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Missouri Public Service Commission

Rebuttal Testimony

of

Brent Thies

On Behalf of

Confluence Rivers Utility Operating Company, Inc

June 29, 2023

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REBUTTAL TESTIMONY OF
BRENT THIES
CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.

I. WITNESS INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Brent G. Thies. 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 employed by CSWR, LLC ("CSWR"). My current position is Vice President & Corporate Controller.

Q. ARE YOU THE SAME BRENT THIES WHO PREVIOUSLY SUBMITTED DIRECT TESTIMONY IN THIS PROCEEDING ON BEHALF OF CONFLUENCE RIVERS UTILITY OPERATING COMPANY ("CONFLUENCE" OR "COMPANY")?

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 testimony filed by the Missouri Public Service Commission Staff ("Staff") and to the direct testimony of the Office of the Public Counsel ("OPC") on the following topics:

- Uncollectible Expense
- External Audit Costs

- Rate Base including Acquisition Costs
- Compensation Expense including Payroll & Benefits
- Corporate Governance
- Staff's Recommended Reports
- Late Fees
- Debt and Capital Structure

III. REVENUE REQUIREMENT

Q. DID STAFF PROPOSE A REVENUE REQUIREMENT IN ITS DIRECT TESTIMONY FILED ON MAY 26, 2023?

A. Yes. Based upon its midpoint return on equity, Staff recommends an increase of $1,183,108 for Confluence water operations and an increase of $486,266 for Confluence sewer operations.

Q. WHAT ARE THE PRIMARY DRIVERS BEHIND THE DIFFERENCES BETWEEN THE COMPANY'S CALCULATIONS AND STAFF'S CALCULATIONS?

A. The differences primarily fall into three categories. First, there is a difference of approximately $394,320 associated with Staff's use of Net Operating Losses. As a result of its proposed recognition of Net Operating Losses, Staff has not included any income taxes in its revenue requirement calculation. Second, there is a difference in rate base of approximately $5,409,155, the reclassification of capitalized items as a repair expense, and the exclusion of acquisition costs. At Staff's pre-tax cost of capital, this rate base difference amounts to approximately $435,437 of the revenue requirement difference. Third, there is a difference associated with Staff's capital structure and return on equity. When applying the Staff's pre-tax cost of capital (8.05%) to the Company's rate base, the cost of capital difference results in a revenue requirement that is approximately $333,146 lower.

Q. HOW IS CONFLUENCE ADDRESSING THESE THREE ISSUES?

A. As detailed by Mr. Cox, Confluence is filing the rebuttal testimony of nine experts. Relative to these three issues, I will be addressing the rate base differences. In addition, Confluence is filing the rebuttal testimony of Brad Seltzer, a tax expert consultant, regarding the Staff's treatment of Net Operating Losses. Finally, Dylan D'Ascendis will be filing rebuttal testimony on the cost of capital differences between Confluence and both Staff and the Office of the Public Counsel. In addition to these witnesses, I will be providing rebuttal testimony on a variety of other less significant revenue requirement issues. Finally, Caitlin O'Reilly will be providing Confluence's response to certain Staff revenue requirement recommendations.

IV. UNCOLLECTIBLE EXPENSE

Q. PLEASE DESCRIBE UNCOLLECTIBLE EXPENSE.

A. Uncollectible expense is the cost which a company must record when it is unable to collect an amount owed to it by one of its customers. It is sometimes also known as bad debt expense. Confluence Rivers seeks to minimize uncollectible expense by working with customers in a variety of ways, which include offering payment plans upon request and pointing customers to options for help with utility payments. Nevertheless, there are times when a customer does not pay the amounts owed to Confluence Rivers and the Company must record expenses to write off this balance.

Q. PLEASE EXPLAIN STAFF'S TREATMENT OF THE EXPENSE IN THIS PROCEEDING.

A. In this proceeding, Staff proposed the use of the direct write-off method.[1] This methodology requires the Company to fully expense a balance owed by a customer once it is individually deemed to be uncollectible. Staff claims that this method results in a known and measurable charge. The methodology used by Staff results in a revenue requirement reduction of ($1,096), which is a decrease of $46,942 from the Company's filing. In the following testimony, I will argue against the methodology used by Staff. That said, I would also like to point out that Staff's adjustment results in negative expense. I believe this to be a mechanical error in the calculation as it does not make sense to reduce bad debt expense to below $0 in the revenue requirement calculation.

