

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Confluence Rivers Utility Operating)
Company, Inc., to Acquire Certain Water) File No. _____
and Sewer Assets.)

APPLICATION AND MOTION FOR WAIVER

COMES NOW Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Applicant”) and, pursuant to Sections 386.040, 386.250, 393.140, and 393.190, RSMo, and Commission rules 20 CSR 4240-2.060, 10.085, 10.105, and 4.017(1)(D), states the following to the Missouri Public Service Commission (“Commission”) for its *Application and Motion for Waiver*:

I. Background Information

1. Confluence Rivers is a Missouri corporation with its principal office and place of business at 1650 Des Peres Rd., Ste 303, St. Louis, MO 63131. Confluence Rivers is a Missouri corporation, active and in good standing with the Missouri Secretary of State. Pursuant to Commission regulation 20 CSR 4240-2.060(1)(G), Confluence Rivers incorporates by reference the certified copies of its articles of incorporation and its certificate of good standing previously filed in File No. WM-2018-0116.

2. Communications regarding this Application should be addressed to the undersigned counsel and to:

Josiah Cox, President

Confluence Rivers Utility Operating Company, Inc.
1650 Des Peres Rd., Ste 303
St. Louis, MO 63131
Phone: (314) 736-4743
E-mail: jcox@cswrgroup.com

3. Confluence Rivers provides water service to approximately 547 customers and sewer service to approximately 636 customers and is a “water corporation,” a “sewer corporation,” and a “public utility” as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction and supervision of the Commission as provided by law. Confluence Rivers has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against Confluence Rivers from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three years of the date of this Application.

II. The Transaction

4. Section 393.190.1, RSMo, states, in pertinent part, that

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 performance of its duties to the public . . . without having first secured from the Commission an order authorizing it so to do.

5. Confluence Rivers proposes to purchase substantially all of the water and/or sewer assets of Terre Du Lac Utilities Corporation (“Terre Du Lac”).

6. Terre Du Lac is a for profit corporation formed in 1967 and is in good standing with the Missouri Secretary of State. Its mailing address is 1628 S. St. Francois Rd., Bonne Terre, Missouri 63628.

7. Terre Du Lac is a “water corporation,” “sewer corporation,” and a “public utility” as defined by Section 386.020, RSMo., and is subject to the jurisdiction and supervision of the Commission as provided by law. On December 3, 1973, the Commission granted Terre Du Lac a CCN to provide water and sewer services in Commission Case No. 17887. Pursuant to that CCN, Terre Du Lac provides water and sewer services to approximately 1,302 customers in Saint Francois and Washington Counties, Missouri.

8. On November 27, 2019, Central States Water Resources, Inc. (“Central States”), which is under common ownership with Confluence Rivers, entered into a Purchase and Sale Agreement (“Terre Du Lac Agreement”) with Terre Du Lac. On March 17, 2020, Central States entered into a First Amendment to Purchase and Sale Agreement (“First Amendment to Agreement”) with Terre Du Lac. Copies of the Terre Du Lac Agreement and First Amendment to Agreement are attached as **Appendix A-C** and marked “Confidential” in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(3) and (6), as they contain market-specific information and information representing strategies employed in contract negotiations. Central States proposes to purchase substantially all the water and sewer utility assets of Terre Du Lac, as specifically described in, and under the terms and provisions of, the Terre Du Lac Agreement, as modified by the First Amendment to Agreement.

9. Pursuant to Section 7.04 of the Terre Du Lac Agreement, Central States plans to assign its rights to Confluence Rivers at closing. **Appendix B** verifies the authority of Josiah Cox, the President of Confluence Rivers, to enter into the Terre Du Lac Agreement and First Amendment to Agreement and seek

Commission approval of the transaction.

10. Terre Du Lac's CCN is among the assets that Confluence Rivers would acquire under the Terre Du Lac Agreement. Confluence Rivers therefore requests the Commission approve the transfer of that CCN as part of that transaction. Alternatively, should the Commission choose not to approve such a CCN transfer, Confluence Rivers requests a new water and sewer CCN be issued authorizing it to own, install, construct, operate, control, manage and maintain the systems it proposes to acquire from Terre Du Lac.

11. Terre Du Lac is currently subject to an enforcement action filed by the Missouri Attorney General's Office (AGO) on behalf of the Missouri Department of Natural Resources (MDNR) for violations of the Missouri Safe Drinking Water regulations and the Missouri Clean Water Law.

