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Exhibit No. 11

Confluence Rivers – Exhibit 11
Freeman Rebuttal
File No. WR-2023-0006

Exhibit No. _____
Issues: Site Inspections
Witness: Jacob Freeman
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Confluence Rivers Utility
Operating Company, Inc
File Nos.: WR-2023-0006 / SR-2023-0007
Date: June 29, 2023

Missouri Public Service Commission

Rebuttal Testimony

of

Jacob Freeman

On Behalf of

Confluence Rivers Utility Operating Company, Inc

June 29, 2023

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**REBUTTAL TESTIMONY OF
JACOB FREEMAN
CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.**

I. WITNESS INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Jacob Freeman. My business address is 1630 Des Peres Road, Suite 140, St. Louis, Missouri, 63131.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am Director of Engineering for CSWR, LLC (“CSWR”), the affiliated company responsible for providing management services and oversight to Confluence Rivers Utility Operating Company, LLC (“Confluence Rivers” or “Company”) and all its affiliated utility operating companies. More specifically, I oversee all engineering, surveying, and facility construction for all newly acquired CSWR-affiliated water and wastewater utilities. I also oversee capital upgrades for those utilities.

Q. ARE YOU THE SAME JACOB FREEMAN WHO PREVIOUSLY SUBMITTED DIRECT TESTIMONY IN THIS PROCEEDING ON BEHALF OF CONFLUENCE RIVERS?

A. Yes.

II. OVERVIEW

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS PROCEEDING?

A. The purpose of my rebuttal testimony is to respond to certain statements in the direct testimony of Staff witness Gateley regarding his concerns that “Confluence currently lacks

1 sufficient personnel to provide necessary access to its utility systems for routine or
2 emergency inspections.”¹

3 **III. SYSTEM INSPECTIONS**

4 **Q. ARE YOU FAMILIAR WITH MR. GATELEY’S DIRECT TESTIMONY?**

5 A. Yes. As mentioned, in his Direct Testimony, Mr. Gateley expresses concerns regarding
6 Confluence Rivers’ ability to accommodate Staff on its various system inspections.
7 Specifically, Mr. Gateley states:

8 Confluence will not allow Staff access to its utilities via a contract operator,
9 and instead requires a Confluence employee familiar with operations to
10 attend. However, Confluence appears to lack full time employees dedicated
11 to Missouri to fulfill this role. When Staff seeks to conduct routine
12 inspections of the facilities owned by Confluence, or verify installation of
13 new plant investments as part of a prudence review, Confluence has
14 constrained these inspections to a time when a specific Confluence
15 employee is in the state. While scheduling for inspections associated with
16 this rate case were eventually accommodated within a few weeks, this is not
17 an appropriate or sustainable situation.²

18
19 Mr. Gateley then opines that “Staff does not have confidence that an urgent inspection can
20 be conducted.”³ Further, he states that “[w]hile Staff has had concerns, the scope of the
21 problem was not fully revealed until Staff was attempting to arrange customary inspections
22 as part of the prudency review and rate case investigation.”⁴

23 **Q. DO YOU AGREE WITH MR. GATELEY’S OPINIONS REGARDING**
24 **CONFLUENCE RIVERS’ ABILITY TO ACCOMMODATE STAFF’S**
25 **INSPECTIONS?**

¹ Gateley Direct, page 6.

² *Id.* at pages 6-7.

³ *Id.* at page 7.

⁴ *Id.* at page 11.

1 A. No.

2 **Q. WHAT IS THE BASIS OF YOUR OPINION?**

3 A. As Staff mentions, to date, inspections have been scheduled based upon the availability of
4 a “Confluence employee familiar with operations to attend.” I am the “Confluence
5 employee” referenced by Mr. Gateley. Specifically, I have been responsible for scheduling
6 Staff’s inspections associated with all acquisition cases as well as those conducted in the
7 course of this rate case. Further, to the extent that another inspection was needed outside
8 of either of these types of dockets, I would also coordinate such an inspection.

9 It has been my experience, based upon my communications with Staff in scheduling
10 such inspections, that scheduling those inspections consistent with both Staff and my
11 schedule has not inconvenienced Staff in the performance of its duties.

