

Exhibit No.:400  
Issue: Certificate of Convenience and Necessity  
Witness: Carl Richard Mills  
Sponsoring Party: Applicant  
Type of Exhibit: Rebuttal Testimony  
File No.: WA-2018-0370  
Date Prepared: February 5, 2019

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

In the Matter of Carl R. Mills Trust for a )  
Certificate of Convenience and Necessity )  
Authorizing it to Install, Own, Acquire, )  
Construct, Operate, Control, Manage, and )  
Maintain Water Systems in Carriage Oaks )  
Estates ) File No. WA-2018-0370

**REBUTTAL TESTIMONY OF CARL RICHARD MILLS ON BEHALF OF APPLICANT**

**Stone County, Missouri  
February 5, 2019**

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1                                   **REBUTTAL TESTIMONY OF CARL RICHARD MILLS**

2  
3                   ***GENERAL REMARKS ON TESTIMONY OF DERALD MORGAN***

4           **Q: Mr. Mills, have you had the chance to review the Direct Testimony of Derald Morgan**  
5           **filed with the Public Service Commission on or about January 7, 2019?**

6           Yes.

7           **Q: Do you have any overarching comments about such testimony before we dive into the**  
8           **specific points raised in Dr. Morgan’s testimony?**

9           As a general note, Dr. Morgan’s testimony seeks to confuse the issues which are  
10          currently in front of the Commission and reintroduce and re-litigate issues which were presented  
11          and decided in our prior case in front of the Commission. I again ask the Commission not to fall  
12          for Dr. Morgan’s tricks and to focus on the issues which are presented to them in the application  
13          for Certificate of Convenience and Necessity.

14           ***BACKGROUND ON PREVIOUS CASE IN FRONT OF THE COMMISSION***

15           **Q: You mentioned in previous answers that this is not your first time in front of the**  
16           **Commission with the Intervenors on opposing sides. Would you provide a brief overview**  
17           **of the previous case in front of the Commission?**

18           In early 2017, Dr. Morgan, along with five other homeowners in Carriage Oaks Estates  
19          filed a complaint with the Commission against myself and a variety of my entities (*File No. WC-*  
20          *2017-0037*), asking the Commission to turn over the water and sewer system of Carriage Oaks  
21          Estates to them. The Commission ultimately determined that it had jurisdiction over the water  
22          system of the subdivision and, as a result, I would need to seek a Certificate of Convenience and  
23          Necessity to continue to operate the water system.

1 **Q: Does the document attached as Exhibit 4 hereto represent a true and accurate**  
2 **representation of the Commission’s Report and Order in Case No. WC-2017-0037?**

3 Yes.

4 ***VARIOUS TRANSFERS OF THE WATER SYSTEM***

5 **Q: One of the various matters Dr. Morgan draws attention to in his testimony is the**  
6 **multiple transfers of the water systems over the years. Would you please provide a brief**  
7 **explanation regarding the transfers of the water system?**

8 When Carriage Oaks Estates and the accompanying water system were originally  
9 developed in approximately 1999, the titles to such assets were held in my name personally. In  
10 approximately 2007, I formed Carriage Oaks Estates, LLC with the hope of possibly bringing in  
11 a partner. As such, the water system was then transferred into the LLC.

12 In 2016, I began to redo my estate plan and ultimately decided to leave a great portion of  
13 Carriage Oaks Estates to my non-profit organization, Caring Americans Trust Foundation, Inc.  
14 In conjunction with such estate planning, on April 2, 2016 I transferred the water system of  
15 Carriage Oaks Estates to Caring Americans.

16 In 2017, at the recommendation of the Commission staff, I created Carriage Oaks Not-  
17 For-Profit Water and Sewer Corporation in an attempt to end this dispute with the Intervenors.  
18 As such, on January 27, 2017, Caring Americans transferred the water system to the not-for-  
19 profit organization.