12. On May 19, 2015, the Circuit Court of St. Francois County entered an *Agreed Partial Order of Preliminary Injunction*, whereby Terre Du Lac was ordered to undertake certain corrective actions, including actions to reduce the presence of radionuclides in the drinking water system to levels below the maximum contaminant level, and operation and maintenance repairs to the sewer systems to eliminate unauthorized bypasses and discharges of contaminated sludge from the facility.¹

13. To date, Terre Du Lac has failed to take all the corrective operations and maintenance actions as ordered by the Court. A hearing on the AGO's *Motion*

¹ See *State of Missouri ex. rel. Attorney General Chris Koster, et. al., v. Terre Du Lac Utilities Corp.*, 10SF-CC00186.

to Enforce Agreed Partial Order of Preliminary Injunction was scheduled for October 15, 2019. However, the AGO and Terre Du Lac requested a continuance to allow Terre Du Lac and Central States time to enter into a sale agreement for the sale of the water and sewer systems to Central States.

14. A balance sheet and income statement with adjustments showing the results of the acquisition of the property for Confluence Rivers is attached as **Appendix C-C**. **Appendix C-C** has been identified as “Confidential” in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(3) and (6), as it contains market-specific information and information representing strategies employed in contract negotiations.

15. No external debt financing is anticipated. To provide service to the proposed area, Confluence Rivers will use equity to purchase Terre Du Lac’s assets and will not construct systems as contemplated under 20 CSR 4240-3.600. As stated in paragraph 10 above, Terre Du Lac’s CCN is among the assets that Confluence Rivers would acquire under the Terre Du Lac Agreement. Thus, to the extent the Commission determines the issuance of a new CCN is required, Confluence Rivers asks for a waiver of any requirement to provide plans and specifications related to the construction of the distribution and collection systems and plans for financing of such.

16. Confluence Rivers will not require any franchises or permits from municipalities, counties, or other authorities in connection with the proposed systems.

17. The sale and purchase of the referenced assets should have no impact

on the tax revenues of relevant political subdivisions, as Confluence Rivers and Terre Du Lac are private entities and their status as taxpaying entities will not change as a result of these transactions.

III. Tariffs/Rates

18. Confluence Rivers proposes to adopt the existing tariffs and rates of Terre Du Lac.

The current water rates for Terre Du Lac are as follows:

5/8" & 3/4" Meters	\$14.85 per month
1" Meter	\$37.14 per month
2" Meter	\$118.85 per month
Usage Charge	\$1.80 per 1,000 gallons of water used per month

The current sewer rates for Terre Du Lac are as follows:

Residential and Commercial	
(5/8" & 3/4" meters)	\$19.72 per month
Commercial, Multi-Family & Residential	
(1" meter)	\$49.29 per month
(2" meter)	\$157.74 per month

19. The current rates for Terre Du Lac do not reflect the current cost of providing service. The Terre Du Lac systems will require investment after the purchase by Confluence Rivers that will necessarily result in a request for a rate increase of some amount after those additions have been completed.

IV. Application for Acquisition Incentive

20. Pursuant to Sections 386.040, 386.250 and 393.140, RSMo. and Commission Rule 20 CSR 4240-10.085, Confluence Rivers requests a rate of return premium and a debt acquisition adjustment in conjunction with its acquisition of the Terre Du Lac water and sewer systems.

21. Per Commission Rule 20 CSR 4240-10.085, an Acquisition Incentive is designed to incentivize the acquisition of a nonviable utility.

22. Commission Rule 20 CSR 4240-10.085(1)(C) defines a “nonviable utility” as:

...A small water or sewer utility, serving eight thousand (8,000) or fewer customers that :

1. Is in violation of statutory or regulatory standards that affect the safety and adequacy of the service provided, including, but not limited to, the Public Service Commission law, the federal clean water law, the federal Safe Drinking Water Act, as amended, and the regulations adopted under these laws;
2. Has failed to comply with any order of a federal agency, the Department of Natural Resources, or the commission concerning the safety and adequacy of service;
3. Is not reasonably expected to furnish and maintain safe and adequate service and facilities in the future; or
4. Is insolvent[.]

