

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

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

**MOTION TO QUASH NON-DISCLOSURE AGREEMENTS  
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Company”), and, as its *Motion to Quash Non-Disclosure Agreements and Motion for Expedited Treatment*, states as follows to the Missouri Public Service Commission (“Commission”):

**MOTION TO QUASH**

1. On April 23, 2020, the Lake Perry Lot Owners Association (“Lot Owners”) filed Non-Disclosure Agreements (“NDAs”) from two persons who appear to be employed by banks in Perryville, Missouri: one by First State Community Bank (FSCB) and the other by The Bank of Missouri .

2. The Commission Rule allowing outside experts to gain access to confidential information – 20 CSR 4240-2.135(6) – states that such information may be provided “to persons designated by a party as an expert in the case” and who have disclosed their “name, title, and job classification.”

3. The Commission’s *Order Directing Responses Regarding Cancellation of Evidentiary Hearing Regarding Book Value* recognized that the net book value (“NBV”) of the Port Perry water and sewer assets is “. . . the factual issue that was the subject of the evidentiary

hearing scheduled for May 19-20, 2020.”<sup>1</sup>

4. Because the two persons who filed NDAs yesterday appear to be bankers, their expertise on the NBV of assets Confluence Rivers proposes to purchase – the sole issue the Commission directed the parties to address – is not obvious.

5. The reasons these individuals require access to Confidential information is made even more curious because “information regarding the net book value of the subject utility assets being purchased”<sup>2</sup> exchanged among the parties in response to the Commission’s reopening of the record has not been designated “Confidential” under the Commission’s rules. Thus, it seems clear whatever information these persons seek to review concerns matters beyond the scope of the sole purpose for reopening the record.

6. The Commission’s rule governing access to confidential information is designed to provide access to outside experts that require such information for the fair conduct of proceedings before the Commission. That rule does not confer on parties a license to conduct a fishing expedition or provide access to confidential information to persons who are not legitimate “experts.” The rule implies two conditions that must be satisfied before outsiders are allowed access to confidential information. First, the outsider seeking access must be a true “expert” regarding issues or subjects for which access to confidential information is sought. Second, the confidential information sought by and made available to the outsider must be within his or her area of expertise.

7. In this instance, there is no reason to believe the two parties who filed NDAs on April 23 are experts on the NBV of the assets Confluence Rivers seeks to acquire in this case.

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<sup>1</sup> *Order Directing Responses Regarding Cancellation of Evidentiary Hearing Regarding Net Book Value*, p. 1.

<sup>2</sup> *Order Setting Procedural Conference*, para 1.

And because none of the information provided since the Commission re-opened the record in this case has been designated “Confidential,” there is no basis to conclude the information these individuals are seeking has anything to do with NBV or that their review of confidential information would be limited to that issue.

8. For all the reasons stated above, the NDAs filed by the Lot Owners on April 23 should be quashed by the Commission until, and unless, the Lot Owners can establish the NDA signatories’ expertise and that their expertise relates to is “the net book value of the subject utility assets being purchased.”

#### **MOTION FOR EXPEDITED TREATMENT**

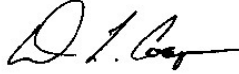
9. Pursuant to Commission Rule 20 CSR 4240-2.080(14), Confluence Rivers requests expedited treatment of this motion, to include a telephonic hearing today. As stated herein, this matter concerns the review of confidential materials that appear to not be relevant to the matters before the Commission at this time. Expedited treatment is required to protect the confidentiality of such information from disclosure that is not authorized by the Commission’s rules.

10. No harm will result from the granting of this Motion. In fact, harm may be prevented by a grant of the Motion. Confluence Rivers further states that this Motion is being filed as quickly as possible after filing of the NDAs described herein.

**WHEREFORE**, Confluence Rivers respectfully requests that the Commission grant this

Motion for Expedited Treatment and, thereafter, quash the NDAs described herein.

Respectfully submitted,



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Dean L. Cooper, MBE #36592  
Jennifer L. Hernandez, MBE #59814  
**BRYDON, SWEARENGEN & ENGLAND P.C.**  
312 E. Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65012  
(573) 635-7166 telephone  
(573) 636-7431 facsimile  
[jhernandez@brydonlaw.com](mailto:jhernandez@brydonlaw.com)  
[dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)

**ATTORNEYS FOR CONFLUENCE RIVERS  
UTILITY OPERATING COMPANY, INC.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on April 24, 2020, to the following:

Office of the General Counsel  
[staffcounservice@psc.mo.gov](mailto:staffcounservice@psc.mo.gov)  
[karen.bretz@psc.mo.gov](mailto:karen.bretz@psc.mo.gov)

Office of the Public Counsel  
[opcservice@opc.mo.gov](mailto:opcservice@opc.mo.gov)  
[john.clizern@opc.mo.gov](mailto:john.clizern@opc.mo.gov)

David Linton  
[jdinton@reagan.com](mailto:jdinton@reagan.com)



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