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Case No.: WA-2019-0299
Date Testimony Prepared: September 23, 2019

MISSOURI PUBLIC SERVICE COMMISSION

COMMISSION STAFF DIVISION

WATER AND SEWER DEPARTMENT

SURREBUTTAL TESTIMONY

OF

JAMES A. BUSCH

**CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.
CASE NO. WA-2019-0299**

*Jefferson City, Missouri
September, 2019*

Staff Exhibit No. 103
Date 10/17/19 Reporter JMB
File No. WA-2019-0299

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **JAMES A. BUSCH**

4 **CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.**

5 **CASE NO. WA-2019-0299**

6 Q. Please state your name and business address.

7 A. My name is James A. Busch. My business address is 200 Madison Street,
8 Jefferson City, MO 65102.

9 Q. By whom are you employed and in what capacity?

10 A. I am the Regulatory Manager of the Water and Sewer Department at the Missouri Public
11 Service Commission (Commission).

12 Q. Please describe your educational background and work experience.

13 A. I have Master's and Bachelor's degrees in Economics from the Southern Illinois
14 University at Edwardsville. I have worked in utility regulation since 1997. I started work at
15 the Commission in 1997 as Regulatory Economist I in the Procurement Analysis Department.
16 In 1999, I accepted a position as a Public Utility Economist at the Office of Public Counsel.
17 I then transferred back to the Commission in 2005 to become a Regulatory Economist III in
18 the Energy Department. I accepted my current position in 2008.

19 Q. Have you previously filed testimony before this Commission?

20 A. Yes. A listing of my testimony is attached as Attachment JAB – 1.

21 Q. What is the purpose of your surrebuttal testimony?

22 A. The purpose of my surrebuttal testimony is to address public comments submitted to
23 the Commission and made at the Local Public Hearing held on September 10, 2019 in

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1 Q. Have you reviewed all of the public comments that have been submitted in this
2 proceeding?

3 A. Yes. As Manager of the Water and Sewer Department, all public comments are routed
4 to my task list. This task list is found in the Commission's Electronic Filing Information
5 System, or EFIS. All comments that are submitted regarding water and sewer utilities are
6 first forwarded to me. I review those comments and determine whether they need to be
7 forwarded to a different Staff member for further investigation. For example, if a comment
8 states that there has been an odor noticed from the wastewater treatment facility, I would
9 forward that comment to a member of my staff to further investigate the issue.

10 Q. In this proceeding, was there a theme to the public comments?

11 A. Yes. My review of the comments revealed two major themes. First, there was an
12 adamant request for a local public hearing. Second, most of the comments were not in favor
13 of Confluence Rivers (Confluence) acquiring the assets of Port Perry Service Company (Port
14 Perry) and, instead, were in favor of the Lake Perry Lot Owners Association acquiring those
15 assets.

16 Q. Was a local public hearing held in this proceeding?

17 A. Yes. As mentioned above, a LPH was held on September 10, 2019.

18 Q. Regarding the reasoning for opposing Confluence Rivers' proposed acquisition, what
19 were some of the reasons stated?

20 A. Generally, there were two major reasons provided in the public comments.
21 First, several comments expressed a fear of potentially higher rates that might be charged by
22 Confluence in the future. Second, there were many comments about maintaining local
23 control of the water and sewer assets.

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1 Q. At the LPH, were these same concerns brought up by the attendees?

2 A. Yes, these same concerns were mentioned at the LPH.

3 Q. Were there any other concerns mentioned at the LPH?

4 A. Yes. Some of the attendees at the LPH mentioned that they had heard of service issues
5 at other companies owned and operated by Central States Water Resources (CSWR). CSWR
6 is an affiliate entity of Confluence and has other affiliates throughout Missouri such as
7 Hillcrest Utility Operating Company, Raccoon Creek, and Indian Hills.

