

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

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

RESPONSE TO PROPOSED PROCEDURAL SCHEDULE

COMES NOW Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Company”), and, as its *Response to Proposed Procedural Schedule*, states as follows to the Missouri Public Service Commission (“Commission”):

1. Confluence Rivers did not join in the proposed procedural schedule filed on March 17, 2020, as it unnecessarily delays a final Order from the Commission regarding the Application.
2. The procedural schedule proposes three rounds of testimony leading to an evidentiary hearing on May 21-22, 2020. Assuming a subsequent briefing schedule of one month thereafter, with another month for the Commission’s decision, Confluence Rivers cannot reasonably expect to receive a final Order from the Commission under such schedule until late July 2020, **approximately one year and four months** after the filing of its Application.
3. Further, the proposed schedule offers multiple opportunities for the parties to express their opinions on what is an isolated issue. Staff’s report is tantamount to a direct case. The opportunities parties have to comment on Staff’s report are tantamount to rebuttal cases for each party. Under the proposed schedule, that rebuttal is then followed by direct testimony from Staff and the Company (redundant insofar as Staff is concerned); rebuttal testimony (again, redundant because of the opportunity to comment on Staff’s report); and surrebuttal testimony by all parties (unnecessary for the Office of the Public Counsel and intervenors because they already

will have had an opportunity to express their views in their responses to Staff's report and in rebuttal testimony).

4. Confluence Rivers understands from the Commission's agenda discussion concerning this case that the Commission believed it necessary at that time to assess the net book value of Port Perry Service Company, LLC, in regard to what acquisition premium may be present in this transaction with reference to the Missouri Supreme Court's decision in *State ex rel. AG Processing, Inc. v. Public Service Commission*, 120 S.W.3d 732, 736 (Mo. banc 2003). In order to receive additional testimony on the issue, Judge Hatcher issued by delegation an Order Scheduling Procedural Conference.

5. Subsequent to the Order Scheduling Procedural Conference, Confluence Rivers filed its *Waiver Concerning Acquisition Premium* ("Waiver"). The *Waiver* affirmed the testimony provided by Confluence Rivers during the October 7-8, 2019 evidentiary hearing that Confluence Rivers has not requested an acquisition premium in this case. Further, it formalized Confluence Rivers' waiver of any acquisition premium recovery related to the Port Perry Service Company, LLC assets in a subsequent rate case. As such, the existence of an acquisition premium should not alter the Commission's evaluation of whether the acquisition of Port Perry Service Company LLC's assets by Confluence Rivers would be detrimental to the public.¹

6. It is unnecessary to determine the net book value as part of an acquisition case. In Staff's recommendation in Case No. SM-2020-0146, Staff stated:

If the Commission approves the Application and Elm Hills does in fact acquire the Central Rivers sewer systems, then Staff expects an updated rate base level will be

¹ See *In the Matter of the Joint Application of UtiliCorp United Inc. and St. Joseph Light & Power Company*, Second Report and Order, Case No. EM-2000-292, 2004 Mo.PSC LEXIS 233 (issued February 26, 2004). See also, *In the Matter of Missouri-American Water Company*, Order Granting Certificate of Convenience and Necessity, File No. WA-2017-0181, 2017 Mo. PSC LEXIS 174 (issued April 13, 2017).

necessarily established when Elm Hills files its next rate case. It has been Staff's position in prior cases, and is today, that ratebase, and ultimately the rates charged to customers, should be based upon the remaining net book value associated with the original cost of utility plant at the time when the plant was first devoted to public use; rate base should not reflect the amount of any acquisition adjustment, either above or below net book value. Elm Hills has not requested such an acquisition adjustment in this matter, and as stated above, has the financial capacity to purchase and operate the Central Rivers systems at the agreed to purchase price.²

Like Elm Hills, Confluence Rivers has not requested an acquisition adjustment in this matter. Staff proposed the following conditions be placed on the granting of a CCN in Case No. SM-2020-0146:

Require Elm Hills to create and maintain documentation and analysis supporting rate base valuation of the Central Rivers assets as of the date of acquisition for the purposes of Elm Hills's next general rate case; and

Make no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the CCN to Elm Hills, including expenditures related to the certificated service area, in any later proceeding.³

The Commission could also condition the granting of a CCN to Confluence Rivers in this matter with the same conditions as those proposed by Staff in the Elm Hills case.

7. Confluence Rivers believes that the testimony in this case concerning its financial wherewithal to purchase and operate the Port Perry Service Company, LLC is also evidence that the failure to recover an acquisition premium in this case will not impede Confluence River's ability to provide safe and adequate service on a going-forward basis.

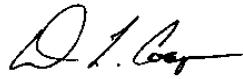
² See *In the Matter of the Application of Elm Hills Utility Operating Company, Inc., for Authority to Acquire Certain Sewer Assets*, Staff Recommendation, p. 6, Case No. SM-2020-0146 (March 17, 2020).

³ See *In the Matter of the Application of Elm Hills Utility Operating Company, Inc., for Authority to Acquire Certain Sewer Assets*, Staff Recommendation, p. 8, Case No. SM-2020-0146 (March 17, 2020).

8. Accordingly, Confluence Rivers asks that the Commission consider the information provided above and, thereafter, find that there is no need for an additional evidentiary hearing in this case.

WHEREFORE, Confluence Rivers respectfully requests that the Commission consider this *Response to Proposed Procedural Schedule* and issue an Order finding no additional evidentiary hearing is necessary and other such orders as it shall find to be lawful and reasonable.

Respectfully submitted,



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**ATTORNEYS FOR CONFLUENCE RIVERS
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CERTIFICATE OF SERVICE

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