

Exhibit No. _____
Issues: Operations and Customer Experience
Witness: Todd Thomas
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

Todd Thomas

On Behalf of

Confluence Rivers Utility Operating Company, Inc

June 29, 2023

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**REBUTTAL TESTIMONY OF
TODD THOMAS
CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.**

I. WITNESS INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Todd Thomas. My business address is 1630 Des Peres Road, Suite 140, St. Louis, Missouri, 63131.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am Senior Vice-President of 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”).

Q. ARE YOU THE SAME TODD THOMAS WHO PREVIOUSLY SUBMITTED DIRECT TESTIMONY IN THIS PROCEEDING ON BEHALF OF CONFLUENCE RIVERS?

A. Yes.

II. OVERVIEW

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS PROCEEDING?

A. The purpose of my Rebuttal Testimony is to respond to the Direct Testimonies filed by the Missouri Public Service Commission Staff (“Staff”) witnesses Curt Gateley and Scott Glasgow regarding certain operational and customer service issues.

1 **Q. PLEASE IDENTIFY THE ISSUES IN STAFF’S TESTIMONY THAT YOU WILL**
2 **ADDRESS.**

3 A. I will address the operational recommendations made by Mr. Gateley on page 5 of his
4 Direct Testimony regarding the installation and testing of water system master meters.
5 Additionally, I will address his recommendation that Confluence Rivers test customer
6 meters consistent with the Commission regulations on meter testing. Next, I will discuss
7 system operational issues addressed by Mr. Gateley concerning the Auburn Lake Estates
8 water system and the Fox Run wastewater system. Finally, I will address certain
9 recommendations made by Mr. Glasgow regarding customer service reporting and
10 meetings.

11 **III. METER INSTALLATION AND TESTING**

12 **Q. WHAT IS A MASTER METER?**

13 A. As it relates to my testimony, a master meter is a meter located either at the discharge of
14 a well or at the point where treated water exits the treatment plant and is discharged into
15 the water distribution system, otherwise known as a point of entry. In either case, the
16 master meter is designed to measure the amount of water that enters the water distribution
17 system.

18 **Q. WHAT IS THE VALUE OF MEASURING THE AMOUNT OF WATER THAT**
19 **ENTERS THE DISTRIBUTION SYSTEM?**

20 A. A master meter provides a couple pieces of important information. By measuring the
21 amount of water that is treated at a facility, it provides some measure of the variable cost
22 of chemicals and electricity on a per gallon of treated water basis. Most relevant to Mr.
23 Gateley’s Direct Testimony, however, measuring the amount of water that enters a water

1 distribution system can allow for a calculation of the amount of water that is lost in the
2 distribution system. Specifically, by simply adding the amount of water sold to all the
3 customers in a system and dividing that amount by the amount of water that enters a
4 system, one can determine the percentage of delivered water that is lost. For instance, if
5 a water treatment facility discharges 1,000 gallons into a distribution system, but only
6 800 gallons are sold to customers, then it is easy to see that 800 gallons (or 80% of
7 treated water) was delivered and that 200 gallons (or 20% of treated water) is lost in the
8 distribution system. This provides some indication of the severity of water leaks in the
9 distribution system or the possibility of diverted or stolen water.

10 **Q. PLEASE ADDRESS MR. GATELEY'S FIRST RECOMMENDATION**
11 **REGARDING MASTER METERS.**

12 A. In his first recommendation on page 5 of his Direct Testimony, Mr. Gateley recommends
13 that Confluence Rivers test all master meters within six months of the Commission's
14 final order in this proceeding. Mr. Gateley notes, however, that this master meter testing
15 requirement would not apply to any system master meters that have already been tested in
16 the past 12 months or were only installed in the last 12 months.

17 **Q. DO YOU OBJECT TO MR. GATELEY'S RECOMMENDATION?**

18 A. No. Confluence Rivers does not object to Mr. Gateley's recommendation to test master
19 meters. Confluence Rivers has implemented a computerized maintenance management
20 system ("CMMS") that allows the Company to schedule certain maintenance and other
21 system testing and sampling requirements. CMMS transmits these scheduled
22 requirements to Confluence Rivers' third-party operators, all of which have the capability
23 and expertise to test meters. Confluence Rivers will build this master meter testing

1 requirement into the CMMS in order to meet Staff’s recommendation. Furthermore, it is
2 Confluence Rivers’ intention to perform the master meter testing on an annual basis.

3 **Q. PLEASE DESCRIBE MR. GATELEY’S SECOND RECOMMENDATION.**

4 A. Mr. Gateley’s second recommendation is that Confluence Rivers install, within 12
5 months of the Commission decision in this matter, master meters at any water systems
6 that currently lack such meters.

7 **Q. DOES CONFLUENCE RIVERS OBJECT TO THIS RECOMMENDATION?**

8 A. No. Ideally, all water systems that Confluence Rivers acquires will have such master
9 meters. As described in Mr. Cox’s Direct Testimony, however, most of the systems that
10 Confluence Rivers acquires are in a distressed state.¹ Oftentimes such systems have been
11 denied regular maintenance and necessary capital improvements. As such, many of these
12 systems, at the time of acquisition, lacked the master meter that Staff now recommends.
13 As such, subject to availability - because of supply chain problems beyond the
14 Company’s control, equipment, like master meters, is oftentimes not readily available –
15 Confluence Rivers agrees to implement Staff’s recommendation to install master meters
16 at any water systems that currently lack such metering capability.

17 **Q. PLEASE DESCRIBE MR. GATELEY’S THIRD RECOMMENDATION.**

18 A. In his third recommendation, Mr. Gateley recommends that Confluence Rivers test or
19 install a master meter at any newly acquired systems within 90 days of closing on the
20 acquisition.

21

¹ Cox Direct, pages 5-13. See also, Freeman Direct, all.

1 **Q. DO YOU OBJECT TO THIS RECOMMENDATION?**

2 A. No. Subject to the availability concerns I previously mentioned, Confluence Rivers does
3 not object to this recommendation. In fact, ideally, Confluence Rivers would then be
4 able to connect the master meter to its remote monitoring hardware, which would allow
5 water flow into the distribution system to be monitored on a 24/7/365 basis.
6 Furthermore, this same data would be pulled into the new Confluence River SAMS
7 system where it can be used to create summary reports, such as daily or monthly flows,
8 thereby alerting the Company of any potential distribution problems.

9 **Q. PLEASE DESCRIBE THE REFERENCED SAMS SYSTEM.**

10 A. SAMS is a scheduling monitoring and analysis software tool. Relative to water systems,
11 SAMS will cover all sampling and monitoring scheduling, sampling tracking, report
12 tracking, and scheduling and analysis. All aspects of Safe Drinking Water Act
13 (“SDWA”), as well as all other federal, state, and local requirements included in drinking
14 water compliance management are monitored by SAMS. All drinking water reports,
15 including lead and copper reports, MRDL reports, DBP reports, chlorine reports, MOR,
16 and other reporting requirements are part of drinking water compliance management.

17 Relative to wastewater systems, SAMS covers all sampling and monitoring
18 scheduling, sampling tracking, report tracking, and analysis related to wastewater
19 permits. All aspects of permit management are included in wastewater compliance
20 management. NPDES reporting, NET DMR reporting, self-monitoring reports, and other
21 types are a part of wastewater compliance management.

1 **Q. HAS STAFF PREVIOUSLY RECOMMENDED THE INSTALLATION OF**
2 **MASTER METERS AS PART OF ITS REVIEW OF ACQUISITION**
3 **APPLICATIONS?**

4 A. To the best of my knowledge Staff has not included a recommendation for the installation
5 of a master meter as part of its review of any of Confluence Rivers' applications to
6 acquire water systems or as part of its recommendations in any prior Staff-assisted rate
7 cases.

8 **Q. PLEASE DESCRIBE YOUR CONCERNS WITH METER AVAILABILITY?**

9 A. Since the Covid-19 pandemic, Confluence Rivers has experienced delays and price
10 uncertainty with the ordering and delivery of meters. As such, while Confluence Rivers
11 will make reasonable efforts to install master meters consistent with Staff's
12 recommendations, its ability to meet Staff's stated timeline will be dependent on meter
13 availability. Confluence Rivers will endeavor to keep Staff informed regarding
14 difficulties with its ability to meet these recommendations as a result of meter
15 unavailability/supply chain issues I just described.

16 **Q. PLEASE DESCRIBE MR. GATELEY'S RECOMMENDATION REGARDING**
17 **CUSTOMER METER TESTING.**

18 A. At page 5 of his Direct Testimony, Mr. Gateley recommends testing or replacement of
19 customer meters consistent with the Commission regulations. The Commission's rule on
20 meter testing requires testing of 5/8" customer meters every 10 years or 200,000 cubic
21 feet or water usage, whichever occurs first. While there are similar testing requirements
22 for larger meters, the testing becomes more frequent as the meter size becomes larger.

1 **Q. DOES CONFLUENCE RIVERS OBJECT TO MR. GATELEY'S**
2 **RECOMMENDATION?**

3 A. Certainly Confluence Rivers does not object to the concept of meter testing, the spirit of
4 which is reflected in Commission Rule 4240-10.030(38).² That said, however,
5 Confluence Rivers is concerned with Mr. Gateley's recommendation that, absent accurate
6 age data for meters, Confluence Rivers "should be ordered to assume that all meters are
7 greater than ten years old."

8 **Q. WHAT IS THE NATURE OF YOUR CONCERN WITH THIS ASSUMPTION?**

9 A. As an initial matter, it should be pointed out that, while the rule specifies testing intervals
10 for customer meters, it also provides for the possibility of exceptions. "Unless otherwise
11 ordered by the commission, each water service meter installed shall be periodically
12 removed, inspected and tested in accordance with the following schedule."³

13 Confluence Rivers is concerned with Mr. Gateley's recommendation that it
14 should be assumed that, absent accurate age data for customer meters, "all meters are
15 greater than ten years old." As the Commission is well aware, Confluence Rivers buys
16 distressed water systems, both regulated and unregulated, for which age data for assets,
17 like meters, is not readily available. As such, Mr. Gateley's recommendation would
18 effectively impose a requirement that Confluence Rivers test all customer meters within
19 the first year after completion of this rate case. The practical effect then is that
20 Confluence Rivers' testing requirements would be characterized by dramatic spikes in
21 testing and costs. That is, for all current meters (since most are lacking accurate age

² Schedule TT-R-1.

³ *Id.* (emphasis added).

1 data), Confluence Rivers would be required to test in year 1. Confluence Rivers would
2 then not have any meter testing for the next nine years (years 2-10) followed by another
3 dramatic spike in year 11.

