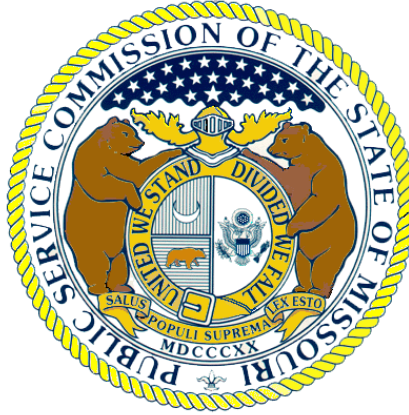


BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI



In the Matter of the Joint Application of)
Confluence Rivers Utility Operating)
Company, Inc., and Missouri-American Water)
Company for Authority for Confluence Rivers)
Utility Operating Company, Inc. to Acquire)
Certain Sewer Assets of Missouri-American)
Water Company in Callaway and Morgan)
Counties, Missouri)

Case No. SM-2025-0067

REPORT AND ORDER

Issue Date: August 20, 2025

Effective Date: August 30, 2025

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Confluence Rivers Utility Operating)
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Water Company in Callaway and Morgan)
Counties, Missouri)

File No. SM-2025-0067

APPEARANCES

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Regulatory Law Judge: **John T. Clark**

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REPORT AND ORDER

The Missouri Public Service Commission (Commission or PSC), having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position, or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

Procedural History

On August 27, 2024, Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Confluence”) and Missouri-American Water Company (MAWC) (collectively “Joint Applicants”) filed an application requesting that the Commission approve the sale of 19 small wastewater systems from MAWC to Confluence. The small wastewater systems are located in Callaway and Morgan Counties. The Joint Applicants also requested that the Commission waive the 60-day notice provision of Commission Rule 20 CSR 4240-4.017.¹

The Commission issued notice of the application and set a deadline for applications to intervene. No applications to intervene were received. The Staff of the Public Service Commission (Staff) and the Office of the Public Counsel (Public Counsel) are also parties to this proceeding.²

At the direction of the Commission, Staff filed its recommendation on December 30, 2024. Staff recommended the Commission grant the wastewater asset transfer application with 12 proposed conditions.

¹ All citations to the Revised Statutes of Missouri and the Missouri Code of State Regulations are to those currently in effect, unless otherwise noted.

² Section 386.710.1(2), RSMo, and Commission Rule 20 CSR 4240-2.010.

On January 9, 2025, Public Counsel filed a response that disagreed with Staff's recommendation and requested an evidentiary hearing.³ Public Counsel's response to Staff's recommendation expressed concern with possible "future rate impacts that will result solely from Confluence acquiring the systems." Public Counsel argued that higher rates likely to result from the change in ownership would be detrimental to the public. Public Counsel's response noted that Confluence has historically had a higher rate of return and a higher rate base than MAWC. Public Counsel proposed four conditions, in addition to Staff's proposed conditions, it argued were necessary to ensure the transactions would not be detrimental to the public interest.

Meanwhile, the Joint Applicants filed a response to Staff's recommendation on January 10, 2025, indicating they accepted all but one of the conditions proposed by Staff for the wastewater asset transaction.⁴ The Joint Applicants objected to Staff condition four, which required Confluence to submit an adoption notice prior to closing on the assets to adopt the existing MAWC wastewater tariffs. The Joint Applicants asserted that after the transfer of wastewater assets MAWC would still be a wastewater utility and adoption of tariffs generally occurs when the seller would cease to operate as a public utility after the buyer's adoption of tariffs.

The Joint Applicants replied to Public Counsel's *Response to Staff Recommendation* and Public Counsel's four proposed conditions on January 28, 2025.⁵ The Joint Applicants opposed three of Public Counsel's proposed conditions and did not oppose condition four, which concerned compliance with the NARUC⁶ Uniform System of Accounts (USOA).

³ Response to Staff Recommendation (January 9, 2025).

⁴ Joint Response to Staff Recommendation (January 10, 2025).

⁵ Joint Reply to OPC Response to Staff Recommendation (January 28, 2025).

⁶ National Association of Regulatory Utility Commissioners.

Public Counsel sur-replied to the Joint Applicants reiterating that the proposed transfer would be detrimental to the public interest and that the Joint Applicants failed to carry their burden to show that the transaction will result in no net detriment.

On March 7, 2025, the Commission issued a procedural schedule based on a schedule proposed by the parties and set an evidentiary hearing for June 26-27, 2025. The parties filed direct, rebuttal and surrebuttal testimony. The Commission held an evidentiary hearing on June 26, 2025, at the Commission's office in Jefferson City, Missouri. During the evidentiary hearing, the Commission heard the testimony of six witnesses and received 18 exhibits into evidence. At the hearing, witness Stephen Kadyk, Engineering Manager, testified on behalf of MAWC. Aaron Silas, Assistant Vice-President over Regulatory Operations and the Customer Experience Department for Central States Water Resources (CSWR), testified on behalf of Confluence. Testifying on behalf of Staff were Johnny Garcia, Financial Analyst; Adam Stamp, Research and Data Analyst; Melanie Marek, Lead Senior Utility Regulatory Auditor; and Jarrod Robertson, Senior Research and Data Analyst. David Murray, Utility Regulatory Manager, and Geoff Marke, Chief Economist, testified on behalf of Public Counsel.

The parties filed initial briefs on July 18, 2025, and reply briefs on July 28, 2025. The case was deemed submitted for the Commission's decision on July 28, 2025.⁷

Jurisdiction

MAWC and Confluence's application is within the Commission's jurisdiction to decide pursuant to Section 393.190.1, RSMo.

No ... water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the

⁷ "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 20 CSR 4240-2.150(1).

performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the Commission an order authorizing it so to do.

Issues

Two issues were put forth for the Commission's determination:

1. What legal standard must the Commission apply in deciding this case?
2. Would MAWC's sale of these 19 wastewater systems to Confluence Rivers be detrimental to the public interest?

General Findings of Fact⁸

1. MAWC is a Missouri corporation and a "water corporation," a "sewer corporation," and "public utility" as defined by Section 386.020, RSMo, and is authorized to provide water and sewer service to portions of Missouri.⁹

2. MAWC currently provides water service to approximately 483,000 customers and sewer service to approximately 24,000 customers in multiple counties throughout the state of Missouri.¹⁰

3. MAWC is an affiliate to American Water, the largest publicly traded water and wastewater utility in the United States.¹¹

4. Confluence is a Missouri corporation and a "water corporation," a "sewer corporation," and a "public utility," as those terms are defined by Section 386.020, RSMo, and is authorized to provide water and sewer service to portions of Missouri.¹²

5. Confluence provides water service to approximately 5,800 customers and

⁸ Issues are divided for purposes of organization and clarity. Findings of fact are cumulative; each set of findings incorporates findings stated for any previous issues.

⁹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

¹⁰ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

¹¹ Ex. 302, Marke Rebuttal, Page 2.

