

Exhibit No. _____
Issues: Revenue Requirement
Witness: Caitlin O'Reilly
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Confluence Rivers Utility
Operating Company, Inc.
File Nos.: WR-2023-0006 / SR-2023-0007
Date: June 29, 2023

Missouri Public Service Commission

Rebuttal Testimony

of

Caitlin O'Reilly

On Behalf of

Confluence Rivers Utility Operating Company, Inc.

June 29, 2023

Table of Contents

I. **WITNESS INTRODUCTION** 1

II. **LINE LOCATE LOBBYING EXPENSE** 2

III. **CELL PHONE / INTERNET REIMBURSEMENT** 6

IV. **MISCELLANEOUS REVENUES** 9

V. **ELECTRICITY EXPENSE.**10

**REBUTTAL TESTIMONY OF
CAITLIN O'REILLY
CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.**

I. WITNESS INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Caitlin O'Reilly. My business address is 1630 Des Peres Road, Suite 140, St. Louis Missouri, 63131.

Q. WHERE ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

A. I am the Accounting Manager – Regulatory Accounting at CSWR, LLC (“CSWR”), the affiliated company that has operational/managerial oversight over the CSWR utility operating companies including Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Company”). I have been employed at CSWR since May of 2021. At CSWR, my responsibilities include overseeing and ensuring compliance with regulatory reporting requirements and accounting standards within both the Company and its various utility operating companies. I collaborate with cross-functional teams, including the finance, legal, and regulatory departments, to ensure accurate and timely reporting to regulatory authorities.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL EXPERIENCE.

A. My education includes a Bachelor of Science in Accounting and a Bachelor of Science in Accounting Information Systems from Maryville University. Prior to being employed by CSWR, I worked at Mastercard and Royal Canin in various accounting roles with increasing levels of responsibility.

1 **Q. HAVE YOU EVER TESTIFIED BEFORE THE MISSOURI PUBLIC SERVICE**
2 **COMMISSION (“COMMISSION”)?**

3 A. No, this is my first-time presenting testimony before the Commission.

4 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS**
5 **CASE?**

6 A. The purpose of my testimony is to rebut certain positions and recommendations made by
7 Staff witnesses Jane Dhority, Ashley Sarver, and Paul Amenthor on the following issues:
8 (1) Line Locate Lobbying Expense; (2) Cell Phone / Internet Reimbursement; (3)
9 Miscellaneous Revenues; and (4) Electricity Expense.

10 **II. LINE LOCATE LOBBYING EXPENSE**

11 **Q. WHAT IS MISSOURI ONE CALL?**

12 A. Missouri One Call System, Inc. is a nonprofit corporation established in 1985. As the
13 Missouri One Call website states, Missouri One Call was “established in response to the
14 Missouri Underground Facility Safety and Damage Prevention Act 319.” As specifically
15 noted in its 1985 Articles of Incorporation, the purpose for establishing Missouri One
16 Call “is to provide a centralized location which excavating contractors and the general
17 public within the state of Missouri may call to secure adequate information regarding
18 underground utility facilities located in the area where excavation is planned.”¹

19 **Q. HOW DO MISSOURI UTILITIES LIKE CONFLUENCE RIVERS INTERACT**
20 **WITH MISSOURI ONE CALL?**

¹ In 2007, the nationwide three-digit number 811 was introduced to promote the work of the Commission Ground Alliance and its member community like Missouri One Call. Consistent with utilization of 811, Missouri One Call was rebranded as Missouri 811. Thus, Missouri One Call and Missouri 811 are used interchangeably. (See, Missouri 811 Registration of Fictitious Name, filed with Missouri Secretary of State).

1 A. As set forth in Section 319.022, RSMo., any person (including utilities) that owns or
2 operates underground facilities is required “to become a participant in a notification
3 center.” Prior to excavating any ground, a person is required to “serve notice of intent to
4 excavate to the notification center” at least two working days in advance. As the
5 Missouri One Call’s website further points out, “[o]nce Missouri 811 is notified of a dig
6 site by the excavator (homeowner or professional), Missouri 811 notifies all the public
7 underground facility owners in the vicinity of the dig site so they can locate and mark
8 their own facilities to prevent damage or disruption.” Missouri One Call now has 1,500
9 member utilities. Thus, the essential purpose of Missouri One Call is to provide for safe
10 excavations. By doing so, Missouri One Call increases utility service reliability by
11 reducing the chances that an excavator would damage a water, sewer, electric or gas
12 asset. As Missouri One Call points out, its Vision is “zero injuries and zero
13 interruptions.”