4 **Q. HOW WOULD CONFLUENCE RIVERS PROPOSE TO ADDRESS CUSTOMER**
5 **METER TESTING?**

6 A. As previously indicated, the Commission rule recognizes the possibility of an alternative
7 meter testing schedule (“unless otherwise ordered by the commission”). Rather than Mr.
8 Gateley’s recommendation, which would impose the punitive requirement to test all
9 meters in one year, Confluence Rivers would request that the Commission order a more
10 measured approach. Specifically, Confluence Rivers recommends that it be required to
11 assume, for each water system, an equal disbursement of meters across the ten-year time
12 period contemplated by the rule. Specifically, for each water system, Confluence Rivers
13 would test 10% of all customer meters in year 1. Similarly, Confluence Rivers would test
14 another 10% of all customer meters in year 2. Therefore, by the end of the ten-year
15 period, all customer meters will have been tested and, if necessary, replaced.

16 **Q. DO YOU BELIEVE THAT SUCH AN APPROACH IS DETRIMENTAL TO**
17 **CUSTOMERS?**

18 A. No. It has been my experience that, as a meter ages and begins to deteriorate, it will
19 begin to read low. That is to say, a deteriorating meter will read a lesser amount of water
20 than is actually delivered to the customer. Recognizing that Confluence Rivers uses
21 metered rates in all systems in which it has customer meters, a deteriorating meter will
22 work towards the specific customer’s benefit. Specifically, a lower meter read will mean
23 that the specific customer will receive a lower bill than would otherwise be the case.

1 **Q. WHAT IS YOUR SPECIFIC RECOMMENDATION?**

2 A. Consistent with the Commission's authority to order a different customer meter testing
3 frequency than is contained in the rule, Confluence Rivers asks that it be permitted to test
4 customer meters ratably over the ten-year period envisioned by the Commission rule.
5 Such a rule is workable in that it does not require all meters to be tested in one single year
6 and also allows for meter testing costs to be spread smoothly across that period.

7 **IV. OPERATIONAL ISSUES**

8 **Q. PRIOR TO ADDRESSING THE SPECIFICS OF AUBURN LAKE AND FOX**
9 **RUN, DO YOU HAVE ANY GENERAL COMMENTS REGARDING THE**
10 **PRIORITY PLACED BY CSWR / CONFLUENCE RIVERS ON OPERATIONAL**
11 **AND COMPLIANCE ISSUES?**

12 A. Yes. CSWR places an emphasis, across all its utility affiliates, on not only rehabilitating
13 the water and wastewater systems that it acquires, but also in operating those systems in a
14 professional manner so they can achieve compliance with all necessary permitted limits.
15 Thus, as the Senior Vice-President with responsibility for system operations, I take
16 seriously issues such as those raised by Mr. Gateley.

17 That said, however, it is also important to recognize that CSWR / Confluence
18 River is continually balancing the interests of facility maintenance and replacements with
19 the affordability of its rates. For instance, if Confluence Rivers sought to guarantee
20 system compliance at all times in the future, it would simply replace old, distressed
21 technology with new technology that has a higher chance of ongoing compliance success.
22 The cost of such an approach, however, would lead to much higher rates for Confluence
23 Rivers' customers. Therefore, Confluence Rivers is constantly faced with the challenge

1 of making current facilities best achieve compliance at the least possible cost for
2 customers. In attempting to achieve this balance, it is important to remember Confluence
3 Rivers is often saddled with the sins of previous owners that didn't maintain system
4 assets. While Confluence Rivers works diligently to take these distressed assets and
5 make them functional, in a manner most cost-effective for customers, there is always the
6 possibility that instances of non-compliance can occur. As an example of this possibility,
7 Mr. Gateley pointed out a compliance issue that occurred at the Fox Run system. But, as
8 I will describe, I believe that this issue was a direct result of Confluence Rivers
9 attempting to operate a wastewater facility that was not well maintained for the past 10
10 years.

11 **Q. HOW MANY WATER AND SEWER SYSTEMS DOES CONFLUENCE RIVERS**
12 **OWN AND OPERATE IN THE STATE OF MISSOURI?**

13 A. At this point in time, approximately 68 water and sewer systems.

14 **Q. DO YOU BELIEVE THAT CONFLUENCE RIVERS HAS SUCCESSFULLY**
15 **BALANCED THE INTERESTS OF SYSTEM COMPLIANCE AND COST-**
16 **EFFECTIVENESS?**

17 A. Yes.

18 **Q. WHAT IS THE BASIS FOR YOUR CERTAINTY?**

19 A. As Mr. Gateley himself acknowledges, the primary basis for defining "safe and adequate
20 service" includes "meeting the safety and adequacy standards imposed by the Department
21 of Natural Resources, the Missouri Clean Water Law, the Missouri Safe Drinking Water

1 Act, Federal Clean Water Act, and the Federal Safe Drinking Water Act.”⁴ With this in
2 mind, it is important to recognize that the Missouri Department of Natural Resources has
3 primary authority for enforcing these standards and determining whether Confluence
4 Rivers is achieving “safe and adequate service.”

5 Recently, the Missouri Department of Natural Resources lauded Confluence
6 Rivers for “employing qualified operators, effectively administering and managing the
7 systems, and investing in repairs and upgrades.”⁵

8 The Missouri Department of Natural Resources regulates approximately
9 5,000 domestic wastewater treatment systems and approximately 2,700
10 public water systems in the State that are subject to the Missouri Clean
11 Water Law and the Missouri Safe Drinking Water Law, respectively. **The**
12 **Department’s primary goal as the regulatory authority in administering**
13 **these state laws is to ensure environmental protection and human health**
14 **and safety against pollution and health risks that may be caused by**
15 **failing or improperly operating wastewater treatment systems and public**
16 **water systems.** The Department promotes compliance through compliance
17 assistance, education, and, when necessary, enforcement actions.

18
19 When systems end up in enforcement, it is often a result of limited
20 resources and available solutions, which can sometimes draw cases out
21 over a period of years. When systems are unable to resolve their
22 technical, managerial, or financial problems, one reliable solution is
23 selling the system to a higher-performing utility operating company. **In**
24 **Missouri, Confluence Rivers Utility Operating Company, Inc. (CRUOC)**
25 **is one of the few utility operating companies who is willing to acquire**
26 **some of the most difficult failing systems. CRUOC has consistently**
27 **taken swift actions after taking control of these systems to bring them**
28 **into compliance by employing qualified operators, effectively**
29 **administering and managing the systems, and investing in repairs and**
30 **upgrades.**⁶
31

⁴ See, Response to DR 293. (Schedule TT-R-2).

⁵ Confluence Rivers’ affiliate in Mississippi and received similar compliments from the Mississippi Department of Environmental Quality.

⁶ See, Schedule TT-R-3 (emphasis added).

1 Therefore, while I appreciate Mr. Gateley’s concerns, and while also recognizing that
2 Confluence Rivers will strive to continue to improve, it is important to also recognize that
3 the Missouri Department of Natural Resources, as the entity with primary authority over
4 these environmental standards, believes that Confluence Rivers has taken “swift actions”
5 to bring these systems into compliance.
6

7 **A. AUBURN LAKES**

8 **Q. ARE YOU FAMILIAR WITH THE AUBURN LAKES WATER AND**
9 **WASTEWATER SYSTEMS?**

10 **A.** Yes. I have personally visited and inspected the Auburn Lakes water and wastewater
11 systems several times. The Auburn Lakes facilities are located in Lincoln County,
12 northwest of St. Louis. Both systems were acquired as part of the same transaction and
13 were acquired in May 2019. Each system provides service to roughly 45 connections.

14 **Q. PLEASE DESCRIBE THE CONCERNS EXPRESSED BY MR. GATELEY**
15 **REGARDING THE AUBURN LAKES WATER SYSTEM.**

16 **A.** In his Direct Testimony, Mr. Gateley discusses customer complaints received by the
17 Commission regarding discolored water, periods of excessive chlorine odor, and
18 excessive air in the distribution system. Mr. Gateley also criticizes the lack of flushing
19 facilities to remove sediment. Finally, Mr. Gateley indicates that Staff will provide
20 greater detail regarding Auburn Lakes in its rebuttal testimony.⁷

⁷ Gateley Direct, pages 8-9.

1 Q. DO YOU HAVE ANY COMMENTS REGARDING THE AUBURN LAKES
2 WATER SYSTEM?

3 A. Yes. Recognizing that Staff intends to provide greater detail in its rebuttal testimony, I
4 will defer specifically addressing that greater detail to my surrebuttal testimony after I
5 have had an opportunity to review Staff’s complete concerns. That said, however, I have
6 some general comments.

7 In his Direct Testimony, Mr. Gateley raises concerns regarding “excessive air in
8 the distribution system and provided pictures showing discolored water.” Mr. Gateley
9 also claims that “[c]ustomers also noted incidents of occasional excessive chlorine and a
10 lack of responsiveness by Confluence personnel.”⁸

11 As to concerns with “discolored water”, it is important to recognize the distinction
12 between primary and secondary drinking water standards. “Primary standards protect
13 public health by limiting the levels of contaminants in drinking water.”⁹ Currently, there
14 are over 90 contaminants that are regulated under the Safe Drinking Water Act. These
15 include coliform, E. coli, heavy metals (including lead and copper) and organic
16 compounds. In contrast, secondary drinking water standards are “non-enforceable
17 guidelines regulating contaminants that may cause cosmetic effects (such as skin or tooth
18 discoloration) or *aesthetic effects (such as taste, odor, or color)*.”¹⁰ As such, they do not
19 address health concerns. While it is Confluence Rivers’ goal to meet customers’
20 aesthetic expectations for their drinking water, current operational issues at Auburn Lakes
21 have made that very difficult.

⁸ Gateley Direct, page 8.

⁹ [Drinking Water Regulations and Contaminants | US EPA](#)

¹⁰ *Id.* (emphasis added).

1 As Confluence Rivers indicated to Staff in an informal telephone discussion well
2 before the filing of testimony in this case, the Auburn Lakes water system has indeed
3 been characterized by moments of water discoloration and odor.¹¹ This is a result
4 primarily of the reaction of chlorine disinfection with mineral buildup in the distribution
5 piping. In an effort to address this situation, Confluence Rivers has been working with
6 the injection of chlorine disinfection as well as the scheduling of distribution system
7 flushing.