23. The Terre Du Lac systems are nonviable utilities within the meaning of 20 CSR 4240-10.085(1)(C). As mentioned previously, Terre Du Lac is currently subject to an enforcement action filed by the AGO on behalf of the MDNR for violations of the Missouri Safe Drinking Water Law and the Missouri Clean Water

Law. The Amended Petition filed by the AGO is attached hereto and labeled as **Appendix D.**

24. Regarding the drinking water system, the Amended Petition alleges that:

- From 2006 through at least 2012, the Terre Du Lac drinking water system failed to meet the Running Annual Average (“RAA”) Maximum Contaminant Level (“MCL”) for Radium 226 and 228 in violation of the Missouri Safe Drinking Water Act Sections 640.100-640.140, RSMo. and MDNR implementing regulations 10 CSR 60-4.060(1)(A);
- From 2006 through at least 2012, the Terre Du Lac drinking water system failed to meet the RAA MCL for Gross Alpha particles in violation of the Missouri Safe Drinking Water Act Sections 640.100-640.140, RSMo. and MDNR implementing regulations 10 CSR 60-4.060(1)(B); and
- Between July 2010 to June 2011, Terre Du Lac failed to certify to MDNR that it had provided public notice to customers when the system failed to perform required water quality monitoring in violation of 10 CSR 60-8.010(1) and 10 CSR 60-7.010.

25. Regarding the wastewater treatment facilities, the Amended Petition alleges that:

- In July 2009 and other dates yet unknown, the wastewater treatment facilities discharged contaminated sludge causing pollution to waters of the state in violation of Section 644.051.1(1), RSMo. of the Missouri Clean Water Law;

- In July 2009 and other dates yet unknown, Terre Du Lac failed to report the bypassing of sewage to MDNR within 24 hours pursuant to 10 CSR 20-6.010;

- From 2009 to at least 2012, Terre Du Lac failed to place the wastewater treatment facilities under the direct supervision of a certified operator in violation of 10 CSR 20-9.020(2);

- From 2009 and other dates yet unknown, the Oxidation Ditch treatment facility exceeded the effluent limitations in its M.S.O.P. in violation of 10 CSR 20-6.010(8)(A)4;

- From 2008 to at least 2012, Terre Du Lac failed to submit all quarterly Discharge Monitoring Reports in violation of 10 CSR 20-7.015(9)(A)(1);

and

- From January 2007 to at least 2012, Terre Du Lac failed to complete minimum laboratory testing to ensure adequate wastewater systems in-plant operational control in violation of 10 CSR 20-6.010(8)(A)4 and 10 CSR 20-9.010(5).

For its violations, Terre Du Lac faces substantial penalties of up to \$10,000 per day per violation.

26. Also mentioned previously, the Circuit Court of St. Francois County entered an *Agreed Partial Order of Preliminary Injunction* on May 19, 2015, ordering Terre Du Lac to undertake certain corrective actions. Attached hereto as **Appendix E** is the *Agreed Partial Order of Preliminary Injunction*. To date, Terre Du Lac has failed to take all the corrective operations and maintenance actions as ordered by the Court.

27. Further, Terre Du Lac has failed to provide safe and adequate service since the Court entered the 2015 *Agreed Partial Order of Preliminary Injunction*. More recently, on March 21, 2016, MDNR issued a Notice of Violation (“NOV”) to Terre Du Lac for findings of non-compliance based upon observations made during inspections of the facilities on January 26, 2016, as well as MDNR’s review of Discharge Monitoring Reports and other files.

28. The NOV for the North Lagoon stated that Terre Du Lac had failed to submit progress reports on achieving compliance with the permitted limit for ammonia as required by its M.S.O.P., and 10 CSR 20-6.010(7)(A). At the time of the NOV, a compliance report due September 1, 2015, and February 1, 2016 remained outstanding. Additionally, Terre Du Lac had failed to submit 4th quarter 2015 test results for dissolved oxygen, total Nitrogen as N, and total Phosphorus as P, in violation of its M.S.O.P and 10 CSR 20-7.015(9)(A)l. The 2016 NOV for the North Lagoon is attached hereto as **Appendix F**.

29. The 2016 NOV for the South Lagoon stated that Terre Du Lac also failed to submit progress reports on achieving compliance with the permitted

limit for ammonia as required by the facility's M.S.O.P. and 10 CSR 20-6.010(7)(A). The 2016 NOV for the South Lagoon is attached hereto as **Appendix G**.