¹² Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

sewer service to approximately 6,000 customers in multiple counties throughout the State of Missouri.¹³

6. Confluence is a subsidiary of CSWR, which provides managerial, technical, and financial support to its utility operating affiliates.¹⁴

7. On October 19, 2023, CSWR entered into a Purchase and Sale Agreement with MAWC to purchase 19 small wastewater systems.¹⁵

8. The Purchase and Sale Agreement provides that CSWR may assign its rights to Confluence, and those have been assigned.¹⁶

9. Confluence will be the ultimate purchaser of these wastewater systems.¹⁷

10. MAWC acquired the wastewater systems in 2011 from Aqua Missouri, Inc., Aqua Development, Inc., and Aqua/RU, Inc. d/b/a Aqua Missouri, Inc. (Aqua) with approval from the Commission in Case No. WO-2011-0168, because Aqua was largely ceasing operations as a Missouri regulated utility.¹⁸

The Wastewater Systems

11. Eighteen of the wastewater systems Confluence proposes to acquire from MAWC are in Callaway County, Missouri, and one wastewater system, the Ozark Meadows wastewater system, is in Morgan County, Missouri.¹⁹

12. Confluence has had engineering reports prepared for each of the wastewater systems.²⁰

¹³ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

¹⁴ Ex. 1, Silas Direct, Page 5, and Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

¹⁵ Ex. 1, Silas Direct, Page 4, and Ex. 2, Schedule AS-1-C (Confidential).

¹⁶ Ex. 1, Silas Direct, Page 4.

¹⁷ Ex. 1, Silas Direct, Page 4.

¹⁸ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

¹⁹ EX. 3, Silas Surrebuttal, Page 4, and Ex. 200, and Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

¹⁹ Ex. 1, Silas Direct, Page 8.

²⁰ Ex. 1, Silas Direct, Page 8.

13. The Big Sky Subdivision wastewater treatment system serves 30 connections, and uses a small steel extended aeration plant for wastewater treatment. The system failed effluent compliance once since 2021, which was due to an extreme winter weather event. This plant is starting to show its age. The main structure of the plant is steel and is beginning to show heavy corrosion and the wood structure that supports all of the plant's controls is weathered. The fence around the facility will also need maintenance. Engineers recommend that Confluence have a long-term expenditure plan of \$238,000 for this system.²¹

14. The Calley Trail neighborhood wastewater treatment system serves 11 connections and utilizes a recirculating sand filter for treatment. The system is well-kept, but is old and has difficulty complying with assigned effluent limits. The system failed to meet effluent limits once in 2023. Likely solutions include:

a. Installation of a structure that can better regulate influent so that flow can be controlled and the treatment process is not overloaded. Install a Mixed Bed Biofilm Reactor (MBBR). This is an additional form of water filtration, to reduce the amount of ammonia that is being discharged.

b. Update the chlorine contact structure on the final stage of treatment before water is returned to the environment. The current structure does not provide sufficient contact time between chlorine and water. Chlorine treatment to precede the outfall is required from April through October.

Engineering reports estimate that these updates will cost \$260,000.²²

15. The Cedar Hills wastewater treatment system serves 19 connections and utilizes a circulating sand filter. The filtration bed and walls are in good condition, but some minor concrete repairs may be necessary. On a few brief occurrences this system has failed

²¹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

²² Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

effluent limit compliance. Engineers have recommended adding better flow control on the influent side of the plant, and an MBBR for additional filtration on the effluent side. Engineering reports estimate the cost of improvements to be \$206,000.²³

16. The Dogwood Lake wastewater treatment system serves 18 connections and uses an extended aeration package plant. This neighborhood continues to expand and there may be additional connections in the future. Staff found no problems with this system, which has maintained effluent compliance for approximately ten years. Confluence engineering reports reference installing proper monitoring equipment to oversee the plant remotely. Long-term costs for improvements and eventual aeration equipment replacement are estimated to be \$193,000.²⁴

17. The Evergreen Drive Acres neighborhood wastewater treatment system serves 25 connections with an extended aeration package plant. This plant is in good condition and has no issues meeting effluent requirements, with the exception of a rain event that upset the plant's chemistry in 2023. Engineering reports recommended Confluence install a MBBR and remote monitoring. These improvements and the long-term replacement of current equipment, are estimated to be \$274,000.²⁵

18. The Golden Ponds wastewater treatment system serves 30 connections and contains a facultative three-cell lagoon that collects wastewater. This system has had multiple effluent limit compliance issues. This system utilizes a simple lagoon and does not currently have access to a power source. Remedying this lack of access to power plus additional upgrades to meet effluent compliance are unknown and will be expensive.²⁶

²³ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

²⁴ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

²⁵ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

²⁶ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

19. The Halifax Road wastewater treatment system serves 38 connections and is an extended aeration system. The plant is in fair condition, but has exceeded effluent limits in recent years. Engineers made recommendations for remote monitoring, better plant maintenance, and basic equipment replacement. The cost of these improvements is estimated to be \$214,000.²⁷

20. The Hidden Valley wastewater treatment system serves 20 connections and is a recirculating sand filter. This neighborhood appears as if it is planning to expand, which could add additional connections. This system contains two filtration beds, but this system is currently only operating one of them due to the low connection count. The plant has stayed within compliance limits. However, engineers recommend the addition of an MBBR to meet the potential future compliance limits. Improvement costs are estimated to be \$205,000.²⁸

21. The Hiller's Creek wastewater treatment system serves 47 connections across a 150-acre service area. The subdivision is almost completed and has room for three additional lots totaling 50 connections when complete. The system contains a facultative lagoon. The lagoon consists of three cells with a fourth cell used for storm water storage and effluent blending. Engineers believe the lagoon will require upgrades and operational improvements to consistently meet its effluent limits. In the last three years, the Hiller's Creek facility has had multiple violations for exceeding monthly effluent limits for ammonia but has been otherwise compliant.²⁹

22. The Hunter's Creek wastewater treatment system serves approximately 52 connections. The plant is made of buried pre-cast concrete and utilizes extended aeration for treatment. There was a single violation in 2023, but it was not for exceeding the effluent

²⁷ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

²⁸ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

²⁹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

limit. Engineers estimate long-term costs of maintenance and existing equipment replacement to be \$197,000.³⁰

23. The Lee Street wastewater treatment system serves 34 connections and is an underground extended aeration system package plant installed in a concrete tank structure. Influent to the plant is supplied by two lift stations. There were two prior violations in 2021 and 2022 caused by a blower failure which stopped aeration operations. The lift stations will need rehabilitation work and with the possible addition of a MBBR engineers estimate a long-term cost of \$269,000.³¹