12 **Q. PLEASE EXPLAIN THE REASON THAT CONFLUENCE RIVERS “WILL NOT**
13 **ALLOW STAFF ACCESS TO ITS UTILITIES VIA A CONTRACT OPERATOR.”**

14 A. As explained in the direct testimony of Confluence Rivers witness Thomas, the CSWR
15 operating utilities, including Confluence Rivers, rely upon professional, skilled third-party
16 operators. Thus, the day-to-day duties of operating and inspecting the Confluence Rivers’
17 water and wastewater systems lie with these third-party operators. That said, however,
18 Confluence Rivers employees conduct compliance audits, both in person and through
19 electronic means, to ensure a proper level of oversight over the third-party operators.

20 Thus, while a third-party operator has day-to-day familiarity with the operations of
21 a system and may have opinions regarding perceived problems with the processes
22 employed at any particular system, that operator will not have insight into steps that

1 Confluence Rivers is taking, or plans to take, to resolve such problems or the Company's
2 plans to employ more sophisticated process technology. For these reasons, Confluence
3 Rivers has determined that it is more productive and efficient for Staff inspections to be
4 conducted by a Confluence Rivers employee – specifically me, as the Director of
5 Engineering. I will not only have familiarity with the current state of the system in
6 question, but unlike the day-to-day operator, I will also have insight into the improvements
7 that have or will be made. This means for both rate cases and acquisition cases myself, or
8 a member of my staff, is the most appropriate person to fully answer staff questions for any
9 system.

10 **Q. IN HIS DIRECT TESTIMONY MR. GATELEY DISTINGUISHES BETWEEN**
11 **DIFFERENT TYPES OF INSPECTIONS. ARE YOU FAMILIAR WITH THESE**
12 **DISTINCTIONS?**

13 A. Yes. While I am familiar with his direct testimony and the distinctions raised therein, I am
14 not familiar with his different designations for various types of inspections. As an example,
15 Mr. Gateley distinguished between “routine” and “emergency” inspections.⁵ Later, Mr.
16 Gateley refers to “urgent” inspections.⁶ Still again, Mr. Gateley discussed a “customary”
17 inspection.⁷ Recognizing the multitude of inspections that Mr. Gateley references,
18 Confluence Rivers conducted discovery to understand his distinctions. From this discovery
19 Confluence Rivers learned that these distinctions are not terms of art. Instead, they are

⁵ Gateley Direct, page 6. (“Confluence currently lacks sufficient personnel to provide necessary access to its utility systems for routine or emergency inspections.” (emphasis added))

⁶ Gateley Direct, page 7 (“Staff does not have confidence that an urgent inspection can be conducted.” (emphasis added))

⁷ Gateley Direct, page 11 (“Staff was attempting to arrange customary inspections as part of the prudency review and rate case inspection.” (emphasis added))

1 loose designations that Mr. Gateley apparently applies. For instance, in response to DR
2 316, Mr. Gateley indicates that a “routine” and a “customary” inspection are used
3 interchangeably. Similarly, an “urgent” and an “emergency” inspection are also used
4 interchangeably.⁸

5 From Mr. Gateley’s description, therefore, it is my belief that Staff inspections, in
6 the context of either a rate case or an acquisition case, are considered either a “routine” or
7 “customary” inspection. Regardless of the designation, as I have said above, myself, or
8 one of my staff, is best placed to answer Staff questions.

9 **Q. DID STAFF CONDUCT THESE “ROUTINE” INSPECTIONS IN THIS RATE**
10 **CASE?**

11 A. Yes.

12 **Q. DID THE STAFF MEMBERS THAT CONDUCTED THESE “ROUTINE” /**
13 **“CUSTOMARY” INSPECTIONS IN THIS RATE CASE EVER INDICATE A**
14 **CONCERN WITH DELAYS IN SCHEDULING THESE INSPECTIONS?**

15 A. No, contrary to any implications in Mr. Gateley’s direct testimony, the Staff members that
16 conducted the inspections never expressed a concern with delays or a concern that these
17 inspections be conducted in a more expeditious manner. Not until Mr. Gateley filed his
18 direct testimony in this case was I made aware of his concerns.

⁸ Schedule JF-R-1. Interestingly, despite recognizing such distinctions in his Direct Testimony, in response to Data Request 317, Mr. Gateley disavows such characterizations and indicates that he “draws no such artificial distinction.” Schedule JF-R-2.