30. The 2016 NOV for the Oxidation Ditch stated that Terre Du Lac also failed to submit discharge monitoring reports as required by the facility's M.S.O.P and 10 CSR 20-7.015(9)(A)l. Testing results for E.coli were not submitted for July 31, 2015. Testing results for total nitrogen and total ammonia as N were not submitted for November 30, 2015. And testing for dissolved oxygen, total nitrogen as N, and total phosphorus as P were not submitted for December 31, 2015. The 2016 NOV for the Oxidation Ditch is attached hereto as **Appendix H**. MDNR also sent letters in 2016 for exceedances of effluent limitations set in the M.S.O.P. for the Oxidation Ditch. These letters indicated exceedances of Ammonia and E. Coli in the effluent discharged from the facility. The 2016 Exceedance letters for the Oxidation Ditch are attached hereto as **Appendix I**.

31. In 2017, MDNR sent Terre Du Lac several letters outlining unsatisfactory findings from inspections as well as NOVs for the significant violations of effluent limitations as well as Sanitary Sewer Overflows ("SSO"). On January 10, 2017, MDNR issued a NOV for violations of effluent limitations for ammonia set forth in the M.S.O.P. for the Oxidation Ditch. The 2017 NOV for effluent limitations is attached hereto as **Appendix J**. Then on January 13, 2017,

MDNR issued Terre Du Lac a NOV for a SSO that allowed wastewater to discharge from a manhole and run into a nearby stream. The NOV states that MDNR was advised by the neighboring homeowner that Terre du Lac had been informed of the SSO prior to MDNR's investigation on January 4, 2017, and that no cleanup activities had occurred since Terre du Lac had been notified of the SSO on December 29, 2016. The SSO is a violation of Sections 644.051.1 (2) and 644.076.1, RSMo. and 10 CSR 20-7.031. Additionally, Terre Du Lac failed to notify MDNR of the SSO within 24 hours in violation of the M.S.O.P. and Section 644.076.1, RSMo. The NOV for the SSO is attached hereto as **Appendix K**. Both the North and South lagoons also experienced issues in 2017. On December 18, 2017, MDNR sent reports listing the Unsatisfactory Findings identified at the North and South Lagoons during an inspection conducted on December 13, 2017. The reports listed identical unsatisfactory findings for both lagoons, in violation of the respective M.S.O.P. The unsatisfactory findings included:

- The facility failed to clearly and sufficiently restrict entry by children, livestock, or unauthorized persons and to protect the facility from vandalism as required in the M.S.O.P. under Special Conditions item 12;
- The facility failed to clearly mark Outfall 001 in the field as required in the M.S.O.P. under Special Conditions item 3;

- The facility failed to place warning signs on each side of the facility enclosure in such position as to be clearly visible from all direction of approach as required in the M.S.O.P under Special Conditions item 14;

- The facility failed to keep the berms of the lagoon mowed and kept free of any deep-rooted vegetation, animal dens, or other potential sources of damage to the berms as required in the M.S.O.P. under Special Conditions item 19; and

- The facility failed to submit progress reports, which were due on August 1, 2015 and February 1, 2017, as required by the special conditions of the respective M.S.O.P.

32. For the North Lagoon, the required progress report was to address the facility's progress towards meeting the effluent limits set by the M.S.O.P for ammonia and E. Coli. For the South Lagoon, the required progress report was to address the facility's progress towards meeting the effluent limits set by the M.S.O.P. for ammonia. The 2017 Reports of Unsatisfactory Findings are attached hereto as **Appendix L**.

33. Most recently, MDNR sent Terre Du Lac Letters of Warnings for all three wastewater treatment facilities based on observations made during a July 10-11, 2019 inspection. For the Oxidation Ditch, the violations included:

- During the inspection, the Terre Du Lac Oxidation Ditch failed to comply with the [total residual chlorine] effluent limits required by the M.S.O.P. and Sections 644.051.1 (3) and 644.076.1, RSMo;
- Terre Du Lac failed to submit annual Form S sludge reporting as required by the standard conditions of its M.S.O.P. and Section 644.076.1, RSMo;
- Terre Du Lac has not conducted and recorded operational monitoring at the correct frequency for the Oxidation Ditch WWTP;
- Terre Du Lac failed to clearly mark outfalls as required by the special conditions of the M.S.O.P. and Section 644.076.1, RSMo. Condition #3 of the M.S.O.P. states that all outfalls must be clearly marked in the field; and
- Terre Du Lac failed to maintain an Operation and Maintenance manual as required by the special conditions of its M.S.O.P. and Section 644.076.1, RSMo.