24. The Maple Leaf wastewater treatment system serves 15 residential connections and consists of a three-cell lagoon. The location has no power supply. The recent addition of effluent limits for E. coli and ammonia in 2023 caused engineers to believe the lagoon will require minor process upgrades and operational improvements to consistently meet its effluent limits. Engineers recommend that Confluence install a power source, monitoring equipment, and add aeration to the lagoon for further treatment. Confluence will also need to install chlorine disinfection at the outfall, which the Missouri Department of Natural Resources (DNR) requires from April to October. Costs are estimated to be \$378,000.³²

25. Ozark Meadows wastewater treatment system serves approximately 30 connections, including a retirement community and a community church. Wastewater is treated onsite by an extended aeration wastewater treatment plant. A heavy equipment company purchased the bulk of the adjacent land for future expansion. It is unknown whether the residential area will expand. The plant has complied with effluent limits, but the

³⁰ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³¹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³² Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

steel structure of the plant is starting to show heavy corrosion. Long-term construction costs are estimated to be \$188,000.³³

26. The Ryan's Lake wastewater treatment system serves 85 connections. It consists of a septic tank, recirculation tank, recirculating media filter, MBBR, disinfection system, and effluent flow metering. After the treatment facility received multiple noncompliance violations starting in 2020 and continuing through 2022, MAWC installed an MBBR. Subsequently, the system has maintained effluent compliance.³⁴

27. The Southwind Meadows wastewater treatment system serves 29 connections with a concrete extended aeration package plant. This neighborhood will likely expand in the future. The system has reliably maintained compliance with effluent limits for at least the last three years. The site and equipment are well maintained and in very good condition.³⁵

28. The Sterling Ridge wastewater treatment system serves 20 connections with a concrete extended aeration plant. It is likely that the Sterling Ridge community will continue to expand. The plant is in good shape and has operated well. It has maintained compliance for at least the last three years. To ensure that effluent compliance is maintained in light of the expected expansion, engineers recommend that Confluence install an MBBR in the future.³⁶

29. The Stoney Creek wastewater treatment system serves 23 connections within a single subdivision. The facility consists of a septic tank, recirculation tank, recirculating sand filter, disinfection system, and effluent flow metering. The current equipment is in fair

³³ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³⁴ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³⁵ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³⁶ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

condition. It has received multiple noncompliance violations. Engineers recommend the addition of an MBBR.³⁷

30. The Summit View subdivision wastewater system serves 44 connections and is a buried concrete extended aeration package plant. The plant is in good shape and has upheld effluent compliance. It is likely that it will require an MBBR to meet more stringent limits in the future.³⁸

31. The Highlands wastewater treatment system serves approximately 60 connections and is a two-cell facultative lagoon with chlorine disinfection. The subdivision is not fully built-out and is expected to have approximately 100 connections when complete. Engineers believe the lagoon will require process upgrades and operational improvements to consistently meet effluent limits as growth occurs in the subdivision. The facility has already had multiple violations for exceeding monthly effluent limits for ammonia. A likely solution will be to add aeration to the facultative lagoons and additional upgrades will also likely be necessary.³⁹

32. The wastewater systems are properly constructed and have been well maintained by MAWC, but the systems are aged. There will be significant costs incurred to buy and update these wastewater systems.⁴⁰

33. Confluence found the wastewater systems to be in generally good condition, but improvements and rehabilitation of these systems will be necessary. This is particularly true for the Hiller's Creek, Stoney Creek, and The Highlands systems, which have had recent

³⁷ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³⁸ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

³⁹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

⁴⁰ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

violations. Several of the systems have experienced ammonia exceedances, which will have to be addressed.⁴¹

34. Some of the systems are out of compliance with DNR. Two of the wastewater systems, Stoney Creek and the Highlands,⁴² are subject to Administrative Orders on Consent (AOC) with DNR.⁴³

General Conclusions of Law⁴⁴

- A. Section 386.020(49), RSMo, defines “sewer corporation” as including:
- every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain, except that the term shall not include sewer systems with fewer than twenty-five outlets[.]
- B. Section 386.020(43), RSMo, defines “public utility” as including:
- every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heating company or refrigerating corporation, and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this chapter[.]
- C. MAWC is a “sewer corporation” and “public utility” subject to regulation by the Commission pursuant to its authority under Chapters 386 and 393, RSMo.⁴⁵
- D. Confluence is a “sewer corporation” and “public utility” subject to regulation by

⁴¹ Ex. 1, Silas Direct, Page 8.

⁴² On July 16, 2025, the Joint Applicants filed a motion to correct the transcript, which the Commission treated as a motion to amend the record. Witness Kadyk misspoke at the hearing regarding the two systems under AOCs. The Commission granted the motion and amended the record to identify the correct systems subject to DNR AOCs.

⁴³ Transcript, Pages 46 and 50.

⁴⁴ Issues are divided for purposes of organization and clarity only. Conclusions of law are cumulative; each set of conclusions incorporates conclusions stated for any previous issues, as necessary.

⁴⁵ *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm’n*, 858 S.W.2d 806, 808 (Mo. App. W.D. 1993) (Section 393.140 RSMo, establishes the Commission’s general powers); see also Section 386.250 RSMo.

the Commission pursuant to its authority under Chapters 386 and 393, RSMo.⁴⁶

E. Section 393.170, RSMo, requires a certificate of convenience or necessity granted by the Commission before Confluence may provide sewer service in the proposed service areas.

F. Since the Joint Applicants brought the application, they bear the burden of proof.⁴⁷ The burden of proof is the preponderance of the evidence standard.⁴⁸ In order to meet this standard, the Joint Applicants must convince the Commission it is “more likely than not” that its assertions are true.⁴⁹

1. What legal standard must the Commission apply in deciding this case?

Findings of Fact

No findings of fact are necessary for this issue.

Conclusions of Law

G. Section 393.190.1, RSMo, provides that no sewer corporation can sell or transfer any part of its franchise or systems, necessary or useful in the performance of its duties to the public without authorization from the Commission.

H. The purpose of Section 393.190.1, RSMo, is to ensure the continuation of adequate service to the public served by the utility.⁵⁰

I. A property owner should be allowed to sell his property unless it would be

⁴⁶ *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm’n*, 858 S.W.2d 806, 808 (Mo. App. W.D. 1993) (Section 393.140 RSMo, establishes the Commission’s general powers); *see also* Section 386.250 RSMo.

⁴⁷ “The burden of proof, meaning the obligation to establish the truth of the claim by preponderance of the evidence, rests throughout upon the party asserting the affirmative of the issue”. *Clapper v. Lakin*, 343 Mo. 710, 723, 123 S.W.2d 27, 33 (1938).

⁴⁸ *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 Mo. banc 1996).

