

In the Matter of:

**APPLICATION OF CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC**

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**WA-2019-0299, VOL 7**

*May 19, 2020*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

May 19, 2020

Via WebEx Conference

Volume 7

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

CHARLES HATCHER, Presiding  
REGULATORY LAW JUDGE

RYAN A. SILVEY, Chairman,  
WILLIAM P. KENNEY,  
SCOTT T. RUPP,  
MAIDA J. COLEMAN,  
JASON R. HOLSMAN,  
Commissioners.

REPORTED BY:  
Lisa M. Banks, CCR  
TIGER COURT REPORTING, LLC

A P P E A R A N C E S

ALL PARTIES ATTENDED VIA WEBEX CONFERENCE

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FOR: Staff of the Missouri Public Counsel Commission

1 JUDGE HATCHER: Good afternoon. Today is May  
2 19, 2020. The Commission has set this time for an evidentiary  
3 hearing in the matter of the Application of Confluence Rivers  
4 Utility Operating Company, Inc. for Authority to Acquire Certain  
5 Waters and Sewer Assets and for a Certificate of Convenience and  
6 Necessity. This is File Number WA-2019-0299.

7 My name is Charles Hatcher and I am the  
8 regulatory law judge presiding over this hearing. Let's go  
9 ahead and have counsel for the parties make their entries of  
10 appearance. For Confluence Rivers?

11 MR. COOPER: Thank you, Judge. Dean Cooper  
12 Jennifer Hernandez appearing for Confluence Rivers Utility  
13 Operating Company, Inc. We're from the law firm of Brydon,  
14 Swearngen & England, PC, PO Box 456, Jefferson City, Missouri  
15 65102.

16 JUDGE HATCHER: Thank you. And for Staff?

17 MS. BRETZ: Karen Bretz and Mark Johnson for  
18 staff of the Commission. Our address is 200 Madison Street, PO  
19 Box 360, Jefferson City 65102.

20 JUDGE HATCHER: And for the Office of the Public  
21 Counsel?

22 MR. CLIZER: John Clizer appearing on behalf of  
23 the Office of Public Counsel. Our office is also at 200 Madison  
24 Street, Suite 650, Jefferson City, Missouri 65101.

25 JUDGE HATCHER: Thank you. And for the Lake

1 Perry Lot Owners?

2 MR. LINTON: Good morning, Judge. This is David  
3 Linton on behalf of the Lake Perry Lot Owners' Association. I'm  
4 with law firm of McCarthy, Leonard, and Kaemmerer. My address  
5 is 314 Romaine Spring View, Fenton, Missouri 63026.

6 JUDGE HATCHER: Thank you. A couple of initial  
7 remarks. This is the WebEx version of those remarks. Again,  
8 I'm going to remind everyone to please mute themselves. I also  
9 have control as host of the meeting, so I have muted everyone to  
10 stop that feedback. When, counsel, you need to speak or your  
11 witnesses need to speak, just unmute yourself in the normal  
12 course of business and that will also unmute my unmuting of you.  
13 Sorry. That was wordy.

14 We will proceed slowly at every step of this  
15 hearing because of that muting issue and because this is a --  
16 the first time the Commission has performed a hearing like this  
17 over the Internet solely. I also want to remind the parties,  
18 the witnesses, anyone on this call, that the chat function  
19 that's down in the lower right-hand corner of your WebEx app  
20 box, is not private. It will print out at the end of the  
21 meeting. So please use that cautiously.

22 Do we have any preliminary matters from the  
23 parties?

24 MR. CLIZER: Your Honor -- actually, I probably  
25 can wait till after opening.

1 JUDGE HATCHER: Okay. Anyone else? Then the  
2 order of opening statements and witnesses will follow the  
3 jointly -- the joint recommendation by the parties and that will  
4 be Confluence Rivers first, Staff second, Public Counsel third,  
5 and the Lot Owners bring up the rear.

6 And with the exhibits we will continue the  
7 procedure we talked about in the prehearing conference. And we  
8 will submit those, and myself will take care of resubmitting  
9 those to the court reporter after the hearing.

10 Let's go ahead and get to opening statements  
11 then. Mr. Cooper for Confluence Rivers.

12 MR. COOPER: Thank you, Your Honor. Again, Dean  
13 Cooper appearing on behalf of Confluence Rivers. The first  
14 issue that has been identified by the parties in this case is to  
15 determine the net book value of the water and sewer assets of  
16 Port Perry Service Company for purposes of this case.

17 The net book value for the Port Perry assets is  
18 supported by Confluence Rivers as of December 31st, 2019, is a  
19 total of \$77,936. That's \$20,070 for the water assets and  
20 \$57,866 for the sewer assets. This is the same net book value  
21 that Staff proposes in its testimony and the same net book value  
22 agreed to by Staff, the Office of the Public Counsel, and  
23 Confluence Rivers in the stipulation agreement as to net book  
24 value that was filed on April 9th, 2020.

25 Association witness, Mr. Dewilde, agrees with

1 this amount in his rebuttal testimony. For comparison, as of  
2 direct testimony in the base case, Staff has indicated its  
3 belief that book value was a total of \$58,133 for water and  
4 sewer assets combined. Most of the difference between those  
5 numbers is on the water asset side. Thus, there is about 20,000  
6 more in net book value agreed to today than was before the  
7 Commission in the base case. The acquisition premium assumed  
8 today, thus, is smaller than what was assumed at the time of the  
9 first hearing.

10 The second issue identified by the parties is  
11 given that \$77,936 net book value, should the Commission find  
12 the proposed transaction to not be detrimental to the public  
13 interest. Confluence Rivers believes that the identified net  
14 book value is neither a detriment onto itself, nor supports any  
15 finding of detriment related to this transaction.

16 First, the net book value does not change as a  
17 result of the transfer of ownership. Thus, the number itself  
18 cannot be a detriment associated with the proposed transaction.  
19 Second, Confluence Rivers has not requested acquisition premium  
20 in this case and has formally waived any opportunity to recover  
21 acquisition premium that it might have at subsequent rate  
22 proceedings related to Port Perry assets. This waiver was  
23 memorialized in a March 4th, 2020, pleading. Thus, any premium  
24 that would be paid by Confluence Rivers would not result in a  
25 detriment to the public interest because Confluence Rivers will

1 not recover in customer rates any premium amount paid. Third,  
2 Confluence Rivers will be able to be able to provide safe and  
3 reliable water and sewer service to the Lake Perry community  
4 without recovery of any acquisition premium as a result of this  
5 transaction.

6           The Central States Water Resources family of  
7 companies currently provides water or sewer service over 35,000  
8 customers serving more than 100,000 people across four states.  
9 Central States and its utility operating affiliates have  
10 \$63 million, approximately, of total capital investment across  
11 the 172 water and sewer systems. The four states I mentioned  
12 are or Missouri, Kentucky, Louisiana, and Arkansas. That  
13 includes approximately \$4.6 million in investment in Confluence  
14 Rivers existing nine water and nine sewer systems.

15           Confluence Rivers has the technical, managerial,  
16 and financial resources to own and operate the systems to be  
17 acquired and to otherwise provide safe and adequate service on a  
18 going-forward basis. Therefore, Confluence Rivers asks that the  
19 Commission approve the proposed transaction. Thank you.

20           JUDGE HATCHER: Thank you.

21           And Ms. Bretz for Staff?

22           MS. BRETZ: Good morning. May it please the  
23 Commission. This case comes before you a second time for the  
24 limited purpose of providing the Commission with information  
25 regarding the net book value of the Port Perry Service Company



1 water and wastewater assets. In doing this, the parties present  
2 two issues to the Commission. The first is, what is the net  
3 book value of the Port Perry asset. On this, the parties agree.  
4 The net book value of the system is \$77,936 as of December 31st,  
5 2019. This breaks down to \$20,070 for the water asset and  
6 \$57,866 for the wastewater asset.

7           Staff witness Kim Bolin testifies in her  
8 prefiled testimony that in preparing this net book value  
9 calculation, Staff requested further financial information from  
10 Confluence in order to update Staff's original calculation.  
11 Confluence provided this information and made it available to  
12 all parties. Staff met with the Office of Public Counsel and  
13 further defined the calculation. As I just said, all parties  
14 agreed to this net book value.

15           The second issue is, given this net book value,  
16 should the Commission find that Confluence Rivers' acquisition  
17 of these assets is not detrimental to the public interest and  
18 approve the transaction. Staff's position is that the transfer  
19 of assets is not detrimental to the public interest and that the  
20 Commission should improve it.

21           The determination of net book value does not  
22 change that position. Our reasoning is straightforward.  
23 Confluence has unequivocally stated that it waives any  
24 acquisition premium. Confluence stated this at least twice in a  
25 filing made March 4th, 2020, and in Josiah Cox's prefiled

1 rebuttal testimony.

2                   Mr. Cox testified in his prefiled testimony that  
3 Confluence will charge its commission-approved 2002 rates under  
4 the current tariff until the system's next rate case. At the  
5 next rate case the agreed-upon value of \$77,936 net book value  
6 will be a starting point for setting rate base.

7                   In the position statement the Lot Owners and the  
8 Office of Public Counsel contend that Confluence is overpaying  
9 for these systems. They argue that the price Confluence will  
10 prospectively pay is detrimental. However, Staff points out  
11 that net book value is used to determine the value of rate base  
12 for setting rates. Net book value does not necessarily reflect  
13 market value.