Q. DOES THE COMPANY AGREE WITH STAFF'S TREATMENT OF UNCOLLECTIBLE EXPENSE?

A. No, the Company does not agree with Staff's methodology. The Company used an allowance methodology to record uncollectible expense. This methodology records a small expense, currently 1% of each month's revenue, into an allowance for doubtful accounts. The Company uses the tools at its disposal, including various communications, the issuance of late fees, and termination of service to attempt to collect balances owed. When these efforts are unsuccessful, the balance may be sent to a third-party collections agency, CBE Group. CBE Group charges a 25% contingency fee for any balance collected. When a balance cannot be collected by CBE Group, the Company will have no choice but to

[1] Amenthor Direct, pages 9-11.

completely write off the balance owed. This is accomplished by reducing the balance of accounts receivable and the balance of the allowance for doubtful accounts by the same amount.

Q. DOES STAFF'S TESTIMONY PROPERLY CHARACTERIZE COMPANY'S METHODOLOGY?

A. No. Staff's understanding of the Company's process is incorrect in that Staff indicates that the Company writes off a customer balance before sending the balance to CBE Group for collection. This is not accurate as the Company does not write the balance off until CBE Group has attempted to collect the debt for a reasonable period of time.

Q. PLEASE DISCUSS STAFF'S ARGUMENT TO USE THE DIRECT WRITE-OFF METHOD.

A. Staff's argument for the direct write-off method is that the method creates a known and measurable expense while the Company's allowance method includes an educated estimate of what the expense will be. However, logically, any determination that a balance will be uncollectible in the future, either in full or in part, requires the use of an educated estimate. The Company recognizes that some portion of its billing will never be collected and uses an allowance method to recognize this fact as soon as a balance is owed. This is an educated estimate in the same way that Staff would have the Company make an educated estimate that there is no further possibility of collecting, through a collection agency, an individual balance owed. In fact, Staff's understanding of the Company's process as including a full write-off prior to sending the balance to a third-party logically supports the Company's procedure. If the Company truly believed that a balance was uncollectible and completely wrote that balance off, there would be no logical reason to send the balance to its third-party collection agency. The Company believes that an allowance method best matches uncollectible expense with the billing and revenue that give rise to the balance owed. Therefore, the Company's methodology and its current allowance estimate of 1% of revenue should be included in the revenue requirement determination.

V. EXTERNAL AUDIT & ACCOUNTING FEES

Q. PLEASE DESCRIBE THE EXTERNAL AUDIT & ACCOUNTING FEES FOR WHICH STAFF HAS RECOMMENDED DISALLOWANCE?

A. Confluence Rivers and other CSWR affiliates have contracted with Anders CPAs & Advisors ("Anders") to support the month-end close and account reconciliation processes. Anders' scope of work also includes such items as bank reconciliations and standard monthly journal entries. Anders' services are a benefit to CSWR's staff and the customers of Confluence Rivers for a number of reasons. First of all, the services Anders performs are inherently not duplicative. Logically, there can be only one close process each month and each journal entry or bank reconciliation need only be completed one time. However, proper accounting procedures require review of all journal entries and reconciliations. The presence of Anders' staff working to compile supporting materials and prepare journal entries allows CSWR's staff to review those entries before posting to the general ledger.

Second, Anders is contracted to complete a fixed amount of work each month that is routine and standardized. This allows CSWR staff to spend time on other accounting work that is less standardized and more time-consuming and less tied to the monthly closing schedule. This type of arrangement also shifts the burden of manpower redundancy and flexibility. CSWR does not employ accountants or other employees with extra capacity in their schedules. Were it not for the support Anders provides, any employee time off would have the potential to create a backlog of time sensitive accounting work. The Company believes that the $57,757 directly charged to Confluence Rivers should be fully allowed in its revenue requirement because the work Anders performs is necessary and it allows Confluence Rivers and CSWR to avoid hiring additional in-house personnel.

<u>VI. RATE BASE INCLUDING ACQUISITION COSTS</u>

Q. WHAT IS UTILITY PLANT IN SERVICE?

A. Utility Plant in Service is the common description for the assets that a utility owns that have been constructed, purchased, or otherwise completed and devoted to the provision of service within the utility ("in service" and "used and useful"). It does not include items that are currently under construction. Rate base is a refinement of utility plant in service in that it includes other items such prepayments and cash working capital that are items for which the Company is allowed to earn a return.