14 **Q. PLEASE DESCRIBE STAFF’S ISSUE WITH MISSOURI ONE CALL.**

15 A. As reflected on page 3 of Staff witness Jane Dhority’s Direct Testimony, “[a]t the bottom
16 of every Missouri One Call invoice reviewed by Staff is a statement indicating that 1.5%
17 of locate costs paid to Missouri One Call go towards lobbying activities.” Based upon
18 the faulty premise that all “lobbying costs are not necessary for the provision of safe and
19 adequate service” and because lobbying costs “are routinely disallowed by Staff,” Ms.
20 Dhority proposed to disallow 1.5% of Confluence Rivers costs associated with being a
21 participant in Missouri One Call. Given this, Staff has disallowed approximately \$63 of
22 annual recurring costs for Confluence Rivers.

1 **Q. DOES CONFLUENCE RIVERS, AS A PARTICIPANT IN MISSOURI ONE**
2 **CALL, HAVE THE DISCRETION TO JUST NOT PAY THAT 1.5% TO**
3 **MISSOURI ONE CALL?**

4 A. No.

5 **Q. DO YOU AGREE WITH MS. DHORITY'S ASSERTIONS?**

6 A. No. First, it is important to recognize that the State of Missouri mandates that utilities,
7 like Confluence Rivers, participate in the Missouri One Call notification center. As such,
8 Confluence Rivers cannot avoid the costs assessed by Missouri One Call, including the
9 lobbying costs that Ms. Dhority deems "not necessary." Thus, it seems inconsistent for
10 Staff to disallow recovery for a cost that the General Assembly has essentially imposed
11 on a utility.

12 Second, Ms. Dhority's blanket assertion that Missouri One Call "lobbying costs
13 are not necessary for the provision of safe and adequate service" is fundamentally false.
14 As the Missouri Public Service Commission website specifically points out, "[d]igging
15 carelessly can cause disruption of vital utility services and environmental damage, or
16 even loss of life." Consistent with this purpose, Missouri One Call provided a letter (see
17 Schedule CO-R-1), which points out:

18 Our [Missouri One Call] levels of lobbying involve legislative awareness
19 and providing educational input for, and along with, any entity that may be
20 considering legislative effect including legislators, lobbyists, other
21 industry organizations, and the public to nurture understanding of the
22 excavation ticketing process and any inherent identifiable problematic
23 trends or issues. Our actions follow the best interest of human safety,
24 damage prevention, and of comprehensive benefit to our utilities.
25

1 Based on this explanation, the lobbying activities of Missouri One Call are limited
2 to informing government officials about the organization and promoting and protecting
3 the critical service it provides member utilities and their customers.

4 Third, in its letter, Missouri One Call describes the tax purpose for the inclusion
5 of the disclosure regarding lobbying costs. The letter states:

6 Associations that incur lobbying costs can choose to notify their members
7 of a reasonable estimate of the portion of the dues allocable to those
8 expenditures for which a deduction is disallowed. An association that
9 does not provide this information to its members must pay a proxy tax on
10 the amount of nondeductible expenditures at the highest corporate rate.

11
12 Based on the above statement, Confluence Rivers believes that, without a specific tax
13 provision requiring such, the lobbying disclosure at the bottom of Missouri One Call's
14 invoices would not be made. Other of the Company's vendors do not disclose what they
15 do with the monies paid to them from Confluence Rivers. Therefore, it is possible that
16 some amounts paid by Confluence Rivers to other vendors could be used for expenses
17 that Staff would deem as lobbying or other disallowed expense types. But it would
18 clearly be unreasonable to investigate the uses vendors make of payments received from
19 Confluence Rivers and then make line-item exclusions of vendor charges that the vendors
20 themselves choose to spend for lobbying expenses.

