

## MEMORANDUM

**TO:** Missouri Public Service Commission  
Official Case File, Case Nos. WA-2019-0299

**FROM:** James A. Merciel, Jr - Water and Sewer Department  
David C. Roos – Water and Sewer Department  
Kimberly K. Bolin – Auditing Department  
Daronn Williams – Engineering Analysis Unit  
Dana R. Parish – Customer Experience Department  
Scott J. Glasgow - Customer Experience Department

/s/ J Luebbert 05-31-19  
Case Manager / Date

/s/ Karen Bretz 05-31-19  
Staff Counsel's Office / Date

**SUBJECT:** Staff Recommends Approval of Transfer of Assets and Transfer of  
Certificates of Convenience and Necessity

**DATE:** May 31, 2019

### **EXECUTIVE SUMMARY**

On March 29, 2019, Confluence Rivers Utility Operating Company, Inc. (CRU) filed an *Application and Motion for Waiver* (Application) with the Missouri Public Service Commission (Commission) creating two separate dockets, Case Nos. WA-2019-0299 and SA-2019-0300. In the Application, CRU seeks to acquire water and sewer utility assets presently owned and operated by Port Perry Service Company (PPSC). Along with the acquisition of assets, CRU requests to acquire the Certificates of Convenience and Necessity (CCNs) presently held by PPSC to provide water and sewer service.

On April 15, 2019, the Commission consolidated the two dockets, designated Case No. WA-2019-0299 as the lead case, and granted intervention to the Lake Perry Lot Owners' Association (the Association).

Based on its review as described herein, Staff recommends approval of CRU's request to acquire the assets of PPSC and PPSC's CCNs, with the conditions and actions as outlined below. Staff further recommends CRU be authorized and ordered to file adoption notice tariff sheets for PPSC's water and sewer tariffs.

## **GENERAL INFORMATION ON CRU**

CRU is a corporation that exists for the purpose of operating as a regulated water and sewer utility company. The president of CRU, Josiah Cox, has experience with water and sewer systems and is also the president of four affiliates of CRU<sup>1</sup> that are regulated utilities operating in Missouri, under a parent corporation named Central States Water Resources, Inc. At present, the four affiliates collectively operate a total of three (3) water and six (6) sewer systems. These affiliates have purchased assets of regulated and unregulated water and sewer operations, have undertaken substantial capital improvements to address compliance and operations issues, have improved day-to-day operations of the systems, and have improved customer service. With respect to corporate ownership and financing, CRU is set up in a manner similar to that of its affiliates. Central States Water Resources, Inc. also has operations in other states besides Missouri

CRU has another pending case before the Commission, Case No. WM-2018-0116, in which CRU proposes to own and operate a total of nine (9) water systems and nine (9) sewer systems to be purchased from eleven (11) separate entities, as described in detail in that case. CRU's proposal in that case has been approved by the Commission, and at this time CRU owns and is operating all except one of the involved utility systems. Of note, a purchase of the assets of PPSC was originally included with CRU's proposal in Case No. WM-2018-0116. The Association in its Motion to Intervene expressed its opposition to the Port Perry assets being included. In a provision of the Unanimous Stipulation and Agreement approved in that case, the parties agreed that, pursuant to Commission Rule 4 CSR 240-2.116(1) and the Stipulation and Agreement, Confluence Rivers be permitted to dismiss/withdraw that portion of its application as to PPSC's assets.

## **BACKGROUND OF PPSC**

The Commission granted PPSC a CCN to provide water service on May 18, 1973 in Case No. 17,681, and granted it a CCN to provide sewer service on June 7, 1973, in Case No. 17,642. Utility services are currently provided to approximately 267 water customers and 107 sewer customers, according to the Application, in the Port Perry subdivision near the city of Perryville in Perry County, Missouri.

