

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of September, 2017.

In the Matter of the Joint Application of 188)
North Summit, LLC and Seges Partners Mobile)
Home Park, LLC for Authority to Acquire the)
Water System and Wastewater System Assets)
Of Seges Partners Mobile Home Park, LLC and)
For a Certificate of Convenience and Necessity)
To Provide Water and Sewer Services)

File No. SM-2018-0017

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File No. WM-2018-0018

**ORDER GRANTING CERTIFICATES OF
CONVENIENCE AND NECESSITY AND GRANTING WAIVER**

Issue Date: September 19, 2017

Effective Date: September 29, 2017

On July 18, 2017, 188 North Summit, LLC ("188NS") and Seges Partners Mobile Home Park, LLC ("Seges") (collectively, "Applicants") filed a joint application¹ with the Missouri Public Service Commission ("Commission") seeking authority for 188NS to purchase substantially all of the water and sewer assets of Seges. Applicants also request certificates of convenience and necessity ("CCN") for 188NS and waivers from certain Commission administrative rules.

¹ The application was filed pursuant to Sections 393.170 and 393.190, RSMo 2016, and Commission Rules 4 CSR 240-3.305, 4 CSR 240-3.310, 4 CSR 240-3.600, 4 CSR 240-3.605, and 4 CSR 240-4.020(2)(B).

The requested CCNs would allow 188NS to provide water and sewer service to a mobile home park with approximately 55 customers that 188NS recently purchased from Seges. With approval of the proposed transfer of assets, 188NS proposes to adopt Seges' existing water and sewer tariffs, including the current rates for water and sewer service.

The Commission issued notice and set a deadline for intervention requests, but no persons requested to intervene in this proceeding. On August 25, 2017, the Commission's Staff filed its Recommendation and Memorandum to approve the transfer of assets and the granting of the CCNs, subject to certain conditions. Staff advises the Commission to issue an order to:

1. Approve the transfer of assets from Seges to 188NS, as requested;
2. Require Seges or 188NS to notify the Commission of closing on the assets within five (5) days after such closing;
3. Issue 188NS a CCN to provide water and sewer service in Seges existing service area, to become effective upon closing of the assets;
4. Authorize 188NS to provide service under the water and sewer tariffs presently in effect and on file for Seges, on an interim basis, until Adoption Notice tariff sheets become effective;
5. Require 188NS to adopt the Seges tariffs by filing Adoption Notice tariff sheets, one each for the water tariff and the sewer tariff, with 30-day effective dates, within ten (10) days after closing on the assets;
6. Prescribe depreciation accrual rates for water and sewer utility plant for 188NS that are identical to those currently prescribed for Seges;
7. Authorize Seges to cease providing water and sewer service immediately after closing with 188NS on the assets;
8. After receiving notice of closing, cancel the CCN authorizing Seges to provide water and sewer service; and,
9. If Seges and/or 188NS determine that the transfer of the water and sewer assets will not occur, require either or both parties to notify the Commission of such.

10. Require 188NS to ensure compliance to Commission Rule 4 CSR 240-13, its tariffs, its recordkeeping in accordance with the NARUC Uniform System of Accounts, and other pertinent regulations of the Commission and DNR, and keep current with its annual reports and payment of annual assessments;
11. Require 188NS to provide to the CMAU staff within thirty (30) days of its first billing issued to its customers a sample of ten (10) billing statements;
12. Require 188NS to work with Staff on the development and distribution of notice to the customers regarding the transfer of utility assets and the contact information of the new water and sewer utility;
13. Require 188NS to update and distribute to all customers an informational brochure detailing the rights and responsibilities of the utility and its customers, consistent with the requirements of Commission Rule 4 CSR 240-13.

On August 29, 2017, Applicants filed a response stating that they have no objection to the conditions in the Staff Recommendation. No other party has objected to the Staff recommendation within the time set by the Commission. Thus, the Commission will rule upon the unopposed application. No party has requested an evidentiary hearing, and no law requires one.² Therefore, this action is not a contested case,³ and the Commission need not separately state its findings of fact.