Q. PLEASE DESCRIBE THE DIFFERENCES BETWEEN STAFF'S CALCULATION OF RATE BASE AND THAT OF THE COMPANY.

A. The Company's filing in this proceeding included a combined (water and sewer) value of $20,190,644 for rate base as of the end of the test year. Through the end of the January 31, 2023, update period, however, the Company's combined rate base was $20,677,553. In contrast, Staff's Accounting Schedules and testimony included a total of $14,781,489, the supposed balance as of June 30, 2022. Based on the Company's review, Staff had not yet included utility plant in service additions and retirements between July 1, 2022 and January 31, 2023 (the update period). In addition, in evaluating Staff's workpapers and comparing them to the Company's records, the Company noted numerous other ways in which the parties' rate base numbers varied. While some of the differences were immaterial, there were some significant differences in Staff's numbers versus the Company's. The table below classifies and quantifies the differences which I will discuss in detail in this testimony.

Specific Rate Base Difference	Amount
Retired Asset Values	298,637
Staff Workpaper mechanical errors	2,152,456
Acquisition-Related Cost Disallowed	1,218,969
Capital Assets moved to Maintenance	1,169,131

Q. PLEASE EXPLAIN THE DISCREPANCY TITLED RETIRED ASSET VALUES.

A. As part of the discovery process, the Company provided Staff with detail regarding assets and their retirement. In a small number of accounts, Staff's analysis of the Company's assets and retirements included a subtraction from Utility Plant in Service for the retired value in accounts that did not include a positive value for the beginning plant in service. This created a negative value for a particular asset or account that, when summed with the other asset values, reduced the total Utility Plant in Service. This treatment is in error as an asset and its value cannot be retired if its historical value does not exist. The Company believes that the missing asset value of $298,637 should be added back to Utility Plant in Service.

Q. PLEASE DESCRIBE THE ERRORS THE COMPANY FOUND IN STAFF'S WORKPAPERS.

A. The Company reviewed the workpapers supporting Staff's revenue requirement calculation. The goal was to understand in detail the differences between Staff's calculations and those filed by the Company. In reviewing those workpapers, the Company discovered mechanical errors related primarily to spreadsheet formulas that resulted in a total rate base difference of $2,152,456 for the sewer rate base. The Company notified Staff of the mechanical errors, but to date have had no substantive conversations with Staff about its acknowledgment if those errors or how it plans to correct them.

Q. WOULD YOU BRIEFLY DESCRIBE THE TYPE OF MECHANICAL ERRORS YOU BELIEVE STAFF MADE WITH REGARD TO PLANT IN SERVICE?

A. Staff's rate base workpapers largely consist of tabular worksheets used to add, subtract, and otherwise calculate the impact of various changes on rate base components. The worksheets totals are used as inputs to total rate base and calculate the revenue requirement. In this case the mechanical errors were found in worksheets used to calculate the value of Utility Plant in Service and accumulated depreciation reserve. Staff's workpaper calculations involved summing multiple worksheets throughout a workbook and the Company discovered errors in those sum calculations such that some rows and totals were excluded from the amounts transferred to utility plant in service totals. This led to a reduction in total rate base and total revenue requirement.

Q. WHAT ARE ACQUISITION-RELATED COSTS AND WHAT WAS STAFF'S TREATMENT OF THESE COSTS?

A. As discussed in the direct testimony of Josiah Cox, the business model of Confluence Rivers is to acquire the assets of distressed water and wastewater systems throughout Missouri. Toward that end, the Company has completed dozens of acquisitions dating back to 2015. The Company incurs certain costs both before and immediately subsequent to the acquisition that primarily arise from necessary legal and engineering expenditures directly related to the acquisitions. These costs include expenditures that allow the Company to determine the feasibility of capital improvements that will need to be made to the system. They also include the legal and other costs associated with securing clean title to the property, confirming proper easement access to the system components, and the costs to appropriately file required acquisition documentation with the Commission.

Q. HOW ARE THESE TYPES OF COSTS TREATED BY THE NARUC UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A & B WATER AND WASTEWATER UTILITIES?