⁴⁹ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

⁵⁰ *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. Ct. App. 1980).

detrimental to the public.⁵¹

J. “In determining whether a transfer should be approved, the Commission determines whether the transfer is detrimental to the public interest.”⁵²

K. The public interest is a matter of policy to be determined by the Commission.⁵³ It is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served.⁵⁴

Decision

Section 393.190.1 does not set a standard for the approval of a proposed transfer of assets; however, the Missouri Supreme Court in *State ex rel. City of St. Louis v. Public Service Commission of Missouri*, 73 S.W.2d 393 (Mo. 1934) determined the standard for the Commission’s approval was whether the transfer “would be detrimental to the public.”⁵⁵ This standard does not require the demonstration of the transaction benefiting the public, only that the transaction is not a detriment to the public.⁵⁶ The Missouri Supreme Court did not change that standard for an asset transfer in the *AG Processing* decision, but restated the existing “not detrimental to the public” as “detrimental to the public interest.” This standard is also codified in Commission Rule 20 CSR 4240-10.105(1)(D), which requires that applicants seeking approval to transfer assets include in their applications “[t]he reasons the proposed

⁵¹ *State ex rel. St. Louis v. Public Service Commission*, 73 S.W.2d 393, 400 (Mo. 1934).

⁵² *State ex rel. AG Processing, Inc. v. Pub. Serv. Comm’n*, 120 S.W.3d 732, 735 (citing *State ex rel. City of St. Louis v. Pub. Serv. Comm’n*, 73 S.W.2d 393, 400 (Mo. banc 1934)).

⁵³ *State ex rel. Public Water Supply District v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980). The dominant purpose in creation of the Commission is public welfare. *State ex rel. Mo. Pac. Freight Transport Co. v. Public Service Commission*, 288 S.W.2d 679, 682 (Mo. App. 1956).

⁵⁴ *State ex rel. Intercon Gas, Inc. v. Public Service Com’n of Missouri*, 848 S.W.2d 593, 597 -598 (Mo. App. 1993). That discretion and the exercise, however, are not absolute and are subject to a review by the courts for determining whether orders of the P.S.C. are lawful and reasonable. *State ex rel. Public Water Supply Dist. No. 8 of Jefferson County v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980).

⁵⁵ *City of St. Louis*, 73 S.W.2d at 395 and 400. This case involved a merger subject to approval by the PSC under § 5195, RSMo 1929, a predecessor to § 393.190. See also *State ex rel. AG Processing, Inc. v. Public Service Comm’n of State*, 120 S.W.3d 732, 735 (Mo. banc 2003) and *State ex rel. Fee Fee Trunk Sewer v. Litz*, 596 S.W.2d 466, 468 (Mo. App. 1980).

⁵⁶ *State ex rel. City of St. Louis v. Pub. Serv. Comm’n*, 73 S.W.2d 393, 395 (Mo. banc 1934).

sale of assets is not detrimental to the public interest.” Here MAWC and Confluence do not believe the transaction is detrimental to the public interest, but that the public interest would be promoted by the transfer.

MAWC and Confluence Rivers believe that the sale of these systems allows the companies to focus on their core competencies and align their resources appropriately. By divesting these smaller wastewater facilities, that do not overlap with its water service areas, MAWC can concentrate more effectively on its main operational strengths and large-scale facilities. Confluence Rivers, on the other hand, specializes in running and rehabilitating small systems. Its focus on small, geographically dispersed systems gives Confluence Rivers an advantage in managing the unique challenges that come with these types of operations.⁵⁷

2. Would MAWC’s sale of these 19 wastewater systems to Confluence Rivers be detrimental to the public interest?

Findings of Fact

35. MAWC has many other water and wastewater systems in Jefferson City, Missouri (a portion of which is in Callaway County), and the surrounding area.⁵⁸

36. The wastewater systems that would be transferred as part of this transaction do not overlap with MAWC’s other water service areas.⁵⁹

37. The sale of these wastewater systems to Confluence benefits MAWC and will allow MAWC to focus on other projects and tasks rather than spending time maintaining these systems. MAWC employees will be able to focus on MAWC’s larger systems in the area, which include systems in Hallsville, Wardsville, and Taos.⁶⁰

38. Divesting would allow it to focus on its main operational strengths and its largescale facilities, which would benefit MAWC’s remaining customers⁶¹

39. MAWC employees also will not have to travel as far to complete routine tasks

⁵⁷ Joint Application and Motion for Waiver (August 27, 2024).

⁵⁸ Ex. 303, Marke Surrebuttal, Page 5.

⁵⁹ Ex. 100, Kadyk Direct, Page 7.

⁶⁰ Ex. 300, Murray Rebuttal, Schedule DM-R-3 OPC 26, MAWC Data Request Response.

⁶¹ Ex. 100, Kadyk Direct, Page 6.

and can more efficiently use their time on MAWC's remaining systems.⁶²

40. Some of the systems to be transferred are a 60-mile round trip drive for MAWC's Jefferson City-based employees.⁶³

41. While Confluence does not currently operate any systems in Callaway County, Missouri, it already owns and manages several small wastewater systems in the vicinity of these wastewater systems.⁶⁴

Loss of economies of scale

42. American Water, MAWC's parent company, is the largest investor-owned water and wastewater utility in the United States. MAWC is the largest investor-owned water and wastewater utility in Missouri.⁶⁵

44. CSWR is not a small company. It is the tenth largest water and wastewater investor-owned utility in the United States.⁶⁶

45. Allowing Confluence to purchase more systems, regardless of whether or not they are distressed, would increase Confluence's ability to further achieve economies of scale.⁶⁷

46. Growth for smaller utilities could be negatively impacted by not allowing them to acquire systems in favor of larger utilities.⁶⁸

Differing operational models

47. MAWC generally uses full-time employees to operate its systems, and uses its own employees to operate these 19 systems. However, it supplements this with various

⁶² Ex. 300, Murray Rebuttal, Schedule DM-R-3 OPC 26, MAWC Data Request Response.

⁶³ Ex. 300, Murray Rebuttal, Schedule DM-R-3 OPC 26, MAWC Data Request Response.

⁶⁴ Ex. 1, Silas Direct, Page 9, and Ex. 302, Marke Rebuttal, Page 8.

⁶⁵ Ex. 302, Marke Rebuttal, Pages 2 and 4.

⁶⁶ Ex. 302, Marke Rebuttal, Page 2.

⁶⁷ Ex. 202, Robertson Surrebuttal, Page 4.

⁶⁸ Ex. 202, Robertson Surrebuttal, Page 4.

contractors to assist with maintenance of the systems.⁶⁹

48. Confluence specializes in running and rehabilitating small systems. Confluence's focus on small, geographically dispersed systems will benefit the public by allowing it to be served by a utility that is skilled in managing the difficulties that may arise in the various small-scale facilities that are serving these 19 wastewater systems.⁷⁰

49. CSWR relies on a contractual business model where operations are outsourced to third parties to run almost all of its operation and management functions including water and wastewater testing, meter reading, system repairs and maintenance activity, licensed operations, capital improvement, projects, collections, and call center services.⁷¹

50. All systems regulated by the Commission and DNR are held to the same operating regulatory standards, regardless of system's condition.⁷²

51. Confluence has successfully operated systems more remote than the systems at issue in this case.⁷³

52. Confluence finds it more cost effective and efficient to use independent contractors to perform many of the operation and maintenance tasks. However, Confluence maintains primary responsibility for those tasks through full-time employees.⁷⁴

53. Confluence has a Regional Manager for water and wastewater services in Missouri who manages relationships with operation and maintenance partners, subcontractors, consultants, and vendors to ensure systems are operated safely, efficiently, and in full compliance with regulatory requirements.⁷⁵

⁶⁹ Ex. 302, Marke Rebuttal, Page 2, and Footnote 3.