1 **Q. DOES STAFF CONDUCT INSPECTIONS OUTSIDE OF RATE CASES?**

2 A. Yes. In addition to the inspections that Staff conducted for this rate case, Staff also
3 typically conducts an inspection of any systems that Confluence Rivers seeks to acquire.

4 **Q. DO YOU ARRANGE THESE INSPECTIONS AS WELL?**

5 A. Yes. All inspections, whether done in the context of a rate case or within an acquisition
6 docket, are scheduled by me after coordination with the Staff because, as I mentioned
7 above, I am the best asset to fully answer any questions from the staff about current or
8 future plans.

9 **Q. HAS STAFF BEEN HINDERED IN CONDUCTING INSPECTIONS IN THESE**
10 **ACQUISITION CASES?**

11 A. Again, it is my opinion, from communications with Staff, that it has not been hindered by
12 my coordination of such inspections.

13 **Q. HAS THE FACT THAT YOU WOULD ACCOMPANY STAFF FOR “URGENT”**
14 **OR “EMERGENCY” INSPECTIONS DELAYED STAFF IN COMPLETING ITS**
15 **RESPONSIBILITIES?**

16 A. Not to my knowledge. Based upon discovery responses, it is apparent that “urgent” or
17 “emergency” inspections are rarely, if ever, conducted by Staff. For instance, while labeled
18 as “urgent” or “emergency”, Staff could not identify the last time it attempted to conduct
19 such an inspection of a Confluence River system.⁹ Interestingly, while devoting a great
20 deal of his direct testimony to criticizing Confluence Rivers for its operation of the Fox
21 Run system over an alleged problem identified during Staff’s April 11, 2023, inspection,

⁹ Schedule JF-R-3 (Response to DR 290).

1 Mr. Gateley readily acknowledge that Staff has not “inspected Fox Run since April 11,
2 2023, to determine if the problems at that facility have been remedied.”¹⁰ Instead, Mr.
3 Gateley indicates that, due to “limited resources,” Staff relies on DNR and the
4 documentation produced by DNR to determine if violations have been resolved.¹¹ Given
5 that Staff cannot provide a listing of “urgent” or “emergency” inspections that it has
6 conducted, and recognizing that, at least with regard to Fox Run, Staff relied on DNR to
7 document both the violations and their resolutions, it is apparent that Staff has not been
8 hindered by Confluence Rivers insisting that I conduct site visits for “urgent” or
9 “emergency” inspections.

10 **Q. OTHER THAN STAFF, HAS DNR INDICATED CONCERNS WITH ACCESSING**
11 **CONFLUENCE RIVER SYSTEMS EITHER FOR “ROUTINE” OR “URGENT”**
12 **INSPECTIONS?**

13 A. No. As reflected in Schedule JF-R-5, contrary to Mr. Gateley’s current criticisms, DNR
14 has lauded Confluence River’s effort to bring distressed systems “into compliance by
15 employing qualified operators, effectively administering and managing the systems, and
16 investing in repairs and upgrades.” Noticeably, despite Mr. Gateley’s claim that it relies
17 upon DNR to conduct “urgent” inspections and to document resolution of issues, DNR
18 never raises a concern, within its letter, about access to systems or timeliness in allowing
19 such inspections.

¹⁰ Schedule JF-R-4 (Response to DR 322).

¹¹ *Id.*

1 **Q. WHAT ARE YOUR CONCLUSIONS?**

2 A. First, I appreciate Mr. Gately citing the good job Confluence Rivers has done bringing
3 failed systems back into compliance. I also know that Confluence Rivers is a trusted
4 partner by DNR (as illustrated by the letter that it submitted and the numerous systems
5 DNR has asked Confluence Rivers to contact due to health, safety, and reliability risks
6 those systems posed for Missouri residents). Moreover, I know that Confluence Rivers has
7 been a trusted utility for the Commission Staff over the last 9+ years based on the number
8 of systems Confluence Rivers has taken out or receivership; the number of systems for
9 which it has conducted emergency operations on the path to ownership; and the number of
10 systems it has been willing to contact at the behest of Commission Staff. I know that
11 Confluence Rivers is willing to continue to step into difficult utility situations for DNR,
12 Commission Staff, and residents of the state of Missouri because that is consistent with
13 CSWR's mission statement.

