

**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)	

**RESPONSE TO OPC’S MOTION TO STRIKE
SURREBUTTAL TESTIMONY OF KRISTI SAVAGE-CLARKE**

COMES NOW Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Company”), and, in response to the Office of the Public Counsel’s (“OPC”) *Motion to Strike Surrebuttal Testimony of Kristi Savage-Clarke* (“OPC Motion”), states as follows to the Missouri Public Service Commission (“Commission”):

1. On September 27, 2019, the OPC Motion was filed with the Commission. The OPC requests that the entire surrebuttal testimony of Kristi Savage-Clarke from Missouri Department of Natural Resources (“MDNR”) be stricken. On that same date, the Commission issued its Order Directing Further Response wherein the Commission directed that responses to the OPC Motion be filed by noon on September 30, 2019. On September 30, 2019, the Lake Perry Lot Owners Association (“LPLOA”) filed its support for the OPC Motion.

2. The surrebuttal testimony of Ms. Savage-Clarke, who is the Chief of the Water Pollution Compliance and Enforcement Section within the MDNR’s Water Protection Program, provides responsive testimony to the rebuttal testimonies of LPLOA witnesses Mr. Richard DeWilde, Mr. Chad Sayre, and Mr. Glen Justis. (Savage-Clarke Sur., p. 3)

3. Among other things, Ms. Savage-Clarke reports that “Central States Water Resources, Inc. has an established history with maintaining its water and wastewater systems in Missouri and investing in operational improvements to ensure their systems stay in compliance with the Missouri Clean Water Law, and MDNR regulations and permits.” (Savage-Clarke Sur., p. 11) She concludes by indicating that “Confluence Rivers has the requisite TMF capacity and can provide safe and adequate service to the customers.” (Savage-Clarke Sur., p. 12)

4. The OPC Motion seeks to strike Ms. Savage-Clarke’s surrebuttal testimony in its entirety based on the following arguments:

- “Despite having never filed an application to intervene in this case, MDNR has nevertheless filed the testimony of its employee Ms. Kristi Savage-Clarke” (OPC Motion, p. 1); and,
- That “while the testimony ostensibly claims to have been filed on behalf of Confluence Rivers Utility Operating Company, Inc. (“Confluence”), it is, in fact, unquestionably the testimony of MDNR.” (OPC Motion, p. 1-2)

5. The OPC Motion misses what has transpired. MDNR has not filed the testimony at issue. Confluence Rivers, as a part of its surrebuttal case, has called a MDNR employee as a witness. MDNR has not at this point sought to enter the case as a party, nor does it need to.

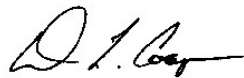
6. The standard for filing testimony in support of a party to a Commission proceeding that’s implied in OPC’s motion is troubling and the motion should be rejected for that reason alone. If the Commission were to adopt OPC’s theory and strike Ms. Savage-Clarke’s testimony, would logic also require it to strike the testimony of Representative Rick Francis, filed in support of the Lake Perry Lot Owners

Association, because the General Assembly is not an intervenor to the case?.

7. There is no requirement that witnesses called by Confluence Rivers – or any other party – be its employee or consultant. The witness' surrebuttal testimony need only be relevant and responsive to rebuttal testimony. (See 20 CSR 4240-2.130(7)(D)) The surrebuttal testimony of Kristi Savage-Clarke is both. There is no reason to strike this testimony.

WHEREFORE, Confluence Rivers respectfully requests the Commission deny the OPC Motion to Strike.

Respectfully submitted,



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**ATTORNEYS FOR CONFLUENCE RIVERS
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CERTIFICATE OF SERVICE

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