14                   Finally, while Confluence is paying more than  
15 net book value for these systems it is Staff's position that  
16 Confluence has the financial capability to purchase them at the  
17 agreed to purchase price without recouping a premium from the  
18 Port Perry ratepayers. This transaction is not detrimental to  
19 the public interest and the Commission must allow it to proceed.

20                   Kim Bolin is available to testify by video for  
21 cross-examination and to answer Commission questions. Further,  
22 James Busch and Natelle Dietrich who testified at the initial  
23 hearing can be made available if the Commission wishes. Thank  
24 you.

25                   JUDGE HATCHER: Thank you.

1                   And Mr. Clizer, for the Office of the Public  
2 Counsel?

3                   MR. CLIZER: Thank you, Your Honor. May it  
4 please the Commission. As you have heard, there are two issues  
5 before the Commission today. The first is the net book value of  
6 the Port Perry system. This is not really in dispute, however.  
7 All the parties entered into this case have come to an agreement  
8 as to the dollar amounts of these net book values and those  
9 dollar amounts are what were agreed to by three of the four  
10 parties in the stipulation and agreement on net book value that  
11 has been filed in EFIS. So I would simply therefore ask the  
12 Commission to find those values to be correct.

13                   The second issue is whether the acquisition on a  
14 Port Perry system by Confluence Rivers is a detriment to the  
15 public interest given the net book value. The OPC has  
16 previously argued that the acquisition of the Port Perry system  
17 by Confluence Rivers is detriment to the public interest and  
18 nothing about the agreement as to the proper net book value of  
19 the system changes this.

20                   The Commission cannot and should not ignore the  
21 simple fact that approving this acquisition will invariably lead  
22 to customers of Port Perry paying far more than they would  
23 otherwise need to for the same level of service. Confluence  
24 Rivers is coming back for another rate case in the near future.  
25 When Confluence comes back, they will be asking to recover

1 massive capital expenditures related to their other systems.  
2 The Commission knows this because the Commission itself asked  
3 about this during the on-the-record presentation of the  
4 stipulation agreement reached in Confluence's last rate case.

5           At the same time the Company will almost  
6 certainly seek consolidated -- to consolidate Port Perry with  
7 the rest of Confluence's rates just as it did with all of its  
8 other systems. The ultimate outcome will be the Port Perry  
9 customers will end up paying two or three times more than what  
10 they otherwise would have to pay if Confluence did not receive  
11 this (audio interference) -- is at best inexcusable you might  
12 even say, and at worst a blatant lie.

13           The egregious over expenditure created by the  
14 difference between the net book value of the Port Perry system  
15 and the contract price Confluence Rivers entered into this case  
16 only exacerbates this problem. A prudent utility company would  
17 never overpay for a systems unless there were some untapped  
18 revenue stream that could be exploited. That only means either  
19 room for substantial customer growth or room for substantial  
20 capital expenditure. At the moment the Port Perry system has  
21 neither. Then why would Confluence operate in this manner? Why  
22 would it go through all the trouble of building an escape clause  
23 into its purchase contract if it still intends to pay more than  
24 twice the underlying price for the system?

25           The answer is simple. Confluence Rivers must

1 believe that it has the ability to later over inflate return  
2 investment in the system. I cannot tell you right now what  
3 exactly Conference's ploy will be, but I do believe that  
4 Mr. Justis's testimony does an excellent job of laying out the  
5 value in various ways Confluence may seek to make up the  
6 difference.

7 In any event, this commission should not give  
8 Confluence Rivers the opportunity to pull the wool over its eyes  
9 by approving this transaction. Instead, this commission should  
10 listen to the will of the public and deny this transaction so  
11 that a much better and more reasonable company can step in to  
12 take Confluence's place. Thank you.

13 JUDGE HATCHER: Thank you, Mr. Clizer.

14 And Mr. Linton for the Lake Perry Lot Owners?

15 MR. LINTON: Thank you, Your Honor. Good  
16 morning. May it please the Commission. My name is David Linton  
17 and I represent the Lake Perry Lot Owners' Association. We are  
18 here today because Confluence Rivers Utility Operating Company  
19 has filed an application with this commission to acquire the  
20 assets of Port Perry Service Company, which provides water and  
21 sewer services to my client, the Homeowners Association.

22 After holding a hearing for Confluence Rivers to  
23 present its testimony on October 7th and 8th of last year, the  
24 Commission determined that Confluence Rivers had not provided  
25 the Commission all of the necessary and essential issues for it

1 to make a determination. Therefore, it provided a second round  
2 of hearings and that is why we are here today.

3           Despite having a second bite at this apple,  
4 Confluence Rivers is no closer now to carrying its burden of  
5 proof in this case than it was last October. We do have a net  
6 book value calculation that is agreeable to all parties as has  
7 been stated \$77,936. But, we are no closer to understanding how  
8 that number indicates that the transaction is not detrimental to  
9 the public interest. Neither Confluence Rivers nor Staff have  
10 given any supporting evidence for their mere conclusion that the  
11 transaction is not detrimental to the public interest and have  
12 taken many efforts to obscure that and prevent that information  
13 from being provided.

14           However, the net book value does highlight some  
15 very serious detriments to the public interest. The purchase  
16 price is significantly -- and I repeat significantly -- higher  
17 than the net book value. While I won't state the actual  
18 purchase price here, I will observe that the purchase price is  
19 very high in relation to the net book value.

20           While Confluence Rivers has not provided any  
21 evidence explaining the benefit to the public from such a high  
22 purchase price, the Association has presented testimony from two  
23 expert witnesses that explain the disadvantage of a transaction  
24 having a purchase price that far surpasses the net book value.

25           Mr. DeWilde is a CPA and provides business

1 planning advice as part of his business. He observes that the  
2 acquisition premium, the difference between net book value and  
3 the purchase price, typically represents an expression of the  
4 goodwill value of a business. There is no justification for  
5 such a significant acquisition premium in this case. He goes on  
6 to explain that Confluence Rivers' own prior testimony reveals  
7 that they did not intend to place themselves in such a risky --  
8 in such a risk of significant under recovery from this  
9 transaction. He also explains how the excessive purchase price  
10 precluded more reasonable proposals from being considered.  
11 Finally, and most importantly, he explains how there are just  
12 too many remaining uncertainties arising from this transaction.  
13 Those many uncertainties make this transaction detrimental to  
14 the public interest.

15           The second Association expert witnesses is Glen  
16 Justis. He explains the difficult situation Confluence Rivers  
17 has placed itself in by having such a significant nonrecoverable  
18 acquisition premium. The bottom line from this second hearing  
19 is that Confluence Rivers has placed itself in a situation that  
20 has too many uncertainties and too many risks. The transaction  
21 is detrimental to the public interest because Confluence Rivers  
22 has placed itself in an untenable situation, and Confluence  
23 Rivers has not explained how it will handle those risks or  
24 uncertainties.

25           Add to that the fact that the residents do not

1 want Confluence Rivers service. Confluence Rivers financing is  
2 still questionable, and Confluence Rivers will remove the  
3 management of the services from the community.

4 All of those factors indicate that this  
5 transaction will be detrimental to the public interest and we  
6 request the Commission deny the application. Thank you.

7 JUDGE HATCHER: Thank you, Mr. Linton.

8 I would like to pause and remind everyone that  
9 we have one confidential piece of information in this case.  
10 Thus far we have proceeded very well without mentioning that.  
11 If at some point any of the witnesses feel that they need to  
12 mention that piece of confidential information, please make it  
13 known a minute before you get to that part of your testimony.  
14 Counsel, same with any questions. It's going to take us a  
15 minute go in-camera and move all of the participants over to the  
16 WebEx lobby. So I just want to remind everyone as we get ready  
17 for witnesses.

18 Again, we'll go in the same order as recommended  
19 by the Commission, and that will be Josiah Cox.

20 Mr. Cox, if you could go ahead and unmute, I'm  
21 going to swear you in.

22 (Witness sworn.)

23 JUDGE HATCHER: Thank you.

24 And Mr. Cooper, your witness.

25 MR. COOPER: Judge, before I get started. I



1 will mention that Mr. Cox is in the same room with me and  
2 because of that and in order to try to avoid feedback, we're  
3 going to try to use my microphone for his testimony. So if you  
4 heard his affirmative response to your oath okay, then we will  
5 proceed in that way.

6 JUDGE HATCHER: I heard him just fine. I will  
7 listen for complaints as we go along.

8 MR. COOPER: Thank you, Judge.

9 JOSIAH COX testifies as follows:

10 DIRECT EXAMINATION BY MR. COOPER:

11 Q. Mr. Cox, will you state your name?

12 A. My name is Josiah Cox.

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

14 A. CSWR, LLC, and I am the president of the  
15 company.

16 Q. Have you caused to be prepared for the purpose  
17 of this proceeding certain testimony in question-and-answer  
18 form?