The 2019 Letter of Warning and Report of Inspection for the Oxidation Ditch is attached hereto as **Appendix M**.

34. For the North Lagoon the violations included:

- During the inspection, the Terre Du Lac South One-Cell Lagoon failed to comply with the [ammonia and E. Coli] effluent limits contained in the M.S.O.P. and Sections 644.051.1(3) and 644.076.1, RSMo;
- Terre Du Lac failed to meet the Schedule of Compliance as outlined in the M.S.O.P. for meeting ammonia and E. Coli effluent limits;

- Terre Du Lac has not recorded any operational monitoring for the North Three-Cell Lagoon;

- Terre Du La failed to maintain an Operation and Maintenance manual [containing key operating procedures and a brief summary of the operation of the facility] as required by the special conditions of the M.S.O.P. and Section 644.076.1, RSMo; and

- Terre Du Lac caused or permitted construction, installation or modification of any sewer system or of any water contaminant source, point source or wastewater treatment facility without first receiving a construction permit in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A).

The 2019 Letter of Warning and Report of Inspection for the North Lagoon is attached hereto as **Appendix N**.

35. For the South Lagoon, the violations included:

- During the inspection, the Terre Du Lac South One-Cell Lagoon failed to comply with the [ammonia] effluent limits contained in the M.S.O.P. and Sections 644.051.1(3) and 644.076.1, RSMo;

- Terre Du Lac failed to meet the Schedule of Compliance as outlined in the M.S.O.P. for meeting E.coli effluent limits;

- Terre Du Lac has not recorded any operational monitoring for the South One-Cell Lagoon;

- Terre Du Lac failed to maintain an Operation and Maintenance manual [containing key operating procedures and a brief summary of the operation of the facility] as required by the special conditions of its M.S.O.P. and Section 644.076.1, RSMo; and
- Terre Du Lac failed to maintain lagoon cells and berms as required by the special conditions in its M.S.O.P. and Section 644.076.1, RSMo.

The 2019 Letter of Warning and Report of Inspection for the South Lagoon is attached hereto as **Appendix O**.

36. A hearing on the AGO's Motion to Enforce Agreed Partial Order of Preliminary Injunction ("Motion to Enforce") was scheduled for October 15, 2019. The Motion to Enforce stated that Terre Du Lac has failed to comply with the terms of the Agreed Partial Order of Preliminary Injunction and requested the Court enter an order for the stipulated penalties in the amount of \$117,000, and a stipulated penalty of \$500 per day for each day after April 19, 2016, that Terre Du Lac has remained out of compliance with the Agreed Partial Order of Preliminary Injunction. However, the AGO and Terre Du Lac requested a continuance to allow Terre Du Lac and Central States time to enter into a sale agreement for the sale of the water and sewer systems to Central States. The AGO's Motion to Enforce, as well as the Parties' Motion To Continue For Settlement are attached hereto as **Appendix P**.

37. The State of Missouri is supportive of Central States acquiring the Terre Du Lac systems and running those systems in a manner that complies with applicable law and provides safe and reliable service. Terre Du Lac is not reasonably expected to furnish and maintain safe and adequate service and facilities in the future.

38. Confluence Rivers is a viable utility and will not be materially impaired by the acquisition of these systems. Confluence Rivers and Central States have the resources to rehabilitate the Terre Du Lac systems, and the managerial, technical, and financial capabilities to safely and adequately operate the systems going forward.

39. The Terre Du Lac Agreement is the result of arm's-length negotiations between the parties and the terms are fair and reasonable given the systems' current procedural status and operating conditions.

40. A preliminary engineering review of the Terre Du Lac water system has been completed. The preliminary findings are attached as **Appendix Q-C**. Confluence Rivers anticipates the following water system improvements are necessary to make the utility viable:

- Locate all hydrants and valves in the distribution system, prepare a valve exercise plan and ensure proper routine flushing of the distribution system.
- Abandon and seal Well No. 1 in accordance with MDNR regulations. Well 1 has been disconnected from the system, most likely due to the historically high levels of radionuclides.

- Repaint the inside and outside of the water storage tanks, as well as other repairs. The tanks were constructed in the 1980s.
- Update or Replace the outdated chlorination systems, install new pumps and chlorine analyzer.
- Repair wellhouses, replace corroded electrical components and ensure all electrical components are installed correctly to avoid electrical hazards.
- Installation of a Mission Remote Monitoring system equipped with a pressure transducer and magnetic flow meter to allow remote monitoring.