20 **Q: What happened to the subsequent transfers of the water system?**

21 In the previous case before the Commission, the Commission ruled that because I did not  
22 seek their approval prior to transferring the system, such transfers were void. In particular, please  
23 note that page 13 of Exhibit 4 states:

1           *Because Mr. Mills did not seek Commission approval before transferring the water assets*  
2           *to Carriage Oaks LLC, that transfer is void. Any subsequent transfer of water assets*  
3           *without Commission approval would be void as well.*

4           As such, pursuant to the Commission’s order, the water system went back to its original  
5 owner. This is a fact that Dr. Morgan’s testimony overlooks and tries to confuse.

6           **Q: Does the Stone County Recorder still show the water system of Carriage Oaks Estates**  
7           **being held by Carriage Oaks Not-For-Profit Water and Sewer Corporation?**

8           Yes.

9           **Q: Why?**

10           Although the Commission has invalidated all of the transfers, I have been hesitant to  
11 record the transfer of the water system back to the original owner out of fear that it may cause  
12 even more confusion or issues with the current case before the Commission. My plan is to record  
13 the transfer back to the original owner at the completion of this case or earlier if the Commission  
14 so desires.

15           **Q: Why was the Certificate of Convenience and Necessity filed under the name Carl R.**  
16           **Mills as the owner of the water system?**

17           As I have explained in prior testimony, I originally believed the water system was  
18 originally held by, or subsequently transferred to, my personal trust. After filing my application,  
19 it was later discovered that the water system was never actually transferred and was still held in  
20 my name individually. As such, I amended the application to reflect the proper owner of such  
21 system.

22           ***CARRIAGE OAKS NOT-FOR-PROFIT WATER AND SEWER CORPORATION***

23

1 **Q: Dr. Morgan’s testimony seems to place a lot of emphasis on Carriage Oaks Not-For-**  
2 **Profit Water and Sewer Corporation. Can you provide the Commission with a brief**  
3 **background on this entity?**

4 Although I believe this issue is now moot because the Commission voided that transfer,  
5 to address and dispel some of the confusion created by Dr. Morgan in his testimony, I think it is  
6 important to briefly address this issue.

7 In the early stages of the previous dispute in front of the Commission, my counsel  
8 engaged in discussions with now former Commission staff to determine how this issue could be  
9 quickly resolved. The Commission staff informed my counsel that one possible option was to  
10 create a not-for-profit water and sewer corporation and transfer the water and sewer system of  
11 Carriage Oaks Estates into such entity. Pursuant to this information from Commission staff, upon  
12 this transfer, the Commission would step down. As such, we created such non-profit entity and  
13 transferred the assets. Pursuant to the statutes governing such non-profit water and sewer  
14 corporations, the bylaws of Carriage Oaks Not-For-Profit Water and Sewer Corporation was  
15 properly submitted to the Department of Natural Resources who found that Carriage Oaks Not-  
16 For-Profit Water and Sewer Corporation complied with all statutory requirements.

17 **Q: Does the document attached as Exhibit 5 represent a true and accurate copy of the letter**  
18 **you received from the Department of Natural Resources indicating such compliance with**  
19 **the relevant Missouri statutes?**

20 Yes.

21 **Q: You mentioned previously that you believed the issues surrounding Carriage Oaks Not-**  
22 **For-Profit was now moot. Why do you say this?**

23

1           As mentioned in my prior answer, the Commission has invalidated the transfer of the  
2 water system to Carriage Oaks Not-For-Profit. Accordingly, the water system belongs to the  
3 original owner, as if the subsequent transfers never occurred. I have no intention of subsequently  
4 asking the Commission to transfer the water system back to Carriage Oaks Not-For-Profit Water  
5 and Sewer Corporation.

6           ***UPGRADE OF THE WATER SYSTEM***

7           **Q: Dr. Morgan makes numerous references to the upgrade of the water system. Would you**  
8 **mind providing the Commission a brief explanation on this matter?**

9           Again, I think Dr. Morgan’s mention of this issue was brought forth only to cloud and  
10 confuse the issue at hand; however, I will provide a brief background on the issue.