19 A. I have.

20 Q. Is it your understanding that that testimony has  
21 been marked as Exhibit 600 for identification?

22 A. It is.

23 Q. Do you have any changes that you would like to  
24 make to that testimony at this time?

25 A. I do not.

1 Q. If I ask you the questions which are contained  
2 in Exhibit 600 today, would your answers be the same?

3 A. They would.

4 Q. Are those answers true and correct to the best  
5 information, knowledge, and belief?

6 A. They are.

7 MR. COOPER: Your Honor, I would offer 600 into  
8 evidence and tender the witness for cross-examination.

9 JUDGE HATCHER: Thank you. And when you offer  
10 Exhibit 600, that is also including Schedule JC-1 and JC-2.  
11 Correct?

12 MR. COOPER: That is correct, Your Honor.  
13 (WHEREIN; Exhibit 600 was offered into  
14 evidence.)

15 JUDGE HATCHER: Thank you. Are there any  
16 objections to the admittance of Exhibit 600, Mr. Cox's prefiled  
17 testimony? Hearing none, it is so admitted.

18 (WHEREIN; Exhibit 600 was received into  
19 evidence.)

20 JUDGE HATCHER: Mr. Cooper, go ahead.

21 MR. COOPER: I believe that is all we have now,  
22 Your Honor. We have tendered Mr. Cox for cross-examination.

23 JUDGE HATCHER: Thank you.

24 For cross-examination will be Ms. Bretz.

25 MS. BRETZ: We have nothing, Your Honor.

1 JUDGE HATCHER: And Mr. Clizer?  
2 MR. CLIZER: No cross, Your Honor. Thank you.  
3 JUDGE HATCHER: Thank you.  
4 And Mr. Linton?  
5 MR. LINTON: No questions, Your Honor.  
6 JUDGE HATCHER: Thank you.  
7 I believe the second witness is Ms. Bolin.  
8 CHAIRMAN SILVEY: Your Honor? Your Honor, this  
9 is Commissioner Silvey.  
10 JUDGE HATCHER: We will go ahead and have  
11 Ms. Bolin unmute herself.  
12 Mr. LINTON: Your Honor, I think the chairman is  
13 trying to get in touch with you.  
14 CHAIRMAN SILVEY: Your Honor, is this the  
15 appropriate time for commission questions of Mr. Cox?  
16 JUDGE HATCHER: Right after Mr. Linton goes,  
17 we'll have commissioner questions.  
18 CHAIRMAN SILVEY: All right. Thank you,  
19 Mr. Chairman.  
20 Mr. Linton, go ahead.  
21 MR. LINTON: I have no questions, Your Honor.  
22 JUDGE HATCHER: I'm sorry. You just said that.  
23 JUDGE HATCHER: Yes, commissioner questions.  
24 CHAIRMAN SILVEY: Thank you, Your Honor.  
25 Commissioner Silvey.

1 QUESTIONS BY CHAIRMAN SILVEY:

2 Q. Mr. Cox, why does Confluence want to purchase  
3 the system if the net book value is so far below the sales price  
4 and the company has stated that it will not seek an acquisition  
5 premium?

6 A. Yes. Chairman Silvey, there are two reasons why  
7 we still want to do consummate this transaction. One is that  
8 Port Perry, is, you know, the typical type of system that we  
9 specialize in. They are under 500 individual connections. And  
10 really our company, our mission vision, is to bring safe and  
11 reliable water resources to every committee in the US. And  
12 small communities, particularly those under 500, they really  
13 represent the communities that are most at risk for a lack of  
14 safe and reliable service.

15 In fact, you know, the American Waterworks  
16 Association in 2015 talked about how many safe water -- clean  
17 drinking water violations were over 80,000. Of those 80,000  
18 violations, 70,000 of those were to communities with less than  
19 500 connections. And really those violations, you know, half of  
20 those are serious violations. So you think, you know, E. Coli  
21 in the water, a lack of -- you know, boil advisories and that  
22 kind of thing. And so those communities represent over 50  
23 percent of the serious drinking water violations in the country.

24 We know that these are the type of communities  
25 that really need a professional utility provider, somebody

1 that's got industry experience, the financial, technical, and  
2 managerial wherewithal to manage them over a long period of  
3 time. So that's one reason.

4 The second reason is we -- if you think about  
5 from a total company perspective, the delta between the net book  
6 value and the forward purchase price is, you know, 0.24 percent  
7 of our current investment in property plant and equipment. you  
8 know, from a Confluence Rivers standpoint it's 3.9 percent of  
9 our total investment of property, plant, and equipment.

10 And Confluence Rivers has continued to acquire  
11 systems under the same company. So we know that we have the  
12 wherewithal to deal with this system. We know that we are the  
13 right company to go provide safe and reliable service to these  
14 customers, so that's why.

15 Q. Thank you, Mr. Cox. And if the acquisition is  
16 approved, when would you anticipate coming in for a rate case  
17 for Port Perry?

18 A. That's really dependent on some of the other  
19 acquisition cases that we have going on now. But it will be at  
20 least 12 months. I can't imagine it being any earlier than that  
21 and possibly even longer depending on how other acquisitions go  
22 and our investment in Port Perry and our investment in the other  
23 systems for purchasing other Confluence Rivers.

24 Q. Okay. Thank you, Mr. Cox.

25 CHAIRMAN SILVEY: Thank you, Your Honor. I

1 believe you're still muted.

2 JUDGE HATCHER: Thank you, Mr. Chairman.

3 Any other commissioner questions? Okay, let's  
4 move to recross examination after the chairman's questions.  
5 Let's first go to Staff. Ms. Bretz?

6 MS. BRETZ: Nothing. Thank you.

7 JUDGE HATCHER: And Mr. Clizer for Public  
8 Counsel?

9 MR. CLIZER: Nothing, Your Honor. Thank you.

10 JUDGE HATCHER: And Mr. Linton, any recross?

11 MR. LINTON: No questions, Your Honor.

12 JUDGE HATCHER: That brings us back to  
13 Mr. Cooper for redirect.

14 MR. COOPER: Yes, I do have some redirect. And  
15 in fact, Judge, I'm going to send to you I guess what are  
16 potential exhibits and I will copy the other counsel on those.

17 JUDGE HATCHER: While you are doing that before  
18 Mr. Cox gets started, can we have him move maybe a little bit  
19 closer to the microphone?

20 MR. COOPER: We certainly can.

21 JUDGE HATCHER: Okay. I have just asked  
22 received 601C. And for everyone's benefit, the "C" stands for  
23 confidential. This is labeled, Recent Missouri Small Water and  
24 Sewer Transactions. Let me forward this on my end, Mr. Cooper,  
25 before we get started. Okay. I have forwarded it to the

1 commissioners. They should be receiving that in their email in  
2 just a moment.

3 Mr. Cooper, if you would like to go ahead with  
4 your redirect.

5 MR. LINTON: Your Honor, this is David Linton.  
6 I have not received that exhibit.

7 JUDGE HATCHER: Oh, wait a second.

8 MR. LINTON: Mr. Cooper, did you send that to my  
9 MLK address?

10 MR. COOPER: I sent it to that JD address that  
11 we use quite a bit. But I can -- let me see if I can forward it  
12 to the other address. Hold on for just a second.

13 JUDGE HATCHER: While we are doing that, I  
14 understand that Mr. Commissioner Holsman has a question for  
15 Mr. Cox.

16 Commissioner Holsman, are you there?

17 Commissioner Holsman is calling back in.

18 Mr. Cooper, while we're at a pause, are you  
19 looking to offer these additional documents into evidence?

20 MR. COOPER: It's likely that I will, but after  
21 some foundation is provided with my witness.

22 JUDGE HATCHER: Okay. We will go back around  
23 after that foundation is laid and I will ask for objections if  
24 you are to admit it at that point.

25 MR. COOPER: Thank you, Judge.

1 COMMISSIONER HOLSMAN: Judge?

2 JUDGE HATCHER: Yes, Commissioner Holsman?

3 COMMISSIONER HOLSMAN: For some reason, I don't  
4 know why, but you couldn't hear me at any time and my phone was  
5 off mute, so I had to hang up and call back in. I apologize for  
6 that.

7 JUDGE HATCHER: Please go ahead.

8 COMMISSIONER HOLSMAN: Do I have an opportunity  
9 to ask questions?

10 JUDGE HATCHER: Yes, absolutely.

11 COMMISSIONER HOLSMAN: Okay. (Audio  
12 interruption.)

13 MR. COOPER: Judge, we are not able to hear  
14 that.

15 JUDGE HATCHER: Yeah. I'm sorry, Commissioner  
16 Holsman, that was breaking up. I wasn't able to hear that  
17 either.

18 COMMISSIONER HOLSMAN: Okay. How about this?  
19 Is that better?

20 JUDGE HATCHER: Yes. Perfect.

21 COMMISSIONER HOLSMAN: Thank you. I am sorry  
22 about that communication issue.

23 QUESTIONS BY COMMISSIONER HOLSMAN:

24 Q. Can you tell us ways in which you could recover  
25 those additional costs over net book value if you do not seek a



1 premium?

2 A. Yes, sir. We're not looking to recover anything  
3 that is a premium at all.

4 Q. I am not asking you if you are or are not  
5 looking for it. I'm asking you if you were going to, could you  
6 tell me ways in which you could?

7 A. I have no idea how we could recover a premium  
8 like that at -- for ratemaking purposes.

9 Q. Without being granted one. So you're not able  
10 -- I'm asking if it is possible for you to bolster the request  
11 in other ways that would make up the difference in the cost  
12 versus net book value?