21 **Q. DID STAFF TAKE A POSITION AS TO THE ACTUAL LOBBYING**
22 **ACTIVITIES PERFORMED BY MISSOURI ONE CALL?**

23 A. No. Interestingly, in a data request, Confluence Rivers asked whether Ms. Dhority had
24 reviewed the recent lobbying efforts of Missouri One Call.² Despite the definitive nature

² See, DR 345.

1 of her claim that Missouri One Call lobbying efforts are “not necessary for the provision
2 of safe and adequate service,” Staff objected to the data request on the grounds the
3 request was “not relevant” and therefore refused to answer.

4 **Q. HAS STAFF ATTEMPTED TO DISALLOW THE LOBBYING PORTION OF**
5 **MISSOURI ONE CALL COSTS IN PREVIOUS RATE CASES?**

6 A. In a separate data request,³ Confluence Rivers asked Ms. Dhority if she was aware of any
7 previous utility rate cases in which Staff had disallowed this portion of Missouri One Call
8 costs. Interestingly, while claiming that these costs are “routinely disallowed by Staff,”
9 Staff again objected and refused to provide an answer. Given Staff’s refusal to provide
10 the support for its claim that these costs are “routinely disallowed,” one must question
11 whether these costs have ever been disallowed by Staff.

12 **Q. WHAT IS YOUR RECOMMENDATION?**

13 A. I believe Ms. Dhority’s recommendation regarding the disallowance of Missouri One
14 Call lobbying costs should be rejected, and Confluence Rivers should be allowed to
15 recover the entirety of its Missouri One Call costs.

16 **III. CELL PHONE / INTERNET REIMBURSEMENT**

17 **Q. PLEASE EXPLAIN THE CONFLUENCE RIVER CELL PHONE**
18 **REIMBURSEMENT POLICY?**

19 A. Rather than purchase cell phones for employees, Confluence Rivers has implemented a
20 policy where employees in certain positions are permitted to seek cell phone
21 reimbursement for the costs of their personal cell phones. Similarly, Confluence Rivers

³ DR 344.

1 also provides reimbursement for home internet for the same employees. In total,
2 Confluence Rivers is seeking cell phone and internet reimbursement, totaling
3 approximately \$2,379 in annual recurring costs, for 24 employees.

4 **Q. HOW DOES STAFF PROPOSE TO ACCOUNT FOR CELL PHONE AND**
5 **INTERNET REIMBURSEMENT?**

6 A. In light of the fact that the same employees that receive cell phone and internet
7 reimbursement also have office phones, Staff has disallowed this reimbursement. Staff
8 witness Sarver stated that “Staff determined employees that have an office phone . . .
9 should not be reimbursed for their personal cell phones.”⁴ In those instances in which
10 traveling employees need a communication source, Staff suggests that the employee
11 should be utilizing one of three corporate cell phones.

12 **Q. DO YOU AGREE WITH STAFF’S DISALLOWANCE OF CELL PHONE AND**
13 **INTERNET REIMBURSEMENT?**

14 A. No. Staff’s suggestion that because employees have an office phone, those employees
15 should not receive cell phone or internet reimbursement ignores the fact that employees
16 who receive cell phone reimbursement are “on call” during periods when they have no
17 access to those office phones. That includes time away from the office outside normal
18 working hours and the many hours many of these employees spend traveling for business.
19 To deny cell phone access to these employees, who need to be accessible on a 24-
20 hours/365-days basis ignores the key role they play in ensuring Confluence Rivers
21 satisfies its obligation to provide safe and adequate service. Staff’s argument also ignores

⁴ Sarver Direct, page 16. Staff does not provide any justification for its disallowance of internet reimbursement.

1 the fact cell phones allow these employees access to email and text messages. Even
2 when they are in the office, their office telephones do not provide those services.

3 The Commission is obviously aware, from recent tornadoes, ice storms, and
4 flooding, that utility issues can arise at any time – not just when employees are in the
5 office. Second, given the distressed nature of the water and wastewater systems that
6 Confluence Rivers acquires, system problems can arise independent of the weather or the
7 time of day.⁵ Third, given the critical nature of utility services, Confluence Rivers has
8 found that stakeholders (including Commissioners, Staff members, environmental
9 regulators, and legislators) want to be able to reach their utilities beyond normal work
10 hours.⁶ Fourth, as was detailed in Confluence Rivers witness Todd Thomas' Direct
11 Testimony, while Confluence Rivers retains a customer service entity (Nitor) to address
12 customer inquiries, issues that Nitor is unable to address are escalated to a Confluence
13 Rivers employee.⁷ As such, these employees are needed to be accessible throughout the
14 day, not just during the workhours when they are near their office phone.