## **STAFF'S INVESTIGATION**

### **Water System**

The source of water is two wells. Well #1 produces 60 gallons per minute from a submersible pump and has chlorine disinfection. Well #2 has a submersible pump producing 270 gallons per minute, and is operated as an emergency well. The water system has a 223,000 gallon ground storage tank, with high service pumps and three 800 gallon hydropneumatic tanks to normalize distribution system water pressure. All water customers are metered. The current monthly water rates, in effect since May 15, 2002, for a residential customer with a 5/8" meter consist of a

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<sup>1</sup> CRU and the four affiliates, Hillcrest Utility Operating Company, Inc., Raccoon Creek Utility Operating Company, Inc., Elm Hills Utility Operating Company, Inc., and Indian Hills Utility Operating Company, Inc. are owned by a parent corporation, Central States Water Resources, Inc.

customer charge of \$13.23, which includes 2,000 gallons, and a commodity charge for usage over 2,000 gallons of \$3.58 per 1,000 gallons. Other customer charge rates apply for larger meter sizes.

The PPSC water system operates under Missouri Department of Natural Resources (DNR) regulations. The DNR Public Water Supply Identification number for the PPSC water system is MO4036132. DNR found PPSC to be in compliance with its drinking water regulations, based on observations made on December 14, 2017.

Although PPSC is in compliance with drinking water regulations, improvements to the system will likely be needed to maintain compliance, good operations and preserve the normal life of the utility assets.

CRU's proposed improvements for the water system include:

- Installing chlorine equipment.
- Improving access roads to the facilities.
- Repairing the well house.
- Overhauling the backup wellhead.
- Installing remote operations monitoring

### **Wastewater System**

The wastewater treatment system is a “no-discharge” system, utilizing land irrigation. The treatment system consists of a four-cell lagoon, with the lagoon effluent applied as irrigation over one acre of land. Three additional acres are available for irrigation. The collecting sewers are PVC pipe. About half of the collecting sewers are 2 or 2 ½ inch pressure sewers, and the other half are 4-inch small diameter gravity sewers. The pressure collecting sewers operate with electric-powered septic tank effluent pump (STEP) type “pump units” on each customer's premises, which pump sewage into and through the pressure collecting sewer system. Monthly sewer flat rates, in effect since May 15, 2002, are \$18.94 for full-time residential customers, \$14.21 for part-time residential customers, and \$14.21 for part-time trailer or camper sites with sewer service.

PPSC's treatment facility operates under a DNR “domestic no-discharge” wastewater permit. The current permit, MOG823126, was issued by DNR effective November 1, 2018, and will expire on August 24, 2022. An inspection was conducted by DNR staff on December 14, 2016, and at that time the facility was found to be in compliance with water pollution control regulations.

Although PPSC is in compliance with wastewater regulations, improvements to the system will likely be needed to maintain compliance, good operations, and preserve the normal life of the utility assets.

CRU's proposed improvements for the sewer system include:

- Installing a second irrigation pump.
- Installing an all-weather access road and repairing fencing.
- Performing repairs to the gravity collection system to minimize inflow and infiltration.

- Repairing irrigation sprinkler heads that are not currently operating.
- Removing trees growing inside the lagoon fenced area and in the lagoon cells.

CRU stated to Staff<sup>2</sup> that its estimated costs for the water and sewer system proposed improvements is \$229,075. Staff has reviewed CRU's capital improvement plan, but does not take a position and makes no recommendation at this time regarding the prudence and costs of any specific improvement. This will be addressed in a future rate case, after CRU has completed some or all of its planned improvements.

### **Technical, Managerial and Financial Capacity**

As a part of its evaluation of proposed water and/or sewer utility operations, Staff utilizes the concepts of Technical, Managerial and Financial Capacities (TMF).

Staff evaluated CRU's proposed operation of the PPSC water and sewer systems by studying CRU's four regulated affiliates. CRU is owned and managed by Central States Water Resources, Inc., which also owns other regulated utilities, as stated above. Also, as noted above, Staff recommended, and the Commission approved, CRU's acquisition of nine water and nine wastewater systems from eleven different entities.

### **Technical Capacity**

CRU's president has experience in the design and operation of water and sewer systems. Like its affiliates, CRU intends to utilize a contract operator for plant operations, utilizing the services of appropriately qualified and licensed utility system operators (for water and for sewer) ultimately supervised by the president of CRU. The contract operator will undertake routine day-to-day inspections, checks, sampling and reporting for the water and sewer systems, along with meter reading, as well as accomplish most system repairs and extraordinary operations tasks as the need arises, to address proper facility operations and customer service matters. Ultimately, the president of CRU or another responsible person is available by telephone at all times, if severe emergencies arise and it becomes necessary for a CRU officer to authorize extraordinary work. CRU's owners will undertake, as needed, design and construction of replacement/upgrade of plant assets. All of CRU's affiliates have demonstrated their abilities to accomplish these tasks.