8 Q. You refer to the people in attendance at the LPH as attendees. Why not call
9 them customers?

10 A. Not all of the comments received at the LPH were from current customers
11 of Port Perry.

12 Q. Does Staff have a general comment regarding these public comments?

13 A. Yes. The comments seemed to indicate that the attendees were in favor of the
14 Commission denying the request by Confluence, and instead allowing the
15 Lake Perry Lot Owners Association to purchase the assets.

16 Q. Is this outcome possible in the context of this proceeding?

17 A. No. This proceeding involves the request of Confluence to acquire the assets of
18 Port Perry. The overall determination of that request by the Commission is to determine
19 whether or not the acquisition will be detrimental to the public interest.

20 Should the Commission deny the proposed acquisition, the assets would remain with Port
21 Perry. Port Perry will not be under any obligation to sell the assets to the
22 Lake Perry Lot Owners Association or any other entity.

23 Q. Did you review LPLOA's witness Richard DeWilde's rebuttal testimony?

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1 A. Yes.

2 Q. On page 3, lines 7 – 13, Mr. DeWilde states that Confluence’s direct testimony failed
3 to provide adequate information to show the proposed transaction is not detrimental to the
4 public interest and that the LPLOA has shown a transaction that is in the public interest. Do
5 you have any comments?

6 A. Yes. Staff disagrees that the application of Confluence is detrimental to the public
7 interest, as outlined in the Staff Recommendation attached to the Direct Testimony of Staff
8 Witness Natelle Dietrich. While Staff is aware of LPLOA’s desire to purchase the system
9 Staff has not thoroughly vetted their business plan at this point. Further, it is Staff’s opinion
10 that it needs to evaluate the application that is in front of the Commission and then make a
11 recommendation as to whether that proposal is or is not detrimental to the public interest.
12 That evaluation is not necessarily affected by the existence of other interested purchasers.
13 Finally, the public interest must include a look at both the consumers and the shareholders.
14 While it is true that one of the Commission’s roles is to protect the consumers from the abuse
15 of monopoly power, it is not in the Commission’s purview to dictate to whom an owner must
16 sell its assets.

17 Q. Have you read Mr. Glen Justis’ rebuttal testimony?

18 A. Yes.

19 Q. On page 6, lines 4 – 8, Mr. Justis discusses the stability of the nonprofit formed by
20 LPLOA. Do you have any comment?

21 A. Yes. Considering the nonprofit was recently formed for the purpose of trying to acquire
22 the utility assets, it seems premature to speculate on the stability of the organization.

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1 Q. On pages 13 and 14, lines 8 – 23 and 1 -5, Mr. Justis describes various methods in
2 which he believes IOUs can generate excess profit at the expense of customers. Do you have
3 any comments?

4 A. Yes. First, Mr. Justis discusses the concept of “gold-plating” in his rebuttal testimony.
5 Gold-plating is a situation where a utility invests in a more expensive plant to increase the
6 overall cost of a project. At times, this is a valid concern. However, Staff reviews all plant
7 additions, and the Office of the Public Counsel, and other interested intervenors are provided
8 the opportunity to review all proposed plant investment during the course of a rate case.
9 Should any party believe plant investment is excessive, it is able to propose disallowances.

10 Second, Mr. Justis states that investor owned utilities (“IOUs”) may seek to inflate profits by
11 intentionally obtaining debt financing at inflated interested rates. It should be noted that the
12 Commission has to approve all long-term issuances of secured debt. Further, cost of debt is
13 reviewed by Staff in each rate case.

14 Third, Mr. Justis states IOUs can create additional excess profit by transacting with affiliate
15 companies. During a rate request, Staff investigates all contracts entered into by the utility,
16 and requests bids that show the goods or services at issue were sold or obtained at market
17 rates. Further, Staff can use its knowledge of similar contracts and recommend those as a
18 better proxy for costs that are to be built into customer rates.

19 Q. On page 18, lines 1 – 8, Mr. Justis discusses anticipated cost of capital of Confluence and
20 is concerned about the open-ended nature of this aspect. Is his concern valid?

21 A. Not in my opinion. Most acquisitions do not discuss potential capital costs. Capital
22 costs are generally determined during the pendency of a rate proceeding or during a finance
23 case if the entity is encumbering the assets of the utility.