13 A. No, Commissioner. None that I am aware of.  
14 Like I said before, the reason why we are willing to proceed  
15 with this transaction is it fits within our wheelhouse in terms  
16 of the type of communities that we are experts at serving and  
17 from an overall company perspective, the premium is such a small  
18 part of our overall company. Like I said, 0.24 percent of the  
19 overall company and only 3.2 percent of Confluence Rivers. So  
20 we don't have to -- there's no -- there's not an impetus on the  
21 company that they have to recover that.

22 COMMISSIONER HOLSMAN: All right. Thank you  
23 very much.

24 Thank you, Judge. I appreciate it.

25 JUDGE HATCHER: Not a problem, Commissioner

1 Holsman. Let's get back into our exhibit first. Mr. Cooper,  
2 have --

3 MR. COOPER: You ended up being mute, Judge.

4 JUDGE HATCHER: Sorry. Mr. Linton, have you  
5 received a copy of that exhibit yet?

6 MR. LINTON: I have. Thank you.

7 JUDGE HATCHER: Okay. And I will hear from  
8 Public Counsel or Staff if they have not. So Mr. Cooper, if  
9 could put a pause in your redirect. I would like to go back and  
10 ask based on Commissioner Holsman's questions if any of the  
11 parties have any questions. Thank you. I see Mr. Cooper  
12 nodding in a sense. So based on Commissioner Holsman's  
13 questions, are there any recross-examination questions from  
14 Staff?

15 MS. BRETZ: No, thank you.

16 JUDGE HATCHER: From Public Counsel?

17 MR. CLIZER: No, Your Honor. Thank you.

18 JUDGE HATCHER: Thank you.

19 And Mr. Linton?

20 MR. LINTON: No, Your Honor.

21 JUDGE HATCHER: Thank you. We are back to a  
22 pending Exhibit 601. Mr. Cooper, the floor is yours.

23 MR. COOPER: Thank you, Your Honor.

24 REDIRECT EXAMINATION BY MR. COOPER:

25 Q. Mr. Cox, in a question from the chairman, there

1 was a reference to the significance of the premium in this case.

2 Do you remember that?

3 A. I do.

4 Q. Do you follow water and sewer asset purchases in  
5 your --

6 MR. LINTON: Your Honor, I'm going to interpose  
7 an objection and I will try to do it once. I just looking at  
8 these exhibits, it will be a continuing objection because I can  
9 see where counsel is going with this. This is beyond the scope  
10 of the direct testimony. There was no evidence of anything like  
11 this. The entire evidence of Mr. Cox was entirely on the  
12 calculation of the net book value and this skirts the rules of  
13 testimony -- direct testimony followed by rebuttal testimony.  
14 My client has not had an opportunity to review this or prepare  
15 any kind of response for this. I object because it's beyond the  
16 scope of the direct testimony.

17 JUDGE HATCHER: Mr. Cooper?

18 MR. COOPER: Judge, I don't believe that what  
19 Mr. Linton is citing as a reason for his objection applies.  
20 We're talking about redirect in this situation based upon  
21 questions that have been received by the witness. Certainly had  
22 the witness received no questions, we wouldn't be moving down  
23 this road. But since he has, I think we are allowed to flush  
24 that out on redirect.

25 JUDGE HATCHER: Remind me what the question was

1 that opened this.

2 MR. COOPER: I believe the chairman had referred  
3 to the significance of the premium and so we want to address  
4 whether that really is significant or not. As to 601C, I think  
5 Mr. Cox also -- I'll jump ahead to 602, Mr. Cox also referenced  
6 in regard to -- in his answer the -- sort of the impact of that  
7 premium in relation to the other assets of the company and the  
8 family of companies. So 602C will flush that out and explain  
9 where that comes from.

10 MR. LINTON: Your Honor, just in response, if  
11 the questions from the commissioners had been questions from the  
12 parties I would have objected. However, out of deference to the  
13 chairman particularly, and the other commissioners, I have -- as  
14 is normal practice not object to their questions, giving  
15 deference to their questions.

16 So to the extent that Mr. Cooper is basing his  
17 questions on commissioner questions, I would renew my objection  
18 and say under ordinary circumstances those are objectionable  
19 questions in that they go beyond the scope of direct testimony.

20 JUDGE HATCHER: Okay. And would Staff like it  
21 weigh in?

22 MS. BRETZ: No, we have no objection to entering  
23 the exhibits into evidence.

24 MR. COOPER: And Mr. Clizer, any objections from  
25 the Office of the Public Counsel?

1 MR. CLIZER: I believe the OPC would be  
2 objecting to 601, but not necessarily on the same grounds that  
3 Mr. Linton raised. I was going to wait until the offer of the  
4 exhibits in of itself. I don't know if you want to proceed that  
5 way or if you would like me to make my objection now. I would  
6 like to hear the foundation first to be honest.

7 JUDGE HATCHER: No. That's fine.

8 Mr. Linton, I'm going to overrule your objection  
9 and allow Mr. Cooper to proceed. Go ahead.

10 MR. COOPER: Thank you, Your Honor.

11 BY MR. COOPER:

12 Q. Just to remind where we started, we had talked  
13 about the fact that there was a reference to the significance of  
14 the premium in this transaction. Do you remember that, Mr. Cox?

15 A. I do.

16 Q. And do you follow water and sewer asset  
17 purchases both in Missouri and elsewhere in the United States?

18 A. We do.

19 Q. Is it common in water and sewer acquisitions  
20 involving companies other than Central States affiliates for  
21 there to be an acquisition premium paid by the purchaser?

22 A. Yes. It is very common across the entire  
23 country.

24 Q. In assessing the reasonableness of a purchase  
25 price, are there measures other than acquisition premium used by

1 purchasers within the water and sewer industry?

2 A. Yes. It's standard across the industry to use  
3 the purchase price per customer, is the metric that's kind of  
4 industry standard.

5 Q. Have you -- have you had the opportunity to  
6 compare any recent Missouri transactions to the Port Perry  
7 transaction in terms of price per customer?

8 A. I have. I pulled up four recent transactions,  
9 Missouri American Water, and a pending purchase of a Hallsville,  
10 Missouri; Missouri American Water on their purchase of Lawson,  
11 Missouri; and Liberty Utility's purchase of Franklin County  
12 water; and the Missouri American Water's purchase of Wardsville,  
13 Missouri.

14 MR. LINTON: Your Honor, this is Dave Linton and  
15 I hope this will be my last time I object. We've gone from  
16 questions from the chairman asking the acquisition premium and  
17 why Confluence Rivers still wanted to acquire the facilities and  
18 Commissioner Holsman's question about are there other ways of  
19 recovering these and now we're giving an entire analysis of  
20 other companies, other acquisitions, and I still say that is out  
21 of the scope of the direct testimony and outside of the scope of  
22 the questions from the commissioners.

23 JUDGE HATCHER: Mr. Cooper, would you like to  
24 respond?

25 MR. COOPER: Well, my response would be similar

1 to the previous. I mean, I think that there was sort of an  
2 assumption that the premium -- that the price being paid is  
3 somehow significant because of the premium. And you can tell  
4 from the exhibit, in not too many more questions we are going to  
5 finish providing the foundation for some information that at  
6 least for the Commission's benefit, would explain the purchase  
7 price to some extent and its reasonableness for that matter.

8 JUDGE HATCHER: Would Staff like to weight in?

9 MS. BRETZ: We continue to have no objection to  
10 the use of the exhibits.

11 JUDGE HATCHER: And Mr. Clizer, would you like  
12 to comment?

13 MR. CLIZER: I'll go ahead and weigh in now.  
14 Some of this might be echoing exactly what Mr. Linton said. I  
15 do believe 601 is outside the scope of the questions asked by  
16 the Commission. The issue before us is the adequacy or the  
17 prudence of the acquisition adjustments, which is something  
18 that's apparently addressed in 602, I'll concede that. But 601  
19 isn't addressing acquisition premiums in any regard. There's no  
20 comparison between net book value and what was actually paid for  
21 the systems. It is purely a comparison between the price paid  
22 per customer, which is a completely different metric and one  
23 that would require significantly different assessment to go  
24 along but it's nothing to do with the acquisition adjustment  
25 premium. He's exclusively presenting this so that he can make

1 an argument that it must be reasonable because, look, other  
2 companies paid more per customer. But that's not the basis on  
3 which companies buy or sell systems. It's the basis of what is  
4 the value of the underlying system that matters, which is not  
5 addressed in 601. That would be my objection.

6 JUDGE HATCHER: Thank you.

7 MR. COOPER: Actually, Your Honor, Mr. Cox has  
8 indicated that per customer prices are a basis for the buying  
9 and selling of water and sewer systems.

10 JUDGE HATCHER: I would agree Mr. Cooper. To my  
11 mind it seems like there could be many business rationales and  
12 if Mr. Cox is explaining a business rationale and how it is  
13 producing or why it's producing an acquisition premium, then I  
14 do think that is relevant. I'm going to let that continue. Go  
15 ahead.

16 MR. LINTON: For the record, then record -- this  
17 is David Linton. Just for the record then, record this as a  
18 continuing objection.