⁷⁰ Ex. 1, Silas Direct, Page 8.

⁷¹ Ex. 302, Marke Rebuttal, Page 2-3.

⁷² Ex. 202, Robertson Surrebuttal, Page 2.

⁷³ Ex. 3, Silas Surrebuttal, Page 4.

⁷⁴ Ex. 3, Silas Surrebuttal, Page 8.

⁷⁵ Ex. 3, Silas Surrebuttal, Page 8.

54. Confluence performed a cost-benefit analysis comparing the use of third-party operators as opposed to operators directly employed by Confluence. The potential benefits of using employees over third-party operators did not justify the additional expense and risk.⁷⁶

55. In 37 prior cases where the Commission has approved a Confluence certificate of convenience and necessity (CCN), acquisition, merger, or rate case, the Commission has found Confluence's business model acceptable.⁷⁷

Loss of access to American Water's Illinois laboratory

56. American Water has a research laboratory in Belleville, Illinois.⁷⁸

57. Confluence utilizes laboratories in the State of Missouri.⁷⁹

58. Confluence has participated in multiple research pilot programs for wastewater treatment systems, which have resulted in millions of dollars in savings for lagoon rehabilitation.⁸⁰

59. All of the laboratory services that Confluence utilizes are certified by DNR.⁸¹

Acquisition premium

60. An acquisition premium could be present in this asset transfer.⁸²

61. Staff's calculation and amount of an acquisition premium is confidential.⁸³

62. The amount of any acquisition premium will be unknown until closing due to investments made during the course of this case and an increase in the depreciation

⁷⁶ Ex. 3, Silas Surrebuttal, Page 9.

⁷⁷ Ex. 202, Robertson Surrebuttal, page 3.

⁷⁸ Ex. 302, Marke Rebuttal, Page 2.

⁷⁹ Transcript, Page 56.

⁸⁰ Transcript Pages 55-56.

⁸¹ Transcript, Page 60.

⁸² Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

⁸³ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum (Staff's acquisition premium amount and calculations are denoted as confidential in its memorandum.).

reserve.⁸⁴

63. Staff's position in prior cases has been that rates should be based upon the remaining net book value of the original cost of the system at the time it was placed in service, and that no acquisition adjustment, above or below net book value, should be reflected in rates.⁸⁵

64. Staff is not recommending approval of an acquisition premium in this case.⁸⁶

65. No approval of an acquisition premium is being requested in this case.⁸⁷

66. Public Counsel supports Staff's position that an acquisition premium not be reflected in the rates that will be in place after the transfer is complete.⁸⁸

67. Confluence agrees with Staff that an acquisition premium should not be reflected in Confluence customer's rates.⁸⁹

Higher cost of inputs

68. Consolidated pricing is a unified rate structure applied across different systems owned and operated by a single utility.⁹⁰

69. Public Counsel is concerned that consolidated rates will cause customers of compliant systems to subsidize the acquisition of capital-intensive systems.⁹¹

70. Both MAWC and Confluence have consolidated rates approved by the Commission.⁹²

71. The Commission has previously determined that consolidated rates convey benefits, such as spreading out costs related to investment and limiting the potential of rate

⁸⁴ Ex. 3, Silas Surrebuttal, Page 24.

⁸⁵ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum.

⁸⁶ Transcript, Page 85.

⁸⁷ Transcript, Page 85.

⁸⁸ Ex. 302, Marke Rebuttal, Page 11.

⁸⁹ Ex. 3, Silas Surrebuttal, Page 25.

⁹⁰ Ex. 302, Marke Rebuttal, Page 9.

⁹¹ Ex. 302, Marke Rebuttal, Page 10.

⁹² Ex. 202, Robertson Surrebuttal, page 6.

shock to customers, and are just and reasonable.⁹³

72. MAWC's rates for the customers of these 19 wastewater systems was \$65.36 (\$68.56, when the Water and Sewer Infrastructure Rate Adjustment (WSIRA) is included).⁹⁴

73. Confluence's rates are consolidated into two districts. Confluence's current rates are \$60.21 for District 1 and \$70.83 for District 2.⁹⁵

74. MAWC's wastewater rates are currently higher than Confluence's wastewater rates. The Commission approved a rate increase in MAWC's most recent rate case, Case No. WR-2024-0320, to a base rate of \$74.11. Those rates became effective on May 28, 2025.⁹⁶

75. Confluence will use MAWC's prior customer base rate for the 19 wastewater systems (\$65.36/month) following approval of this transfer.⁹⁷

76. Confluence intends to file a general rate case in the third or fourth quarter of 2025. In Confluence's next rate case its rates will be determined by the Commission.⁹⁸

77. An authorized Rate of Return (ROR) is a Commission-approved return that allows utilities the opportunity to recover a reasonable level of operating expenses, taxes, and depreciation, while also providing the opportunity to earn a fair ROR on the capital invested in assets utilized in providing service to their customers.⁹⁹

78. A utility's requested ROR is the return proposed by a utility in its rate case filing. It is based on a utility's estimated cost of capital, including the cost of equity, cost of debt, and proposed capital structure. Requested RORs reflect the utility's starting position

⁹³ Ex. 202, Robertson Surrebuttal, page 6.

⁹⁴ Ex. 1, Silas Direct, Page 6.

⁹⁵ Ex. 1, Silas Direct, Page 7.

⁹⁶ Ex. 101, Kadyk Surrebuttal, Pages 7-8.

⁹⁷ Ex. 1, Silas Direct, Page 7.

⁹⁸ Ex. 3, Silas Surrebuttal, Page 13.

⁹⁹ Ex. 201, Garcia Surrebuttal, Page 2.

in a rate case.¹⁰⁰

79. A utility's cost of capital cannot be directly observed or measured, it must be estimated using financial models and market-based data.¹⁰¹

80. A requested ROR has no binding regulatory authority and thus should not be treated as a Commission-approved or validated measure of the utility's financial needs. It is "requested," because any resulting authorized ROR is determined by the Commission in a rate case.¹⁰²

81. The authorized ROR is important in rate-making because it represents the allowed return that a utility can earn on its invested capital. It is an important component in determining the utility's revenue requirement, which is the total amount of money the utility needs to collect from customers to cover its operating expenses, depreciation, taxes, and provide a fair return to investors.¹⁰³

82. Rates are determined based upon a utility's revenue requirement. Elements such as operating costs, capital structure, and return on equity that will be used in calculating Confluence's future revenue requirement, are unknown and unknowable at this time.¹⁰⁴

83. Water and Sewer Infrastructure Rate Adjustment (WSIRA) RORs are not used in ratemaking when calculating the revenue requirement.¹⁰⁵

Conclusions of Law

L. The Commission must decide all necessary and essential issues when determining whether to approve an asset transfer. This includes issues regarding the potential of a utility being allowed to recover an acquisition premium in a future rate case.¹⁰⁶

¹⁰⁰ Ex. 201, Garcia Surrebuttal, Page 4.

