

In the Matter of:

THE APPLICATION OF CONFLUENCE RIVERS UTILITY OPERATING COMPANY, etc.

WA-2019-0299 , VOL. V

March 02, 2020



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

March 2, 2020

Jefferson City, Missouri

Volume 5

In The Matter Of The Application)
Of Confluence Rivers Utility)
Operating Company, Inc., For) File No.
Authority To Acquire Certain Water) WA-2019-0299
And Sewer Assets And For A)
Certificate Of Convenience And)
Necessity)

CHARLES HATCHER, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
Beverly Jean Bentch, CCR No. 640
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

KAREN BRETZ, Staff Counsel
MARK JOHNSON, Senior Counsel
Suite 800
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102-0360
FOR: Staff of the Public Service Commission

DEAN L. COOPER, Attorney at Law
312 East Capitol
P.O. Box 456
Jefferson City, Missouri 65102
FOR: Confluence Rivers Utility Operating
Company, Inc.

DAVID C. LINTON, Attorney at Law
825 Maryville Centre Drive, Suite 300
Town and Country, Missouri 63017-5946
FOR: Lake Perry Lot Owners' Association

JOHN CLIZER, Senior Counsel
200 Madison Street
P.O. Box 2230
Jefferson City, Missouri 65102
FOR: Office of the Public Counsel

P R O C E E D I N G S

1
2 JUDGE HATCHER: Let's go on the record. Today
3 is March 2, 2020. The Commission has set this time for
4 a Prehearing Conference for File No. WA-2019-0299, which
5 is captioned In The Matter Of The Application Of
6 Confluence Rivers Utility Operating Company, Inc., For
7 Authority To Acquire Certain Water And Sewer Assets And
8 For A Certificate Of Convenience And Necessity. My name
9 is Charles Hatcher, and I am the Regulatory Law Judge
10 assigned to this case. Let's go ahead and have counsel
11 for the parties make their entry of appearance.
12 Confluence Rivers?

13 MR. COOPER: Thank you, Your Honor. Dean
14 Cooper appearing for Confluence Rivers Utility Operating
15 Company, Inc.

16 JUDGE HATCHER: Thank you. And the Lot
17 Owners?

18 MR. LINTON: Yes, Your Honor. David Linton on
19 behalf of the Lake Perry Lot Owners' Association. I've
20 given my contact information to the court reporter.

21 MS. BRETZ: Karen Bretz for Staff.

22 MR. JOHNSON: Mark Johnson for Staff.

23 JUDGE HATCHER: And Public Counsel?

24 MR. CLIZER: John Clizer on behalf of the
25 Office of the Public Counsel.

1 JUDGE HATCHER: Okay. We all have our
2 directions from the most recent agenda meeting, maybe
3 not the most recent, but a recent agenda meeting. So
4 the purpose of our meeting today is to set forth our
5 timeline, to discuss any matters that you all need to
6 discuss. My purpose here is to make sure that all of
7 you attend to do that. Staff, can I ask you to take
8 responsibility to file whatever the agreed upon schedule
9 is that results from this or a status report?

10 MS. BRETZ: Yes, we can do that.

11 JUDGE HATCHER: Take a quick show of hands.
12 30 days or 45 days for said schedule to be filed or
13 status report?

14 MS. BRETZ: Maybe 15. I don't see why we need
15 to take that much time.

16 JUDGE HATCHER: Sounds good. 15 days. I did
17 not figure that up. Today is the 2nd. So March 17 is a
18 Tuesday.

19 MS. BRETZ: St. Patrick's Day.

20 JUDGE HATCHER: Yeah, and it's St. Patrick's
21 Day.

22 MS. BRETZ: That's fine.

23 JUDGE HATCHER: Okay. We'll keep it there.
24 3/17 status report or a schedule. For the schedule, the
25 Commission requests filing of a joint stipulation of

1 facts as such as it might be for the issue of net book
2 value, and I understand that my request might be a
3 little odd. I ask that in all of my conferences. So if
4 that doesn't work here, I'm not going to be terribly
5 disappointed, but it's just my standard ask. So if we
6 can come up with one, awesome.

7 MR. CLIZER: When you say "joint stipulation
8 of facts," unanimous is what I assume?

9 JUDGE HATCHER: Yes, yes. Confluence Rivers
10 is the purchaser, Port Perry is the seller.

11 MR. CLIZER: Is there a reason that you would
12 want a nonunanimous? Would that be helpful, if other
13 parties may agree to some facts, or is it exclusively
14 unanimous?

15 JUDGE HATCHER: Exclusively unanimous because
16 I use that in my citations. It's just an easy form for
17 me to find information and cite.

18 As far as scheduling, the Regulatory Law Judge
19 will be unavailable March 23rd through the 27th. He,
20 and I mean me, is going on vacation with my family to
21 Disney World. So I would really appreciate any phone
22 calls but I'm not going to be allowed to take any.