8 As Confluence Rivers further related to Staff during that informal telephone
9 discussion, Confluence Rivers is in the process of obtaining a permit from the
10 Department of Natural Resources to increase system storage capacity. This increased
11 water storage should allow for longer periods of system flushing. In addition,
12 Confluence Rivers has recently completed the installation of an increased number of 2”
13 flushing hydrants to better control system flushing. Both of these system improvements
14 should help to control mineral buildup and help Confluence Rivers to address these
15 secondary drinking water standards concerns.

16 With regard to Mr. Gateley’s claim of “excessive air in the distribution system”,
17 this is the result of inadequate pressure at the Auburn Lakes system. Even prior to Staff’s
18 testimony, Confluence Rivers had budgeted for the construction of booster pumps at
19 Auburn Lakes. This improvement should provide for more reliable system pressure and a
20 reduction in the instances of “excessive air.” Confluence Rivers hopes to have completed
21 the installation of the booster pumps by the end of 2023.

¹¹ As indicated in response to DR 320, Mr. Gateley “did not attend this discussion.” See, Schedule TT-R-4.

1 **Q. DO YOU BELIEVE THAT THE SITUATION AT AUBURN LAKES INDICATES**
2 **“LACK OF OVERSIGHT” BY CONFLUENCE RIVERS?**

3 A. No. Confluence Rivers has been aware of the situation regarding its inability to meet
4 secondary drinking water standards at Auburn Lakes. As detailed in the previously
5 referenced informal telephone discussion with Staff, Confluence Rivers was fully aware
6 of the problems underlying the issues identified by Mr. Gateley. As such, it is unfair to
7 claim that this rises to the level of a “lack of oversight” by Confluence Rivers. Moreover,
8 as the DNR recognizes, as a general proposition, Confluence Rivers has “effectively
9 administer[ed] and manage[d] the systems.”

10 **B. FOX RUN**

11 **Q. ARE YOU FAMILIAR WITH THE FOX RUN WASTEWATER SYSTEM?**

12 A. Yes. The Fox Run wastewater system, located just west of Kearney in Clay County,
13 consists of a recirculating sand filter, and serves approximately 40 connections. The
14 acquisition of the system occurred in June 2020.

15 **Q. PLEASE DESCRIBE THE CONCERNS VOICED BY MR. GATELEY**
16 **REGARDING THE FOX RUN WASTEWATER SYSTEM.**

17 A. Mr. Gateley indicates that, during an inspection on April 11, 2023, Staff observed “a
18 bypass of partially treated sewage and a non-functioning recirculating sand filter bed.”

19 **Q. DO YOU HAVE ANY COMMENTS REGARDING THIS SITUATION?**

20 A. Yes. It is important to understand that recirculating sand filters, like the one at Fox Run,
21 are difficult to assess in that so much of the filter is not readily viewable. So, while it is
22 easy to notice vegetation or pooling of wastewater on the sand surface, it is difficult to
23 observe the condition of the sand filter media throughout the facility. Therefore, fouling

1 of the sand media, which hinders the ability of wastewater to drip through the media and
2 can lead to sudden wastewater pooling or even a sudden sanitary sewer overflow
3 (“SSO”), is difficult to identify. In reality, the true condition of the sand media can only
4 be observed by pumping out the septic tanks and evaluating the sand bed for sludge build
5 up. This is important to understand because a bypass, such as that observed by Staff at
6 Fox Run, is not evidence of negligent operational practices, but rather is indicative of the
7 poor condition of the sand media – a condition that could not be detected simply by
8 inspecting the facility. In fact, short of constant observation on the day of the bypass,
9 Confluence Rivers could not have detected the rapid onset of the Fox Run bypass.
10 Frankly, the situation observed by Staff at Fox Run should not be viewed as symptomatic
11 of negligent operations, but a classic example of the condition of the distressed systems
12 that Confluence Rivers routinely purchases and remediates.

13 **Q. WHAT WAS CONFLUENCE RIVERS’ RESPONSE UPON OBSERVING THE**
14 **FOX RUN BYPASS?**

15 A. Consistent with Missouri DNR guidelines, Confluence Rivers immediately reported the
16 Fox Run bypass.

17 **Q. WHAT WAS THE IMPACT OF THIS SITUATION AT FOX RUN?**

18 A. Importantly, at Fox Run, the fouling of the sand filter media did not lead to a sanitary
19 sewer overflow. Rather, the fouling resulted in a bypass of the disinfection system.
20 Thus, the bypass wastewater product was treated wastewater that had not been
21 disinfected. Upon discovering the bypass, Confluence Rivers sampled the treated
22 wastewater and discovered that it still met effluent limits.

23

1 **Q. WAS STAFF AWARE OF THE REASON FOR THE BYPASS AT FOX RUN?**

2 A. Yes. In response to DR 268, Confluence Rivers provided Staff with a copy of the
3 Environmental Incident Investigation and Root Cause Analysis form (“IM 10”). In that
4 document, submitted to Staff a month *prior* to filing its direct testimony, Confluence
5 Rivers indicated that the reason for the bypass was that the “filter media in [the] bed is
6 highly packed with solids and slows the filtration rate, causing the bed to overflow.”¹² In
7 the comments to that form, Confluence Rivers indicated that “filter media may still need
8 to be replaced. Once operations auger the media and conduct additional filtration testing,
9 we will better understand whether the media will require replacement.”

10 **Q. HAS CONFLUENCE RIVERS COMPLETED THE TESTING OF THE MEDIA**
11 **REFERENCED IN THE IM 10 REPORT?**

12 A. Confluence Rivers has not yet completed the testing of the media core samples.

13 **Q. DO YOU HAVE ANY RESPONSE TO STAFF’S CHARACTERIZATION OF**
14 **THIS SITUATION?**

15 A. Yes. In its Direct Testimony, Staff witness Gateley states “[t]he Company shall
16 immediately be made aware of any serious failures at their sewage treatment facilities
17 and should promptly begin evaluating the corrective action and any needed investment.”
18 Staff’s statement implies that Confluence Rivers was not immediately made aware of the
19 situation at Fox Run. While this statement *implies* a lack of oversight, Mr. Gateley’s
20 subsequent question and answer is a more direct accusation that Confluence Rivers has
21 failed to exercise a reasonable level of oversight of the Fox Run system.

¹² Schedule TT-R-5.

1 Q. Does the Fox Run example indicate a lack of oversight by Confluence,
2 or a lack of communication by Confluence’s contract operator?
3

4 A. It appears to indicate both. But Confluence is the owner of the system
5 and is therefore responsible for providing safe and adequate service.
6

7 As I previously indicated, given the inability to inspect the entirety of the sand
8 media in a recirculating sand filter, it is very difficult to anticipate such a situation.
9 While Confluence Rivers’ operators inspect these facilities on a daily basis, it is
10 challenging, short of continuous operator monitoring, to be made aware of such an event
11 “immediately” as Staff now suggests. Confluence Rivers was made aware of this
12 situation in as timely a manner as is practicable [less than 24 hours] given the uncertainty
13 of when such a situation may arise.

14 Moreover, as Confluence Rivers informed Staff in February, it is in the process of
15 seeking DNR approval for improvements at Fox Run. The fact that Confluence Rivers
16 was planning improvements at Fox Run a full two months prior to the incident referenced
17 by Staff indicates that Confluence Rivers was aware of potential shortcomings at Fox
18 Run and was making improvements. Certainly, this is not indicative of a “lack of
19 oversight” as suggested by Mr. Gateley.

20 **Q. DOES STAFF WITNESS GATELEY SUGGEST THAT CONFLUENCE RIVERS**
21 **FAILS TO EXERCISE PROPER OVERSIGHT SIMPLY BECAUSE IT**
22 **OPERATES UNDER AN ADMINISTRATIVE ORDER OF CONSENT (“AOC”)**
23 **FROM DNR?**

24 A. Yes, he certainly implies this criticism. At page 10 of his Direct Testimony, Mr. Gateley
25 recognizes that Confluence Rivers is currently operating under an AOC at Fox Run. He
26 properly notes that an AOC, however, “does not authorize bypassing.” Mr. Gateley then

1 bluntly states that an AOC requires “Confluence to make good faith efforts to operate the
2 Fox Run system in compliance with its operating permit and the Missouri Clean Water
3 Law.” It is uncertain the intent underlying this statement in Mr. Gateley’s testimony. As
4 indicated, short of pumping out the septic tank and inspecting the entirety of the sand
5 media, it is difficult to anticipate the occurrence of such a situation at a recirculating sand
6 filter facility. Confluence Rivers inspects these facilities consistent with state
7 requirements. As such, Confluence Rivers detected this situation on a timely basis and is,
8 therefore, making “good faith efforts to operate the Fox Run system in compliance with
9 its operating permit and the Missouri Clean Water Law.”

10 Moreover, it is worth pointing out again that, as the agency with primary authority
11 over the Missouri Clean Water Act, DNR was made aware of the Fox Run bypass on
12 April 11, 2023. Despite its awareness for over two months, on June 23, 2023, DNR
13 wrote a letter applauding Confluence Rivers for “employing qualified operators,
14 effectively administering and managing the systems, and investing in repairs and
15 upgrades.”¹³

16 **Q. DO YOU BELIEVE THAT THE BYPASS AT FOX RUN CONSTITUTES A**
17 **“LACK OF OVERSIGHT” BY CONFLUENCE RIVERS?**

18 A. No. Confluence Rivers was aware of the possibility of shortcomings at Fox Run. As
19 indicated earlier, the easiest response when Confluence Rivers acquires a system would
20 be to simply retire the existing facilities and replace them with new, cutting-edge
21 technology. That approach, however, is not cost-effective for ratepayers. Instead, the

¹³ Schedule TT-R-3.

1 more prudent approach is to operate the system for a period of time and get a much more
2 informed opinion of the shortcomings of these systems. As Staff is aware from the
3 response to Data Request 125,¹⁴ answered on February 3, 2023 (over 2 months before the
4 bypass observed by Staff), Confluence Rivers had planned improvements at Fox Run, but
5 were awaiting DNR approvals. Recognizing that Confluence Rivers was aware of the
6 problem and was in the process of seeking approval from DNR for improvements, it is
7 unfair to then claim that Confluence Rivers was exercising a “lack of oversight.”
8

9 **VI. OTHER OPERATIONAL ISSUES**

10 **Q. DID MR. GATELEY INDICATE A PERCEIVED INCONSISTENCY BETWEEN**
11 **YOUR DUTIES AND THAT OF THE REGIONAL MANAGER?**

12 A. Yes. In his testimony, Mr. Gateley indicates, based upon the Regional Manager job
13 description, that Brad Thibault is “directly responsible for overseeing the various O&M
14 Partners operating and maintaining the water and wastewater systems.” Mr. Gateley then
15 claims that there is an inconsistency because Confluence Rivers indicated in data
16 requests, that: (1) I am responsible for “overseeing operators and system repairs;” and,
17 (2) Jacob Freeman is “responsible for overseeing capital improvement projects.”

