

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

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

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Commission”), by and through counsel, and recommends that the Commission authorize the sale of water and sewer utility assets and transfer of certificates of convenience and necessity (“CCNs”) to Confluence Rivers Utility Operating Company, Inc. (“CRU”). In support of this *Staff Recommendation*, Staff states as follows:

1. CRU filed its *Application and Request for Waiver* (“Application”) on March 29, 2019, requesting Commission authorization for the sale of water and sewer utility assets and transfer of CCNs from Port Perry Service Commission (“PPSC”) to CRU.

2. In its Application, CRU also requested a waiver of the 60 day notice requirement of Commission Rule 4 CSR 240-4.017(1). CRU verified that in the prior 150 days it had no Commission communication regarding any issue likely to be substantive in this case.

3. On April 1, 2019 the Commission set a due date of April 16, 2019 to intervene and ordered Staff to file a recommendation no later than May 31, 2019.

4. The Commission granted CRU’s April 1, 2019 motion to consolidate the water and sewer cases on April 15, 2019.

5. On April 3, 2019 Lake Perry Lot Owners Association (“the Association”) applied to intervene and moved to dismiss CRU’s Application, arguing that CRU failed to provide the 60 day notice and that CRU lacks statutory authority to file the Application. On April 15, 2019 the Commission approved the Association’s intervention motion. It has not ruled on the motion to dismiss.

6. Pursuant to Section 393.170, RSMo, no water or sewer corporation shall provide service to consumers without first obtaining Commission approval. In determining whether to grant such approval, the Commission applies the five “Tartan Energy Criteria” established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173 (1994). These criteria examine (1) the need for service; (2) the applicant’s qualifications; (3) the applicant’s financial ability; (4) the economic feasibility of the proposal; and (5) promotion of the public interest. In addition to the Tartan Criteria, when considering applications involving existing water and/or sewer systems, the Commission analyzes the Technical, Managerial, and Financial capabilities (“TMF”) of the applicant.

7. As explained in the Staff *Memorandum*, attached as Appendix A, Staff investigated CRU’s request. Based upon this review, Staff determined that CRU possesses the necessary TMF capabilities and fulfills the requirements of the Tartan Energy Criteria. Accordingly, Staff asserts that approving the utilities’ sale and transferring the CCNs to CRU is necessary and convenient for the public service and is not detrimental to the public interest, and Staff recommends approval with conditions described in the Staff *Memorandum*.

8. Staff does not oppose CRU’s request for a waiver of the 60 day notice requirement of Commission Rule 4 CSR 240-4.017(1).

9. The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989). Should no party or individual request a hearing in this matter, the Commission need not hold a hearing to allow the utilities' sale and transfer of CCNs to CRU.

WHEREFORE, Staff respectfully submits this *Staff Recommendation* for the Commission's information and consideration. Staff requests the Commission approve the sale of the water and sewer utilities and transfer the accompanying CCNs from PPSC to CRU, with conditions, to provide sewer service to the requested service area.

Respectfully submitted,

/s/ Karen E. Bretz

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been electronically mailed to all parties and/or counsel of record on this 31st day of May, 2019.

/s/ Karen E. Bretz