The Commission may grant a water and sewer corporation a certificate of convenience and necessity to operate after determining that the construction and operation are either “necessary or convenient for the public service.”⁴ The Commission articulated the specific criteria to be used when evaluating applications for utility CCNs 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

² *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App. 1989).

³ Section 536.010(4), RSMo 2016.

⁴ Section 393.170.3, RSMo 2016.

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.⁵ The Commission finds that 188NS possesses adequate technical, managerial, and financial capacity to operate the water and sewer systems it wishes to purchase from Seges. The Commission concludes that the factors for granting certificates of convenience and necessity to 188NS have been satisfied and that it is in the public interest for 188NS to provide water and sewer service to the customers currently being served by Seges. Consequently, based on the Commission's independent and impartial review of the verified filings, the Commission will authorize the transfer of assets and grant 188NS the certificates of convenience and necessity to provide water and sewer service within the proposed service area, subject to the conditions described above. Upon notification by Applicants of the closing of the purchase transaction, the Commission will cancel the CCNs authorizing Seges to provide water and sewer service. In order to facilitate the timely transfer of assets, the Commission will make this order effective in ten days.

The application also asked the Commission to waive the 60-day notice requirement under 4 CSR 240-4.020(2), if necessary.⁶ Applicants explain that such waiver may not be necessary since matters of this type rarely become contested cases. However, Applicants assert that good cause exists in this case for granting such waiver because due to the nature of this particular transaction it would serve no purpose to wait sixty days before filing

⁵ The factors have also been referred to as the "Tartan Factors" or the "Tartan Energy Criteria." See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994), 1994 WL 762882, *3 (Mo. P.S.C.).

⁶ The 60-day notice requirement referred to in 4 CSR 240-4.020(2) was replaced with a new rule 4 CSR 240-4.017(1) effective on July 30, 2017. However, since the application was filed prior to that effective date the old rule still applies to this matter.

the application. The Commission finds that good cause exists to waive the notice requirement, and a waiver of 4 CSR 240-4.020(2) will be granted.

Applicants also request waiver of four rules relating to filing requirements for water and sewer applicants: 4 CSR 240-3.305(1)(A)(2) and 4 CSR 240-3.600(1)(A)(2) (name and address of ten residents) and 4 CSR 240-3.305(1)(A)(5) and 4 CSR 240-3.600(1)(A)(5) (feasibility study). The Commission finds that good cause exists for waiver of those filing requirements because no new service area is being requested, and 188NS will instead be assuming the duties of providing service in an existing regulated service area. The requested waivers will be granted.

THE COMMISSION ORDERS THAT:

1. Applicants' request for waiver of the notice requirement under Commission Rule 4 CSR 240-4.020(2) is granted.
2. Applicants' request for waiver of Commission rules 4 CSR 240-3.305(1)(A)(2), 4 CSR 240-3.305(1)(A)(5), 4 CSR 240-3.600(1)(A)(2) and 4 CSR 240-3.600(1)(A)(5) is granted.
3. 188 North Summit, LLC is authorized to acquire the assets of Seges Partners Mobile Home Park, LLC identified in the application.
4. 188 North Summit, LLC is granted the certificates of convenience and necessity to provide water and sewer service within the authorized service area as more particularly described in the application, subject to the conditions and requirements contained in Staff's Recommendation, including those conditions described in the body of this order, effective upon the date of closing of the purchase transaction.

5. 188 North Summit, LLC is authorized to adopt the water and sewer tariffs of Seges Partners Mobile Home Park, LLC.

6. Applicants are authorized to take such other actions as may be deemed necessary and appropriate to consummate the transactions proposed in the application.

7. This order shall become effective on September 29, 2017.



BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney,
Rupp, and Coleman, CC., concur.

Bushmann, Senior Regulatory Law Judge