18 **Q. IS THERE ANY INCONSISTENCY IN THESE STATEMENTS?**

19 A. No. Recognizing that Mr. Thibault reports to me, he can be directly responsible for
20 overseeing the various O&M Partners and I can simultaneously be responsible for
21 overseeing operators and system repairs. Similarly, there is no inconsistency resulting

¹⁴ Schedule TT-R-6.

1 from the fact that Mr. Freeman is responsible for “capital improvement projects” while I
2 am responsible for “system repairs.” Capital improvement projects are entirely different
3 from system repairs. While operations, under Mr. Thibault’s direct supervision and my
4 overarching supervision for all of operations, is responsible for “system repairs,” Mr.
5 Freeman and his engineering department is responsible for “capital improvement
6 projects.” There is no inconsistency between the job duties as Staff mistakenly claims.

7 **Q. DOES MR. GATELEY MAKE ANY OTHER UNFOUNDED ACCUSATIONS?**

8 A. Yes. In his Direct Testimony, Mr. Gateley indicates that Staff had difficulty in arranging
9 “customary inspections as part of the prudence review and rate case investigation.” Mr.
10 Freeman will address this unfounded accusation in his rebuttal testimony.

11 **Q. BASED UPON THESE ISOLATED INSTANCES AND UNFOUNDED**
12 **CONCLUSIONS, DOES MR. GATELEY MAKE ANY FURTHER**
13 **RECOMMENDATIONS?**

14 A. Yes. Based upon these limited datapoints, Mr. Gateley recommends that Confluence
15 Rivers be required to hire “personnel dedicated specifically for Missouri operations.”
16 While Mr. Cox will address this issue with more specificity in his rebuttal testimony, I
17 can simply point out that, as with all aspects of its operations, Confluence Rivers
18 balances the cost of dedicated employees, as Staff now recommends, against the cost
19 implications of those additional employees and the effect of those costs on customer
20 rates. Confluence Rivers believes that it has balanced Staff’s needs for immediate
21 inspections, as identified by Mr. Gateley, including “the ability to respond and schedule
22 routine inspections with Staff within two days,” with the cost to ratepayers of providing
23 Staff this convenience.

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V. CUSTOMER SERVICE

Q. WHAT RECOMMENDATIONS DID STAFF WITNESS GLASGOW MAKE IN HIS DIRECT TESTIMONY?

A. Mr. Glasgow’s first recommendation is that Confluence Rivers comply with Commission Rule 20 CSR 4240-13.040(5) by maintaining a customer complaint log. Mr. Glasgow claims that Confluence Rivers was not able to produce, in response to discovery, such a complaint log.

Q. DO YOU AGREE WITH MR. GLASGOW’S ASSERTIONS?

A. No. Confluence Rivers believes that it is, for the most part, following this Commission Rule. Specifically, while not in one comprehensive log, Confluence Rivers maintains separately a listing of all complaints originating from the Commission, the Attorney General, as well as those that arise through Confluence Rivers’ customer service agents. I believe that some of the confusion arises from the definition of “complaint” as used in the applicable Commission rule. Commission Rule 20 CSR 4240-13.040(5)(B) requires utilities to maintain a list of the number and general description of “complaints.”¹⁵ The definition of “complaint” as contained in 13.015(1)(D)¹⁶ expressly refers to Commission Rule 2.070.¹⁷ The purpose provision of Commission Rule 2.070 specifically refers to “formal and informal complaints with the Commission.” So, contrary to Mr. Glasgow’s

¹⁵ Schedule TT-R-7.
¹⁶ *Id.*
¹⁷ Schedule TT-R-8.

1 assertion,¹⁸ the complaint log referenced in 13.040(5) appears to be limited to those
2 complaints, formal and informal, arising at the Commission.

3 That said, however, in its direct testimony, Staff references two customer
4 complaints that were not included in the log provided to Staff. Clearly then,
5 improvements can be made in the Company's complaint documentation process. With
6 this in mind, Confluence Rivers is willing to engage with Staff to not only upgrade its
7 process of detailing this complaint log, but also to make Staff aware of other customer-
8 affecting changes.

9 **Q. PLEASE EXPLAIN YOUR WILLINGNESS TO HAVE REGULAR MEETINGS**
10 **WITH THE STAFF'S CUSTOMER SERVICE REPRESENTATIVES.**

11 A. In his Direct Testimony, Mr. Glasgow recommends that Confluence Rivers and the
12 Staff's customer service department hold quarterly meetings. While Mr. Glasgow does
13 not recommend definitive parameters for such meetings, Confluence Rivers is willing to
14 hold quarterly meetings to discuss customer service items as well as "big operational
15 changes" that may have an impact on customer service or the preservation of customer
16 service information. In this regard, Mr. Glasgow notes that the Company has previously
17 migrated from Munibilling to Starnik and then to Muni-Link. Similarly, such a quarterly
18 meeting would allow for the dissemination of some of the other items delineated by Mr.
19 Glasgow on page 7 of his Direct Testimony, if and when they occur.

20 **Q. WHAT IS MR. GLASGOW'S THIRD RECOMMENDATION?**

¹⁸ Mr. Glasgow claims that "[t]he rule does not specify that a utility maintain records of complaints from only the PSC but all complaints no matter where they originate." See, Glasgow Direct, page 4.

1 A. At pages 8-9 of his Direct Testimony, Mr. Glasgow recommends that Confluence Rivers
2 engage in customer opinion surveys.

3

4 **Q. WHAT ARE YOUR THOUGHTS ON CUSTOMER OPINION SURVEYS?**

5 A. It is my opinion that customer opinion surveys, within the utility industry, are typically
6 not cost effective. Specifically, those customers that will participate in such surveys
7 generally have a negative opinion of their monopoly utility. This is demonstrated
8 repeatedly at local public hearings where only customers that have complaints take the
9 time to voice their opinions. Such customers typically resent being limited to a single
10 monopoly provider; being subjected to rate increases over which they feel they have no
11 input; or service plans that don't meet their specific desires.¹⁹ Given the lack of benefit
12 to such customer surveys, Confluence Rivers does not believe that they justify the cost.

13 **Q. HAS A CONFLUENCE RIVERS' AFFILIATE PREVIOUSLY USED**
14 **CUSTOMER SURVEYS?**

15 A. Yes. At its Garden Heights service area, Magnolia Water Utility Operating Company,
16 Confluence Rivers' Louisiana affiliate, once issued customer surveys in an effort to
17 determine whether the installation of a filtration system for the treatment of manganese in
18 drinking water had resolved customer concerns. Magnolia Water found that, of 25
19 customer survey emails sent, only 15 (60%) were actually opened. Of those, only 6
20 customers took the time to complete the survey. Interestingly, consistent with my stated

¹⁹ For instance, at recent local public hearings, Confluence Rivers water customers were concerned with the flat rate instead of being permitted to have metered service.

1 views of customer surveys, most of the comments concerned the rates charged for water
2 service.

3
4
5 **Q. WHAT IS MR. GLASGOW'S FINAL RECOMMENDATION?**

6 A. At pages 10-11 of his Direct Testimony, Mr. Glasgow recommends that Confluence
7 Rivers be ordered to assemble additional call center metrics. Noticeably, Mr. Glasgow
8 readily admits that "Confluence is in compliance with the Commission order concerning
9 the call center information it is providing to Staff." That said, however, Mr. Glasgow
10 now seeks to go beyond prior Commission orders and expand the scope of information
11 provided by Confluence Rivers.

12 **Q. WHAT ARE YOUR THOUGHTS OF MR. GLASGOW'S ADDITIONAL**
13 **REPORTING RECOMMENDATION?**

14 A. Confluence Rivers is willing to work with Staff to spell out specific requirements for call
15 center reporting. Importantly, call center functions for Confluence Rivers are
16 intermingled with those of CSWR's operating affiliates in 11 other states. While
17 Confluence Rivers is willing to provide information relevant to its operations, CSWR is
18 not willing to use such reporting as carte blanche for Staff to begin investigating other
19 CSWR affiliates. I do not believe that this will be a huge impediment. As such,
20 Confluence Rivers is willing to discuss this further with Staff.

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

22 A. Yes.

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

In the Matter of Confluence Rivers Utility)
Operating Company, Inc.'s Request for Authority)
to Implement a General Rate Increase for Water)
Service and Sewer Service Provided in Missouri)
Service Areas.)


File No. WR-2023-0006
File No. SR-2023-0007

AFFIDAVIT OF TODD THOMAS

STATE OF MISSOURI)
)
) ss
COUNTY OF ST. LOUIS)

Todd Thomas, of lawful age and being first duly sworn, deposes and states:

1. My name is Todd Thomas. I am the Sr. Vice-President of CSWR, LLC.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

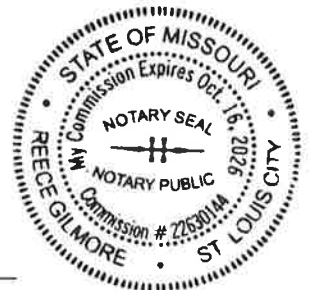


Todd Thomas

Subscribed and sworn to me this 26th day of June, 2023



Notary Public



My commission expires Oct 16th, 2026.



Rules of
Department of Commerce and
Insurance
Division 4240—Public Service Commission
Chapter 10—Utilities

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twenty-five (25) amperes and without instrument transformers. For other meters a proportionally larger fee will be charged, depending upon the type and size of the meter. If the meter is fast beyond the prescribed limit in section (27) of this rule, the utility will be required to pay the test fee and cost of shipping the meter; otherwise these expenses shall be borne by the consumer requesting the test.

(31) Each utility furnishing metered electric service shall maintain suitable working standards of a rugged type for the testing of electric service meters. These working standards must be calibrated frequently to insure their accuracy. Approved secondary standards shall be owned and maintained by each utility having more than two hundred fifty (250) meters in service for the calibration of the working standards. All secondary standards and the working standards of those utilities not required to maintain secondary standards must be submitted at sufficiently frequent intervals to insure unquestionable accuracy to the Bureau of Standards at Washington, D.C. or to some testing laboratory of recognized standing for calibration where the utility does not maintain a testing laboratory having primary standards. Each standard shall be accompanied by its certificate of calibration dated and signed by the proper authority. These certificates when superseded shall be kept on file at the office of the utility, available for inspection. Meter testing equipment shall at all reasonable hours be accessible for inspection and use by any authorized representative of the commission.