¹⁰¹ Ex. 201, Garcia Surrebuttal, Page 4.

¹⁰² Ex. 201, Garcia Surrebuttal, Page 4.

¹⁰³ Ex. 201, Garcia Surrebuttal, Page 3.

¹⁰⁴ Ex. 3, Silas Surrebuttal, Page 14.

¹⁰⁵ Ex. 201, Garcia Surrebuttal, Pages 11-12.

¹⁰⁶ State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n of State, 120 S.W.3d 732, 736 (Mo. 2003).

M. The Commission must consider this risk of future rate increases together with the other possible benefits and detriments and determine whether the proposed asset transfer is likely to be a net benefit or a net detriment to the public.¹⁰⁷

N. The Commission's duty is to ensure the provision of safe and adequate service to customers at just and reasonable rates when considering whether a transaction is likely to be detrimental to the public interest. A detriment is any effect of the transaction that tends to make the service less safe or less adequate, or which tends to make rates less just or less reasonable. The fact that there are detriments is not conclusive to the Commission's determination because detriments can be offset by benefits. The fact that a transaction is not the least cost alternative or will cause rates to increase is not detrimental to the public interest where it will provide a benefit of equal or greater value or remedy a deficiency that threatens the safety or adequacy of the service.¹⁰⁸

Decision

Courts have recognized that property owners should be allowed to transfer or sell their property unless it is a net detriment to the public interest. The Commission may determine the public interest as a matter of policy, and it is within the discretion of the Commission to determine when the evidence indicates the public interest would be served. The Commission must authorize MAWC's proposed sale of assets to Confluence unless it finds the resulting transfer would be a net detriment to the public interest. The Commission

¹⁰⁷ *In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc., for Approval of the Merger of Aquila, Inc., with a Subsidiary of Great Plains Energy Incorporated and for Other Related Relief*, 2008 Mo. PSC Lexis 693 (Mo. Pub. Serv. Comm'n 2008) at 453-454, and PSC Case No. EM-2007-0374, at 231 "The AG Processing decision does not, as Public Counsel asserts, require the Commission to deny approval where a risk of future rate increases exists. Rather, it requires the Commission to consider this risk together with the other possible benefits and detriments and determine whether the proposed transaction is likely to be a net benefit or a net detriment to the public."

¹⁰⁸ *In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc.*, Report and Order, Case No. EM-2007-0374, 2008 Mo. PSC LEXIS 693, 454-455 (MoPSC July 1, 2008), quoting *Re Union Electric Company*, Case No. EO-2004-0108, 13 Mo.P.S.C.3d 266, 293 (2005).

does not find this sale of wastewater assets from MAWC to Confluence detrimental to the public interest.

Public Counsel opposes the sale of assets from MAWC to Confluence. Public Counsel believes that the proposed transaction is detrimental to the public interest. In support of its position, Public Counsel states five reasons that the transaction is detrimental to the public interest as follows: the loss of economies of scale, differing operational models, the loss of American Water Work's research laboratory, its concern that an acquisition premium may be recovered from Confluence's customers in the future, and its assumptions about higher cost inputs. The Commission will address each of Public Counsel's alleged detriments.

Public Counsel argues that this asset transfer from MAWC, which is larger than Confluence, to Confluence is a detriment to the public interest due to a loss of economies of scale. This argument is predicated on the idea that because MAWC is the larger of the two utilities, it can operate these systems at lower costs with greater efficiency. Public Counsel asserts that MAWC can acquire systems at a much lower cost and "operate them at a much cheaper level than they otherwise would in a vacuum." Public Counsel provides little in the way of support for this assertion. Most of Public Counsel's support for this argument is gleaned from its other arguments relating to the two utilities' different operational models (contractors as opposed to employees), the loss of American Water's research laboratory, the concern that an acquisition premium may be recovered from Confluence's customers in the future, and its assumptions about higher cost inputs. Public Counsel's argument implies that MAWC should never be able to sell assets to any other utility, because they would always be the larger utility. The Commission finds Public Counsel's argument speculative and unreasonable and is not persuaded that the transfer is detrimental to the

public interest for this reason.

Public Counsel argues that, because Confluence's operational model is different than MAWC's, the change in operational models will be detrimental to the public interest. The Commission disagrees. MAWC generally uses full-time employees to operate its systems, while Confluence primarily uses third-party contractors to operate its wastewater systems. Public Counsel infers that this difference in operating models could result in overspending and other inefficiencies.

In 37 prior cases where the Commission has approved a Confluence CCN, acquisition, merger, or rate case, the Commission has found Confluence's business model suitable to its operation of small water and wastewater systems. MAWC and its customers will benefit from divestment of these wastewater systems that will allow it to focus on its larger facilities and wastewater systems that are within its water service area. Confluence, alternatively, finds the use of contractors to be more cost effective and efficient when dealing with dispersed small systems. The Commission does not find this difference in operational models detrimental to the public interest.

Public Counsel also took issue with Confluence's focus on acquiring distressed systems that need a lot of capital investment. Public Counsel is arguing that these 19 systems are outside of Confluence's business model of acquiring distressed systems that require capital improvements. Public Counsel believes this alleged deviation is detrimental to the public interest. The Commission, again, disagrees. Confluence does acquire systems in distress and rehabilitates them, which is a benefit to the customers of those systems. The Commission does not believe these systems are outside of Confluence's expertise. These wastewater systems are aged systems that will require capital investments that MAWC has not made yet. While these capital investments could affect rates, they are necessary for the

future reliability of the systems and compliance with regulatory standards. The Commission does not find this alleged difference in the utility types normally acquired by Confluence detrimental to the public interest.

Public Counsel notes that MAWC has access to its parent company's laboratory, whereas Confluence does not own a research laboratory. Public Counsel believes the loss of access to American Water Work's research laboratory is a public detriment, and that MAWC is better able to address constantly changing/emerging contaminants and other water quality issues because it owns its own laboratory. However, MAWC's parent company's laboratory is primarily a research laboratory and loss of access to this laboratory will not impact normal sample testing. Confluence uses Missouri DNR certified laboratories and Confluence is held to the same standard as MAWC. Confluence already participates in wastewater research pilot programs that have yielded results. Confluence uses third-party contractors and they interact with testing laboratories. Confluence is held to the same regulatory standards as MAWC. Confluence is ultimately responsible for water quality and required testing. The Commission does not find the loss of access to the Illinois research laboratory to be detrimental to the public interest.

