

**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)

**LAKE PERRY LOT OWNERS ASSOCIATION
POSITION STATEMENT ON LIST OF ISSUES**

COMES NOW Lake Perry Lot Owners Association (“Association”), by and through its counsel, and submits this position statement on the issues filed by the Staff of the Public Service Commission on May 15, 2020:

LIST OF ISSUES

1. What is the net book value of the Port Perry Service Company’s (“Port Perry”) water and wastewater assets?

The net book value for the Port Perry assets as of December 31, 2019, is \$20,070 for water and \$57,866 for sewer. The net book value amounts for both water and sewer assets will be used as the starting amounts for the calculation of rate base (with regard to the Port Perry assets) in Confluence River’s next rate case.

2. Given the answer to the first question, should the Commission find that Confluence Rivers Utility Operating Company, Inc.’s (“Confluence Rivers”) acquisition of the Port Perry Service Company’s (“Port Perry”) water and wastewater assets and certificates of convenience and necessity is not detrimental to the public interest, and approve the transaction?

The Missouri Public Service Commission (“Commission”) should find that Confluence Rivers has failed to prove that the acquisition of Port Perry is not detrimental to the public interest and deny the Application.

As relates to this small part of the hearing, the evidence indicates that the purchase price far exceeds the net book value. This is a significant detriment to the public interest. While Confluence Rivers and Staff have provided only conclusory observations that the acquisition premium does not indicate the transaction will be detrimental to the public interest, they do not provide evidence. Mere conclusions and hearsay evidence are not substantial and competent evidence on which the Commission may render a judgment. *State ex rel. Horn v. Randall*, 275 S.W.2d 758, 765 (Mo. App. 1955).

On the contrary, the Association has presented business evidence supporting the proper judgement that the purchase price is too high in relation to the net book value. The transaction would not be viable in the free market and has had and will have several deleterious effects to the residents of Lake Perry and to the state of Missouri, including:

1. It prevented the Association and others from any opportunity to acquire the facilities at a reasonable price.
2. It creates significant uncertainty for the operation of the systems. How will Confluence Rivers operate the systems to make them viable with the financial burden of the acquisition premium to recover for their investors?
3. It places unreasonable pressure on Confluence Rivers to recover the acquisition premium.
4. The high price for the system will create pressure to drive up rates, driving residents off the service, which in turn will create pressure to drive up rates.

5. It sends the inappropriate signal that the Commission will allow any transaction, no matter how unreasonable the price.

In its decision, the Commission must consider and evaluate all necessary and essential issues, not only the excessive purchase price but all issues previously raised by the Association. *Ag Processing v. Public Service Com'n.*, 120 S.W.3d 732 (Mo. 2003). These issues include the following:

- a. The customers do not want the service provided by Confluence Rivers.
- b. Confluence Rivers' financing has been and continues to be uncertain.
- c. The Commission has in other cases found that the loss of local control is a detriment to the public interest. *In the Matter of the Application of the Empire Dist. Elec. Co. for Auth. to Sell & Transfer Part of Its Works or Sys. to the City of Monett, Missouri*, No. EO-2009-0159, at p. 7 (Feb. 11, 2009).

In each of these, there is a detriment to the public interest.

WHEREFORE, the Association respectfully submits this Position Statement for the Commission's consideration.

Respectfully submitted,



By: _____

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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 18th day of May 2020.