### **Managerial Capacity**

Similar to routine facility operations, CRU intends to utilize a contract billing agent and an emergency answering service. The billing agent will be responsible for computing, printing, and sending monthly bills to customers, and then collecting payment. The billing agent will also have customer service staff to take and process customer calls with inquiries pertaining to billing, make bill adjustments and enter into payment plans within company guidelines, interact with Staff in working with customer complaints, and manage new customer accounts and the closing of customer accounts. In conjunction with an answering service that may be a different agent, the contract billing agent will also be available to route service complaints and inquiries. All of CRU's affiliates have demonstrated management abilities regarding customer accounts, as well as

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<sup>2</sup> Data request 0012, response submitted by CRU May 1, 2019.

notifying customers when unusual circumstances and events occur, such as outages, sewer blockages and major main breaks.

### **Financial Capacity**

CRU has the financial capacity to acquire and operate this system through access to capital through its parent company, similar to its affiliates. The affiliates have used financial resources necessary to undertake utility plant improvements that range from simple asset rehabilitations to major plant expansions and replacements. In some situations this has resulted in turning operations with out-of-compliance facilities into operations that meet current drinking water and water pollution regulations. CRU has already committed, and has been approved, to undertake plant improvements for its other systems that are degrading due to age, including some systems owned by regulated utilities that are in receivership.

### **Tartan Energy Criteria**

When considering a request for a new CCN, the Commission applies criteria originally developed in a CCN case filed by the Tartan Energy Company and sometimes referred to now as the “Tartan criteria.” The Tartan criteria consider 1) the need for service; 2) the utility’s qualifications; 3) the utility’s financial ability; 4) the feasibility of the proposal; and, 5) promotion of the public interest. For its reviews, Staff often adds one more criterion, that being whether other utility entities are available to provide similar service.

This case does not contemplate a new CCN, however, Staff asserts that applying the Tartan criteria to the proposed CCN transfers is valid. Staff’s conclusion in this matter is that CRU has the requisite TMF capacities to operate the PPSC water and sewer systems, CRU has met the Tartan Energy criteria, and therefore, its proposal to acquire the assets of the PPSC water and sewer systems and associated CCNs is not detrimental to the public interest. Staff’s analysis of CRU’s proposed operation in the PPSC service area in the context of the Tartan criteria is as follows:

#### **(1) Need for Service**

There is a need for service. Existing water and sewer customers in the Port Perry subdivision have a desire and need for continued water and sewer service. The PPSC existing water and sewer systems, proposed to be acquired by CRU, presently are used to provide such service, and no other similar systems are readily available. PPSC has decided to exit the water and sewer utility business, sell the systems to CRU, and rely upon CRU to properly operate and maintain the existing water and sewer systems in order that customers will continue to have safe and adequate service.

#### **(2) Applicant's Qualifications**

CRU is qualified to provide the service, as described above regarding the TMF principles as applied to CRU. This includes CRU’s ability, as demonstrated by CRU’s owners’ in owning and managing its affiliates, to operate plant facilities, and undertake improvements that become necessary to maintain those facilities and meet drinking water and water pollution regulations, and to meet the Commission’s regulations pertaining to customer billing and customer service.

### **(3) Applicant's Financial Ability**

CRU has access to financial resources similar to those available to its affiliates. The affiliates have demonstrated financial ability as described above regarding the TMF principles.

### **(4) Economic Feasibility of Proposal**

PPSC submitted the required feasibility information when it obtained its CCNs, and CRU proposes to assume PPSC's obligations providing water and sewer service going forward. Staff notes that unlike PPSC, which is a stand-alone utility operation, CRU has an advantage of economies-of-scale, since it is already approved to provide water and sewer service to more customers than just in the PPSC service area with numerous other water and sewer systems. CRU is a part of a larger operation with regulated affiliates in Missouri and involvement with other out-of-state operations.

### **(5) Promotion of the Public Interest**

As the Commission determined in Case No. GA-94-127, positive findings with respect to the other four standards above will in most instances support a finding that an application for a CCN will promote the public interest. For the reasons outlined throughout this memorandum, Staff asserts that CRU's proposal to acquire the PPSC water and sewer systems and PPSC's CCNs is not detrimental to the public interest.

