

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Local Public Hearing

November 4, 2019

O'Fallon, Missouri

Volume 1

IN THE MATTER OF:)
Confluence Rivers Utility)
Operating Company, Inc.'s) File Nos. WR-2020-0053
Request for A Water Rate) SR-2020-0054
Increase)

CHARLES HATCHER, Presiding
REGULATORY LAW JUDGE
SCOTT T. RUPP, Commissioner

REPORTED BY: Sara E. Tom, CCR No. 1234
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P R O C E E D I N G S

(November 4, 2019)

JUDGE HATCHER: Is everyone ready? All right. If everyone could please take a seat, we'll go ahead and begin. Let's go on the record. Today is November 4th, 2019.

The Missouri Public Service Commission has set this time for a local public hearing in Case Number WR-2020-0053, which also includes sewer Case Number SR-2020-0054, which is captioned as In the Matter of Confluence Rivers Utility Operating Company, Inc. Request For a Water Rate Increase.

The Commission has scheduled this local public hearing to give members of the public a chance to comment about Confluence Rivers' utilities application.

The Missouri Public Service Commission regulates the rates charged by public utility companies in Missouri to ensure that those rates are just and reasonable. The Commission also regulates the quality of service and safety evaporations of public utilities.

The Commission is made up of five commissioners. The commissioners are appointed by the

1 Governor to fix terms, and confirmed by the Senate.
2 The commissioners employ a staff of engineers,
3 accountants, attorneys, financial analysts and other
4 specialists in the field of utility regulation.

5 My name is Charles Hatcher. I'm the
6 regulatory law judge and will preside over this
7 hearing. With me today is Commissioner Scott Rupp.

8 This is an official hearing of the
9 Missouri Public Service Commission and the statements
10 and testimony of witnesses will be recorded by the
11 court reporter and must be given under oath. All of
12 the commissioners will have an opportunity to read all
13 of the witnesses' remarks.

14 And, additionally, I will brief the
15 commissioners on what is said here today. The
16 commissioners do value your comments and input.

17 Any opening remarks from Commissioner
18 Rupp?

19 COMMISSIONER RUPP: Yeah, sure. Thank you
20 guys for coming today. One thing I do like to point
21 out is, I want you to come up and comment on the
22 company, comment on the pending application, comment
23 anything you want us to know about the company.

24 One thing, though, is that Judge and
25 myself, we cannot answer any questions. We are here

1 strictly just to listen and learn. This is a whole
2 long process that will culminate in an actual hearing
3 in Jefferson City, where people will put on evidence.
4 There will be attorneys and cross-examination of
5 witnesses.

6 So at this point, we're not able to answer
7 any questions. So if you do pose one to us, we'll just
8 sit here very stoically. And I mention that so as we
9 don't seem like we're not being considerate of your
10 comments. That's why we had the question and answer
11 period beforehand, so your questions could be answered.

12 But if you want to ask any rhetorical
13 questions, those are always welcome and stuff, but
14 please give us any information you would like us to
15 take back to our fellow commissioners and use that in
16 our decision, in the actual hearing, in a few months.
17 Thank you.

18 JUDGE HATCHER: Thank you, Commissioner.
19 I'll begin the hearing by asking counsel to enter their
20 appearance for the record. We'll begin with Confluence
21 Rivers Utility Operating Company.

22 MR. MITTEN: Judge Hatcher, please let the
23 record reflect the appearance of Russ Mitten for
24 Confluence Rivers Utility Operating Company. I've
25 previously given my contact information to the court

1 reporter.

2 JUDGE HATCHER: Thank you, Mr. Mitten.

3 And Commission staff?

4 MS. PAYNE: I'm sorry. Whitney Payne on
5 behalf of the staff of Missouri Public Service
6 Commission.

7 JUDGE HATCHER: And Office of the Public
8 Counsel?

9 MS. SHEMWELL: Thank you, Judge. May the
10 record reflect the appearance of Lera Shemwell for the
11 Office of the Public Counsel and the public. I've
12 given the court reporter my information.

13 JUDGE HATCHER: Thank you, Ms. Shemwell.

14 The process for this hearing will be to
15 call the names listed on the sign-up sheet, in the
16 order that they appear. When I call your name, please
17 come on down to the podium. I will place you under
18 oath and ask you to state and spell your name. Then,
19 please offer your comments to the Commission.

20 Again, I just want to reiterate the
21 comments from Commissioner Rupp. The Commissioner, nor
22 myself, will be able to answer any questions today
23 because we do need to remain impartial until all the
24 evidence is presented at the evidentiary hearing. The
25 Commission has not made any decisions in this case and

1 the Commission is interested in your comments. Let's
2 go ahead and we'll get started with the witnesses.