A. The NARUC Uniform System of Accounts for Class A & B Water and Wastewater ("USOA") utilities contemplates these types of expenditures in its description of account 183 – Preliminary Survey and Investigation Charges.[2] The USOA states:

> This account shall be charged with all expenditures for preliminary surveys, plans, investigations, etc. made for the purpose of determining the feasibility of project under contemplation. If construction results, this account shall be credited and the appropriate utility plant account charged.[3]

[2] Please note that the 1973 version of the USOA includes account 183. The 1996 version includes the same instructions but indicates that the values are to be held in account 186 – Miscellaneous Deferred Debits

[3] Reference to NARUC USOA

Q. HOW DOES CONFLUENCE RIVERS ADDRESS THESE COSTS?

A. Once a particular system acquisition has been completed, it is the Company's procedure to transfer amounts recorded in account 183 to Construction Work in Progress, and ultimately to the appropriate utility plant in service account, for inclusion in rate base. In its filing, the Company had recorded $1,218,969 of these acquisition-related expenditures in Utility Plant in Service accounts.

Q. WHAT TREATMENT DID STAFF GIVE THESE COSTS?

A. Staff witness Majors labeled these costs "transaction" costs and recommends that they be disallowed.[4] Mr. Majors' argument is that these costs were solely incidental to the acquisition transaction.

Q. DOES CONFLUENCE RIVERS AGREE WITH THIS ASSUMPTION?

A. No. The Company disputes this assumption. As has been documented elsewhere in the testimony of Company witnesses Cox and Freeman, the systems acquired by Confluence Rivers were in significant states of disrepair due to significant deferred maintenance, improper operations and depreciated assets that were not properly replaced. Therefore, some of the preliminary expenditures that Confluence Rivers incurred were intended to determine the extent and scope of the condition of the systems and the needed repairs. The expenditures also included costs to determine proper title and sufficient easement and right of way access to properties or to obtain Commission approval of the transaction. Absent

[4] Majors Direct, pages 14-15.

the incurrence of these costs, which are required by law, the acquisition would never occur. These costs are a necessary component of operations in the present and the future.

Q. SHOULD THESE COSTS BE DISALLOWED?

A. No. Given that these costs were handled according to the accounting instructions laid out in the NARUC USOA and were not simply the costs to consummate a transaction, they should be fully recognized in rate base. The costs are substantively similar to costs incurred by CSWR's legacy utility operating companies, including Confluence Rivers, prior to the consolidation of those companies. The Company was able to confirm by an examination of the workpapers Staff provided in the Staff-assisted rate cases filed by Confluence Rivers' predecessor companies Elm Hills (WR-2020-0275) and Confluence Rivers (WR-2020-0053) that these costs have previously been allowed and included with rate base. Furthermore, there were no disallowances of these costs in other rate cases filed by predecessor companies Hillcrest (WR-2016-0064 and SR-2016-0065), Raccoon Creek (SR-2016-0202) and Indian Hills (WR-2017-0259),

Q. PLEASE COMMENT ON STAFF'S POSITION THAT SOME OF CONFLUENCE RIVERS' COSTS SHOULD HAVE BEEN RECORDED AS MAINTENANCE EXPENSE INSTEAD OF CAPITAL EXPENSE.

A. During their review of capital improvements made to the systems Confluence Rivers owns, Staff identified expenditures totaling $1,169,131 that they believe should have been recorded as maintenance expense instead of capital investment. Per the Direct Testimony of Staff witness Lyons, the expenses in question were grouped in the following categories:

- Tank Painting Expense
- Vegetation Management
- Leak Repairs
- Sewer Jetting
- Water and Sewer Line Repairs
- Fencing Repairs
- Sewer system smoke testing.

In the ordinary course of water and sewer utility operations, it would be logical to record a simple repair expense in the NARUC USOA accounts for water and sewer maintenance rather than utility plant accounts. However, the Company believes that Staff misunderstood the nature of the work that was performed to produce certain of the expenditures that were disallowed from rate base and reclassified as maintenance expenditures.

Q. WHAT IS THE NATURE OF THE WORK THAT UNDERLIES THESE ITEMS?

A. Many of the expenditures were made in the first weeks and months after Confluence Rivers purchased the systems and were made to bring the system into environmental or safety compliance, correct long overdue deferred maintenance, bring the system components back into working order or refurbish a particular system component to extend its useful life.

