

**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	)	Case No. WA-2019-0299
Assets and for a Certificate of	)	
Convenience and Necessity	)	

**THE OFFICE OF THE PUBLIC COUNSEL’S REQUEST FOR A LOCAL PUBLIC  
HEARING AND RESPONSE TO CONFLUENCE RIVER’S OBJECTION TO  
LAKE PERRY LOT OWNERS ASSOCIATION’S PROPOSAL FOR A LOCAL  
PUBLIC HEARING**

**COMES NOW** the Office of the Public Counsel (“OPC”) and, for its *Request for a Local Public Hearing and Response to Confluence River’s Objection to Lake Perry Lot Owners Association’s Proposal for a Local Public Hearing*, states as follows:

1. On August 5, 2019, the Lake Perry Lot Owners Association (“the Association”) filed a *Proposal for a Local Public Hearing* in this case.
2. Confluence Rivers Utility Operating Company, Inc. (“Confluence”) filed its objection to the Association’s proposal on August 7, 2019.
3. The OPC now files this pleading both to join with the Association in requesting that a local public hearing (“LPH”) be held in this case and to respond to the objection made by Confluence because the OPC strongly disagrees with the logic employed in, and practical implications of, that objection.

4. To paraphrase Confluence's argument: the company believes that individual members of the public should be denied their opportunity to voice their personal concerns to the Commission regarding this acquisition because the Association has been granted leave to represent the interest of those same individuals in the aggregate. To state it another way, Confluence is arguing that because the interests of the public *as a whole* are being represented by a party to this case, the Commission need not hear from individual members of the public. This logic is plainly flawed.

5. If the Commission were to accept Confluence's argument in this case, it would also be effectively eliminating the basis for holding LPHs in potentially almost all cases. This is because the same argument that Confluence is attempting to make regarding the Association could most likely also be applied to the OPC, which is a party to almost all cases where LPHs are likely to be held.

6. The OPC is vested by statute with the power to "protect the interests of the public in any proceeding before . . . the public service commission." RSMo. § 386.710. The OPC routinely chooses to exercise this power by representing the public in cases before the Commission and also routinely files testimony in those cases. *See, e.g.,* Case No. WR-2017-0285. Thus, under Confluence's logic, all members of the public at large are already a party to any case where the OPC has chosen to participate because the OPC is there to represent the public's interests. Confluence's argument would also consequently suggest that any comments made during any LPH

held in a case where the OPC is a party should be considered an improper attempt to supplement the OPC's own testimony. This is unmistakably wrong.

7. There is a clear and obvious difference between the normally pre-filed testimony offered during an evidentiary hearing that is supplied by expert witnesses employed by those who work to protect the public (and which is often the result of significant discovery and subject to multiple rounds of reply and surrebuttal) and the statements made by lay-members of the public speaking directly to the Commission during a LPH. To pretend that these two things are one-and-the-same and thus deny ordinary citizens what is usually their one and only opportunity to speak directly with the individuals who make such important decision regarding their daily lives would only serve to foster a fundamental distrust of the bureaucratic process that is public utility regulation and ultimately harm the public's image of this Commission.

8. Moreover, Confluence's argument is directly contradictory to the Commission's past practices because the Commission has regularly held LPHs in locations where the local customer base is already being represented. Commission case number WR-2017-0285 provides a good example of this. In that case, the Commission allowed the intervention of the cities of Joplin, St. Joseph, Jefferson City, Warrensburg, and Riverside yet still chose to hold LPHs in all five of these locations. *See Case No. WR-2017-0285, Order Setting Local Public Hearings*, pgs. 2 – 4; *see also Case No. WR-2015-0301* (nearly identical situation). There is no material difference between allowing the intervention of these five cities while still holding LPHs within the same five cities (so that customers could speak directly to the Commission) and

allowing the intervention of the Association while still allowing the individual customers of the Port Perry Service Company an opportunity to be heard as well. This Commission should therefore continue to adhere to its own prior practices of holding LPHs in areas where members of the public are already being represented.

9. In addition, the OPC wishes to express its concerns with what it considers to be the practical implications of Confluence's objection. Specifically, the OPC is deeply disturbed by the length Confluence has gone to forgo entering into an open dialogue with its prospective customers.

10. LPHs are not just means by which the Commission can hear directly from ratepayers. They also allow the utility itself a way to meet with, and address the concerns of, its current or prospective customers. The fact that Confluence appears to be so vehemently opposed to the prospect of even talking to the people currently receiving service from the water system it seeks to acquire is therefore significantly disheartening and raises serious concerns about Confluence's ability (or even willingness) to provide proper customer service if it succeeds in acquiring that system.

11. Confluence Rivers should look forward to the opportunity to meet the people to whom it hopes to provide service and should see this as a chance to placate fears and change the public's opinion regarding its potential acquisition. The fact that Confluence has decided to fight such a prospect is all but an open admission on the company's part that the public is squarely and (from Confluence apparent perspective) stubbornly opposed to this acquisition. This, in turn, only fuels the point

raised in the OPC's *Response to Staff Recommendation*, which stated how this acquisition should be denied as it is visibly and unambiguously contrary to the public interest.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission issue an order setting dates for a local public hearing to be held with regard to this case and deny *Confluence River's Objection to Lake Perry Lot Owners Association's Proposal for a Local Public Hearing*.

Respectfully submitted,  
OFFICE OF THE PUBLIC  
COUNSEL

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this ninth day of August, 2019.

          /s/ John Clizer