(32) All water furnished by utilities for human consumption and general household purposes shall conform to standards adopted by the Missouri Department of Health. The source of supply shall be of adequate quantity to insure a supply without interruption at all times. Treatment and filtration by approved methods is strongly recommended where doubt exists as to the quality of the water furnished at any time. Satisfactory treatment and filtration of water drawn from surface supplies is required. Disinfection treatment by hypochlorites of lime, chlorine gas or other approved disinfecting agents, is generally necessary for all public water supplies. Storage reservoirs for finished water, where possible, shall be covered to protect the supply from sunlight and contamination. Where covered reservoirs are not provided due to local circumstances, chlorination facilities shall be provided at the reservoir in addition to the facilities provided at the plant.

(33) Bacteriological analyses shall be periodically made of water furnished for public uses as prescribed by the Missouri Department of Health. The commission reserves the right to require under its supervision an extended bacteriological as well as physical and chemical examination when deemed advisable for any particular water furnished. The results of all tests made must be recorded and kept on file available for public inspection for a period of at least two (2) years. These records must indicate when, where and by whom each test was made. Methods of water analysis prescribed by the Missouri Department of Health shall be followed as regards chemical, physical and bacteriological examination and collection of samples and any departure from these methods must be specifically stated.

(34) Dead ends in the distributing mains should be avoided as far as possible. Where the dead ends exist, they should be flushed when necessary to insure satisfactory quality of water to consumers. To allow flushing, dead ends should be equipped with hydrants, flush valves or other means of allowing water to be removed from these dead ends.

(35) Every effort must be made to maintain water pressure which will at no time fall below an adequate minimum pressure suitable for domestic service. In addition to furnishing domestic and commercial service, each utility furnishing fire-hydrant service must be able, within a reasonable period of time after notice, to supply fire-hydrant service to local fire fighting equipment and facilities. No utility, however, shall be required to install larger mains or fire-hydrants or otherwise supply fire service, unless proper contractual arrangements shall have been made with the utility by the municipality, agency or individual desiring the service.

(36) Each utility furnishing water service in cities of two thousand five hundred (2,500) or five thousand (5,000) inhabitants shall maintain graphic recording pressure gauges at its plant and at its downtown office or at some central point in the distributing system, where continuous records shall be made of the pressure in the mains at these points. Utilities operating in cities of five thousand (5,000) or more inhabitants shall equip themselves with one (1) or more graphic recording pressure gauges in addition to the previously mentioned and shall make frequent records, each covering intervals of at least twenty-four (24) hours duration, of the water pressure at various points on the system. All records or charts made by these meters shall be identified, dated and kept on file available for

inspection for a period of at least two (2) years.

(37) No water service meter shall be allowed in service which has an incorrect gear ratio or dial train or is mechanically defective or shows an error in measurement in excess of five percent (5%) when registering water at stream flow equivalent to approximately one-tenth (1/10) and full normal rating under the average service pressure. When adjustment is necessary, the adjustment shall be made as accurately as practical for average rate of flow under actual conditions of installation. Tests for accuracy shall be made with a suitable testing device in accordance with the best modern water meter practice and at rates of flow which will properly reflect the accuracy of meters over each meter's range of minimum to maximum flow.

(38) Unless otherwise ordered by the commission, each water service meter installed shall be periodically removed, inspected and tested in accordance with the following schedule, or as often as the results obtained may warrant to insure compliance with the provisions of section (37) of this rule:

(A) Five-eighths inch (5/8") meter—ten (10) years or two hundred thousand (200,000) cubic feet whichever occurs first;

(B) Three-fourths inch (3/4") meter—eight (8) years or three hundred thousand (300,000) cubic feet whichever occurs first;

(C) One inch (1") meter—six (6) years or four hundred thousand (400,000) cubic feet which ever occurs first; and

(D) All meters above one inch (1")—every four (4) years.

(39) Each utility furnishing metered water service shall make a test of the accuracy of any water service meter free of charge upon request of a consumer; provided, that the meter has not been tested within twelve (12) months previous to the request. The consumer shall be notified of the time and place of the test so that s/he may be present to witness the test should s/he so desire. A written report giving the result of the requested test shall be made to the consumer requesting the test, the original record being kept on file at the office of the utility under the provisions of section (2) of this rule.

(40) Any water service meter will be tested by the commission upon written application of the consumer or utility. The utility involved shall either remove the meter or give its consent to the removal of the meter, but the consumer shall be given an opportunity to witness the disconnection, packing and shipment of

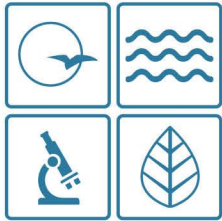
Missouri Public Service Commission

Respond Data Request

Data Request No.	0293
Company Name	MO PSC Staff-(All)
Case/Tracking No.	WR-2023-0006
Date Requested	5/30/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Travis Pringle
Requested By	Reece Gilmore
Brief Description	Quality of Service
Description	Page 6: At page 11, Mr. Gateley discussed the need to provide "safe and adequate service." (a) Please provide Mr. Gateley's definition of "safe and adequate service" as used in line 11 of page 6. (b) Please identify all Confluence systems that Mr. Gateley does not believe is currently providing "safe and adequate service." (c) For each Confluence system, please identify the last time in which Mr. Gateley is aware that Confluence did not provide safe and adequate service."
Response	a. In addition to meeting the requirements of 393.130 RSMo, 20 CSR 4240-60, and 20 CSR 4240-10.030, and any safety or adequacy standards imposed by the Public Service Commission, safe and adequate service for water and sewer systems includes meeting the safety and adequacy standards imposed by the Department of Natural Resources, the Missouri Clean Water Law, the Missouri Safe Drinking Water Act, Federal Clean Water Act, and the Federal Safe Drinking Water Act. b. At the time Staff investigated, Confluence was not providing safe and adequate service at the Auburn Hills or Fox Run systems. c. See b.
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WR-2023-0006** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **MO PSC Staff-(All)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **MO PSC Staff-(All)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Michael L. Parson
Governor

Dru Buntin
Director

June 22, 2023

OFFICIAL COPY VIA EMAIL

Josiah Cox
Confluence Rivers Utility Operating Company, Inc.
1650 Des Peres Road, Suite 303
Des Peres, MO 63131

RE: Confluence Rivers Utility Operating Company

Dear Josiah Cox:

The Missouri Department of Natural Resources regulates approximately 5,000 domestic wastewater treatment systems and approximately 2,700 public water systems in the State that are subject to the Missouri Clean Water Law and the Missouri Safe Drinking Water Law, respectively. The Department's primary goal as the regulatory authority in administering these state laws is to ensure environmental protection and human health and safety against pollution and health risks that may be caused by failing or improperly operating wastewater treatment systems and public water systems. The Department promotes compliance through compliance assistance, education, and, when necessary, enforcement actions. When systems end up in enforcement, it is often a result of limited resources and available solutions, which can sometimes draw cases out over a period of years.

When systems are unable to resolve their technical, managerial, or financial problems, one reliable solution is selling the system to a higher-performing utility operating company. In Missouri, Confluence Rivers Utility Operating Company, Inc. (CRUOC) is one of the few utility operating companies who is willing to acquire some of the most difficult failing systems. CRUOC has consistently taken swift actions after taking control of these systems to bring them into compliance by employing qualified operators, effectively administering and managing the systems, and investing in repairs and upgrades.

CRUOC's willingness to acquire systems with long-standing compliance issues has proven to be beneficial to human health and the environment by bringing many of these systems into compliance with environmental laws. The Department looks forward to continuing to work with CRUOC as it continues to acquire wastewater and public water systems in Missouri, in furtherance of the Department's initiative to encourage regionalization and consolidation of the many private systems in Missouri that are struggling to achieve compliance with laws for the protection of public health and the environment.



If you have any questions regarding this correspondence, you may contact Joe Clayton at Department of Natural Resources, Water Protection Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, MO 65102-0176; by phone at 573-522-1120; or by email at cwenf@dnr.mo.gov. Thank you for your cooperation in this matter.

Sincerely,

WATER PROTECTION PROGRAM

A handwritten signature in black ink, appearing to read 'Joe Clayton', written over a horizontal line.

Joe Clayton
Compliance and Enforcement Section Chief

JC/ehh

c: Lance Dorsey, Chief, PDWB, Compliance and Enforcement

Missouri Public Service Commission

Respond Data Request

Data Request No.	0320
Company Name	MO PSC Staff-(All)
Case/Tracking No.	WR-2023-0006
Date Requested	5/30/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Travis Pringle
Requested By	Reece Gilmore
Brief Description	Quality of Service
Description	Please identify whether Mr. Gateley attended the informal conference that Staff conducted with Confluence River at which it discussed the reasons underlying the discolored water or the flushing of mains at Auburn Lakes.
Response	Mr. Gateley did not attend this discussion.
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WR-2023-0006** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **MO PSC Staff-(All)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **MO PSC Staff-(All)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA

Missouri Public Service Commission

Respond Data Request

Data Request No.	0268
Company Name	Confluence Rivers Utility Operating Company, Inc.-(Water)
Case/Tracking No.	WR-2023-0006
Date Requested	5/3/2023
Issue	Quality of Service - Other Quality of Service Issues
Requested From	Aaron Silas
Requested By	Travis Pringle
Brief Description	Fox Run Overflow Follow-Up
Description	During Staff's field inspection of the Fox Run Wastewater Treatment Facility (WWTF) on April 11, 2023, it was discovered that the WWTF was overflowing sewage from the sand filter bed. (1) Please submit copies of all documentation (reports, overflow notices, etc.) that were submitted to the Missouri Department of Natural Resources for this overflow incident. (2) What corrective actions have been taken to rectify the overflow? Please include a description of the associated clean-up efforts. (3) Was emergency pumping and hauling implemented? If so, how much was pumped and hauled, during what dates, and where was the sewage hauled to? (4) During the field inspection, Confluence personnel indicated a Root Cause Analysis (RCA) for the bypass would be completed. Please provide a copy of this RCA report. (5) What steps are being taken to prevent this from happening again? Requested by: Daronn Williams (Daronn.williams@psc.mo.gov)
Response	(1) See attached IM 10 Incident Investigation Form. (2) Documentation is included in the attached IM 10 form. All affected areas were disinfected and lime was applied. (3) No emergency pumping and hauling was implemented. (4) See attached IM 10 form (5) See CAs in the attached IM 10
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WR-2023-0006** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **Confluence Rivers Utility Operating Company, Inc.-(Water)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Confluence Rivers Utility Operating Company, Inc.-(Water)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA



