

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

In the Matter of the Application of )  
Confluence Rivers Utility Operating Company, Inc., )  
For Authority to Acquire Certain Water and Sewer ) File No. WA-2019-0299  
Assets and for a Certificate of Convenience and )  
Necessity )

**OBJECTION OF LAKE PERRY LOT OWNERS ASSOCIATION  
TO ORDER DIRECTING RESPONSES REGARDING CANCELLATION OF  
EVIDENTIARY HEARING REGARDING NET BOOK VALUE**

COMES NOW the Lake Perry Lot Owners Association (“Association”) and, in response to the Order of the Missouri Public Service Commission (“Commission”) Directing Responses Regarding Cancellation of Evidentiary Hearing Regarding Net Book Value (“*Order*”), makes its objection, stating as follows:

1. On October 7 and 8, 2019, the Commission held evidentiary hearings on the above referenced matter.
2. After briefs were filed, on February 13, 2020, the Commission issued an *Order Setting Procedural Conference*, stating “it wants information regarding the net book value of the subject utility assets being purchased.”
3. On March 24, 2020, in response to an *Order Setting Procedural Schedule*, the Staff of the Missouri Public Service Commission (“Staff”) filed its *Staff Report Regarding the Net Book Value of the Subject Utility Assets Being Purchased* (“*Staff Report*”).
4. On April 9, 2020, the Office of the Public Counsel (“OPC”), on behalf of Confluence Rivers Utility Operating Company, Inc. (“CRU”), and Staff, filed a *Stipulation and Agreement as to Net Book Value* (“*Stipulation*”). The *Stipulation* set forth net book values of \$20,070 for the Port Perry water system and \$57,866 for the sewer system.

5. On April 10, 2020, the Association filed a partial objection to the Net Book Value Stipulation, in which it objected to certain provisions of the stipulation but agreed to the net book values.

6. Also, on April 10, 2020, the Commission issued its *Order* finding that, “Therefore, the Commission sees no reason to conduct a hearing on net book value. Before cancelling the hearing, the Commission will allow parties an opportunity to respond.”

7. As the Commission is aware, this case comes to it by an Application pursuant to section 393.190.1 RSMo. for the acquisition of certain assets of Port Perry Service Company. Pursuant to law, Port Perry and CRU have the burden of proof to show that the Application is “not detrimental to the public interest.”

8. As part of that showing, CRU must produce evidence and persuade the Commission that the transaction is not detrimental to the public interest in a balancing of all necessary and essential issues. *Ag Processing v. Public Service Commission*, 120 S.W.3d 732, 736 (Mo. 2003).

9. By its *Order Setting Procedural Conference*, the Commission implicitly indicated that CRU had not carried its burden of producing evidence or persuaded the Commission that the transaction is not detrimental to the public interest by failing to provide a net book value figure.

10. The question still remains, how does the net book value stipulated to in the *Stipulation* relate to whether the transaction is detriment of the public interest. CRU has yet to produce evidence showing how the transaction is not detrimental to the public interest considering the net book value. CRU has not even now carried its burden of proof.<sup>1</sup>

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<sup>1</sup> At a minimum, the mere calculation of net book value does not address the issue raised by section 4 of the Agreement for Sale of Utility System giving CRU the right to terminate the agreement if the net book value does not exceed the specified floor amount. There is no

11. If CRU had produced the net book value in proper order at the hearing on October 7 and 8, as it should have done, the Association would have had the following rights with regard to what the net book value reveals about the transaction and its impact on the public interest: (1) to call, examine and cross-examine witnesses pursuant to RSMo. section 536.070(2); (2) to present oral argument and/or written briefs pursuant to RSMo. section 536.080.1; (3) to the reading of the transcript by the Commission pursuant to section RSMo. 536.800.2; (4) to seek rehearing pursuant to RSMo. section 386.500; and (5) to judicial review pursuant to RSMo. section 386.510.

12. To cancel the procedural schedule and evidentiary hearing now effectively denies the Association the rights specified in paragraph 11 above and would be contrary to law.

WHEREFORE, the Association respectfully submits this its objection and requests the Commission not cancel the hearing scheduled for May 19-20, 2020.

Respectfully submitted,



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evidence on the record regarding that issue. And what is the impact to CRU and the Port Perry customers with such a great disparity between the purchase price and the net book value?

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was sent to all parties of record in File No. WA-2019-0299 via electronic transmission this 14<sup>th</sup> day of April, 2020.

  

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