14 That said, it is apparent that there may have been miscommunications with Staff
15 regarding its expectations. Specifically, in regard to "routine" / "customary" inspections,
16 either Staff has not expressed any urgency in such inspections or it is my understanding
17 that any delays Staff has had in completing its duties have been a result of delays in
18 receiving information from DNR or others. Additionally, given that Staff either does not
19 conduct "urgent" or "emergency" inspections, or instead relies upon DNR to conduct such

1 inspections, it does not appear that Staff is affected by me accompanying Staff on such
2 inspections.¹²

3 Bottom line, I believe Mr. Gateley’s criticism that “Confluence currently lacks
4 sufficient personnel to provide necessary access to its utility systems for routine or
5 emergency inspections” is misplaced. Confluence Rivers has proven repeatedly, as
6 witnessed by Mr. Gateley, Mr. Roos, and DNR, that it is a trusted partner for ongoing
7 operations and investment. At this point, Confluence River has dedicated sufficient
8 personnel to allowing Staff to complete its necessary inspections.

9 **Q. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?**

10 A. Yes, it does.

¹² In an emergency situation Confluence Rivers is willing to provide access to any necessary party - something CSWR has repeatedly proven in numerous emergency situations. For instance, CSWR systems have been affected by numerous recent weather events such as Hurricane Laura in Louisiana; Hurricane Ida in Louisiana; Hurricanes Ian and Nicole in Florida; ice storm Uri in Texas and Arkansas; the Mayfield Kentucky tornado; and the Rolling Oaks tornado in Mississippi. In each instance, CSWR was well staffed to restore services as well as to provide access to necessary stakeholders.

Missouri Public Service Commission

Respond Data Request

Data Request No.	0316
Company Name	MO PSC Staff-(All)
Case/Tracking No.	WR-2023-0006
Date Requested	5/30/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Travis Pringle
Requested By	Reece Gilmore
Brief Description	Quality of Service
Description	Please distinguish an "urgent" inspection as used at page 6, line 9 from an "emergency" inspection as used at page 6, line 4. Please provide all considerations that would distinguish a "routine inspection" from an "emergency inspection" from an "urgent inspection" from a "customary inspection."
Response	A routine or customary inspection is generally driven by the amount of time since the last inspection, or communications with a company or its customers that an inspection is necessary. An urgent inspection or one in response to an emergency is generally driven by Staff having reason to believe that safe and adequate service is not being provided, or such an event is imminent.
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WR-2023-0006** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **MO PSC Staff-(All)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **MO PSC Staff-(All)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA

Missouri Public Service Commission

Respond Data Request

Data Request No.	0317
Company Name	MO PSC Staff-(All)
Case/Tracking No.	WR-2023-0006
Date Requested	5/30/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Travis Pringle
Requested By	Reece Gilmore
Brief Description	Quality of Service
Description	(a) Has Staff conducted an inspection of the Auburn Lakes system based upon the customer complaints and emails referenced in Mr. Gateley's system? (b) If the answer to (a) is yes, please provide the date(s) on which Staff conducted its inspection of the Auburn Lakes system. (c) For each Auburn Lakes inspection referenced in (b), please identify whether this inspection was an "urgent inspection" as defined by Mr. Gateley at page 6, line 9. (d) For each Auburn Lakes inspection referenced in (b), please identify whether this inspection was an "emergency inspection" as defined by Mr. Gateley at page 6, line 4. (e) If the Auburn Lakes inspection(s) were not considered "urgent inspections", please state the reasons that Mr. Gateley did not consider these inspections to be "urgent inspections." (f) If the Auburn Lakes inspections were not considered to be "emergency inspections", please state the reasons that Mr. Gateley did not consider these inspections to be an "emergency inspection."
Response	a. Yes. b. December 20, 2022 c. Mr. Gateley would consider this an urgent inspection. d. Mr. Gateley draws no such artificial distinction. e. NA f. Mr. Gateley draws no such artificial distinction.
Objections	NA

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Security :	Public
Rationale :	NA

