20 CSR 4240-40.016 Marketing Affiliate Transactions

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222
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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

Executive Order 17-03 requires this Office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review, we approve the submission to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,

A handwritten signature in blue ink that reads "Jonathan Yelton".

Jonathan Yelton
General Counsel

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

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission adopts a rule as follows:

20 CSR 4240-60.050 is adopted.

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 held a public hearing on the proposed rule on December 18, 2024. The commission received three (3) written comments from parties during the comment period and four (4) parties commented at the hearing. 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 and provided comments at the hearing. Marc Poston, Chief Counsel, on behalf of OPC also provided comments at the hearing. OPC stated it is supportive of the proposed rule but suggested requiring a petitioning utility to provide any relevant purchase agreement that set forth the terms of an asset's acquisition, including its purchase price. The commission staff supported the change and proposed adding OPC's suggestion to new paragraph (3)(A)12.

Dean Cooper commented at the hearing on behalf of Confluence Rivers Utility Operating Company, Inc. and for Liberty Utilities Missouri Water, LLC. Mr. Cooper, also responded at the hearing that that new subparagraph (3)(A)12.B. regarding acquisition premiums as proposed by staff in responsive comments needed to be rewritten and made suggestions.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the OPC's suggestion of adding this requirement. The commission will add new paragraph (3)(A)12. as proposed by OPC and staff, in combination to the suggestions proposed by Mr. Cooper including a new subparagraph (3)(A)12.B.

COMMENT #2: Brian LaGrand commented on behalf of Missouri American Water Company (MAWC). MAWC is generally supportive of the proposed rule, but had several suggested changes including adding an exception in section (2) for when a public vote has been held. OPC commented at the hearing that it largely agreed with MAWC's suggestions; however, there were a few areas of concern on suggested language posed by MAWC to section (2) regarding a public vote. Mr. Poston stated that not every customer may be notified that a vote is being or has been held, such as when communities vote to approve the sale of a municipal water system which had unforeseen issues with the public; and existing customers of a system that were not notified that

a vote took place on a new system as they were not members of that system. OPC suggested rejection of the suggested language proposed by MAWC.

RESPONSE: The commission agrees with OPC that the language suggested by MAWC may cause a problem with all customers being notified. The commission will not accept the change proposed by MAWC to section (2). No change resulted as of this comment.

COMMENT #3: MAWC also commented suggesting changes to section (3) and subparagraph (3)(A)2.A. regarding requiring items be included in the application for a certificate of convenience and necessity by a sewer company only if available and allowing the commission to establish a time by which the items must be provided. MAWC suggested the proposed language appeared to indicate the application would be dismissed if the items were not provided.

OPC commented at the hearing that MAWC's suggested language in section (3) undercuts the goals of the proposed rule as the changes would create a rule with an acquired system's failed bookkeeping in mind. OPC suggests the commission not accept MAWC's changes to section (3) and also suggests that if the utility has issues with obtaining documents, that it can request a waiver with the commission. MAWC commented that it did not agree with OPC, as not all documents are readily available during the acquisition phase of a system due to some sellers not being sophisticated with bookkeeping, etc. MAWC's proposed change recommended to subparagraph (3)(A)2.A. was to clarify the type of map to be included. Staff agreed with MAWC's suggested changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the MAWC's suggestion of removing and adding portions to and from section (3) to require items be included in the application for a certificate of convenience and necessity by a sewer company only if available and allowing the commission to establish a time by which the items must be provided. The commission also clarifies subparagraph (3)(A)2.A.

COMMENT #4: MAWC also commented suggesting changes to paragraph (3)(A)3. to provide the age need only be provided if known, and if unknown, should be an estimated age. Staff agreed with MAWC's added suggestion listed above.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the MAWC's suggested addition to subparagraphs (3)(A)3.A. and (3)(A)3.B. so that the utilities are making an affirmative statement of the information that is known about the age of the existing collection and treatment system.

