

**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 and Sewer Assets, For a Certificate of)	FileNo. WM-2018-0116
Convenience and Necessity, and, in Connection)	File No. SM-2018-0117
Therewith, To Issue Indebtedness and Encumber Assets)	

**CONFLUENCE RIVERS' REPLY
TO OPC'S RESPONSE TO STAFF'S RECOMMENDATION**

COMES NOW Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Company”), and for its Reply to the Office of the Public Counsel’s (“OPC”) Response to Staff’s Recommendation and Motion for Hearing (“OPC’s Response”), and in response to the *Order Directing Filing* issued herein on March 20, 2018, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. On November 2, 2017, Confluence Rivers filed its applications herein seeking, among other things, authority for Confluence Rivers to buy the assets of twelve water and sewer companies and to then provide water and sewer service to the customers of those companies. Staff filed its Recommendation on March 6, 2018. OPC’s Response was filed on March 15, 2018, and Confluence Rivers filed its response to Staff’s Recommendation on March 16, 2018. Thereafter, the Commission issued its *Order Directing Filing*, directing the parties to reply to OPC’s Response by March 30, 2018.

Applicant

2. Paragraph 8 of OPC’s Response notes that RSMo. §393.190.1 requires Commission approval for a utility to sell or otherwise dispose of its franchise, works, or system. OPC correctly quotes from this statute, but then incorrectly states “(t)he statute contemplates that the possessor of the certificate of service seek the Commission’s permission and approval to

transfer its utility assets.” There is no such express or implied requirement in the statute. To the contrary, the statute appears to be intentionally broad in this regard, providing that “(a)ny person seeking any order under this subsection” shall include certain information in its application before the Commission. Contrary to OPC’s assertions in paragraphs 13 and 14 of OPC’s Response, Confluence Rivers’ applications are not materially deficient for failure to require these small, unrepresented companies to join in the applications. Although the selling utilities are certainly permissible parties to this proceeding, they are not required parties in order to confer jurisdiction on the Commission over Confluence Rivers’ applications.

Qualifications

3. With paragraphs 18-22 of OPC’s Response, OPC attacks Staff’s review of Confluence Rivers’ applications and the Company’s technical, managerial, and financial capability to provide utility services. These attacks by OPC are without merit. If the owners and operators of Confluence Rivers were completely new to the utility industry, it would have been much harder for Staff to review the Company’s technical, managerial, and financial capability to provide utility services. Thankfully, however, Staff was able to look to the current and historical performance of Central States Water Resources (“CSWR”) in regard to its operation of several Missouri public utilities.

4. CSWR, which would operate Confluence Rivers, has participated one of only two situations in Missouri over the last seven years where investor-owned utilities have bought a small water and wastewater system out of state-appointed receivership. Confluence Rivers has two receivership systems as part of the acquisition applications now before this Commission. CSWR utilities have participated in the successful completion of millions of dollars of construction projects, bringing multiple Missouri water systems and multiple wastewater

treatment plants out of Missouri Department of Natural Resource (“MDNR”) compliance schedules and/or active Missouri Attorney General enforcement actions. Attached as **Exhibit A** are statements of completion from MDNR for multiple projects where there were significant deficiencies that potentially endangered the health, safety, and welfare of residents.

5. OPC repeats several allegations from the recently tried Indian Hills Utility Operating Company, Inc. rate case (WR-2017-0259). Indian Hills responded to those allegations in that case and will do so again here, to the extent those allegations are found to be relevant to the issues to be decided in this case.

Condition of Properties To Be Acquired

6. OPC makes the extraordinary allegation that “a review of the application does not indicate that all the seller utilities are subject to such precarious circumstances.” (OPC’s Response, para. 30) Apparently, OPC made no attempt to assess the true status of the entities at issue.

7. To date, Confluence Rivers has spent over \$663,000 funding engineering, capital projects, and taking over operations at Smithview, Majestic Lakes, Villa Ridge, Mill Creek, The Willows, and Lake Virginia. Confluence Rivers assumed these operations in order to provide basic water and wastewater service to these communities which were in danger of losing service. All of this funding comes in the form of intercompany transfers. Some examples are shown on the attached **Exhibit B**.

8. Moreover, attached as **Exhibit C** is a letter from the Missouri Department of Natural Resources (DNR) *providing a detailed review of the pending violations that DNR has found in regard to many of the systems that are the subject of this application.*

Financing

9. The remainder of OPC's Response takes issues with Confluence Rivers' proposed financing. Contrary to the implications of OPC's Response, the Company heard the Commissioners' concerns regarding financing terms loud and clear. CSWR utilized the exhibit prepared by OPC's consultant Greg Meyer regarding all financing purportedly available to small water and sewer systems in Missouri. Since the Commission issued the Indian Hills decision, CSWR has received 11 rejections for financing on the completed Indian Hills project. CSWR also received 4 rejections for Confluence Rivers. These applications offered a 50% debt to equity ratio, per OPC's previous recommendation. The recent 4 Confluence Rivers rejections are in addition to the banks to which Confluence Rivers originally applied. Copies of the rejections are being provided in response to Staff data request 0010.

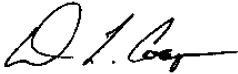
10. Even with the Indian Hills project being complete, MDNR compliance having been met, and new customer rates in place, banks were still unwilling to provide financing as suggested by OPC. Denial factors include the fact that most banks do not have the expertise to provide this type of financing, the banks want three years of historical financials to prove rate raised revenue, and banks do not want the risk of having to foreclose on utility assets.

11. For Confluence Rivers, where the utilities are in regulatory distress, face health and safety issues, have reliability concerns, have depressed existing customer rates, and lack historical financials, bank financing is even more difficult to obtain. CSWR met with all the banks suggested by OPC. To date, no financing along the terms suggested by OPC has been obtained. The financing Confluence Rivers has secured appears to be the only financing that is available to these small, distressed water and wastewater utilities.

WHEREFORE, Confluence Rivers respectfully submits this Reply and requests that the Commission approve the applications now pending before it. Confluence Rivers requests such additional relief as is just and proper under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS on this 30th day of March, 2018, with notice of the same being sent to all counsel of record.