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1 Q. On pages 21 and 22, Mr. Justis proposes conditions that should be imposed by the
2 Commission if the Commission approves the application. Please comment on the conditions.

3 A. Mr. Justis recommends the Commission impose four conditions, if it approves
4 Confluence's application. The first is that the company's rate base should be based on Staff's
5 recommended net original cost, which will be reviewed at the initial rate case after
6 acquisition.

7 The second condition is to require a clear capital improvement plan for Lake Perry endorsed
8 by both LPLOA and OPC. Staff would not oppose a capital investment plan to be submitted
9 by Confluence. Staff has requested capital investment plans from other water and sewer
10 utilities in the past and has had those requests approved by the Commission. However, Staff
11 does not agree that this plan has to be endorsed by LPLOA, OPC, or any other entity. The
12 time to oppose the plan is when the Company attempts to recover costs in rates. Ultimately,
13 the Commission will determine the prudence of those management decisions.

14 The third condition is for Confluence to establish a customer advisory board that allows
15 meaningful customer input into future capital investment. Staff does not see the need for this
16 condition; this would appear to result in the customers micro-managing the decisions of the
17 Company. Again, any party to a subsequent rate case can propose disallowances to any
18 unnecessary investments at that time.

19 The fourth condition proposed by Mr. Justis is to require a biannual independent audit of the
20 system. In Staff's opinion, this condition is also unnecessary. First of all, Mr. Justis does
21 not indicate who should pay for this independent audit. Second, if there are issues with how
22 Confluence operates its system, the customers have the ability to file formal or informal
23 complaints with the Commission. Staff routinely reviews customer complaints, and works

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1 with both the consumers and the utilities to resolve any issues. Finally, Staff conducts full
2 audits of utilities in the course of a rate case. The Commission also has the ability to direct
3 Staff to investigate the operations of a utility at any time.

4 Q. On Schedule GJ -07, Mr. Justis compares rates of systems that CSWR has purchased.
5 Do you have any comments?

6 A. Yes. First, his column marked "Rate after Acquisition" should state that these rates
7 were changed after a rate case. Rates did not increase immediately after purchase. So, the
8 consumers continued to pay lower rates while all improvements were being performed. Only
9 after a rate case, where all relevant factors were considered, were rates increased.

10 Second, in his comparison of before and after rates of the Hillcrest water system, Mr. Justis
11 has an error. In his original rate, he has a rate of \$3.58. This was the monthly customer
12 charge. There was also a usage rate of \$1.84 per 1,000 gallons. So in his comparison, which
13 shows an average usage of 5,000 gallons a month, the original rate should
14 be \$12.78 ($\$3.58 + 5 * \1.84). Thus the increase was 504%. Staff readily admits this is a
15 rather large increase, but it was approved by the Commission as a just and reasonable rate
16 based on its review of all relevant factors.

17 Third, in his comparison of Indian Hills, he only compares the summer rates between April
18 and September. During the rest of the year, the usage charge drops from \$11.55 to \$7.70.
19 Thus, the monthly bill using 5,000 gallons is \$89.40. This is a 603% increase. Staff readily
20 admits this is a rather large increase, but again, this rate was approved by the Commission as
21 a just and reasonable rate based on its review of all relevant factors.

22 Q. Do you have any final comments?

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1 A. Yes. Staff has worked with CSWR for nearly five years. CSWR has purchased many
2 distressed systems and returned them to compliance. That is a benefit to the customers and,
3 overall, to the state of Missouri. Unfortunately, the cost to do so has resulted in high rates to
4 the consumers in those areas. Staff encourages CSWR to seek alternative methods to limit
5 rate impacts to its customers when undertaking its upgrades.

6 With that said, in these types of cases, Staff has to review the technical, managerial, and
7 financial capabilities of the purchasing entities. Although high rates have been an eventual
8 outcome, due to the dilapidated condition of the systems that were purchased, CSWR has
9 shown the capabilities needed to purchase and upgrade these systems and the Commission
10 has determined that CSWR's acquisitions are not detrimental to the public.