15 The allowance for home internet service is also critical to the critical role these
16 employees play in ensuring safe and adequate service. As I previously mentioned, the
17 job responsibilities of these employees extend well beyond normal work hours, and
18 internet access is critical to allowing them to remotely connect to the Company's
19 electronic communications systems.

⁵ See, Gateley Direct, pages 9-10.

⁶ In DR 375, Confluence Rivers asked Staff whether it believes that ratepayers “benefit from stakeholders (environmental regulatory; economic regulators; customer service escalation; etc.) being able to contact CSWR employees that are provided a cell phone reimbursement on a 24x7 basis.” In its objection, Staff objected, in part, on the basis that “whether CSWR employees are provided around-the-clock cell phone reimbursement *is not relevant to this matter.*” (emphasis added).

⁷ Thomas Direct, page 19.

1 **Q. IS STAFF'S POSITION INCONSISTENT WITH ITS OWN PRACTICES?**

2 A. Yes. It is my understanding that, for many of the same reasons that Confluence Rivers
3 provides cell phone reimbursement, the State of Missouri provides cell phones to
4 necessary Commission employees. Interestingly, these employees also have office
5 phones. Given that the State of Missouri recognizes that certain employees need to be
6 accessible beyond work hours, it seems inconsistent for Staff to deny the same
7 accessibility to the utilities that own and operate these utility systems.

8 **Q. WHAT IS YOUR RECOMMENDATION?**

9 A. I believe that the Commission should reject Staff's recommendation to disallow cell
10 phone and internet reimbursement as these are necessary tools to provide ensure these
11 employees are able to perform their critical job responsibilities whenever and wherever
12 required.

13 **IV. MISCELLANEOUS REVENUES**

14 **Q. WHAT ARE MISCELLANEOUS REVENUES?**

15 A. Miscellaneous revenues are those revenues that are generated from items other than the
16 actual provision of service. For instance, as Staff points out, miscellaneous revenues
17 include late payment charges, disconnect, and reconnect fees, customer installation fees,
18 service call fees, and other miscellaneous charges.⁸

19 **Q. HOW DOES CONFLUENCE RIVERS RECORD MISCELLANEOUS**
20 **REVENUES?**

⁸ Amenthor Direct, page 7.

1 A. Consistent with the Uniform System of Accounts (“USOA”), Confluence Rivers records
2 late fees to Account 470 (water) and Account 532 (wastewater). Similarly, Confluence
3 Rivers books other miscellaneous revenues to Account 471 (water) and Account 536
4 (wastewater).

5 **Q. WHAT IS STAFF’S POSITION REGARDING MISCELLANEOUS REVENUES?**

6 A. Staff witness Paul Amenthor found that Confluence Rivers was “correctly following the
7 USOA for recording miscellaneous revenue.” That said, however, Staff witness
8 Amenthor claimed that “it is difficult for Staff to assess and analyze the miscellaneous
9 revenue that is combined in account 471.”⁹ Because of this “difficulty,” Staff
10 recommends that Confluence Rivers create subaccounts in Accounts 471 and 536 to
11 distinguish revenues from disconnect / reconnect fees, customer installation fees, service
12 call fees, etc.

13 **Q. DOES CONFLUENCE RIVERS HAVE ANY OBJECTION TO STAFF’S**
14 **RECOMMENDATION?**

15 A. No. Confluence Rivers will take steps to implement minor accounts in USOA Accounts
16 471 and 536.

17 **V. ELECTRICITY EXPENSE**

18 **Q. WOULD YOU EXPLAIN ELECTRICITY EXPENSE AS IT RELATES TO THIS**
19 **CASE?**

20 A. Confluence Rivers uses electric service from many different electric providers at its water
21 and wastewater systems around Missouri to power pumps, blowers, aerators, lighting, etc.