Confluence Rivers will file applications with MDNR for any necessary construction permits. The improvements will be completed within reasonable periods of time, working with MDNR through the permitting process to establish timelines for necessary actions. **Appendix Q-C** is marked Confidential pursuant to Commission rule 20 CSR 4240-2.135(2)(A)3. and 6., as it contains marketing analysis or other market-specific information relating to services offered in competition with others, and strategies employed in contract negotiations, respectively

41. A preliminary engineering review of the Terre Du Lac wastewater system has been completed. The preliminary findings are attached at **Appendix R-C**. Confluence Rivers anticipates the following wastewater system improvements are necessary to make the utility viable:

Oxidation Ditch

- Replace mechanical rotor; install sludge holding tank, install mission remote monitoring system and flow meter; and repair fencing. After a period of operation and evaluations of facilities regarding capacity and permit limits, a

second phase of improvements may be necessary to bring the facilities into full permit compliance.

Three Cell Lagoon

- Install a Moving Bed Biological Reactor; install an effluent filter or clarifier along with a disinfection process; install a mission remote monitoring system and flow meter; repair fencing around lagoons and repair berms to remove deep rooted vegetation and animal burrows; install an electrical service extension to lagoon aerators; repair/replace lagoon aerators; install an all-weather access road to the treatment facility; evaluate effluent box and repair as needed.

Single Cell Lagoon

- Install an electrical service extension; install an all-weather access road to the treatment facility; install a new lift station and force main to pump to the larger lagoon or oxidation ditch to eliminate discharge of effluent from the single-cell lagoon; and install a mission remote monitoring system.

Collection Systems

- Perform smoke testing and video inspection of collection system; install flow monitoring to evaluate inflow and infiltration into the collection system.

Like with the water system, Confluence Rivers will file applications with MDNR for any necessary construction permits related to the wastewater system improvements. The improvements will be completed within reasonable periods of time, working with MDNR through the permitting process to establish timelines for necessary actions. **Appendix R-C** is marked Confidential pursuant to Commission rule 20 CSR 4240-2.135(2)(A)3. and 6., as it contains marketing analysis or other market-specific information relating to services offered in competition with others, and strategies employed in contract negotiations, respectively.

42. Due to the state of general disrepair over the span of decades, substantial repairs are necessary to rehabilitate the Terre Du Lac systems. Due to

the condition of the systems and the anticipated cost of repairs, the acquisition would be unlikely to occur without the probability of Confluence Rivers obtaining an acquisition incentive for the Terre Du Lac systems.

43. Any system deficiencies that can be corrected without capital improvements will be completed as timely as possible after closing, but no later than six months from the closing.

44. The proposed acquisition incentive for the acquisition of Terre Du Lac is in the public interest. The Terre Du Lac water and sewer systems have struggled for the last 20 years to comply with the Missouri Safe Drinking Water Law and MDNR implementing regulations, as well as the Missouri Clean Water Law and MDNR implementing regulations. As stated above, Confluence Rivers and Central States have the resources to rehabilitate the Terre Du Lac systems, and the managerial, technical, and financial capabilities to safely and adequately operate the systems going forward to the benefit of the Terre Du Lac customers and the state of Missouri.

45. Confluence Rivers has exercised due diligence and made reasonable attempts to obtain from Terre Du Lac the documents related to the original cost of the nonviable utility. Confluence Rivers has requested from Terre Du Lac the records relating to the original cost of the nonviable utility assets being acquired and records relating to contributions in aid of construction amounts, including the types of records set forth in Commission Rule 20 CSR 4240-10.085(3)(A)2.A. through H.

46. Information related to the original cost of the Terre Du Lac assets and estimates used by Confluence Rivers, where despite Confluence Rivers' due diligence and reasonable attempts to obtain documents from Terre Du Lac certain documents were not available from Terre Du Lac, is attached as **Appendix S-C**. **Appendix S-C** is marked Confidential pursuant to Commission Rule 20 CSR 4240-2.135(2)(A)3. and 6., as it contains marketing analysis or other market-specific information relating to services offered in competition with others, and strategies employed in contract negotiations, respectively.

47. Pursuant to Commission Rule 20 CSR 4240-10.085(6), Confluence Rivers intends to file a plant-in-service study to support the amount of its requested acquisition adjustment addition to its rate base in its next general rate proceeding.