11           Although the water system of Carriage Oaks Estates was built to comply with minimum  
12 Department of Natural Resources standards, the residents of the subdivision were using way  
13 more water than anticipated. Most of the residents were watering their lawn more than the  
14 amount of time allocated by the DNR and as a result, the pump on the well quickly burned out.  
15 In the 2014 Carriage Oaks Home Owners Association meeting, I brought this issue to the  
16 attention of the homeowners and advised that we needed to either update the system or reduce  
17 the amount of hours for irrigation.

18           The members in attendance, forming a quorum (of which Dr. Morgan was not a part of)  
19 voted to upgrade the system. The decision was made that I, as the developer, would front the  
20 approximately \$40,000 for the system upgrade and Carriage Oaks HOA would pay me back over  
21 subsequent years.

22           In 2015, I fronted the money for the upgrade and installed the system. After installation  
23 was complete, Dr. Morgan informed me that he, along with the other homeowners, would not

1 pay for the installation of the water system. Although such upgrade was installed—at my  
2 personal expense—Carriage Oaks HOA has never repaid any amount associated with the  
3 upgrade.

4 **Q: Does the document attached as Exhibit 6 hereto provide a fair and accurate description**  
5 **of the 2014 Carriage Oaks HOA Meeting in which the homeowners voted to upgrade the**  
6 **system?**

7 Yes.

8 **Q: Have you ever had a professional evaluate the sufficiency of the system since the**  
9 **upgrade?**

10 Yes, in 2015 civil engineer Michael Stalzner evaluated the system following the upgrade  
11 and found the system to be in compliance with all DNR standards.

12 **Q: Does the document attached as Exhibit 7 hereto provide a fair and accurate description**  
13 **of Michael Stalzner’s report?**

14 Yes.

15 ***VARIOUS ALLEGATIONS CONCERNING WATER QUALITY***

16 **Q: Dr. Morgan raises a variety of issues concerning the quality of the water in Carriage**  
17 **Oaks Estates. Do you believe any of these allegations are true?**

18 No; I do not believe the allegations are true. As mentioned in previous testimony and  
19 responses to the Commission, these alleged issues have never been brought to my attention prior  
20 to the recent claims of Dr. Morgan. The water of Carriage Oaks Estates undergoes at minimum  
21 yearly testing, the results of which have been provided to the Commission and are always  
22 available to the residents of Carriage Oaks Estates for review. Dr. Morgan has failed to provide  
23 substantive proof of such allegations in the form of test results. If such allegations were true, Dr.



1 Morgan or any of the Intervenors could have their water tested by the county, just as I do, to  
2 substantiate such claims.

3 **Q: Did Dr. Morgan or any of the other Intervenors raise these allegations of quality in the**  
4 **previous case in front of the Commission?**

5 No. Dr. Morgan, nor any of the Intervenors, never made such allegations in the first case  
6 in front of the Commission. If such allegations were in fact true, why were they not brought to  
7 the Commission's attention in the previous case? In fact, please note that in Page 14 of Exhibit 4,  
8 the Commission notes:

9 *The record does not demonstrate any abuse by Carl Mills in regards to rates or safety.*  
10 *Carl Mills developed a subdivision. He offered these services at cost for a period of time*  
11 *and appeared to provide safe service to the subdivision.*

12 ***ALLEGATIONS CONCERNING RATES***

13 **Q: Dr. Morgan also raises multiple claims concerning both your rates and calculations set**  
14 **forth in your Application for Certificate of Convenience and Necessity. Do you believe such**  
15 **calculations are accurate representations?**

16 Yes, I believe such calculations are accurate representations of the true cost associated  
17 with operating the water system for Carriage Oaks. Dr. Morgan seems to take issue with the fact  
18 that my company, Distinctive Designs, charges a fee each year for management and maintenance  
19 of the water system. Despite such allegations that the fee charged is over exaggerated, Dr.  
20 Morgan grossly underestimates the amount of time, work and effort which is required to keep  
21 such systems operating safely and effectively. Dr. Morgan would have you to believe that I  
22 should complete the management and maintenance of such system for free—a fact which is  
23 unfair to my detriment.