19 JUDGE HATCHER: Thank you, Mr. Linton. Denied.  
20 Go ahead, Mr. Cooper.

21 MR. CLIZER: Mr. -- Mr. -- sorry. Your Honor?  
22 This is OPC.

23 JUDGE HATCHER: Yes?

24 MR. CLIZER: I'm sorry. The OPC would like to  
25 ask for an opportunity to submit information on this exhibit



1 then by including or updating this exhibit with the actual net  
2 book value of these acquisitions being performed here. We would  
3 make that filing obviously after this because we were not aware  
4 of this exhibit, so we were not ready to prepare those numbers  
5 beforehand. It would simply be a late-filed exhibit.

6 JUDGE HATCHER: Are there any objections to what  
7 Public Counsel proposes?

8 MR. COOPER: Yes, Your Honor. I mean, we're  
9 just continuing beyond the scope of the hearing that's been set.  
10 You know, we have talked about before and others will remind you  
11 again I'm sure in briefs as a result of this hearing, that the  
12 Company has the burden in this matter. I don't think there's  
13 anything improper about given that, the Company having the last  
14 say with its testimony. It's just not -- it's not required and  
15 it's not necessary for every piece of evidence that comes in in  
16 the hearing to receive an additional opportunity to respond.

17 MR. CLIZER: Can I responded that, Your Honor?

18 JUDGE HATCHER: Yes, go ahead.

19 MR. CLIZER: Let me just point out the utter  
20 ridiculousness of the situation that's now come up. Basically  
21 Confluence is attempting to submit a piece of evidence based on  
22 a question regarding acquisition premiums, but doesn't actually  
23 address acquisition premiums. And all the OPC would like to do  
24 is to update that evidence to directly address acquisition  
25 premiums, which again is the basis of the question upon which

1 the evidence is attempting to be submitted.

2 JUDGE HATCHER: Mr. Cooper, it does seem to me  
3 like you're trying to have it both ways.

4 MR. COOPER: I'm certainly not going to agree  
5 with that, but I understand you will issue a ruling one way or  
6 the other.

7 JUDGE HATCHER: Okay. Let's see where this gets  
8 us. The exhibit hasn't been offered into evidence yet.  
9 Mr. Clizer, I'm inclined to grant your request but it's a little  
10 premature at this point. Let's let Mr. Cooper and Mr. Cox  
11 conclude and then we'll see where we are at with the exhibits.

12 Mr. Cooper, go ahead.

13 MR. COOPER: Thank you, Your Honor.

14 BY MR. COOPER:

15 Q. Mr. Cox, in keeping in mind that this exhibit  
16 has been marked confidential, really I think because of only the  
17 CSWR column on there, and potentially the Franklin County Water  
18 column, could you describe for us what's represented in Exhibit  
19 601C?

20 A. Yes. What you have there is a description of  
21 the acquiring utility of the system that they are acquiring and  
22 what type of service they provide whether that's sewer or water  
23 and sewer. And they give the total customer basis, that's both  
24 combined water and sewer customers. And then has the purchase  
25 price for those systems.

1 Q. So that line that says customers, maybe you can  
2 also call it connections?

3 A. That is correct. It's connections.

4 Q. Okay. And the bottom line then represents the  
5 calculation of the price per customer for each of those  
6 transactions; is that correct?

7 A. That is correct.

8 Q. And some of that information is available  
9 because several of these are acquisitions involving public  
10 entities. Correct?

11 A. That is correct.

12 Q. Okay. Do you also have in front of you Exhibit  
13 602C?

14 A. I do.

15 Q. And during questions from chairman -- Chairman  
16 Silvey, I believe you indicated the -- sort of the relative size  
17 of the acquisition premium in regard to both the Central States  
18 Water Resources Company systems assets and the Confluence Rivers  
19 piece of those assets. Correct?

20 A. That is correct.

21 Q. Again, I think that because of the -- this has  
22 been marked confidential because of the line that represents an  
23 acquisition premium or the -- the difference between purchase  
24 price -- between purchase price and net book value. Correct?

25 A. That is correct.

1 Q. Okay. Tell us what is shown on Exhibit 602C?

2 A. So 602C what you see is the total investment or  
3 property, plant, and equipment by Central States Water Resources  
4 in whole, and also you have the Confluence Rivers investment of  
5 property, plant, and equipment. Next you have represented the  
6 stipulation agreement on net book value between all the parties.  
7 And then we have the stipulation agreement minus the floor price  
8 of the contract. That is the premium that we keep mentioning  
9 here. And then the final one then is a measure of that premium  
10 in terms of total investment by the company in property, plant,  
11 and equipment.

12 Q. So it represents a comparison of essentially the  
13 significance of that acquisition premium against the existing  
14 assets of the whole family of companies and Confluence Rivers.  
15 Correct?

16 A. That is correct.

17 Q. And at the top of the sheet you have listed  
18 customer numbers or connection; is that correct?

19 A. That is correct.

20 Q. And so today Central States family of companies  
21 have 35,000 -- approximately, I guess because it probably  
22 changes, but 35,649 customers?

23 A. That is correct. You're right. It does change.  
24 I mean, we're closing systems on Friday, so that number is  
25 dynamic.

1 Q. And then Confluence Rivers, the same thing; it's  
2 portion of those family of company customers. Right?

3 A. That is correct.

4 Q. I guess one of the facts that that feeds into  
5 that, I guess when we talk about the customer numbers for  
6 Central States as a whole, how many individual water and  
7 wastewater systems does that represent?

8 A. We have a 172 water and wastewater systems  
9 across four states.

10 Q. Going back to Exhibit 601C just for a moment, we  
11 talked about the last line being a comparison of the price per  
12 customer and those various transactions. How does -- without  
13 revealing the number, how does the Central States or Confluence  
14 Rivers' purchase of Port Perry compare to those others on your  
15 list?

16 A. I mean, it's radically smaller. It is, you know  
17 -- from the lowest transaction we mentioned, is less than half.  
18 Most of the transactions it's, you know, one-eleventh or  
19 one-twelfth the price per customer that other utilities are  
20 buying systems for.

21 Q. You were also asked about how long it would be  
22 until the next rate case for Confluence Rivers. Correct?

23 A. Yes.

24 Q. And in that you mentioned that it would depend  
25 upon other acquisitions. Is there another acquisition case

1 pending before the Commission right now?

2 A. We do. We have another acquisition case in  
3 front of the commission currently.

4 Q. And that's for Confluence Rivers specifically.

5 A. That is correct. It is a Confluence Rivers  
6 case.

7 Q. And you may not remember this in a lot of  
8 detail, but approximately how many systems are involved in that  
9 acquisition case?

10 A. I believe it is five more systems.

11 Q. Total or -- I mean, if we count water and sewer  
12 separately is it still, you think, five systems or would it be  
13 more than that?

14 A. It more than that if it is water and sewer. It  
15 five companies we are buying the assets from.

16 MR. COOPER: One moment, Your Honor.

17 BY MR. COOPER:

18 Q. Mr. Cox, in terms of those other transactions  
19 that you represented on 601C, I noticed that at least three of  
20 them, as I mentioned before, are having to do with public  
21 entities. Correct?

22 A. That is correct.

23 Q. And do public entities account for their  
24 investments, their capital investments, in the same what as  
25 regulated entities?

1 A. They do not.

2 Q. Does net book value have a -- does it have the  
3 same meaning when you're talking about a public entity as it  
4 does with a regulated entity?

5 A. It does not because they are not required to --

6 MR. CLIZER: All right. Your Honor, I am going  
7 to object at this point. We are differently passed the scope of  
8 redirect.

9 JUDGE HATCHER: I tend to agree, Mr. Clizer.

10 Mr. Cooper?

11 MR. COOPER: Thank you, Your Honor. That's all  
12 the questions I have.

13 JUDGE HATCHER: Okay. That seems to make the  
14 objection moot at this point.

15 Mr. Cooper, we still have two exhibits that have  
16 not been offered, nor admitted into evidence.

17 MR. COOPER: Yes, Your Honor. I will do it.  
18 I'll offer them both. I will offer 601C into evidence and 602C  
19 into evidence.

20 (WHEREIN; Exhibits 601C and 602C were offered  
21 into evidence.)

22 JUDGE HATCHER: Let's take 602C first. And a  
23 reminder that these are confidential. Does anyone have any  
24 objections to Exhibit 602C being admitted into the hearing  
25 record?

1 MR. LINTON: Yes, Your Honor. This is David  
2 Linton. Just for the many reasons I have already objected, so I  
3 won't say anything more.

4 JUDGE HATCHER: Thank you, Mr. Linton. Any  
5 other objections?

6 MR. CLIZER: Your Honor, I have a potential  
7 objection and this is somewhat difficult for me because my  
8 objection would be based on the understanding of the exhibit,  
9 which I'm not sure is correct. I would like, if possible, just  
10 to get some clarification regarding it and that might remove the  
11 need for the exhibit. This is a little on unorthodox, I  
12 appreciate. I'll simply pose my question and then, know, you  
13 can decide from there.

14 Again, we're on 602. Correct? I just want to  
15 make sure of that.

16 JUDGE HATCHER: Yes.

17 MR. CLIZER: The property, plant, and equipment  
18 -- you see, what I thought I heard Mr. Cox testify was that  
19 would be investment Confluence had made in each of the systems,  
20 both the CSWR and Confluence Rivers; is that correct?