Environmental Incident Investigation and Root Cause Analysis

The person completing the Form:	Brady Graves	Incident Location:	Kearney, MO
Project:	Fox Run	Incident Date:	04/11/23
Root Cause Category	Factor? X = Yes	Rank 1 = Low 5 = High	Description
1. Equipment / Material – Why was equipment or material a cause?			
A. Defective or failed part of the equipment	<input type="checkbox"/>		
B. Error by manufacturer	<input type="checkbox"/>		
C. Did not perform preventative maintenance task or did not perform the task in a timely manner	X	4	Influent pump stations need regular solids removal. This needs to be done in a timely manner.
D. Was equipment operated improperly	<input type="checkbox"/>		
E. Chemical specification problem	<input type="checkbox"/>		
F. Other	X	5	Filter media in bed is highly packed with solids and slows the filtration rate, causing the bed to overflow.
2. Procedure – Why was the procedure a cause?			
A. Inadequate procedure	<input type="checkbox"/>		
B. Lack of procedure	<input type="checkbox"/>		
C. Procedure not followed	<input type="checkbox"/>		
3. Human Error – Why was human error a cause?			
A. Aware of poor judgment / bad decision	<input type="checkbox"/>		
B. Inattention to detail	<input type="checkbox"/>		
C. Violation of requirement/procedure	<input type="checkbox"/>		
D. Communication problem	<input type="checkbox"/>		
E. Other human error (lack of awareness, stress, tiredness, hurried, lapse, etc.)	<input type="checkbox"/>		
4. Training Deficiency – Why was training deficiency a cause?			
A. No training provided	<input type="checkbox"/>		
B. Insufficient practice or OJT	<input type="checkbox"/>		
C. Inadequate content	<input type="checkbox"/>		
D. Inadequate refresher training	<input type="checkbox"/>		
E. Inadequate presentation of materials	<input type="checkbox"/>		
5. Management Problem – Why was management problem a cause?			
A. Work organization/planning deficiency	<input type="checkbox"/>		
B. Inadequate supervision	<input type="checkbox"/>		
C. Improper resource allocation	<input type="checkbox"/>		
D. Procedure not adequately defined, disseminated or enforced	<input type="checkbox"/>		
E. Other management problem	<input type="checkbox"/>		
6. Facility Factors – Why was facility a cause?			
A. Raw water out of spec or influent characteristics above design	<input type="checkbox"/>		
B. Flow too high or excessive water demand	<input type="checkbox"/>		
C. Solids handling issue	X	4	Influent pump stations need regular solids removal. This needs to be done in a timely manner.
D. Man-machine interface problem	<input type="checkbox"/>		
E. Instrumentation problem	<input type="checkbox"/>		
F. Inadequate backup or stand-by equipment	<input type="checkbox"/>		

G. Other	<input type="checkbox"/>		
7. Process Control – Why was process control a cause?			
A. Inadequate control process	<input type="checkbox"/>		
B. Inadequate PCMP implementation	<input type="checkbox"/>		
C. Nutrient imbalance	<input type="checkbox"/>		
D. Disinfection problem	<input type="checkbox"/>		
E. Inadequate mass balance	<input type="checkbox"/>		
F. Coagulation problem	<input type="checkbox"/>		
8. External Factors – Why were external factors a cause?			
A. Weather / environmental	<input type="checkbox"/>		
B. Fire or explosion	<input type="checkbox"/>		
C. Security (assault, tampering, sabotage)	<input type="checkbox"/>		
D. Contractor	<input type="checkbox"/>		
E. Other	<input type="checkbox"/>		

Category Summary

Category	Description
1. Equipment / Material	Solids must be removed from tanks, and filter media is packed with solids.
2. Procedure	
3. Human Error	
4. Training Deficiency	
5. Management Problem	
6. Facility Factors	Influent pump stations need solids removed to prevent pumping more solids to filter media.
7. Process Control	
8. External Factors	

Comments:

Filter media may still need to be replaced. Once operations auger the media and conduct additional filtration testing, we will better understand whether the media will require replacement.

Samples were collected in the bypass stream entering the creek for BOD, TSS, NH3, and e-Coli and sent to a third-party laboratory for analysis.

MODNR was notified via MOGEM on 4.11.23.

Given the above contributive factors, what corrective action(s) will be taken to prevent a repeat of this type of incident? Provide action(s) and planned completion date(s).

Root Cause	Corrective Action	Responsible Person	Planned Completion Date
Filter media is packed with solids.	Sand filter media replacement.	TBD if applicable	TBD if applicable
Pump stations have a high level of solids.	Sludge removal from pump stations.	H&H Septic	4.21.23
Filter media age.	Auger filter media to break up any coagulated sludge mats and existing solids.	David Duncan CWS	4.17.23
Excessive sludge in filter media is slowing drainage to the 80/20 valve.	Clean out the effluent drainage line using an air compressor.	David Duncan CWS	4.19.23

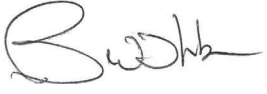
Reviewed and approved by:



O&M RM

4.19.23

Date



CSWR RM

4.18.23

Date

Missouri Public Service Commission

Respond Data Request

Data Request No.	0125
Company Name	Confluence Rivers Utility Operating Company, Inc.-(Water)
Case/Tracking No.	WR-2023-0006
Date Requested	2/3/2023
Issue	Rate Base - Plant in Service
Requested From	Aaron Silas
Requested By	Ron Irving
Brief Description	Future Capital Improvements
Description	For each Confluence Rivers system and Tariffed Rate District, list, describe and quantify the estimated cost of the capital improvements that will still need to be completed in the future as determined by the Confluence Rivers and/or CSWR LLC at this time. Data Request submitted by Lisa Ferguson (lisa.ferguson@psc.mo.gov)
Response	Confluence Rivers currently has one construction project in progress, multiple projects submitted to DNR awaiting approval, and multiple projects that have had facility plans approved and are in final design stage before construction permit submission. In progress: Freeman Hills (\$15k cost to complete) Pending DNR Approval: Majestic Lakes Water, Missing Well Water Final Design (Facility Plans Approved): Terre Du Lac 3 Cell Lagoon, Clemstone WWTF, Deguire WWTF, Fox Run WWTF, Wilmar estates WWTF, Countryside Meadows WWTF, Bar-B Estates (Park Estates) WWTF, Country Hill Estates WWTF
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WR-2023-0006** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **Confluence Rivers Utility Operating Company, Inc.-(Water)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Confluence Rivers Utility Operating Company, Inc.-(Water)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA



Rules of Department of Commerce and Insurance

Division 4240—Public Service Commission Chapter 13—Service and Billing Practices for Residential Customers of Electric, Gas, Sewer, and Water Utilities

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**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE**
**Division 4240—Public Service
Commission**
**Chapter 13—Service and Billing Practices
for Residential Customers of Electric,
Gas, Sewer, and Water Utilities**

20 CSR 4240-13.010 General Provisions

PURPOSE: This rule describes in general terms, the provisions of this chapter.

(1) This chapter applies to residential utility service provided by all electric, gas, sewer, and water public utilities, referred to in this chapter as utilities, which are subject to the jurisdiction of the Public Service Commission under the laws of the state.

(2) A utility shall not discriminate against a customer, or applicant for service, for exercising any right granted by this chapter.

(3) A utility shall adopt rules governing its relations with customers and applicants for service which are consistent with this chapter. The rules shall be part of a utility's tariffs and shall be consistent with this chapter. Any tariff revisions, if required to comply with this chapter or to reflect any variances previously granted by the commission, shall be filed by the utility within ninety (90) days of the effective date of this rule. Once such revised tariffs become effective, the utility's tariffs shall be deemed to be in full compliance with this chapter.

*AUTHORITY: sections 386.250(6) and 393.140(11), RSMo 2016. * This rule originally filed as 4 CSR 240-13.010. Original rule filed Dec. 19, 1975, effective Dec. 30, 1975. Amended: Filed Oct. 14, 1977, effective Jan. 13, 1978. Rescinded and readopted: Filed Sept. 22, 1993, effective July 10, 1994. Amended: Filed Aug. 1, 2013, effective March 30, 2014. Amended: Filed Nov. 7, 2018, effective July 30, 2019. Moved to 20 CSR 4240-13.010, effective Aug. 28, 2019.*

**Original authority: 386.250(6), RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140(11), RSMo 1939, amended 1949, 1967.*

20 CSR 4240-13.015 Definitions

PURPOSE: This rule defines various terms that are used in this chapter.

(1) The following definitions shall apply to this chapter:

(A) Applicant means an individual(s) or other legal entity who has applied to receive

service;

(B) Bill means a written demand, including, if agreed to by the customer and the utility, an electronic demand, for payment for service or equipment and the taxes, surcharges, and franchise fees;

(C) Billing period means a normal usage period of not less than twenty-six (26) nor more than thirty-five (35) days for a monthly billed customer nor more than one hundred (100) days for a quarterly billed customer, except for initial, corrected, or final bills;

(D) Complaint means an informal or formal complaint under 4 CSR 240-2.070;

(E) Corrected bill means any bill issued for a previously rendered bill;

(F) Credit score means a score, grade, or value that is derived by using data from a nationally known commercial credit source that uses data from a credit history model developed for the purpose of grading or ranking credit report data;

(G) Customer means a person or legal entity responsible for payment for service, except one (1) denoted as a guarantor;

(H) Cycle billing means a system which results in the rendition of bills to various customers on different days of a month;

(I) Delinquent charge means a charge for utility service that remains unpaid for at least twenty-one (21) days for a monthly-billed customer and for at least sixteen (16) days by a quarterly billed customer from the date the utility renders the bill, or a charge remaining unpaid after the preferred payment date selected by the customer;

(J) Delinquent date means the date stated on a bill, which shall be at least twenty-one (21) days for a monthly billed customer, and at least sixteen (16) days for a quarterly billed customer from the rendition date of the bill or the preferred payment date selected by the customer, after which the utility may assess a commission approved late payment charge in accordance with the utility's tariff on file with the commission;

(K) Denial of service means the utility's refusal to commence service upon an applicant's request for service at a particular location;

(L) Deposit means a money advance to a utility for the purpose of securing payment of delinquent charges which might accrue to the customer who made the advance;

(M) Discontinuance of service or discontinuance means a cessation of service not requested by a customer;

(N) Due date means the date stated on a bill when the charge is considered due and payable;

(O) Estimated bill means a charge for utility service which is not based on an actual

reading of the meter or other registering device by an authorized utility representative;