### **Other Available Utilities**

Staff is aware that the Association has expressed interest in ownership and operation of the PPSC water and sewer systems for the benefit of its members who are existing customers.<sup>3</sup> The Association has received DNR approval<sup>4</sup> for its newly-created nonprofit water and sewer utility entity, Lake Perry Service Company, to provide water and sewer services in the general area, as is required of nonprofit utilities by State Statutes §393.825.3 and §393.900.3. However, there is no proposal before the Commission for PPSC to sell and transfer its assets to the Association, and to Staff's knowledge there is no contract for sale that exists or is being developed between PPSC and the Association.

### **Tariff**

In its Application, CRU states that it proposes to adopt existing tariff rules and rates in effect for PPSC. Staff recommends that within ten (10) days after closing on any of the assets, CRU file Tariff Adoption Notice tariff sheets for the water and sewer tariffs, and that the Commission authorize CRU to provide water and sewer service by the terms of PPSC's water and sewer tariffs on an interim basis until the effective date of such Adoption Notices.

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<sup>3</sup> It is Staff's understanding that the Association's membership is comprised both of homeowners who have water and sewer connections to the PPSC systems, and lot owners who are not presently customers of PPSC and would not be customers of PPSC, nor CRU should its Application be approved, unless and until they construct homes.

<sup>4</sup> As per a letter from DNR to the Association's counsel Mr. Linton, dated March 20, 2019, a copy of which DNR sent to Staff.

### **Rate Base**

The Auditing Department reviewed information provided by CRU in response to Staff's data requests, its Application with included sale agreement documents, CRU's work papers, as well as the effective tariffs and annual reports of PPSC.

The purchase price for the PPSC assets proposed to be purchased by CRU is \*\* \_\_\_\_\_ \*\*.

Staff is proposing that the net book value as of March 31, 2019, be used as the starting point for determination of the rate base value in the first rate case for the PPSC properties. The Auditing Department, Engineering Analysis Department and Water and Sewer Department conducted a review of plant in service, depreciation reserve, Contributions in Aid of Construction (CIAC), CIAC amortization and other rate base items during their investigation in order to determine CRU's rate base as related to the PPSC assets for this case.<sup>5</sup> Staff's starting point for determining rate base in this case was an analysis of the actual rate base used in PPSC's most recent rate case, and then using PPSC's annual reports submitted to the Commission, updating plant in service, depreciation reserve, CIAC, and CIAC amortization to March 31, 2019. The net book value of assets proposed to be purchased from PPSC by CRU as of March 31, 2019, as determined by Staff, is approximately \$58,133.

### **Depreciation Rates**

The Engineering Analysis Department performed a review of the depreciation rates for water and sewer utility assets, plant-in-service, and the accumulated depreciation reserves for PPSC.

The proposed depreciation rates, which were previously approved for PPSC, are included with this memorandum as Attachment A applying to water assets, and as Attachment B applying to sewer assets.

Staff recommends that CRU maintain existing depreciation rates for the plant accounts that were previously ordered by the Commission for PPSC. The Auditing Department used these depreciation rates in calculating the recommended rate base discussed above.

Staff intends to review the depreciation schedules again when CRU files for its first rate case, assuming the Commission approves this acquisition and transfer of assets.

### **Customer Notice/Customer Service**

Since the Association, whose members include PPSC customers, has intervened, Staff asserts that there is not a need for separate customer notice regarding this pending case.

Assuming the Commission approves this proposal, Staff recommends CRU provide an example of its actual communication with PPSC's customers once CRU closes on system assets.

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<sup>5</sup> The rate base value as determined by Staff for this case is for informational purposes only, and reflects only Staff's determination based on its review of this case. To Staff's knowledge, the rate base amount for PPSC has not been reviewed by other interested parties (including PPSC, CRU or the Office of Public Counsel) in the context of this case, nor in CRU's other pending case WM-2018-0116. In subsequent proceedings, the rate base determination value identified by Staff is subject to change based on positions of other parties, or by receipt of additional information not available during Staff's review of this case.

In addition, Staff recommends CRU provide actual communications provided to customers that detail how customers may reach CRU regarding water and sewer matters, including the customer brochure as required by the Commission's rules, 4 CSR 240-13.040(3)(A-K).