⁹ Amenthor Direct, page 8.

1 **Q. HOW DID STAFF TREAT ELECTRICITY EXPENSE?**

2 A. For those systems that have been owned for more than a year, Staff included the test year
3 level of electricity. For those systems that have been owned less than a year, Staff
4 annualized the electric expense.

5 **Q. DID STAFF MAKE ANY RECOMMENDATIONS REGARDING ELECTRIC**
6 **EXPENSE?**

7 A. Yes. Staff witness Amenthor recommends that Confluence Rivers be required “to
8 maintain a general list with the following information: the name of the system, the system
9 type (water or wastewater), the name of the electric provider, the number of bills at each
10 water and wastewater system, the type of asset receiving service for each electric bill,
11 such as a lift station, well, lagoon, treatment plant, etc., and the phase of electricity used
12 for each.” Staff justifies this recommendation simply because it will be “very helpful for
13 Staff. . . in future rate cases.”¹⁰

14 **Q. DOES CONFLUENCE RIVERS AGREE WITH STAFF'S**
15 **RECOMMENDATION?**

16 A. No, Confluence Rivers does not believe Staff's recommendation is necessary. As Staff
17 readily admits, the reason underlying Staff's recommendation is simply a matter of
18 Staff's convenience in future cases. The information that Staff seeks is, and will be,
19 made available to Staff in future cases through the provision of invoices from electric
20 utilities that provide service to the Company. Staff fails to recognize that, by making this
21 recommendation, it is imposing an additional cost on Confluence Rivers and its

¹⁰ Amenthor Direct, page 12.

1 ratepayers. In order to comply, Confluence Rivers would have to divert man hours from
2 other roles to populate a monthly report with electric expense information that is already
3 available through invoices. Given this additional cost and recognizing that the
4 recommendation is solely for Staff “convenience”, Confluence Rivers suggests that the
5 Commission reject Staff’s recommendation.

6 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

7 **A. Yes, it does.**



June 1, 2023

Dear David Woodsmall,

This letter is in response to your phone request for information about the level of lobbying, and financial investment into lobbying, that Missouri 811 is engaged in particularly regarding the following statement on the Missouri 811 invoices to utilities:

Payments to Mo One Call System, Inc. are not deductible as charitable contributions for income tax purposes. They may, however, be deductible as ordinary and necessary business expenditures to the extent such payments are not used for lobbying expenditures. Mo One Call System, Inc. estimates that 1.5% of your dues are nondeductible expenditures attributable to lobbying activities.

Explaining the Statement on Missouri 811 Bills

According to the Internal Revenue Service,

Lobbying for 501(c)(6) Associations

Associations and other taxable business entities are subject to IRS Code Section 162(e), which denies a deduction for and defines lobbying. Associations that incur lobbying costs can choose to notify their members of a reasonable estimate of the portion of the dues allocable to those expenditures for which a deduction is disallowed. An association that does not provide this information to its members must pay a proxy tax on the amount of nondeductible expenditures at the highest corporate rate.

Therefore, management decided to provide 1.5% of all “dues” estimated for lobbying expenses. This is merely an estimate, and, in most cases, the true expense falls far below the estimate.

How does Missouri 811 “lobby”?

Missouri 811 is a 501(c) (6) not for profit authorized by Missouri Statute 319 to exist as the notification center. Our levels of lobbying involve legislative awareness and providing educational input for, and along with, any entity that may be considering legislative effect including legislators, lobbyists, other industry organizations, and the public to nurture understanding of the excavation ticketing process and any inherent identifiable problematic trends or issues. Our actions follow the best interest of human safety, damage prevention, and of comprehensive benefit to our utilities.

824 Weathered Rock Rd
Jefferson City, Missouri 65101
573.556.8111, www.missouri-811.org



Missouri 811 does not provide any donations to political candidates, engage with any political parties, or make attempts to sway legislative decisions short of providing grassroots, educational information that may attempt to point out the unintended consequences of any given decision.

If I can be of any further assistance, please do not hesitate to contact me.

I am,

Sincerely yours,

A handwritten signature in blue ink that reads "Randy L. Norden". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Randy L. Norden
Executive Director