3 First, we have, and I apologize for all of
4 the mispronunciations I'm going to make today,
5 Jim Nanney?

6 MR. NANNEY: That's correct.

7 JUDGE HATCHER: Thank you, Mr. Nanney.
8 Please come on down. I'll swear you in.

9 MR. NANNEY: Right here?

10 JUDGE HATCHER: No. Right to the podium.

11 Please raise your right hand. Do you
12 solemnly swear or affirm that the testimony you are
13 about to give is the truth, the whole truth, and
14 nothing but the truth?

15 MR. NANNEY: Yes, sir.

16 JUDGE HATCHER: Thank you. Mr. Nanney,
17 please go ahead and give us your testimony.

18 MR. NANNEY: Okay. Confluence Rivers took
19 over approximately a year ago. I do not have any
20 concerns with what they've done. They've been with --
21 whenever we have an issue, they, unlike the previous 39
22 to 40 years I've been there, have -- nothing has been
23 done. It takes a long time. They've been there within
24 eight hours of each problem with somebody there, taking
25 care of that. That's the good thing. .

1 Now, they're now putting in the actual
2 sewer treatment plant. And that benefits the owner of
3 the property with all the lots in there. And he's not
4 paying, or they're not paying anything.

5 We -- he has 37 owners that are on this.
6 I have it 41. Okay? That's -- I can touch base with
7 him and tell him that there's more -- I think there's
8 more houses in there, that are not actually on there.

9 With that said, the agreements that they
10 made for the maintenance from lagoon to lagoon -- to
11 lagoon with a sewer treatment plant, approximately, is
12 about \$150,000.

13 We're bumping up \$63 a month through his
14 thirty-seven households in there. That takes about
15 three years to pay that off, with no interest or no --
16 so I think it's too high to be paying that much.

17 Also, the point that I'm asking is,
18 doesn't the person who's selling the property for
19 approximately a million dollars, shouldn't they be
20 responsible, in some part, to pay for this portion, the
21 beneficiary of selling the property? When this gets
22 done, they can sell it.

23 JUDGE HATCHER: Thank you, Mr. Nanney.

24 And next, we will have Mark Eubanks.

25 Mr. Eubanks, thank you. Please raise your right hand.

1 Do you solemnly swear or affirm that the
2 testimony you are about to give is the truth, the whole
3 truth, and nothing but the truth?

4 MR. EUBANKS: I do, Your Honor.

5 JUDGE HATCHER: Thank you. Please give us
6 your statement.

7 MR. EUBANKS: I am from the Majestic Lake
8 Subdivision out in Lincoln County, Missouri. There are
9 presently 63 homeowners out there, with 65 lots being
10 developed by the new owner and builder of the
11 subdivision, with approximately another 600 homes being
12 built in there over the next few years.

13 Our current rates are \$70 a month for
14 water and sewer, have been for five years. We are in
15 desperate need of Confluence or someone to come in and
16 take over our system. There's no doubt about it, no --
17 nobody wants it.

18 The past -- the cost to the sixty-three
19 homeowners though, that are there currently, seems a
20 little bit ridiculous. They are more than double our
21 rates at this point, with another rate increase to
22 come.

23 And that's just, to me, unbelievably
24 shocking and I've been sitting here like the rest of
25 the -- rest of the owners. I'm -- I'm on the board,

1 the HOA Board, out there. They are just in shock and
2 upset with me that I would allow this to happen to
3 them.

4 I -- I think something needs to be done,
5 cost wise, to offset it through the builder, the new
6 owner, the ex-owner, some way, somehow, not passing it
7 all on to the -- to the 63 homeowners.

8 Thank you.

9 JUDGE HATCHER: Thank you for your
10 comments.

11 And next, we have Richard Jennings.
12 Mr. Jennings, please come on to the podium. Please
13 raise your right hand.

14 Do you solemnly swear or affirm that the
15 testimony you are about to give is the truth, the whole
16 truth, and nothing but the truth?

17 MR. JENNINGS: I do.

18 JUDGE HATCHER: Thank you. Please give us
19 your statement.

20 MR. JENNINGS: Thank you, Your Honor.

21 I'm not -- just a comment. As a resident
22 of Ranch ROY-L and I have been for 35 years, I know I'm
23 speaking on behalf of an awful lot of people who were
24 not able to take off work today to be here. But for --
25 and most of the people that live in this particular

1 subdivision are part-time people, or they come out for
2 the weekends. And that's pretty -- basically -- or --
3 or in the summertime. Maybe a little bit more
4 frequently in the summer.

5 Currently, for those of us that are part
6 time, we're paying \$65.57 a month, or equated to
7 \$785.84 a year. With their proposed rate, it would
8 jump to \$140 a month -- \$144. And yearly, that would
9 be \$1,685.28. That seems more -- that's a hell of a
10 jump.