Missouri Public Service Commission

Respond Data Request

Data Request No.	0290
Company Name	MO PSC Staff-(All)
Case/Tracking No.	WR-2023-0006
Date Requested	5/30/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Travis Pringle
Requested By	Reece Gilmore
Brief Description	Quality of Service
Description	(a) For each Confluence system, please identify every time in the last 3 years in which an employee in Mr. Gateley's department has requested "access" to that system for an "emergency" inspection. (b) Please identify the employees in Mr. Gateley's department that attended such "emergency" inspections.
Response	a. Mr. Gateley's department does not keep a log of each telephone, in person, or email conversation Staff has with utilities while attempting to schedule inspections. b. Employees of Mr. Gateley who could attend an inspection include Mr. Gateley, Jarrod Robertson, Keriann Roth, Adam Stamp, Andrew Harris, David Roos, Daronn Williams, and David Spratt. Mr. Gateley is not aware of a log of such attendance.
Objections	NA

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Security :	Public
Rationale :	NA

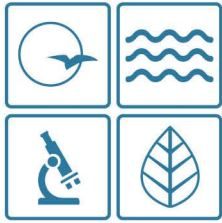
Missouri Public Service Commission

Respond Data Request

Data Request No.	0322
Company Name	MO PSC Staff-(All)
Case/Tracking No.	WR-2023-0006
Date Requested	5/30/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Travis Pringle
Requested By	Reece Gilmore
Brief Description	Quality of Service
Description	(a) Has Staff inspected Fox Run since April 11, 2023 to determine if the problems at that facility have been remedied? (b) If the answer to (a) is yes, please provide the date of the follow-up inspection. (c) if the answer to (a) is yes, please identify whether this was "routine", "emergency" or "urgent inspection." (d) If the answer to (a) is no, please indicate why Staff has not conducted such a follow-up inspection. (e) if the answer to (a) is no, please indicated whether Staff has requested a follow-up inspection from Confluence.
Response	a. No. b. NA c. NA d. Staff has limited resources, and generally relies on DNR documentation of the resolution of violations of this nature. In addition, Staff is aware of some corrective actions taken by Confluence during the month of April. e. Staff has not attempted to schedule a follow up inspection.
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WR-2023-0006** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **MO PSC Staff-(All)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **MO PSC Staff-(All)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Michael L. Parson
Governor

Dru Buntin
Director

June 22, 2023

OFFICIAL COPY VIA EMAIL

Josiah Cox
Confluence Rivers Utility Operating Company, Inc.
1650 Des Peres Road, Suite 303
Des Peres, MO 63131

RE: Confluence Rivers Utility Operating Company

Dear Josiah Cox:

The Missouri Department of Natural Resources regulates approximately 5,000 domestic wastewater treatment systems and approximately 2,700 public water systems in the State that are subject to the Missouri Clean Water Law and the Missouri Safe Drinking Water Law, respectively. The Department's primary goal as the regulatory authority in administering these state laws is to ensure environmental protection and human health and safety against pollution and health risks that may be caused by failing or improperly operating wastewater treatment systems and public water systems. The Department promotes compliance through compliance assistance, education, and, when necessary, enforcement actions. When systems end up in enforcement, it is often a result of limited resources and available solutions, which can sometimes draw cases out over a period of years.

When systems are unable to resolve their technical, managerial, or financial problems, one reliable solution is selling the system to a higher-performing utility operating company. In Missouri, Confluence Rivers Utility Operating Company, Inc. (CRUOC) is one of the few utility operating companies who is willing to acquire some of the most difficult failing systems. CRUOC has consistently taken swift actions after taking control of these systems to bring them into compliance by employing qualified operators, effectively administering and managing the systems, and investing in repairs and upgrades.

CRUOC's willingness to acquire systems with long-standing compliance issues has proven to be beneficial to human health and the environment by bringing many of these systems into compliance with environmental laws. The Department looks forward to continuing to work with CRUOC as it continues to acquire wastewater and public water systems in Missouri, in furtherance of the Department's initiative to encourage regionalization and consolidation of the many private systems in Missouri that are struggling to achieve compliance with laws for the protection of public health and the environment.



Confluence Rivers Utility Operating Company
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If you have any questions regarding this correspondence, you may contact Joe Clayton at Department of Natural Resources, Water Protection Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, MO 65102-0176; by phone at 573-522-1120; or by email at cwenf@dnr.mo.gov. Thank you for your cooperation in this matter.

Sincerely,

WATER PROTECTION PROGRAM



Joe Clayton
Compliance and Enforcement Section Chief

JC/ehh

c: Lance Dorsey, Chief, PDWB, Compliance and Enforcement