11 Q. Does this conclude your surrebuttal testimony?

12 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

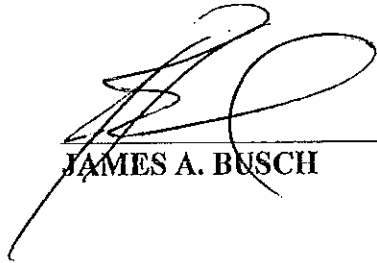
In the Matter of the Application of)	
Confluence Rivers Utility Operating)	Case No. WA-2019-0299
Company, Inc. to Acquire Certain Water and)	
Sewer Assets and for a Certificate of)	
Convenience and Necessity)	

AFFIDAVIT OF JAMES A. BUSCH

STATE OF MISSOURI)	
)	ss.
COUNTY OF COLE)	

COMES NOW JAMES A. BUSCH and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Surrebuttal Testimony*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

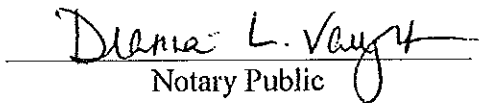


JAMES A. BUSCH

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 23rd day of September, 2019.

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 18, 2023 Commission Number: 15207377



Notary Public

**Cases of Filed Testimony
James A. Busch**

<u>Company</u>	<u>Case No.</u>
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GO-98-484
Laclede Gas Company	GR-98-374
St. Joseph Light & Power	GR-99-246
Laclede Gas Company	GT-99-303
Laclede Gas Company	GR-99-315
Fiber Four Corporation	TA-2000-23; et al
Missouri-American Water Company	WR-2000-281/SR-2000-282
Union Electric Company d/b/a AmerenUE	GR-2000-512
St. Louis County Water	WR-2000-844
Empire District Electric Company	ER-2001-299
Missouri Gas Energy	GR-2001-292
Laclede Gas Company	GT-2001-329
Laclede Gas Company	GO-2000-394
Laclede Gas Company	GR-2001-629
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company d/b/a AmerenUE	EC-2001-1
Laclede Gas Company	GR-2002-356
Empire District Electric Company	ER-2002-424
Southern Union Company	GM-2003-0238
Aquila, Inc.	EF-2003-0465
Missouri-American Water Company	WR-2003-0500
Union Electric Company d/b/a AmerenUE	GR-2003-0517
Aquila, Inc.	ER-2004-0034
Aquila, Inc.	GR-2004-0072
Missouri Gas Energy	GR-2004-0209
Empire District Electric Company	ER-2004-0570
Aquila, Inc.	EO-2002-0384
Aquila, Inc.	ER-2005-0436
Empire District Electric Company	ER-2006-0315
Kansas City Power & Light	ER-2006-0314
Union Electric Company d/b/a AmerenUE	ER-2007-0002
Aquila, Inc.	EO-2007-0395
Missouri-American Water Company (Live)	WC-2009-0277
Missouri-American Water Company	WR-2010-0131
Review of Economic, Legal and Policy Considerations Of District Specific Pricing and Single Tariff Pricing (Live)	SW-2011-0103
Timber Creek Sewer Company	SR-2011-0320
Missouri-American Water Company	WR-2011-0337
Emerald Pointe Utility Company	SR-2013-0016

City of Pevely and CPWSD C-1 of Jefferson County	WC-2014-0018
Hickory Hills Water and Sewer Company, Inc	SR-2014-0166/WR-2014-0167
Peaceful Valley Service Company (Live)	SR-2014-0153/WR-2014-0154
Central Rivers Wastewater Utility	SR-2014-0247
Missouri-American Water Company	WR-2015-0301
Ridge Creek Water, LLC	WO-2017-0236
Missouri-American Water Company	WO-2018-0059
Missouri-American Water Company	WR-2017-0285
Liberty Utilities (Missouri Water), LLC and Ozark	WM-2018-0023
Liberty Utilities (Missouri Water), LLC	WR-2018-0170
Osage Utility Operating Company (Live)	WA-2019-0185