48. The Terre Du Lac systems are not currently related to the operation of any other water or sewer systems providing service to the same or similar service area. (20 CSR 4240-10.85(3)(A)1)).

49. To apply the acquisition incentive only to the Terre Du Lac systems, Confluence Rivers proposes the use of a surcharge on Terre Du Lac customers' bills. The surcharge would be computed separately for water and wastewater and consist of the amount of revenue requirement driven by the rate of return premium, debt acquisition adjustment, or both.

V. Overall Public Interest

50. For all the reasons discussed herein, the proposed acquisition of Terre Du Lac by Confluence Rivers is not detrimental to the public interest of the State of

Missouri. Confluence Rivers is fully and uniquely qualified, in all respects, to own and operate the systems currently being operated by Terre Du Lac and to otherwise provide safe and reliable service.

VI . Motion for Waiver

51. Commission Rule 20 CSR 4240-4.017(1) provides that “(a)ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.” A notice was not filed 60 days prior to the filing of this Application. As such, to the extent required, Confluence Rivers seeks a waiver of the 60-day notice requirement.

52. Commission Rule 20 CSR 4240-4.017(1)(D) provides that a waiver may be granted for good cause. In this regard, Confluence Rivers declares (as verified below) that it has had no communication with the Office of the Commission (as defined in Commission Rule 20 CSR 4240-4.015(10)) within the prior one hundred fifty (150) days regarding any substantive issue likely to be in this case. Further, Confluence Rivers notes that there are health and safety issues involved with these small companies. It would serve no purpose to further delay the filing of this Application. Lastly, the Company notes that this transaction was previously a part of Commission Files Nos. WM-2020-0282 and SM-2020-0283, which have been on file for more than 60 days and have provided notice of this application.

53. For the good cause shown, Confluence Rivers moves for a waiver of the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) and acceptance of this Application at this time.

WHEREFORE, Confluence Rivers respectfully requests that the Commission issue an order:

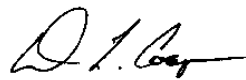
(A) Authorizing Terre Du Lac to sell and Confluence Rivers to acquire the assets identified herein; to include the CCNs held by Terre Du Lac or, in the alternative, grant Confluence Rivers new CCNs to provide water and sewer service in the area now served by Terre Du Lac;

(B) Authorizing Confluence Rivers and Terre Du Lac to enter into, execute, and perform, in accordance with the terms described in the agreements attached to this Application, and to take any and all other actions which may be reasonably necessary and incidental to the performance of the acquisitions;

(C) Approving an acquisition premium associated with the Terre Du Lac systems as described herein; and,

(D) Granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the agreements and the Application and to consummate related transactions in accordance with the agreements.

Respectfully submitted,



Dean L. Cooper MBE #36592
Jennifer L. Hernandez MBE #59814
BRYDON, SWEARENGEN & ENGLAND
P.C.
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65012
(573) 635-7166 telephone
(573) 635-0427 facsimile

dcooper@brydonlaw.com
jhernandez@brydonlaw.com

**ATTORNEYS FOR CONFLUENCE
RIVERS UTILITY OPERATING
COMPANY, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail on June 12, 2020, to the following:

Office of the General Counsel
staffcounsel@psc.mo.gov

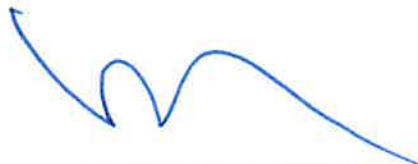
Office of the Public Counsel
opc@opc.mo.gov

/s/ Jennifer L. Hernandez


VERIFICATION

State of Missouri)
)
County of St. Louis) ss

I, Josiah Cox, having been duly sworn upon my oath, state that I am the President of Confluence Rivers Utility Operating Company, Inc. ("Confluence Rivers"), that I am duly authorized to make this affidavit on behalf of Confluence Rivers, and that to the best of my information, knowledge and belief the matters and things stated in the foregoing Application are true and correct, and that no one representing Confluence Rivers has had any communication with the Office of the Commission (as defined in Rule 20 CSR 4240-4.015(10)) with the one hundred fifty (150) days prior to the filing of the Application regarding any substantive issue likely to be addressed in this case, with the exception of filings made in Commission Files Nos. WM-2020-0282 and SM-2020-0283.



Subscribed and sworn before me this 12th day of June 2020.


Notary Public