11 I -- I just can't fathom people not
12 wanting -- getting excited about that kind of an
13 increase that quickly, realizing that things need to be
14 done, I get it. But at this -- at that speed, I -- I
15 just don't understand it.

16 But thank you, sir.

17 JUDGE HATCHER: Thank you for your
18 comments.

19 And next is Tom Jennings. Thank you,
20 Mr. Jennings. Would you please raise your right hand?

21 Do you solemnly swear or affirm that the
22 testimony you are about to give is the truth, the whole
23 truth, and nothing but the truth?

24 MR. JENNINGS: Yes, I do.

25 JUDGE HATCHER: Thank you. Please go

1 ahead.

2 MR. JENNINGS: Pretty much, I think my
3 brother just commented on that. And I really think it
4 needs to be maintained, the fact that this is mostly a
5 part-time place for most people.

6 What bothers me, some of it -- you know,
7 even with the waste water out there, it just so happens
8 when my -- when my -- my oldest brother, who built the
9 home that I have now out there, he put in a septic
10 tank. Whatever is leaving there, it's clean water.

11 And I -- after 20 years, when I took it
12 over, I had a little problem. And I didn't realize
13 what it was and I had a guy come out. And they said,
14 well, we got to pump your tank.

15 He pumped it out. It was only, like, two
16 inches of sludge at the bottom of it. After twenty
17 years, that's how little it's used, part time. .

18 So, you know, I just can't understand,
19 totally, how they're saying that everything out there
20 is corrupted in such a short time. There was a bunch
21 of work done with the previous owner who -- who's --
22 who was part of the developer's family.

23 How this has happened that quick, and then
24 all of a sudden, it comes out and these rates have just
25 more than doubled, which makes no sense. There's -- I

1 can't possibly fathom, other than the fact that
2 somebody has got a scheme going on with this company,
3 that it's only a money-maker for them.

4 I mean, now, they can say, well, we have
5 to have this and this is how -- they can give you all
6 these breakdowns. They're not giving you a breakdown
7 on what they're taking home. There needs to be some
8 kind of constraint.

9 This is not making sense. They got a
10 monopoly and they know they got a monopoly. I mean,
11 there's nobody else out there who is pumping water in
12 that area.

13 Which -- and I don't positively know what
14 it would cost to drill a well. But it just so happens
15 with the property that I have, I can -- because I have
16 a septic, I could cut it lose and put a drain field in,
17 because I do have a property for that.

18 And I guess drill a well if I want to do
19 it. I have no idea. It doesn't seem like the amount
20 that they're going to start raising this, doesn't make
21 sense, you know?

22 You know, and I hope there's oversight.
23 Obviously, the problem is nobody is going to have more
24 oversight than the government that's looking at it.

25 Thank you.

1 JUDGE HATCHER: Thank you, Mr. Jennings.

2 And the last name that we have on the list
3 is Robert Selke. Is that correct, Mr. --

4 MR. SELKE: That is correct.

5 JUDGE HATCHER: All right. Mr. Selke,
6 before I swear you in, I just want to make sure and
7 make an announcement to everyone sitting, this is the
8 last name on our list of witnesses. I'm going to call
9 for anyone else that would like to come up and witness,
10 before we end the hearing.

11 With that said, Mr. Selke, please raise
12 your right hand.

13 Do you solemnly swear or affirm that the
14 testimony you are about to give is the truth, the whole
15 truth, and nothing but the truth?

16 MR. SELKE: I do, as far as I know.

17 JUDGE HATCHER: Thank you, sir. Please
18 give us your testimony.

19 MR. SELKE: Okay. My story begins with my
20 wife and myself, Robert and Laura Selke. We've been
21 living in Castlereagh since 1998.

22 Initially, we were on Afshari's lagoon
23 system, which he did not maintain and was allowed to
24 place more homes on the lagoon than it could support.
25 Someone with St. Louis County allowed this increase in

1 the number of homes to be placed onto the lagoon system
2 while under the management of Mr. Joe Afshari of Mill
3 Creek or I should say, lack, thereof.

4 I do not appreciate having to pay for
5 these companies, these past companies and possibly
6 present companies' mismanagement of this system.

7 And I have to add my notes here. This
8 just came to light today. The salary -- let's see
9 here. Just as second. I fear that Confluence Rivers
10 will make its money, like Joe Afshari did, and another
11 example, Carl Icahn, with TWA, and then leave us
12 holding the bag, or the bill, in this case, just like a
13 corporate raider, same scam, different day.