COMMENT #5: MAWC commented suggesting an addition to subparagraph (3)(A)5.B. Staff agreed with MAWC's suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the MAWC's suggestion of adding "by seller or buyer" to subparagraph (3)(A)5.B. to add clarification.

COMMENT #6: MAWC suggested rewriting paragraph (3)(A)10. Staff agreed with MAWC's suggested language.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the MAWC's suggestion of rewriting paragraph (3)(A)10. for clarity.

COMMENT #7: MAWC commented suggesting clarification of subparagraphs (3)(B)7.A. and (3)(C)2.A. and the deletion of subparagraphs (3)(B)7.F. and (3)(C)2.F. Staff agreed with MAWC's suggested changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the MAWC's suggestion of adding "created with professional mapping software, or be" to subparagraphs (3)(B)7.A. and (3)(C)2.A. and deleting subparagraphs (3)(B)7.F. and (3)(C)2.F. as they were unclear.

COMMENT #8: MAWC suggested a correction making subparagraph (3)(C)3.E. as published become new paragraph (3)(C)4. as that requirement should not fall under what is provided in the professional engineering report. Staff agreed with MAWC's suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the MAWC's suggestion of moving the requirement in subparagraph (3)(C)3.E. to new paragraph (3)(C)4.

COMMENT #9: Brian LaGrand commented at the hearing that MAWC did not agree with the inclusion of subsection (3)(A)7., as a rate base calculation is not warranted under an application for a certificate of convenience and necessity. MAWC further stated that requirement was more appropriate during a rate case. OPC and staff disagreed with MAWC and stated this information is needed.

RESPONSE: The commission disagrees with the MAWC's suggestion of removing subsection (3)(A)7. and agrees with OPC and Staff that this information is needed. No changes were made as a result of this comment.

COMMENT #10: Dean Cooper commented on behalf of Confluence Rivers Utility Operating Company, Inc. and for Liberty Utilities Missouri Water, LLC. He stated Confluence Rivers had no objections to Staff's comments filed with the commission on December 17, 2024. Liberty Water also indicated it is in support of MAWC's comments. Mr. Cooper stated in response to OPC's comment regarding the public vote language that was submitted by MAWC should remain, as the utilities are talking about a seller that is not currently regulated by this commission (e.g., municipality, water district, and homeowners association). He further stated these entities are not going to keep records in the same way as a regulated entity would. Also, he stated that these entities already have a responsibility to interact with the customers requiring a public vote.

RESPONSE AND EXPLANATION OF CHANGE: The commission appreciates Confluence Rivers and Liberty Water's participation in the rulemaking process and agrees with Mr. Cooper's suggested change adding a new subparagraph (3)(A)12.B. and will make the change. The commission disagrees with MAWC's suggested addition regarding a public vote being held and disagrees with the removal of paragraph (3)(A)7. No changes other than those stated above in this order were made as a result of these comments.

COMMENT #11: Scott Stacey, Deputy Counsel, submitted written comments on behalf of the commission staff, and made additional comments at the hearing. Curtis Gateley, also commented at the hearing on behalf of staff. Mr. Stacey commented that staff was in support of the proposed rule and that on December 17, 2024, he submitted comments and responses in regards to the written comments filed on behalf of OPC and MAWC. Mr. Stacey further stated that staff was generally supportive of the changes posed by OPC and MAWC. Mr. Gateley commented that staff agreed with Mr. Cooper's changes to subparagraph (3)(A)12.B. changing

the word “utility” to “facility” and other changes were reasonable. Mr. Gateley further agreed that the changes posed by MAWC on information not being available during an acquisition are reasonable. Mr. Stacey and Mr. Gateley for staff further stated that the language posed by MAWC of “unless a public vote was held,” should not be accepted.

RESPONSE: The commission thanks staff for its participation in the rulemaking process and agrees with staff on its proposed rule and additional changes as posed above. No other changes were made as a result of these comments.