23 We have the room all day. Nobody is on the
24 phone. I'm on the ninth floor. Is there anything else
25 anybody can think of that we need to talk about before I

1 leave?

2 MR. COOPER: I have a question I guess, Judge,
3 just to kind of get clear in my mind. I think we danced
4 around this issue a little bit in the evidentiary
5 hearing although I kind of found a few references where
6 my client indicated that should be there be an
7 acquisition premium in the future rate case that they
8 would waive seeking recovery of that. And just so that,
9 I guess just for sort of my comfort level as we move
10 forward, but would a clear statement of that in a
11 pleading from my client eliminate the need for this
12 process or does the Commission believe that they need to
13 get to a specific number even with that sort of waiver
14 from my client, if you know and you may not know.

15 JUDGE HATCHER: I don't know. I'm trying to
16 think about how -- about putting that in context.
17 Yeah.

18 MR. CLIZER: Would it be possible if you made
19 such a pleading and sought from the Commission a
20 determination of whether that would waive a necessity
21 and the Commission could theoretically rule on that at
22 agenda?

23 JUDGE HATCHER: That's kind of where I was
24 headed was if that's an offer from your client. Yeah, I
25 would put that into a pleading. I know that there is a

1 secondary concern not just recovering the acquisition
2 premium. If Confluence does not recover it, then does
3 that make Confluence as a business financially suspect
4 in their ability.

5 MR. COOPER: Right. And I understand what
6 you're saying, Judge, that sort of follow on issue
7 should they not recover it will it so damage their
8 financial wherewithal that they wouldn't be able to
9 continue. Hopefully we'd be able to address that as
10 well.

11 JUDGE HATCHER: Thinking ahead, let's just
12 play this out, and I'm so sorry that this is on the
13 record. This is going to be a terrible transcript. You
14 file your said pleading. We would give 10 days for
15 parties to respond and then it would be set for agenda.
16 I'm not seeing anyone disagree. Is that what you're
17 envisioning?

18 MR. COOPER: It could be, and we can talk
19 about it after we go off the record, but it's possible
20 that other things could happen kind of in parallel with
21 that. I don't know if we need to sit still during that.
22 I think the purpose of my question wasn't so much to
23 think that you would necessarily have a final answer,
24 but I wanted to make sure that that was still within
25 sort of the realm of possibility, that it hadn't been

1 written off so far.

2 JUDGE HATCHER: I don't think anything --
3 Sorry to talk over. I don't think anything has been
4 written off.

5 MR. CLIZER: I have, I'm going to call it a
6 question, I'm not sure, I might just be seeking guidance
7 from the Commission on this point. My understanding is
8 that the Commission wants information regarding the net
9 book value of the plant or of the system being acquired.

10 JUDGE HATCHER: Yes.

11 MR. CLIZER: While I would hope that we don't
12 actually end up going to hearing, if we do, the OPC
13 believes that some of the information that would be best
14 served for producing this would be in the hands of the
15 actual owners. The OPC has previously requested the
16 owners be made a party for different legal reasons.
17 That was denied. I'm just hoping for some guidance.

18 Does the Commission know between a subpoena,
19 attempting to rejoin the parties or some other
20 methodology if there's some guidance regarding the best
21 means for acquiring the information that might be in the
22 hands of the owners that would in some way facilitate
23 production, make things easier? If the Commission can't
24 rule on that at this point, I understand. I just
25 thought I'd throw that out there for now.

1 JUDGE HATCHER: I don't want to offer guidance
2 to restrict you if you would decide to offer something.
3 Just in my mind I'm thinking adding Port Perry was
4 decided. However, that was before we were establishing
5 net book value. I would think that most of your
6 discovery issues would be directed to Confluence Rivers
7 who again I would think would have access to all of Port
8 Perry's paperwork, probably their accountant and somehow
9 through the process that information would --

10 MR. CLIZER: I appreciate that Port Perry --
11 sorry -- Confluence almost certainly has access to it.
12 It would not be the same thing as getting information
13 directly from the original source.

14 JUDGE HATCHER: I don't know.

15 MR. CLIZER: That's fine. I didn't really
16 necessarily expect a full -- I'm just laying out there
17 what my primary concerns are regarding evidence.

18 JUDGE HATCHER: Let's see where today's
19 meeting gets us, but that's certainly an interesting
20 query.

21 MR. CLIZER: All right.

22 JUDGE HATCHER: I'll keep that in mind.

23 Any other discussions? This is pretty
24 informal. Okay. Then with that March 17 is our due
25 date. I have to remember to think in complete

1 sentences. And with that, we're off the record. Thank
2 you all.

3 (Off the record.)
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CERTIFICATE OF REPORTER

I, Beverly Jean Bentch, RPR, CCR No. 640, Certified Court Reporter with the firm of Tiger Court Reporting, LLC, within the State of Missouri, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Beverly Jean Bentch

Beverly Jean Bentch, RPR, CCR No. 640

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