14 P.S. Also, a new -- new information came
15 to light today that I was not aware of. The salaries
16 of Confluence Rivers' parent company, like CSWR, LLC,
17 limited liability corporation. I knew about
18 corporations. I run a full C corporation myself, so I
19 know how these things run. Could get as much of -- as
20 much as a 45 percent raise increase for these -- from
21 these proposals that they are proposing today.

22 And Josiah Cox did not mention that part.
23 But I did hear in the comments and the questions today,
24 some of these receivership companies were purchased for
25 as little as a dollar. Why would you do that unless

1 there was a big payout at the end? That's what I'm
2 afraid of.

3 My entire life, in light of those
4 transpiring events -- oh, I'm sorry. I have to back
5 up. I have lived in Florissant, North County, my
6 entire life. I am 56 years old. And in light of the
7 transpiring events to taxes and rate increases with
8 these companies, I am prepared to sell and move out of
9 this area.

10 I am sick and tired of going to these
11 meetings and getting the same runaround. The PSC is
12 supposed to be the Public Service Commission. It
13 should be named the CSC, the Corporate Service
14 Commission, because when are they standing up for the
15 people and saying, hey, the people want this?

16 We only hear about this -- the people hear
17 about this after the fact. When is going to get rammed
18 through that we, the people, are going to have to pay
19 -- pay the bill for the mismanagement of these
20 corporations.

21 If something is not done to hear the
22 people in North County area and their wishes, we, the
23 people, are tired of paying for St. Louis County and
24 companies in this area for their mismanagement of these
25 companies. Mill Creek is just the tip of the iceberg.

1 I'm sorry I'm getting very upset about
2 this, but this is very -- this is very irritating to
3 me. Like I said, I've been to numerous meetings. I
4 hear the same thing, different day. And the bottom
5 line is, the company usually gets what they want. Not
6 always, but usually.

7 And I understand they have expenses. But
8 during the time that they are putting out there to run
9 this company, they have their expenses and they want to
10 recoup them, but they also have maintenance costs.
11 They need to maintain their systems properly in order
12 to keep this -- the costs down for the customers.
13 Don't just pass it along to the consumer.

14 We had at Mill Creek a perfectly operating
15 lagoon system that was designed for X number of homes.
16 When Joe Afshari was involved in it, he had more put on
17 it than he should have.

18 And then about ten years ago, the company
19 went into receivership. It was forced to rebuild -- to
20 take apart the lagoon. They didn't take it apart, they
21 stopped using it.

22 They were forced to put in a treatment
23 system, which consisted of two big blue tanks, one for
24 where the waste water goes in and one where it goes out
25 to the creek.

1 And they're trying to tell me in this --
2 mentioned in the comments section today that that
3 system is no longer valid and operational. It was only
4 put in 10 years ago. And one of the representatives
5 here today said, well, they're usually good for 20
6 years.

7 It's not even been ten yet and they're
8 trying to say that they spent almost a half a million
9 dollars to revamp this system that was just put in,
10 less than ten years ago.

11 Something is totally wrong with this
12 system and I'm tired of paying for it. And I am
13 prepared to move out of this area if this kind of
14 garbage continues. I am fed up with it.

15 Thank you for being patient. Thank you
16 for listening to my comments, but something needs to be
17 done with this system. It is a sham and I'm not happy
18 with it. Sincerely, Robert Selke. Thank you.

19 JUDGE HATCHER: Thank you, Mr. Selke. I
20 hear your frustration.

21 I did announce earlier I would make one
22 last call for any other witnesses. Are there any other
23 witnesses that would like to come up and speak on the
24 request for a rate increase by Confluence Rivers
25 Utility Company?

1 Okay. I would like to thank all of our
2 participants today for their testimony. If any of you
3 do have additional comments or someone who could not be
4 present would like to make a comment, you may make
5 written comments by contacting the Office of Public
6 Counsel or by going to the -- that's Ms. Shemwell, who
7 is raising her hand, or by going to the Public Service
8 Commission's web page.

9 And with that, the hearing is now
10 adjourned. We are off the record.

11 (The hearing concluded at 2:30 p.m.)

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- REPORTER'S CERTIFICATE -

I, SARA E. TOM, a Certified Court Reporter within and for the State of Missouri, do hereby certify that I was present at the O'Fallon City Hall, Multipurpose Room, 100 North Main Street, in the City of O'Fallon, State of Missouri, on the 4th day of November, 2019; that thereafter, a hearing was held, commencing at the hour of 1:00 in the afternoon; that all proceedings which transpired were then reduced to writing by me; and that the foregoing pages are a true and accurate transcript of the record of proceedings made by me at that time.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of November, 2019.

/s/ Sara E. Tom

SARA E. TOM CCR #1234
Certified Court Reporter within
and for the State of Missouri

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