(P) Final bill means a bill rendered for services through the final date of service;

(Q) Guarantee means a written promise from a third party to assume liability up to a specified amount for delinquent charges which might accrue to a particular customer;

(R) Initial bill means the first bill rendered by a utility for a customer's service;

(S) In dispute means to question and request examination of utility bills or services rendered;

(T) Inquiry means a question or request for information related to utility charges, services, practices, or procedures;

(U) Late payment charge means an assessment on a delinquent charge in accordance with a utility tariff on file with the commission and in addition to the delinquent charge;

(V) Payment means cash, draft of good and sufficient funds, or electronic transfer;

(W) Payment agreement means a payment plan entered into by a customer and a utility;

(X) Preferred payment date plan means a commission-approved plan offered at the utility's option in which the delinquent date for the charges stated on a bill shall occur on the same day during each billing period as selected by the customer;

(Y) Purchased gas adjustment (PGA) clause means the adjustment procedure approved by the commission to recognize variations in the cost of purchased gas;

(Z) Rendition of a bill occurs on the date mailed, sent electronically, or hand delivered;

(AA) Residential service or service means the provision of or use of a utility service for domestic purposes;

(BB) Seasonally billed customer means a residential customer billed on a seasonal basis in accordance with a utility tariff on file with the commission;

(CC) Settlement agreement means an agreement between a customer and a utility which resolves any matter in dispute between the parties or provides for the payment of undisputed charges over a period longer than the customer's normal billing period;

(DD) Tariff means a schedule of rates, services, and rules describing a utility's service, filed by a utility and approved by commission order or operation of law;

(EE) Termination of service or termination means a cessation of service requested by a customer;

(FF) Utility means an electric, gas, sewer, or water corporation as those terms are defined in section 386.020, RSMo; and

(GG) Utility charges mean the rates for utility service and other charges authorized by the commission.



to the day specified by the applicant for service to commence, but normally no later than three (3) business days following the day that all required construction is completed and all inspections have been made.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety, or a state of emergency until the reason for such refusal has been resolved.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

AUTHORITY: sections 386.250(6) and 393.140(11), RSMo 2000, and section 393.130(1), RSMo Supp. 2013. This rule originally filed as 4 CSR 240-13.035. Original rule filed Nov. 3, 2003, effective May 30, 2004. Amended: Filed Aug. 1, 2013, effective March 30, 2014. Moved to 20 CSR 4240-13.035, effective Aug. 28, 2019.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.130, RSMo 1939, amended 1949, 1967, 1969, 2002; 393.140, RSMo 1939, amended 1949, 1967.*

20 CSR 4240-13.040 Inquiries

PURPOSE: This rule establishes procedures to be followed when customers make inquiries of utilities so customer inquiries are handled in a reasonable manner.

(1) A utility shall adopt procedures which shall ensure the prompt receipt, thorough investigation and, where possible, mutually acceptable resolution of customer inquiries. The utility shall submit the procedures to the commission for approval and the utility shall notify the commission and the public counsel of any substantive changes in these procedures prior to implementation.

(2) A utility shall establish personnel procedures which, at a minimum, ensure that—

(A) At all times during normal business hours qualified personnel shall be available and prepared to receive and respond to all customer inquiries, service requests, safety concerns, and complaints. A utility shall make necessary arrangements to ensure that customers unable to communicate in the English language receive assistance;

(B) At all times during normal business hours, qualified personnel responsible for and authorized to enter into written agreements on behalf of the utility shall be available to respond to customer inquiries and complaints;

(C) Qualified personnel shall be available at all times to receive and initiate response to customer contacts regarding any discontinuance of service or an emergency condition related to the utility's operations occurring within the utility's service area; and

(D) Names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the commission regarding customer inquiries, service requests and complaints shall be provided to the commission.

(3) A utility shall prepare, in written form, information in plain language, which summarizes the rights and responsibilities of the utility and its customers in accordance with this chapter. The form shall be submitted to the consumer services department of the commission, and to the Office of the Public Counsel. This written information shall be displayed prominently, and shall be available at all utility office locations open to the general public, and shall be mailed or otherwise delivered to each of the utility's residential customers upon request. The information shall be delivered or mailed to each new customer of the utility upon the commencement of service and shall be available at all times upon request. The written information shall indicate conspicuously that it is being provided in accordance with the rules of the commission, and shall contain information concerning, but not limited to—

(A) Billing and estimated billing procedures;

(B) Methods for customer verification of billing accuracy;

(C) Customer payment requirements and procedures;

(D) Deposit and guarantee requirements;

(E) Conditions of termination, discontinuance, and reconnection of service;

(F) Procedures for handling inquiries;

(G) Explanation of meter reading procedures which would enable a customer to read his/her own meter;

(H) A procedure where a customer may avoid discontinuance of service during a period of absence;

(I) Complaint procedures under 4 CSR 240-2.070;

(J) The telephone number and address of a customer services office of the Missouri Public Service Commission, the commission's toll-free telephone number, and the statement that the company is regulated by the Missouri Public Service Commission;

(K) The address and telephone number of the Office of Public Counsel (OPC) and

OPC's toll-free telephone number, and a statement of the function of that office; and

(L) If the utility is a gas distribution company, an explanation of the function of the purchased gas adjustment clause. If the utility is an electric company authorized to utilize a fuel adjustment clause, an explanation of the fuel adjustment clause.

(4) At all of its public business offices, a utility shall make available for public inspection a copy of this chapter and the utility's tariffs. At these business offices, conspicuous signs shall be posted which indicate that this information is available for public inspection.

(5) A utility shall maintain records on its customers for at least two (2) years which contain all information concerning—

(A) The payment performance of each of its customers for each billing period;

(B) The number and general description of complaints registered with the utility;

(C) The number of settlement agreements made by the utility;

(D) The actual number of discontinuances of service due to each of the following categories of reasons:

1. The customer's failure to comply with a settlement agreement or cold weather rule payment agreement;

2. The customer's failure to make any other required utility payment;

3. Unauthorized interference, diversion, or use of utility service; and

4. All other reasons combined;

(E) Actual number of reconnections; and

(F) Actual number and amounts of refunds of deposits.

(6) The utility shall submit to the commission, upon request, a written summary of the information required by section (5) of this rule.

AUTHORITY: sections 386.250(6) and 393.140(11), RSMo 2000. This rule originally filed as 4 CSR 240-13.040. Original rule filed Dec. 19, 1975, effective Dec. 30, 1975. Amended: Filed Oct. 14, 1977, effective Jan. 13, 1978. Rescinded and readopted: Filed Sept. 22, 1993, effective July 10, 1994. Amended: Filed Aug. 1, 2013, effective March 30, 2014. Moved to 20 CSR 4240-13.040, effective Aug. 28, 2019.*

**Original authority: 386.250(6), RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991 and 394.140(11), RSMo 1939, amended 1949, 1967.*



utility and note such conversation into the commission's electronic file and information system and send a dated letter or email to that effect to the complainant and to the utility. Staff shall also advise the customer of his/her right to file a formal complaint with the commission under 4 CSR 240-2.070.

(A) Upon request, the staff shall send to the complainant a copy of the appropriate rules and the formal complaint form.

(B) If the complaint concerns a bill, the nonpayment of which could subject the complainant to discontinuance of service under the provisions of 4 CSR 240-13.050, the staff's letter shall advise the complainant that if a formal complaint is not filed within thirty (30) days of the date of the letter, the complainant may become subject to discontinuance of service.

(5) The commission staff may treat an informal complaint involving the same question or issue based upon the same facts dealt with in a prior informal complaint as already decided, and may advise the complainant that this informal complaint will not be reviewed.

(6) A utility shall not discontinue residential service relative to the amount in dispute during the pendency of an informal complaint and until at least thirty-one (31) days after the date of the letter issued pursuant to section (4), and shall in no case discontinue this service without leaving a notice of discontinuance after the date of the letter issued pursuant to section (4).

(7) Failure of the customer to pay the amount of a bill which is not in dispute, as determined pursuant to sections 4 CSR 240-13.045(5) or (6) of these rules, shall be grounds for discontinuance of service and dismissal of an informal or formal complaint.

AUTHORITY: sections 386.250(6) and 393.140(II), RSMo 2016. This rule originally filed as 4 CSR 240-13.070. Original rule filed Dec. 19, 1975, effective Dec. 30, 1975. Amended: Filed Oct. 14, 1977, effective Jan. 13, 1978. Amended: Filed Jan. 14, 1981, effective July 15, 1981. Rescinded and readopted: Filed Sept. 22, 1993, effective July 10, 1994. Amended: Filed Aug. 1, 2013, effective March 30, 2014. Amended: Filed Nov. 7, 2018, effective July 30, 2019. Moved to 20 CSR 4240-13.070, effective Aug. 28, 2019.*

**Original authority: 386.250(II), RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140(II), RSMo 1939, amended 1949, 1967.*



Rules of Department of Commerce and Insurance

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240-3.315, 4 CSR 240-3.405, 4 CSR 240-3.410, 4 CSR 240-3.520, 4 CSR 240-3.525, 4 CSR 240-3.605, or 4 CSR 240-3.610 is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the transaction, the purchaser or other necessary party must comply with these rules.

(4) In addition to the requirements of section (1), applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule, or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

(5) Except for telecommunications companies and providers of video services or interconnected voice over Internet protocol (VoIP) services, a name change may be accomplished by filing the items below with a cover letter requesting a change of name. Notwithstanding any other provision of these rules, the items required herein may be filed by a nonattorney. Applications for approval of a change of name shall include:

(A) A statement, clearly setting out both the old name and the new name;

(B) Evidence of registration of the name change with the Missouri secretary of state; and

(C) Either an adoption notice and revised tariff title sheet with an effective date which is not fewer than thirty (30) days after the filing date of the application, or revised tariff sheets with an effective date which is not fewer than thirty (30) days after the filing date of the application.

(6) In addition to the general requirements set forth above, the requirements found in Chapter 3 of the commission's rules pertaining to the filing of various types of applications must also be met.

AUTHORITY: sections 386.250 and 386.410, RSMo 2000. This rule originally filed as 4 CSR 240-2.060. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended:*

Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed March 2, 2011, effective Oct. 30, 2011. Moved to 20 CSR 4240-2.060, effective Aug. 28, 2019.

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 386.410, RSMo 1939, amended 1947, 1977, 1996.*

State ex rel. Kansas City Transit, Inc. v. Public Service Commission, 406 S.W.2d 5 (Mo. banc 1966). Commission is an administrative body of powers limited to those expressly granted by statute or necessary or proper to effectuate statutory purpose. Commission's authority to regulate does not include right to dictate manner in which company conducts its business.

