

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

The Staff of the Missouri Public Service Commission,)
)
)
Complainant,)
)
v.)
)
Smithview H2O Company,)
John Kuhle and Kuhle H2) Company,)
)
Respondents)

Case No. WC-2016-0141

RESPONSE TO ORDER

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Response to Order* in this matter hereby states:

1. On December 8, 2015, Staff filed its *Complaint* against Respondents for violating the Commission's statutes and rules related to the filing of annual reports, payment of annual assessments, provision of safe and adequate service, and provision of unauthorized services.

2. On April 6, 2016, June 20, 2016, October 18, 2016, and January 26, 2017, Staff filed *Status Reports* to provide updates regarding resolution of issues raised in Staff's *Complaint*.

3. On May 4, 2017, Staff requested that the case remain open until either Smithview H2O Company ("Smithview") was sold or its assets were transferred to an owner who is able to assume the responsibilities of operating the system.

4. On November 2, 2017, Confluence Rivers Utility Operating Company, Inc. ("Confluence Rivers") filed an application before the Commission seeking authority to purchase the assets of Smithview, along with the assets of several other water and sewer

utilities.¹ In response to Confluence Rivers' *Application*, on December 18, 2017, Staff requested that the proceedings in this case be stayed until the case by Confluence Rivers was completed.

5. On February 14, 2019, the Commission issued its *Order Approving Stipulation and Agreement and Granting Certificates of Convenience and Necessity*, which, among other things, approved the sale of Smithview's assets to Confluence Rivers.

6. On March 8, 2019, the Commission issued its *Order Directing Staff to Explain Whether Complaint Should be Dismissed*, ordering Staff to file a pleading indicating whether this complaint should be dismissed.

7. While the Commission approved the sale of Smithview's assets to Confluence Rivers in its February 14, 2019, *Order*, Smithview and Confluence have yet to finalize the sale. Therefore, Staff recommends the Commission delay dismissing this complaint until notice of closing has been received. As the timeline for the closing is currently unknown, Staff commits to update the Commission as soon as it learns of the completion of the transaction, and will recommend dismissal of the complaint at that time.

WHEREFORE, Staff prays that the Commission will accept its *Response to Order* and direct Staff to file a further recommendation once Smithview and Confluence Rivers close on the sale of assets; and grant such other and further relief as the Commission considers just in the circumstances.

¹ See *In the Matter of the Application of Confluence Rivers Utility Operating Company, Inc. to Acquire Certain Water and Sewer Assets, For a Certificate of Convenience and Necessity, and, in Connection therewith, to Issue Indebtedness and Encumber Assets*, File No. WM-2018-0116.

Respectfully submitted,

/s/ Mark Johnson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered to the parties and/or their counsel of record by U.S. Postal Service postage prepaid, or by hand, or served electronically, on this 29th day of March, 2019.

/s/ Mark Johnson