1 **Q: Do you believe the rates proposed in your Application are fair?**

2 Yes. As I mentioned in my previous testimony, the rates proposed in my Application for  
3 Certificate of Convenience and Necessity are based on the exact quote provided by local  
4 competitor Ozarks Clean Water. As I have stated multiple times, it is my intent to turn over all  
5 management and maintenance tasks associated with the water and sewer system to Ozarks Clean  
6 Water as soon as possible.

7 ***ALLEGATIONS OF BEHAVIOR AND TEMPERAMENT***

8 **Q: Dr. Morgan makes various allegations concerning your temperament in his testimony.**

9 **Would you like to provide additional comments on this matter?**

10 As I mentioned in my previous testimony, many of these allegations concerning my  
11 temperament relate to the enforcement of the rules and regulations of the subdivision in my role  
12 as Carriage Oaks HOA President. Although Dr. Morgan fails to name names in these allegations,  
13 these alleged disputes all arise from interactions concerning him. These allegations represent  
14 nothing more than half-truths and attempt to distract from the issues at hand.

15 ***REMEDY SOUGHT BY THE INTERVENORS***

16 **Q: Are you familiar with the remedy Dr. Morgan is asking the Commission to grant in this**  
17 **case?**

18 Yes, this is the same remedy the Intervenors asked for in the previous case in front of the  
19 Commission.

20 **Q: In the previous case, what did the Commission hold in regard to the remedy to force you**  
21 **to transfer the interest to another entity?**

22 As you can see from page 14 of Exhibit 4, the Commission held:

1            *Complainants allege that they have no say in the operation or management of the water*  
2            *system. Complainants ask that the water system be placed with an entity where they have*  
3            *input in how the systems are managed. The Commission has no power to remove the*  
4            *water assets from their current owner and has no jurisdiction over the sewer system; this*  
5            *relief the Complainants requested cannot be granted.*

6            Again, a fact that Dr. Morgan’s testimony seems to overlook.

7            ***ADDITIONAL REMARKS***

8            **Q: Is there anything else you would like the Commission to consider?**

9            Dr. Morgan and the remainder of the Intervenors appear to be grasping at straws at this  
10           point in the dispute, seeking to bring up issues which are now moot and were decided in the  
11           previous case before the Commission. Re-litigating these issues prove to be a violation of the  
12           basic legal principles surrounding the American legal system. The litigation of these same issues  
13           have been going on in front of the Commission for over two years. At what point will all of this  
14           finally come to an end? I kindly ask the Commission to put these issues to rest and resolve this  
15           issue so we can all move on with our lives. Please do not fall for the Intervenors feeble attempts  
16           to continue to drag out this litigation.

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Maintain Water Systems in Carriage Oaks	)	
Estates	)	

**AFFIDAVIT OF CARL RICHARD MILLS**

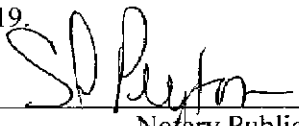
STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF Stone     )

Carl Richard Mills, being first duly sworn on his oath, states as follows:

1. My name is Carl Richard Mills. I am a Respondent in the above-reference matter. I am over 18 years of age and competent to give testimony.
2. Attached hereto and made a part of for all purposes is my Direct Testimony consisting of 11 pages, Exhibit(s) 4,5,6,7, all of which have been prepared in written form for introduction into evidence in the above reference docket.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

  
\_\_\_\_\_ Carl Richard Mills

Subscribed and sworn to me this 5<sup>th</sup> day of February, 2019.

  
\_\_\_\_\_ Notary Public

My commission expires:  
Oct. 25, 2021