21 MR. COOPER: The first column is the CSWR  
22 companies as a whole. So that would include all of the  
23 operating utilities. The second column would include -- would  
24 only be Confluence Rivers' piece of that overall.

25 MR. CLIZER: Yes, but what is the row mean in



1 property, plant, and equipment?

2 MR. COOPER: It's what we would normally  
3 represent as the utility plant that is owned by the company. I  
4 guess I'm a little confused by the question.

5 MR. CLIZER: I just needed to make sure what it  
6 is. Is it, in fact, what the company represents is the value of  
7 the existing plants?

8 MR. COOPER: Well, yes. I mean, it would be all  
9 of those categories, but yes. As recorded, you know, per its  
10 investment.

11 MR. CLIZER: So with or without depreciation?

12 MR. COOPER: Yes, it would net of depreciation,  
13 Mr. Clizer. And, you know, the number would change tomorrow.  
14 Right? So -- but, yes it is net of depreciation as reflected.

15 MR. CLIZER: And last thing, is that  
16 Confluence's investment or specifically the Confluence Rivers --  
17 you know what, never mind. I realize now that I had something  
18 backwards. All right. Thank you. Actually, that does resolve  
19 my objection, so I do not need to make it. Those questions did  
20 help. Thank you very much.

21 JUDGE HATCHER: All right. Thank you,  
22 Mr. Clizer. I'm glad to take a detour to clear that up.

23 Mr. Linton, your objection is overruled.  
24 Exhibit 602C is admitted onto the hearing record.

25 (WHEREIN; Exhibit 602C was received into

1 evidence.)

2 JUDGE HATCHER: Let's go to the more  
3 controversial Exhibit 601C. This is the one labeled, Recent  
4 Missouri Small Water and Sewer Transactions. Mr. Cooper, did  
5 you already asked that to be admitted also?

6 MR. COOPER: I believe I did.

7 JUDGE HATCHER: Thank you, sir. Does anyone  
8 have any objections to the admittance of 601C?

9 MR. LINTON: Yes, Your Honor. David Linton, for  
10 the reasons already expressed.

11 JUDGE HATCHER: Thank you, Mr. Linton.

12 Does anyone else have any objections to the  
13 admitted of 601C onto the hearing record?

14 MR. CLIZER: Again, the OPC will object simply  
15 because that it's beyond the scope of the commission questions  
16 and therefore beyond the scope as redirect as previously stated.

17 JUDGE HATCHER: Mr. Cooper, where did these  
18 numbers come from?

19 MR. COOPER: They were compiled by Mr. Cox. As  
20 I mentioned before, the easier ones are Hallsville, Lawson, and  
21 Wardsville because those are public entities. The numbers are  
22 public. Franklin County, Mr. Cox has knowledge of because of  
23 having been involved in the process.

24 JUDGE HATCHER: Okay. Mr. Linton, your  
25 objection is overruled. I'm going to admit Exhibit 601C.

1 Mr. Clizer your objection is also overruled. I'm going to admit  
2 601C into the hearing record.

3 (WHEREIN; Exhibit 601C was admitted into  
4 evidence.)

5 JUDGE HATCHER: However, I'm going to add to  
6 that an allowance for Mr. Clizer to update that table. The  
7 reason I am doing that is because Mr. Cooper you provided a  
8 table, which seems to imply a certain business rationale, but  
9 also it is missing some of the exact topics that we are talking  
10 about here that would make it a little more comparable to our  
11 situation. So the Public Counsel will be requested to update  
12 this exhibit with their information on net book value for each  
13 of the systems.

14 Did I understand that request correctly,  
15 Mr. Clizer?

16 MR. CLIZER: Yes. And I'm not honestly sure  
17 that we will be able to, but we definitely will be looking into  
18 it and seeing if it is possible. And we will make that filing  
19 as soon as possible, so thank you.

20 JUDGE HATCHER: Okay. Go ahead.

21 MR. COOPER: Your Honor, I don't know what this  
22 would look like, but since we are discussing it right now, will  
23 you also -- will you provide an opportunity to respond to --  
24 with Mr. Clizer's filing if he's allowed to do so or if he does  
25 so?

1 JUDGE HATCHER: Mr. Cooper, I would be reluctant  
2 to extend this out further. However, there is no operation of  
3 law date on your application. So if the Company is willing to  
4 extend that by offering a response to Mr. Clizer, I will allow  
5 it.

6 MR. CLIZER: And -- my apologies. I have no  
7 problem with this and I was going to further add that for the  
8 record I will try to reach out to Confluence Rivers before  
9 filing something to hopefully avoid any kind of discrepancy.  
10 I'm not sure if that is necessarily possible, but I will present  
11 the evidence if we're able to find it.

12 JUDGE HATCHER: I appreciate that and would  
13 probably appreciate a joint filing even more, but I'll leave  
14 that to the parties.

15 Let's get back to our schedule. We have our  
16 second witness. Sorry. I've got to move my computer around  
17 here for a second. We have our second witness, Ms. Bolin  
18 getting ready to begin her testimony. So I'm going to swear her  
19 in after asking her to unmute her phone.

20 Ms. Bolin, would you please raise your right  
21 hand?

22 (Witness sworn.)

23 JUDGE HATCHER: Thank you.

24 And direct exam by Staff, please go ahead.

25 MS. BRETZ: Thank you.

1 DIRECT EXAMINATION BY MS. BRETZ:

2 Q. Ms. Bolin, will you please state your name and  
3 spell your last name for the record?

4 A. My name is Kimberly Bolin and Bolin is spelled,  
5 B-O-L-I-N.

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

7 A. I'm employed by the Missouri Public Service  
8 Commission and I am the auditing department manager.

9 Q. Are you the same Kimberly Bolin who prepared  
10 testimony in this matter, which has been marked as Staff Exhibit  
11 800?

12 A. Yes, I am.

13 Q. Do you have any changes or corrections to your  
14 testimony?

15 A. No, I do not.

16 Q. Is your testimony true and correct to the best  
17 of your knowledge?

18 A. Yes, it is.

19 Q. If I were to ask you those same questions today,  
20 would your answers be substantially the same?

21 A. Yes, they would.

22 MS. BRETZ: Judge, we offer Exhibit 800 into  
23 evidence.

24 (WHEREIN; Exhibit 800 was offered into evidence)

25 JUDGE HATCHER: Are there any objections to the

1 admittance of Exhibit 800 offered? Hearing none, it is so  
2 admitted.

3 (WHEREIN; Exhibit 800 was received into  
4 evidence.)

5 JUDGE HATCHER: Go ahead.

6 MS. BRETZ: And we tender Ms. Bolin for  
7 cross-examination.

8 JUDGE HATCHER: Thank you. Let me check my  
9 order of cross-examination.

10 Mr. Cooper, you are first up.

11 MR. COOPER: Thank you, Your Honor.

12 CROSS-EXAMINATION BY MR. COOPER:

13 Q. On Page 5 and 6 of your testimony you discuss  
14 the fact that Confluence Rivers has stated that it will not seek  
15 to recoup acquisition premium and that it will not recoup any  
16 premium paid; is that correct?

17 A. That is correct.

18 Q. First, when we're talking about a regulated  
19 utility, the net book value for that regulated utility or its  
20 net original cost, doesn't change merely because ownership  
21 changes, does it?

22 A. That is correct.

23 Q. And I believe that you would agree, maybe we  
24 already touched on it, that Confluence Rivers in this case has  
25 in fact formally stated that it will not seek to recover

1 acquisition premium for the Port Perry asset; is that correct?

2 A. Yes, it is.

3 JUDGE HATCHER: Mr. Cooper, this is all covered  
4 in her prefiled testimony. Correct?

5 MR. COOPER: It is. I'm getting to -- I'm  
6 setting the foundation, I guess, for the follow-up questions.

7 JUDGE HATCHER: Okay. Go ahead.

8 BY MR. COOPER:

9 Q. Ms. Bolin, are you familiar with anytime when  
10 the Missouri commission has granted a water or sewer utility  
11 recovery of acquisition premium in rates?

12 A. I personally am not.

13 Q. So it is safe to say then that you certainly  
14 have never seen a situation where utility's been allowed to  
15 recover acquisition premium in rates after a waiver such as the  
16 one that Confluence Rivers has in this case. Correct?

17 A. I would say so, yes. Correct.

18 Q. If there is no recovery of acquisition premium  
19 by the purchasing utility in rates, does the size of the  
20 acquisition premium matter from a ratemaking perspective?

21 A. No. We will use net book value as the starting  
22 point for ratemaking purposes.

23 Q. And if there is zero for the acquisition  
24 premium, then it's zero no matter where you started from.  
25 Correct?

1 A. Correct.

2 Q. For the purposes of setting rates to be paid by  
3 the customers. Correct?

4 A. Yes. For the purpose of setting rates.

5 MR. COOPER: That's all the questions I have,  
6 Your Honor.

7 JUDGE HATCHER: Thank you.

8 And Mr. Clizer?

9 MR. CLIZER: I have no questions. Thank you,  
10 Your Honor.

11 JUDGE HATCHER: Thank you.

12 And Mr. Linton?

13 MR. LINTON: No questions, Your Honor.

14 JUDGE HATCHER: Thank you. Now we turn to  
15 commissioner questions. Are there any commissioner questions?  
16 Okay. Hearing none, we will move on to the next witness. If  
17 you all would bear with me while I get my computer going again.  
18 I believe the next witness is Glen Justis. Thank you for your  
19 patience. I do appreciate that.