20 CSR 4240-2.065 Tariff Filings Which Create Cases

PURPOSE: This rule establishes when a case shall be opened for a tariff.

(1) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility's tariffs. When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) Except when the Commission orders the filing of a tariff, when a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public

utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

(3) When a pleading, which objects to a tariff or requests the suspension of a tariff, is filed, the commission shall establish a case file for the tariff and shall file the tariff and pleading in that case file. All subsequent pleadings, orders, briefs, and correspondence concerning the tariff shall be filed in the case file established for the tariff. Any pleading to suspend a tariff shall attach a copy of the tariff and include a certificate of service to confirm that the party who submitted the tariff has been served with the pleading.

(4) A case file shall be established for a tariff filing in which the commission is required by law or requested by the party filing the tariff to specifically approve the tariff.

(5) A case file will not be established to consider tariff sheets submitted by a regulated utility which do not meet the circumstances of sections (1)-(4) of this rule, except that a case file shall be established when tariff sheets are suspended by the commission on its own motion or when suspended upon the recommendation of staff.

(6) When a public utility extends the effective date of a tariff, it shall file a letter extending the tariff effective date in the official case file. Notwithstanding any other provision of these rules, this letter may be filed by a nonattorney.

AUTHORITY: section 386.410, RSMo 2000. This rule originally filed as 4 CSR 240-2.065. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011, effective Oct. 30, 2011. Moved to 20 CSR 4240-2.065, effective Aug. 28, 2019.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

20 CSR 4240-2.070 Complaints

PURPOSE: This rule establishes the procedures for filing formal and informal complaints with the commission.

(1) Any person or public utility who feels aggrieved by an alleged violation of any tariff, statute, rule, order, or decision within the



commission's jurisdiction may file a complaint. A complaint may also be filed by the commission on its own motion, the commission staff through the staff counsel, or the Office of the Public Counsel.

(2) A person who feels aggrieved by an alleged violation of any tariff, statute, rule, order, or decision within the commission's jurisdiction may file an informal complaint with the commission's consumer services department or file either a formal complaint or small formal complaint with the commission. Filing an informal complaint is not a prerequisite to filing a formal or small formal complaint; however, the presiding officer may direct that a *pro se* complainant be required to go through the informal complaint procedure before the formal complaint will be heard by the commission. If an allegedly aggrieved person initially files an informal complaint and is not satisfied with the outcome, such person may also file a formal or small formal complaint.

(3) Informal Complaints. The protections and processes of an informal complaint regarding service or billing practices are set out in 4 CSR 240-13. To file an informal complaint, the complainant shall state, either in writing, by telephone (consumer services hotline 1-800-392-4211 or Relay Missouri at 711), or in person at the commission's offices—

(A) The name, street address, and telephone number of each complainant and, if one (1) person asserts authority to act on behalf of the others, the source of that authority;

(B) The address where the utility service was rendered;

(C) The name and address of the party against whom the complaint is filed;

(D) The nature of the complaint and the complainant's interest therein;

(E) The relief requested; and

(F) The measures taken by the complainant to resolve the complaint.

(4) Formal Complaints. A formal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation, or public utility, including any rule or charge established or fixed by or for any person, corporation, or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission. The formal complaint shall contain the following information:

(A) The name and street address of each complainant and, if different, the address

where the subject utility service was rendered;

(B) The signature, telephone number, facsimile number, and email address of each complainant or their legal representative, where applicable;

(C) The name and address of the person, corporation, or public utility against whom the complaint is being filed;

(D) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;

(E) The relief requested;

(F) A statement as to whether the complainant has directly contacted the person, corporation, or public utility about which complaint is being made;

(G) The jurisdiction of the commission over the subject matter of the complaint; and

(H) If the complainant is an association, other than an incorporated association or other entity created by statute, a list of all its members.

(5) No complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any public utility unless the complaint is signed by the public counsel, the mayor or the president or chairman of the board of aldermen or a majority of the council or other legislative body of any town, village, county, or other political subdivision, within which the alleged violation occurred, or not fewer than twenty-five (25) consumers or purchasers or prospective consumers or purchasers of public utility gas, electricity, water, sewer, or telephone service as provided by law. Any public utility has the right to file a formal complaint on any of the grounds upon which complaints are allowed to be filed by other persons and the same procedure shall be followed as in other cases.

(6) The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.

(7) The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.

(8) Upon the filing of a complaint in compliance with these rules, the secretary of the commission shall serve by certified mail, postage prepaid, a copy of the complaint upon the person, corporation, or public utility against whom the complaint has been filed, which shall be accompanied by a notice

that the matter complained of be satisfied or that the complaint be answered by the respondent, unless otherwise ordered, within thirty (30) days of the date of the notice. Additionally, the complainant may accomplish service of the complaint upon the respondent(s) by any method authorized by Supreme Court Rule 54, having first obtained authorization from the commission for use of a special process server. Any person eligible to serve process under Supreme Court Rule 54 may be nominated as a special process server. A return of service shall be promptly filed with the commission as in the circuit courts of this state.

(9) The respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground.

(10) If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.

(11) The commission may order, at any time after the filing of a complaint, an investigation by its staff as to the cause of the complaint. The staff shall file a report of its findings with the commission and all parties to the complaint case. The investigative report shall not be made public unless released in accordance with section 386.480, 392.210(2), or 393.140(3), RSMo, or during the course of the hearing involving the complaint.

(12) When the commission determines that a hearing should be held, the commission shall fix the time and place of the hearing. The commission shall serve notice upon the affected person, corporation, or public utility not fewer than ten (10) days before the time set for the hearing, unless the commission finds the public necessity requires that the hearing be held at an earlier date.



(13) All matters upon which a complaint may be founded may be joined in one (1) hearing and no motion for dismissal shall be entertained against a complainant for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties.

(14) When an order is rendered disposing of a case, the regulatory law judge shall cause the parties to be notified that the order will be final unless an application for rehearing is filed within the allotted number of days and provide information regarding the rehearing and appeal process.

(15) Small Formal Complaint Case. If a customer of a utility files a formal complaint regarding any dispute involving less than three thousand dollars (\$3,000), the process set forth in this section shall be followed for such complaints. The provisions of sections (1)–(14) of this rule shall also apply to small formal complaints.

(A) When a complaint is filed that qualifies for handling as a small formal complaint, the assigned regulatory law judge shall direct the secretary of the commission to serve, by certified mail, postage prepaid, a copy of the complaint upon the person, corporation, or public utility against whom the complaint has been filed. At the same time, the regulatory law judge shall notify all parties that the complaint will proceed under the small formal complaint process. The person, corporation, or public utility against whom the complaint has been filed is allowed thirty (30) days after the date of notice to satisfy the complaint or file an answer. If the person, corporation, or public utility does not satisfy the complaint or file an answer within thirty (30) days, the regulatory law judge may issue an order granting default and deeming the allegations of the complaint to have been admitted by the respondent. A party in default has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default. The regulatory law judge may grant the motion to set aside the order of default and allow the respondent additional time to answer upon a showing of good cause.

(B) If any party believes that a complaint should or should not be handled as a small formal complaint, that party may file a motion with the commission requesting that the status of the complaint be changed. In response to such motion, or acting on its own motion, the commission shall, at its discretion, decide how the complaint shall be handled.

(C) Upon the filing of a complaint that

qualifies under this section, the chief regulatory law judge shall assign the case to a regulatory law judge. To process small complaint cases in the timeliest manner and in the most convenient location for the customers, the commission hereby delegates the commission's authority to hear the case, make rulings, and issue a recommended report and order or other appropriate order disposing of the case to such regulatory law judge.

(D) The commission's staff shall, within forty-five (45) days after the complaint is filed, investigate the complaint and file a report detailing staff's findings and recommendations. The regulatory law judge may allow staff additional time to complete its investigation for good cause shown. The member or members of the commission's staff who investigate the complaint shall be available as a witness at the hearing if the regulatory law judge or any party wishes to call them to testify.

(E) Any hearing, unless otherwise agreed to by the parties, shall be held in the county, or a city not within a county, where the subject utility service was rendered or within thirty (30) miles of where the service was rendered. The regulatory law judge may allow any party, witness, or attorney to participate in the hearing by telephone.

(F) Small formal complaint case hearings shall be conducted in an informal summary manner whenever possible, without affecting the rights of the parties—

1. The technical rules of evidence shall not apply;

2. The regulatory law judge shall have the authority to dispense with pre-filed written testimony; and

3. The regulatory law judge shall assume an affirmative duty to determine the merits of the claims and defenses of the parties and may question parties and witnesses.

(G) The regulatory law judge, after affording the parties reasonable opportunity for discovery and a fair hearing, shall issue a recommended report and order within one hundred (100) days following the filing of the complaint, unless the regulatory law judge finds good cause to extend that time or the extension is otherwise agreed to by the parties.

(H) Any party subject to a recommended order disposing of the case or a recommended report and order issued by a regulatory law judge under this section may file with the commission, within ten (10) days of the issuance of the recommended order, comments supporting or opposing the recommended order. Any comments opposing the

recommended order shall contain specific detailed grounds upon which it claims the order is unlawful, unjust, or unreasonable. The commission may approve or reject the recommended order based on the existing record without further hearing. If the commission rejects the recommended order, the commission shall issue its own order based on the evidence previously submitted, or upon such additional evidence, as the commission shall choose to receive.

AUTHORITY: section 386.410, RSMo 2016. This rule originally filed as 4 CSR 240-2.070. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 24, 2010, effective Oct. 30, 2010. Amended: Filed March 2, 2011, effective Oct. 30, 2011. Amended: Filed Nov. 7, 2018, effective July 30, 2019. Moved to 20 CSR 4240-2.070, effective Aug. 28, 2019.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

20 CSR 4240-2.075 Intervention

PURPOSE: This rule prescribes the procedures by which an individual or entity may intervene in a case and allows for the filing of briefs by amicus curiae.

(1) A motion to intervene or add new member(s) shall be filed within thirty (30) days after the commission issues its order giving notice of the case, unless otherwise ordered by the commission.

(2) A motion to intervene or add new member(s) shall include:

(A) The legal name of each association, person, or entity seeking intervention or to be added;

(B) The street and mailing address of the principal office or place of business of each association, person, or entity seeking intervention or to be added, or of their attorney;

(C) The email address, fax number, and telephone number, if any, of each association, person, or entity seeking intervention or to be added, or their attorney;

(D) If any applicant is an association, other than an incorporated association or other entity created by statute, a list of all of its members;