Turning to other factors, the acquisition premium is the difference between the sale price and the actual asset's value. Public Counsel asserts that there is an acquisition premium that was identified by Staff and that the presence of an acquisition premium is a detrimental to the public interest. Staff calculated that there could be an acquisition premium built into the agreed sale price. Public Counsel argues that the Commission must determine the reasonableness of the inclusion of the acquisition premium in the sale. If there is an acquisition premium, the exact amount will be unknown until the closing on assets, due to MAWC investments over the course of this case and the depreciation of these systems.

The *Ag Processing* case states that “[w]hile PSC may be unable to speculate about future merger related rate increases, it can determine whether the acquisition premium was reasonable[.]” In that case, the Court found that “[t]he 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.” Whether there will be any acquisition premium is unknown until the closing on assets. However, the Commission does not believe a determination as to the reasonableness of any potential acquisition premium is required, because the Commission is not granting approval of any acquisition premium as part of this case and Confluence is not requesting or expecting to recover an acquisition premium in customer rates as a result of this Report and Order. Confluence, Staff, and Public Counsel are all in agreement that any acquisition premium should not be recovered in Confluence’s customer rates during any subsequent general rate proceeding.

Public Counsel asserts that there are several costs that will be higher under Confluence’s ownership and that those alleged cost increases will be detrimental to the public interest. Public Counsel notes the amount Confluence plans for investment in the systems over the next five years is higher than MAWC had projected investing in the systems. Public Counsel believes Confluence will have higher rates in the future because it has generally requested a higher rate of return, its cost of capital is higher, it has a different capital structure, and it intends more rate base investment in the 19 systems. However, operating costs, capital structure, and return on equity are unknown and unknowable at this time, and any calculation of future rates is merely speculative. The Commission will determine the authorized rate of return and capital structure in Confluence’s next rate case. The Commission will also determine what amounts, if any, spent maintaining and upgrading

these systems should be included in rate base in Confluence's rate case following such investments. If the Commission approves this transfer, customer rates will remain the same as the rates they were charged by MAWC prior to MAWC's most recent general rate proceeding, and will remain in place until the conclusion of Confluence's next general rate proceeding where the Commission will make a determination of what rates are just and reasonable going forward.

Finally, Public Counsel argues that it will be detrimental to the public interest that MAWC's customers will still be paying for these wastewater systems in their rates until MAWC's next rate case. That is essentially arguing that the Missouri rate making process is detrimental to the public interest. The Commission cannot change rates between a rate case with a few very narrow exceptions, none of which apply here. MAWC's customers will not be paying any more or less in rates until MAWC's next rate case irrespective of whether the transfer is approved. The customers of these 19 systems will not be paying MAWC for these systems under Confluence's operation and ownership. Any adjustments related to removal of these systems from MAWC's rate base, their cost of service, and associated revenues can only be addressed in a future general rate proceeding. The Commission does not find this alleged detriment to the public interest persuasive and rejects it.

Having considered all necessary and essential issues, the Commission finds that MAWC's sale of these 19 wastewater systems to Confluence will not result in a net detriment to the public interest. The public interest is best served through the continuation of safe and adequate service by an experienced utility that specializes in the running and rehabilitation of small aged systems.

Tartan Factor Analysis

Confluence will need a certificate of convenience and necessity prior to owning and

operating these systems.

Findings of Fact

84. There is both a current and future need for water and sewer service, as the existing sewer customer base has both a desire and need for service.¹⁰⁹

85. Confluence is an existing water and sewer corporation and public utility subject to the jurisdiction of the Commission. Confluence is currently providing sewer service to approximately 6,000 customers throughout Missouri, and Confluence is a subsidiary of CSWR.¹¹⁰

86. Confluence, with the assistance of its parent company, CSWR, is financially capable of the acquisition.¹¹¹

87. Confluence has demonstrated over several years that it has adequate resources to operate utility systems it owns. The current rates, which Confluence is adopting, were designed to support the cost of service. There is no evidence that CSWR cannot provide the necessary support for Confluence to purchase, upgrade, own, operate, maintain, and otherwise control and manage the MAWC sewer systems.¹¹²

88. The public interest is promoted through the continuation of safe and adequate service by an experienced utility that specializes in the running and rehabilitation of small aged systems.¹¹³

89. There was no dispute that Confluence meets the basic “Tartan factors”¹¹⁴ with the exception of the public interest.

Conclusions of Law

¹⁰⁹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum

¹¹⁰ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum

¹¹¹ Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum

¹¹² Ex. 200, Robertson Rebuttal, Schedule JJR-r2 - Staff Memorandum

¹¹³ Ex. 1, Silas Direct, Page 8.

¹¹⁴ See, *In re Tartan Energy*, Report and Order, 3 Mo P.S.C. 3d 173, Case No. GA-94-127, 1994 WL 762882 (September 16, 1994).

O. The Commission may grant a certificate of convenience and necessity after determining the proposed service is “necessary or convenient for the public service.”¹¹⁵

P. The term "necessity" does not mean "essential" or "absolutely indispensable," but rather that the proposed service "would be an improvement justifying its cost," and that the inconvenience to the public occasioned by lack of the proposed service is great enough to amount to a necessity.¹¹⁶

Q. While controlling statutes provide no “specific criteria” to guide the Commission’s determination of public convenience or necessity,¹¹⁷ the Commission considers five criteria which are commonly referenced as the “Tartan factors.” The Tartan Factors are as follows: ¹¹⁸

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

R. It is within the Commission's discretion to determine when the evidence indicates the public interest would be served by the award of the certificate.¹¹⁹

Decision

Confluence needs a CCN to own, acquire, operate, control, manage, and maintain the 19 wastewater systems at issue in this case as an addition to its existing service

¹¹⁵ Section 393.170.3, RSMo (Cum. Supp. 2020).

¹¹⁶ *State ex rel. Intercon Gas, Inc., v. Public Service Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. App. 1993), citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216, 219 (Mo. App. 1973), citing *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

¹¹⁷ *United for Mo. v. Pub. Serv. Comm’n*, 515 S.W.3d 754, 759 (Mo. App. W.D. 2016) (citing *State ex rel. Ozark Elec. Coop v. Pub. Serv. Comm’n*, 527 S.W.2d 390, 394 (Mo. App. 1975)).

¹¹⁸ *In re Tartan Energy*, Report and Order, 3 Mo.P.S.C. 3d 173, Case No. GA-94-127, 1994 WL 762882 (September 16, 1994).

¹¹⁹ *State ex rel. Ozark Electric Coop. v. Public Service Commission*, 527 S.W.2d 390, 392 (Mo. App. 1975).

territories. Public Counsel does not dispute that Confluence is capable of operating these wastewater systems and is not challenging any of the Tartan Factors the Commission applies when evaluating whether to grant a CCN.