20 Mr. Paul Glenden Justis, Jr., please raise your  
21 right hand.

22 (Witness sworn.)

23 JUDGE HATCHER: Thank you and go ahead with  
24 direct examination, Mr. Linton.

25 GLEN JUSTIS testifies as follows:



1 DIRECT EXAMINATION BY MR. LINTON:

2 Q. Good morning Mr. Justis?

3 A. Good morning.

4 Q. Would you please state your name and your  
5 business affiliation for the record?

6 A. Yes. My name is Glen Justis. I work for  
7 Experience on Demand, LLC. I'm a senior partner.

8 Q. And what is your business address?

9 A. It is in 16020 Swingley Ridge Road, Suite 240,  
10 Chesterfield, Missouri 63017.

11 Q. And on whose behalf are you testifying today?

12 A. The Lake Perry Lot Owners' Association.

13 Q. Now, did you prepare or have to be prepared what  
14 has been marked as Exhibits 700C and 700?

15 A. Yes, I did.

16 Q. And those are in the form of questions and  
17 answers. Correct?

18 A. That is correct.

19 Q. If I were to ask you those questions today,  
20 would your answers be the same?

21 A. They would.

22 Q. Do you have any corrections, changes, to make to  
23 that?

24 A. I do not.

25 MR. LINTON: With that, I move for the admission

1 of Exhibit Number 700 and 700C and tender the witness for  
2 cross-examination.

3 (WHEREIN; Exhibits 700P and 700C were offered  
4 into evidence.)

5 JUDGE HATCHER: Thank you. All right. Are  
6 there any objections to the admittance of Exhibit 700C, 700P?  
7 Hearing no objections, Exhibit 700, the confidential and public  
8 versions are admitted onto the public record.

9 (WHEREIN; Exhibits 700P and 700C are received  
10 into evidence.)

11 JUDGE HATCHER: The witness is tendered for  
12 cross-examination, which my order brings up the Public Counsel.  
13 Mr. Clizer?

14 MR. CLIZER: The Office of Public Counsel has no  
15 cross-examination. Thank you, Your Honor.

16 JUDGE HATCHER: Thank you.

17 And that goes to Staff. Ms. Bretz?

18 MS. BRETZ: We don't have any either.

19 JUDGE HATCHER: Thank you.

20 And that goes to Mr. Cooper.

21 MR. COOPER: No questions, Your Honor.

22 JUDGE HATCHER: Thank you. And that will speed  
23 up right along to our next witness. And this is the final  
24 witness, Richard DeWilde. And Mr. DeWilde please raise your  
25 right hand.

1 (Witness sworn.)

2 JUDGE HATCHER: Thank you, sir. And direct  
3 examination, Mr. Linton.

4 RICHARD DEWILDE testifies as follows:

5 DIRECT EXAMINATION BY MR. LINTON:

6 Q. Good morning, Mr. DeWilde.

7 A. Good morning.

8 Q. Would you please state your name and your  
9 business affiliation for the record?

10 A. My name is Richard DeWilde. I'm a CPA here in  
11 Perryville, Missouri and I also manage the Lake Perry Lot  
12 Owners' Association.

13 Q. And on whose behalf are you testifying today?

14 A. Lake Perry Lot Owners' Association.

15 Q. Did you have reason to prepare or cause to be  
16 prepared exhibits that have been marked as Exhibit Number 701  
17 and 701C?

18 A. I have, yes.

19 Q. And those exhibits are in the form of questions  
20 and answers?

21 A. They are.

22 Q. If I were to ask you those questions today,  
23 would your answers be the same?

24 A. Yes, they would.

25 Q. Do you have any changes to make to those

1 questions and answers?

2 A. I do not.

3 MR. LINTON: With that, I move for the admission  
4 of Exhibit 701 and 701C and tender the witness for  
5 cross-examination.

6 (WHEREIN; Exhibits 701P and 701C were offered  
7 into evidence.)

8 JUDGE HATCHER: Thank you. And on  
9 cross-examination, I believe we have Public Counsel.  
10 Mr. Clizer, do you have any questions?

11 MR. CLIZER: I have no questions. Thank you,  
12 Your Honor.

13 JUDGE HATCHER: And for Staff, does Ms. Bretz  
14 have any questions?

15 MS. BRETZ: No. Thank you.

16 JUDGE HATCHER: And for Confluence Rivers?

17 MR. COOPER: No questions, Your Honor.

18 JUDGE HATCHER: Okay. Any commissioner  
19 questions? I will go ahead and start off. I do have one.  
20 I would like to repeat Commissioner Coleman's question. The  
21 question from earlier.

22 QUESTIONS FROM JUDGE HATCHER:

23 Q. Mr. DeWilde, can you walk me through some of the  
24 ways that Confluence could recover their investment here?

25 A. Listening to all the evidence that we've had

1 today, and -- I don't believe there is any recovery available  
2 for the acquisition premium.

3 Did you hear that, Judge?

4 Q. Yes, is that the end of your answer?

5 A. Basically, yes. I mean, the question as I  
6 understood it was from you if there was a way to recover that  
7 acquisition premium; is that correct?

8 Q. I believe the commissioner was trying to get  
9 into -- your description -- and maybe I've got the wrong  
10 witness. This might have been Mr. Justis's. But the  
11 walk-through of the various scenarios of how the lot owners have  
12 envisioned that Confluence may attempt to recover the  
13 acquisition premium indirectly. Maybe that is a better --

14 A. A lot of that, I think, was Mr. Justis's  
15 information as far as that goes, but I can address that. The  
16 Lot Owners' Association is very concerned with this being an  
17 economic transaction. With as many continual purchases that  
18 Confluence has made, it becomes a point when how many additional  
19 acquisition premiums can you pay and be able to continue to  
20 operate. I do realize with the numbers that we were presented  
21 today, with what their percentage is of the acquisition premium  
22 to their total assets, which was a surprise to me -- I hadn't  
23 heard that before.

24 But even in light of that, economically it is  
25 not very much of a standard in the business realm that we deal

1 with to be paying that much of an acquisition premium and never  
2 be able to cover them. So in some way, they're going to have to  
3 recoup the cost that they put into this.

4 Our thinking is because we don't look at their  
5 books, we can't do that actually, is that they do we cover this  
6 in a way by getting investors involved and paying them a nice  
7 return on their investment and then utilizing that expense for  
8 the interest to be part of the cost that they can use for rates  
9 in the future. And also, by being able to subsidize a lot of  
10 their other entities that they buy, they said they had 172, if  
11 they have an acquisition premium on a bunch of those and are  
12 able then to subsidize the monies that are earned from a system  
13 like ours, which is not distressed, and forward that to the  
14 others to continue to make them liquid, I think that is part of  
15 what we are concerned with most differently.

16 JUDGE HATCHER: Okay. Are there any other  
17 commissioner questions? Okay. Let's go to recross for  
18 Mr. DeWilde. First, we'll go to Office of Public Counsel.

19 Mr. Clizer?

20 MR. CLIZER: No further recross, Your Honor.  
21 Thank you.

22 JUDGE HATCHER: Thank you.

23 And Ms. Bretz?

24 MS. BRETZ: Nothing. Thank you.

25 JUDGE HATCHER: And Mr. Cooper?

1 MR. COOPER: No recross, Your Honor.

2 JUDGE HATCHER: I would like to push my luck for  
3 just one second. I would like to turn back to witness Justis.  
4 Commissioner Holsman was having some technical difficulties.

5 MR. LINTON: Your Honor, before we do that I did  
6 not hear whether you admitted Exhibit 701 and 701C into  
7 evidence.

8 JUDGE HATCHER: I did not, thank you. I believe  
9 I already asked for objections. Let me go and ask one more  
10 time. Are there any objections to the admittance of Exhibit 701  
11 confidential and public versions. This is Mr. DeWilde's  
12 prefiled testimony. Ms. Bretz?

13 MS. BRETZ: None.

14 JUDGE HATCHER: Mr. Cooper?

15 MR. COOPER: No, Your Honor.

16 JUDGE HATCHER: Mr. Clizer?

17 MR. CLIZER: No, Your Honor. Thank you.

18 JUDGE HATCHER: Thank you. Exhibit 701  
19 confidential and public versions are admitted onto the hearing  
20 record.

21 (WHEREIN; Exhibits 701P and 701C were received  
22 into evidence.)

23 JUDGE HATCHER: If you all will indulge me, I  
24 would like to make sure that I get this question asked of  
25 Mr. Justis also.

1 QUESTIONS BY JUDGE HATCHER:

2 Q. Mr. Justis, you are still sworn in. Are there  
3 any other ways beyond acquisition premium that Confluence Rivers  
4 could recover their costs?

