

**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)	Case No. WA-2019-0299
Assets and for a Certificate of)	
Convenience and Necessity)	

**STATEMENT OF POSITIONS OF THE OFFICE OF THE PUBLIC COUNSEL
FOR THE SECOND EVIDENTIARY HEARING**

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Statement of Positions*, states as follows:

The OPC will respond to the issues identified by the *List of Issues, List and Order of Witnesses, Order of Opening, and Order of Cross-Examination* in the order they are set forth.

Issue 1. What is the net book value of the Port Perry Service Company’s (“Port Perry”) water and wastewater assets?

The OPC; Confluence Rivers Utility Operating Company, Inc. (“Company” or “Confluence Rivers”); and the Staff of the Missouri Public Service Commission (“Staff”) together filed a *Stipulation and Agreement as to Net Book Value* on April 9, 2020. This stipulation and agreement stated that the net book value of the Port Perry water and wastewater assets, as of December 31, 2019, were \$20,070 for Port Perry’s water assets and \$57,866 for its wastewater assets. *Stipulation and Agreement*, pg. 2. The Lake Perry Lot Owners Association (“Association”) filed a partial objection to

the stipulation on April 10, 2020, **but that partial stipulation expressly stated that the Association agreed with the actual dollar valuations of the water and wastewater systems included in the April 9th Stipulation and Agreement as to Net Book Value.** *Partial Objection*, pg. 1. To date, no party has opposed or otherwise challenged these values. The Company and Staff have both submitted testimony in support of the dollar amounts included in the April 9th *Stipulation and Agreement as to Net Book Value*. Bolin, *Direct*, pgs.4 – 5; Cox, *Rebuttal*, pg. 3. Moreover, the testimony submitted by the Association also accepts these valuations as accurate in the course of presenting the larger argument for why this transaction is detrimental to the public interest. DeWilde, *Rebuttal*, pgs. 2 – 3. There is thus no disagreement among the parties as to the net book value of the Port Perry water and wastewater assets. Given the complete consensus among all the parties, the Commission should find that the net book value of the Port Perry water and wastewater assets, as of December 31, 2019, were \$20,070 for Port Perry’s water assets and \$57,866 for its wastewater assets.

Issue 2. Given the answer to the first question, should the Commission find that Confluence Rivers Utility Operating Company, Inc.’s (“Confluence Rivers”) acquisition of the Port Perry Service Company’s (“Port Perry”) water and wastewater assets and certificates of convenience and necessity is not detrimental to the public interest, and approve the transaction?

No. The Commission should instead find that Confluence Rivers' acquisition of the Port Perry water and wastewater assets and certificates of convenience and necessity is detrimental to the public interest and deny approval of the transaction. It is important to note that this is true **regardless** of the net book value determination for all the reasons laid out in the OPC's initial brief. However, the OPC will not needlessly repeat those arguments again here. Instead, the OPC will focus on the issues specific to the net book value determination and the resulting drastic over-payment Confluence Rivers has made. *See DeWilde, Rebuttal*, pg. 3.

Confluence Rivers and its affiliate entities have a history of over-paying for water and wastewater systems. The most recent example occurred in the acquisition of Osage Water Company by the Osage Utility Operating Company, Inc., which is a sister company of Confluence Rivers. *See WA-2019-0185, Report and Order*, pg. 8 (indicating that Osage Utility Operating Company is also owned by CSWR, LLC). In that case, Confluence Rivers' affiliate entity ended up paying \$800,000 for a system that it had initially only valued for, at most, \$465,000. *Id.* pgs. 12 – 13. Further, that case involved a protracted “bidding war” between multiple entities owing to the bankruptcy of the Osage Water Company. *Id.* In this case, by contrast, the overpayment was completely of Confluence Rivers' own volition, especially considering that the Company went to great lengths to be able to escape from the sale if the Commission found that it had overpaid. *See DeWilde, Rebuttal*, pgs. 5 – 6.

When a utility company (taken together with its sister companies) develops a habit of over-paying for new systems, it is a clear indication that something is amiss.

It would be naive for this Commission not to recognize that these types of over-payment will almost certainly lead to one of the five troubling scenarios designed to improperly improve profitability outlined in the rebuttal testimony of Mr. Glen Justis as Confluence Rivers tries desperately to make up the short-falls caused by its excessive expenditures. Justis, *Rebuttal*, pgs. 3 – 4. Moreover, allowing such an outcome to result would undoubtedly be “detrimental to the public interest” as it would result in utility customers paying far more than is necessary for services. The net book value determination and the resulting drastic over-payment Confluence Rivers’ has made thus joins the long list of other reasons that the OPC has previously outlined for why this transaction should not be approved.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Statement of Positions* and rule in the OPC’s favor on all issues presented.

Respectfully submitted,
OFFICE OF THE PUBLIC
COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this eighteenth day of May, 2020.

/s/ John Clizer