

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 28th day  
of August, 2019.

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

**ORDER REGARDING LOCAL PUBLIC HEARING**

Issue Date: August 28, 2019

Effective Date: August 28, 2019

On March 29, 2019<sup>1</sup>, Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers”) filed an application to acquire the water and sewer systems owned by Port Perry Service Company, in Perry County, Missouri, and for a related Certificate of Convenience and Necessity. The Lake Perry Lot Owners’ Association (“Lot Owners”) intervened and has objected to the sale.

On August 5, the Lot Owners requested a local public hearing to occur the first week in September. On August 9, the Office of the Public Counsel (Public Counsel) joined in requesting a local public hearing. Confluence Rivers objected to the request for local public hearing, and Staff took no position.

The two objections to having a local public hearing made by Confluence Rivers are: the Lot Owners represent the affected parties such that there are no members of the public likely to testify; and the Commission rules prohibit supplemental testimony.<sup>2</sup> The Lot Owners state that ‘public’ means the hearing is open to anyone regardless of their

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<sup>1</sup> All dates refer to 2019

<sup>2</sup> 4 CSR 240-2.130(10).

involvement in litigation. The Public Counsel disagreed with the logic that individual members of the public should be denied their opportunity to voice their personal concerns to the Commission because the Lot Owners represent the interest of those same individuals in the aggregate.

As to the objection of supplemental testimony, the Lot Owners differentiate a local public hearing from an evidentiary hearing in that the local public hearing is for the Commission to assess the sentiment of the public and customers of the utility company, while the purpose of an evidentiary hearing is to permit the parties to present evidence. Public Counsel agrees with this distinction, calling it “a clear and obvious difference” between pre-filed evidentiary hearing testimonies supplied by expert witnesses and subject to reply and surrebuttal testimony by parties, and the statements of lay-members of the public speaking directly to the Commission during a local public hearing.

The Commission finds the request for a local public hearing to be reasonable and will grant it. The parties should note that witnesses will be sworn-in, a court reporter will be present, and testimony may be questioned (cross-examination) by the bench or other parties to the case. The Commission may make provisions for parties to respond to testimony or other offers of evidence made at the local public hearing.

The Commission may delegate any adjudicative authority to the regulatory law judge assigned to this action under Section 386.240 RSMo, 2016. The Commission will delegate its authority to the regulatory law judge to set the time, place, location, and other details of the local public hearing.

**THE COMMISSION ORDERS THAT:**

1. All parties shall submit their availability for a local public hearing by 1:00 p.m., August 30, 2019. The stated availability shall cover the first two weeks of September 2019.
2. The Commission delegates its authority to set the time, place, location, and other details of the local public hearing to the regulatory law judge.
3. This order shall be effective when issued.

**BY THE COMMISSION**



*Morris L. Woodruff*

Morris L. Woodruff  
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and  
Coleman, CC., concur.

Hatcher, Regulatory Law Judge

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS** my hand and seal of the Public Service Commission,  
at Jefferson City, Missouri, this 28<sup>th</sup> day of August 2019.



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**August 28, 2019**

**File/Case No. WA-2019-0299**

**Missouri Public Service Commission**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

*Sincerely,*



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.