5 A. Yes. I would say there are ways that exist.

6 Q. Could you describe them to us?

7 A. Well, those -- an example of those are outlined  
8 in my testimony. I've itemized five different -- five different  
9 scenarios. I think part of the issue here is almost -- I guess  
10 I would describe as a nomenclature issue. I would say that is  
11 correct that the Commission and Confluence Rivers and all the  
12 parties involved have acknowledged that an explicit merger  
13 premium in the sense of a form of an adder rate base is not  
14 going to be allowed. However, when you look at the basic  
15 economics of finances of any corporate entity, there are  
16 multiple ways their profitability can be changed or influenced.  
17 That is what I have itemized in my testimony.

18 So item number one is a situation where  
19 effectively the Company could in theory use excessive leverage  
20 and effectively borrow the amount that they're overpaying for  
21 the assets and then take those -- and basically transfer the or  
22 expense the interest payments on that debt back to the customers  
23 as an operating expense. So through that mechanism, the Company  
24 can effectively drive up its return on invested equity.

25 The second approach would be to drive down



1 operating expenses. So imagine day one of the Company has a  
2 current set of rates in place, a set of current operating costs.  
3 It could in theory choose to drastically cut staff, reduce  
4 maintenance or take other actions, which in the short term would  
5 drive up profitability and cash flow. That would be the second  
6 item.

7                   And ultimately it would be -- there would be a  
8 timing issue between that point in time and when that imbalance  
9 in cost and service would actually become apparent through  
10 either customer complaint or subsequent rate case.

11                   The third possibility to engage in various forms  
12 of self-dealing -- and I would say in my opinion Confluence  
13 Rivers is structured corporately in a way that lends itself to  
14 this. This is something I've highlighted in my original round  
15 of testimony at the first hearing, where, for example, it uses  
16 an affiliate to obtain administrative services, computer  
17 services, billing services, those type of services, and  
18 effectively overpaid that affiliate and passes those costs  
19 through to the Lake Perry customers. From a corporate  
20 perspective in the holding company perspective it could  
21 effectively produce excessive profits to make itself whole.

22                   And the fourth item is the Company could in  
23 theory complete capital investments and basically put in place  
24 either unnecessary projects or projects done at a level of cost  
25 that is unnecessary. And even though it may obtain a regulated

1 return on that amount, because those costs are above what is  
2 necessary, it effectively can drive its profits up.

3 The fifth item is to effectively attempt to  
4 socialize the premium across its footprint. That is a more  
5 complicated scenario, which I'm not prepared to, you know, talk  
6 about the details of that scenario, but I believe a  
7 socialization of the premium would be something the Commission  
8 should be mindful of the possibility.

9 And then the sixth is really any kind of  
10 combination of the above methodologies.

11 JUDGE HATCHER: Thank you for that. Now that I  
12 have reopened Mr. Justis's testimony, let's go through recross.  
13 And I've not forgotten we have redirect, Mr. Linton, for  
14 Mr. DeWilde after those commission questions I asked of him. I  
15 cut you off before we got back to you.

16 First let's start with recross on my recent  
17 question of Mr. Justis. Mr. Clizer, does Public Counsel have  
18 any recross?

19 MR. CLIZER: No, Your Honor. Thank you.

20 JUDGE HATCHER: Ms. Bretz, does Staff have any  
21 recross?

22 MS. BRETZ: No. Thank you.

23 JUDGE HATCHER: And Mr. Cooper?

24 MR. COOPER: No, Your Honor.

25 JUDGE HATCHER: Thank you. And that closes out

1 Mr. Justis's testimony. I'm sorry. Any redirect, Mr. Linton?

2 MR. LINTON: No questions, Your Honor.

3 JUDGE HATCHER: Thank you. That will close out

4 Mr. Justis's testimony. Now, let's wrap up Mr. DeWilde's.

5 We've gone through recross and we are now on redirect.

6 Mr. Linton, any redirect of Mr. DeWilde?

7 MR. LINTON: I have no questions, Your Honor.

8 JUDGE HATCHER: Thank you. Does everyone have

9 their exhibits admitted? I have checked off my list that we

10 have them all admitted and we are currently or in a moment going

11 to talk about a late-filed exhibit from the Office of the Public

12 Counsel. So does anybody need assistance filing their exhibits?

13 I do not see any takers.

14 MR. COOPER: Judge, just to clarify, when you

15 said filing their exhibits, this goes back to what we talked

16 about to the prehearing conference, that we'll turn around and

17 file our exhibits in EFIS as hearing exhibits?

18 JUDGE HATCHER: I was going to go ahead and take

19 responsibility for you.

20 MR. COOPER: Okay.

21 JUDGE HATCHER: I will email the exhibits that

22 you have supplied me to our court reporter and make sure that

23 they are properly entered.

24 Sorry about that. Where were we?

25 MR. LINTON: About filing of the marked

1 exhibits.

2 JUDGE HATCHER: Yes. I will take care of that  
3 for all of the parties and forward that on to the court  
4 reporter. We have the outstanding, updated table that  
5 Mr. Clizer has volunteered to take on.

6 Mr. Clizer, I would like to give you a one-week  
7 due date, so next Tuesday for a status report for that filing.  
8 I do not have a calendar in front of me. Can somebody tell me  
9 what next Tuesday's date is?

10 MS. BRETZ: It's May 26th, Judge.

11 JUDGE HATCHER: Thank you. May 26th will be our  
12 due date for status report or for the filing of the updated  
13 table. Are there any other matters that we need to address  
14 before we adjourn?

15 MS. BRETZ: Judge, going back to the table, I  
16 believe that Mr. Cooper wants an opportunity to respond to that.  
17 Staff would like the same opportunity to do that. And is there  
18 a possibility that we could try to submit a joint filing?

19 MR. COOPER: Yes, Your Honor. I think where we  
20 would like to be is Mr. Clizer offered to have some  
21 conversation, maybe before that filing. If we can have that  
22 conversation and then see where that leads us before we  
23 necessarily set out additional dates for a response from our  
24 perspective.

25 JUDGE HATCHER: I like hearing that you all are

1 going to try and work that out. That works for the Commission.  
2 Why don't I give a May 26th status date. Is that too soon or  
3 would two weeks be more appropriate?

4 MR. COOPER: No. Let's leave it shorter, Judge,  
5 if that's okay.

6 JUDGE HATCHER: Okay. Status report filed by  
7 Public Counsel on -- or jointly preferably -- by the end of the  
8 26th. And we will proceed with that from there on the late  
9 files. Are there any other matters to be addressed?

10 MR. COOPER: We are -- I guess, at some point we  
11 probably need to talk about briefings, Your Honor. And we were  
12 thinking something fairly short such as ten days for initial,  
13 five days for replies.

14 JUDGE HATCHER: I'd be interested to see what  
15 the other parties have to say about the schedule.

16 MR. LINTON: That would be fine with the  
17 Association.

18 JUDGE HATCHER: For Staff, does that sound  
19 doable?

20 MS. BRETZ: Yes. It does. I'm sorry.

21 JUDGE HATCHER: And Mr. Clizer?

22 MR. CLIZER: I think I can make that work.

23 JUDGE HATCHER: And just to repeat, Mr. Cooper,  
24 correct me if I am wrong, that will be ten days for your  
25 briefing and then five days for all others?

1 MR. COOPER: No. I was thinking that we would  
2 have -- all parties would file initial and reply.

3 JUDGE HATCHER: And then one round of reply  
4 briefs. I'm following you now. When would you like the ten  
5 days to start? We also need to make sure that we consider our  
6 court reporter and her turnaround time.

7 MR. COOPER: I guess it depends on the answer to  
8 that question. I don't think I need ten days from when the  
9 transcript is available. I just need a few days beyond when the  
10 transcript will be available. I think you are muted, Judge.

11 JUDGE HATCHER: Sorry about that. Lisa, could  
12 you give us an estimate on turnaround time, if we ask for this  
13 expedited?

14 COURT REPORTER: I could have this over the  
15 weekend, Tuesday. I mean, I could have it Monday, but that's a  
16 holiday and I'm not sure if you guys are going to be there.

17 JUDGE HATCHER: That's right. Let's call it  
18 Tuesday, the 26th.

19 COURT REPORTER: And I will have the prehearing  
20 with that because it is a volume before that.

21 JUDGE HATCHER: Thank you. And counting my days  
22 then, Mr. Cooper, are you saying the 29th would be acceptable?

23 MR. COOPER: Yes, Your Honor.

24 MR. CLIZER: Your Honor?

25 JUDGE HATCHER: Yes, Mr. Clizer.

1 MR. CLIZER: I would prefer if I had at least  
2 one weekend to potentially work on this if absolutely necessary.  
3 I apologize. Is it possible to go to the 2nd?

4 MR. COOPER: We're fine with that, Your Honor.

5 JUDGE HATCHER: Any other objections for the  
6 2nd? Hearing none, let's go with first round of briefs due the  
7 end of June 2nd; five business days for the reply briefs on June  
8 9th, which is the next Tuesday. Anybody have any objection to  
9 replies being due the following Tuesday, June 9th.

10 Mr. Cooper?

11 MR. COOPER: That is fine, Your Honor.

12 JUDGE HATCHER: Okay. Hearing no objections, we  
13 shall do reply briefs on June 9th. Okay. Thank you all. Any  
14 other matters before we adjourn? Thank you all. This hearing  
15 is adjourned.

16 (WHEREIN; the hearing is adjourned.)  
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CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



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Lisa M. Banks, CCR No. 1081



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