20 CSR 4240-60.050 Filing Requirements for Sewer Utility Applications for Certificates of Convenience and Necessity

(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 established 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 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; and
 - F. Excludes unnecessary surveying information and detail;
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;
 - C. Number of lift stations;
 - D. Design population equivalent that the treatment system is designed to serve according to the Missouri Department of Natural Resources (DNR), number of customers presently connected, and the projected number of customers within the next five (5) years; and
 - E. Any violations of DNR requirements within the last five (5) years;
4. A description of any proposed operation or capital improvements to the sewer system, including the reason for the improvements, estimated cost of capital improvements, and a proposed timeline for completion of the improvements that incorporates Missouri State Operating Permit (permit) requirements from DNR;

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.

6. An economic feasibility study with the proposed method for financing, proposed rates, service charges, and revenues and expenses during the first three (3) years of operation;

7. 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 sewer 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 paragraph (3)(A)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);

8. A description of any other sewer service areas of commission-regulated companies or political subdivisions within one (1) mile of the proposed service area. If there are any customers within another service area currently being served by the system to be acquired, provide a list of the addresses of these customers;

9. A description of the estimated cost the buyer will incur to incorporate the seller's sewer system customers into the buyer's company;

10. Provide the estimated costs to operate the system, including copies of any available support documentation, for each of the following:

A. Any contracts in effect necessary for the provision of service;

B. Estimated Public Service Commission assessments expense;

C. DNR fees and assessments expense;

D. Estimated corporate allocation/expense including a detailed explanation of how the allocations were calculated;

E. Chemical expense;

F. Electrical expense;

G. Postage expense;

H. Repair and maintenance expense;

- I. Testing and sampling expense;
 - J. Mowing expense;
 - K. Office supplies expense;
 - L. Customer billing expense;
 - M. Outside services expense;
 - N. Income tax expense; and
 - O. Any other miscellaneous expenses;
11. Financial statements, general ledgers, invoices, and billing registers for the seller's water and/or sewer systems for the previous five (5) years; and
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 exists and if the purchasing utility intends to seek recovery of such premium in future rates;

(B) If the application is for a service area where service is not currently provided by an existing sewer system, the application shall contain the following items:

- 1. A description of the circumstances (economic, environmental, etc.) driving the need for service in the requested area and the facts showing that the granting of the application is required by the public convenience and necessity;
- 2. If there are ten (10) or more residents or landowners, provide the name and address of at least ten (10) proposed service area residents or landowners, or the name and address of all residents and landowners if fewer than ten (10) in the proposed service area;
- 3. A description of any other sewer service areas of commission-regulated companies or political subdivisions within one (1) mile of the proposed service area;
- 4. A report bearing the seal of a professional engineer registered in the state of Missouri, including—
 - A. A physical description of the proposed collection and treatment system to be constructed;
 - B. The cost of the proposed treatment system and the cost of alternative treatment systems examined; and
 - C. A timeline for completion of construction, which incorporates permit requirements from DNR;
- 5. Projected financial details including—
 - A. The proposed method for financing construction and the resulting capital structure;
 - B. An economic feasibility study detailing expected revenues earned and expected expenses to be incurred during all phases of the project;
 - C. Projected rate base over all phases of the project;
 - D. Proposed rates charged to ratepayers over all phases of the project. If the phases of the project will continue past five (5) years, estimated rate charges for phases beyond five (5) years may be submitted; and
 - E. Projections on customer growth over all phases of the project including the number of existing households currently utilizing an unregulated form of sewer sanitation expected to become utility customers;

6. The legal description of the area to be certificated; and

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. Include all collection, storage, and treatment features of the sewer system within the service area; and

(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;
- 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 collection, storage, and treatment features of the sewer system within the service area;
- 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; and
 - D. A timeline for completion of construction, which incorporates permit requirements from DNR; and
- 4. The projected impact upon the applicant's revenue requirements.