The Commission may grant a sewer corporation a CCN to acquire and operate utility facilities after determining that such is either “necessary or convenient for the public service.” The rule does not establish a standard for granting a CCN. The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The Intercon case combined the standards used in several similar certificate cases, and set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed 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.

There is a present and future need for the service. MAWC’s customers are currently receiving sewer service and will have a continued need for service.

Confluence is qualified to provide service to these 19 wastewater systems, as it is currently operating a wastewater utility providing sewer service to approximately 6000 Missouri customers.

No party has suggested Confluence lacks the financial ability to provide the service. Confluence has the financial ability to acquire and provide service to these 19 wastewater systems with the assistance of its parent company, CSWR.

Confluence’s planned acquisition and operation of these 19 wastewater systems is economically feasible. Confluence has demonstrated that it has adequate resources to operate utility systems it owns. The current rates, which Confluence is adopting, were

designed to support the cost of service. There is no evidence that CSWR cannot provide the necessary support for Confluence to purchase, upgrade, own, operate, maintain, and otherwise control and manage the MAWC sewer systems.

The public interest is promoted by Confluence providing service to these 19 wastewater systems through the continuation of safe and adequate service by an experienced utility that specializes in the running and rehabilitation of small aged systems.

The Commission finds that the factors for granting a certificate of convenience and necessity to Confluence have been satisfied and that it is in the public's interest for Confluence to provide sewer service to the customers currently served by MAWC. The Commission grant Confluence the certificate of convenience and necessity to acquire the 19 MAWC sewer assets.

What conditions should be imposed on a CCN issued to Confluence for these 19 systems?

Findings of Fact

90. The proposed conditions of Staff, with one modification to the proposed tariffs, and the one condition proposed by Public Counsel were not contested and are reasonable and necessary to the grant of this CCN.¹²⁰

91. Adjusting the tariff filing requirement condition as proposed by Staff so that Confluence submits new tariffs instead of adopting MAWC's old tariffs is a reasonable and necessary condition to the grant of this CCN.¹²¹

Conclusions of Law

S. The Commission may impose "such condition or conditions as it may deem reasonable and necessary," when issuing a CCN.¹²²

¹²⁰ Tr. pages 140-142.

¹²¹ Tr. pages 140-142.

¹²² Section 393.170.3, RSMo.

Decision

The Commission finds certain conditions reasonable and necessary to the grant of this CCN. Therefore, the Commission will impose Staff's proposed conditions, with the exception as set out above, and one condition that was proposed by Public Counsel.

Waiver

Finally, the Commission will grant the Joint Applicant's request for waiver of the 60-day notice requirement under 20 CSR 4240-4.017. The Commission finds good cause exists for waiver, based on their verified declaration that they have had no communication with the Office of the Commission regarding substantive issues in the application within 150 days before it filed its application.

THE COMMISSION ORDERS THAT:

1. Confluence is authorized to acquire the following wastewater systems from MAWC: Big Sky Subdivision, Calley Trail, Cedar Hill Subdivision, Dogwood Lane, Evergreen Drive Acres, Golden Ponds, Halifax Road, Hidden Valley, Hillers Creek Lagoon, Hunter's Creek, Lee Street, Maple Leaf, Ryan' Lake Subdivision, Southwind Meadows, Sterling Ridge, Stoney Creek, Summit View, The Highlands, and Ozark Meadows.

2. Confluence is granted a certificate of convenience and necessity to install, own, acquire, construct, operate, control, manage, and maintain the following wastewater systems in Callaway County: Big Sky Subdivision, Calley Trail, Cedar Hill Subdivision, Dogwood Lane, Evergreen Drive Acres, Golden Ponds, Halifax Road, Hidden Valley, Hillers Creek Lagoon, Hunter's Creek, Lee Street, Maple Leaf, Ryan' Lake Subdivision, Southwind Meadows, Sterling Ridge, Stoney Creek, Summit View, and The Highlands.

3. Confluence is granted a certificate of convenience and necessity to install, own, acquire, construct, operate, control, manage, and maintain the Ozark Meadows wastewater systems in Morgan County.

4. The authority granted by this order is subject to the following conditions for the systems in Ordered Paragraphs 2 and 3 above:

- a. MAWC is authorized to sell and transfer utility assets to Confluence;
- b. MAWC's CCNs for the systems at issue in this case are canceled, and Confluence is granted new CCNs upon closing on any of the respective systems;
- c. Upon closing of the asset transfer, MAWC is authorized to cease providing service, and Confluence is authorized to begin providing service;
- d. Confluence is to submit tariff sheets to be effective before closing on assets, to include a service area map, service area written description, and rates to be included in it EFIS tariff P.S.C MO No. 31. Applicable to sewer service.
- e. Confluence is required to create and keep financial books and records for plant-in-service, revenues, and operating expenses (including invoices) in accordance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA), to be reviewed in the next rate case;
- f. Confluence is required to provide training to its call center personnel regarding rates and rules applicable to the customers acquired from MAWC, prior to the customers receiving notification of the pending acquisition;
- g. Confluence is required to distribute to the newly acquired customers, prior to the first billing from Confluence, an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its utility service, consistent with the requirements of Commission Rule 20 CSR 4240-13, as well as notification regarding changes to the billing cycle, bill format, and payment options within fifteen (15) days of closing on the assets;
- h. Confluence is required to provide to the Commission Customer Experience Department (CXD) Staff a sample of its actual communication with its newly acquired customers regarding its acquisition and operations of the utility assets, and how customers may reach Confluence, within 15 days after closing on the assets;
- i. Confluence is required to provide to the CXD Staff a sample of five (5) billing statements for the acquired company from the first month's billing within 30 days of such billing;

- j. Confluence is required to file notice in this case once the Staff Recommendations regarding staff training, informational brochure, communications, and billing are completed; and billing for the acquired wastewater systems within ten (10) days after such communications and notifications;
- k. Confluence is required to include the wastewater 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;
- l. Confluence shall adhere to the acquisition accounting guide provided in the USOA so that a request for rate recovery can be properly audited in Confluence's next rate case.
- m. The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters in any later proceeding.

5. The Commission makes no finding that precludes the Commission from considering the ratemaking treatment to be afforded any matters in any later proceeding.

6. The 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1) is waived for good cause.

7. This report and order shall be effective on August 30, 2025.

BY THE COMMISSION



Nancy Dippell

Nancy Dippell
Secretary

Hahn, Ch., Coleman, Kolkmeier,
and Mitchell CC., concur and certify compliance
with the provisions of Section 536.080, RSMo (2016).

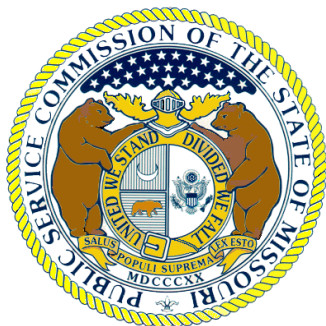
Clark, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 20th day of August 2025.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 20, 2025

File/Case No. SM-2025-0067

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.