Staff received three (3)<sup>6</sup> public comments in this case. Of the three comments filed, all oppose the proposed acquisition, and two of these customers state they would prefer the Association buy the water and sewer systems.

Customers will be able to contact CRU by calling the toll-free number, the emergency toll-free number, or by sending an email to customer service. The emergency toll-free number and website are available 24 hours a day, 7 days a week. Personnel will be available Monday through Friday 8 a.m. to 5 p.m. to answer customer inquiries. The main office is open Monday through Friday from 7 a.m. to 5 p.m. to respond to customer concerns that have been forwarded by CRU operations or customer service, or to respond to inquiries from Staff.

### **OTHER ISSUES**

PPSC's corporation status is "Good Standing" with the Missouri Secretary of State. PPSC is current on its annual assessments through fiscal year 2019, and is current with filing annual reports through 2018.

CRU's corporation status is "Good Standing" with the Missouri Secretary of State. CRU does not yet have any obligations with the Commission regarding annual reports or annual assessments. CRU has an open case before the Commission, Case No. WM-2018-0116, in which on February 14, 2019, the Commission issued its *Order Approving Stipulation and Agreement and Granting Certificates of Convenience and Necessity*. CRU is completing its post-approval activities including closing on various utility properties and filing tariff sheets.

### **STAFF RECOMMENDATION**

Staff's position, based on its review as described herein, is that the acquisition of the PPSC utility assets and the CCNs held by PPSC is not detrimental to the public interest. CRU's proposal to adopt the existing tariffs, rates and charges of PPSC by filing a tariff adoption notice is reasonable. Authorizing CRU to begin providing service to the PPSC customers immediately upon closing on the utility assets, utilizing the existing approved PPSC water tariff and the existing approved PPSC sewer tariff, on an interim basis until the effective date of CRU's adoption notices, is reasonable.

Based upon the foregoing, Staff recommends that the Commission:

1. Authorize PPSC to sell and transfer utility assets to CRU, and transfer the CCNs currently held by PPSC to CRU effective upon closing on the assets;
2. Require CRU to file adoption notice tariff sheets for each tariff, water and sewer, currently in effect for PPSC, as 30-day filings, within ten (10) days after closing on the assets;
3. Upon closing on the water and sewer systems, authorize PPSC to cease providing service, and authorize CRU to begin providing service by applying, on an interim basis,

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<sup>6</sup> Two of the customers each filed two identical public comments, one in the water case, WA-2019-0299, and an identical public comment in the sewer case, SA-2019-0300.



the existing rates, rules and regulations as outlined in PPSC's water and sewer tariffs, until the effective date of respective adoption notice tariff sheets, as recommended above;

4. Approve depreciation schedules for CRU, as shown on Attachments A and B, and order CRU to depreciate its plant accounts for the appropriate systems as specified by the depreciation schedules;
5. Require CRU to ensure adherence to Commission Rule 4 CSR-13 with respect to the PPSC customers;
6. Require CRU to provide an example of its actual communication with PPSC's customers regarding its acquisition and operations of the system assets, and how customers may reach CRU regarding water and sewer matters, within ten (10) days after closing on the assets;
7. Prior to its first billing, require CRU to distribute to PPSC customers an informational brochure detailing the rights and responsibilities of the utility and customers regarding its water and sewer service, consistent with the requirements of Commission Rule 4 CSR 240-13.040(2)(A-L) within ten (10) days after closing on the assets;
8. Require CRU to provide to Staff's Customer Experience Department a sample of ten (10) billing statements of bills issued to the PSPC customers within thirty (30) days of such billing;
9. Require CRU to provide adequate training for the correct application of rates and rules to all customer service representatives, including those employed by contractors, prior to the customers receiving their first bill from CRU;
10. Require CRU to file notice in this case once Staff recommendations regarding customer communications and billing, listed above, have been completed; and
11. Make no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the transfers of assets or the CCNs to CRU, including past expenditures or future expenditures related to providing service in the applicable service area, in any later proceeding.

Staff will submit further recommendations as necessary regarding the tariff adoption notice sheets to be filed by CRU in this matter.

### **ATTACHMENTS**

- A. Proposed Depreciation Accrual Rates for Water Accounts
- B. Proposed Depreciation Accrual Rates for Sewer Accounts