As discussed in greater detail in the rebuttal testimony of Mr. Cox, one clear example of this type of work which the Company capitalized, but Staff proposes to treat as expense, occurred in the Port Perry sewer system. Pursuant to an evaluation of the lagoon and sewer site by the Missouri Department of Natural Resources (“DNR”), Confluence

Rivers was directed to refurbish the lagoon berm and remove the significant vegetation that had overgrown the lagoon area. These improvements were required in order to return the lagoon to its proper operating capacity and condition and alleviate deficiencies that threatened the life of the lagoon. The DNR communication directing Confluence Rivers to make these improvements is attached to Mr. Cox' rebuttal testimony. The total amount of expenditures that Confluence Rivers capitalized in fulfilling this requirement, and which Staff reclassified as maintenance expense, was $117,557.

Another example of work capitalized by the Company and reclassified as maintenance expense by the Staff was an expenditure on the Terre Du Lac sewer system. At a total capitalized cost of $25,500, the Company refurbished and remediated the critical issues associated with 27 manholes by placing a coating on the vertical walls of the manholes to stop future leaks so that the useful life of the manholes was materially extended. Further work that the Company capitalized and Staff reclassified to maintenance expense included replacing significant sections of water and sewer mains and costs to install new water and sewer taps.

The types of expenditures I just described, as well as others reclassified by Staff, clearly are plant-related investments and not maintenance. Therefore, these costs should be included in rate base as part of Plant in Service.

VII. COMPENSATION EXPENSE INCLUDING PAYROLL & BENEFITS

Q. PLEASE BRIEFLY DESCRIBE THE HIRING CHALLENGES OF CONFLUENCE RIVERS' PARENT COMPANY, CSWR.

A. As described in the direct testimony of Josiah Cox, CSWR is the parent of Confluence Rivers and other affiliated water and wastewater utilities currently operating in 11 states. All of the utilities owned and operated by CSWR consist of small, distressed water and wastewater systems that are located in largely rural areas. CSWR's subsidiaries now own and operate a combined total of over 800 water and wastewater plants across its multi-state footprint. The work required to operate and improve these distressed plants has required CSWR to continually add to its workforce. The workforce largely consists of executive and administrative employees who manage operations, construction, compliance and control processes from the St. Louis, Missouri, corporate office for the systems in all 11 states.

CSWR's management has worked hard to attract and retain the talent necessary to do the work required to identify and acquire these systems and operate them in a manner that ensures customers receive safe and reliable water and wastewater service. Given that CSWR is seen as a "start-up" company, it has been even more difficult to locate, attract, and retain necessary talent. Many potential employees see a start-up company as a career/employment risk and therefore a less than ideal place to work. In addition, work in a start-up is very fast-paced and demanding because employees are constantly faced with problems and challenges associated with rapid growth into unfamiliar jurisdictions for which innovative solutions must be found. The difficulty of attracting and retaining talented employees also has been more difficult over the last few years as unemployment rates have remained historically low and fewer jobseekers have been on the market. For these reasons, CSWR has recognized that in order to attract the workforce capable of serving its customers well, salary and benefit packages would need to be above averages generally applicable to the utility market. Moreover, because the CSWR workforce is comprised of administrative and executive employees who are largely engaged in activities different than those of more static, well-established utilities, compensation market references are not limited to other utilities. It requires CSWR to understand the job market and pay rates for professional roles across all industries – not just utilities. Said another way, CSWR is not only competing with other utilities to fill engineer, accountant, executive, and other administrative jobs; it is competing against companies in all industries who are hiring those positions.

Q. HOW HAS CSWR'S STRUGGLE TO FIND TALENT IMPACTED COMPENSATION EXPENSE?

A. In short, CSWR has had to compete with a broad range of other employers by keeping up with the pace of wage, salary and benefit increases in industries outside utilities. Based on its understanding of recent inflation and the practices of other companies, CSWR provided an 8-10% on average cost of living increase to its employees for the 2023 fiscal year. CSWR has also maintained its health, dental, vision and life insurance benefits at extremely competitive levels even in the face of the rising cost of those benefits. Management believed that the 2023 increase and its benefits package are needed not only to attract new employees but to keep existing employees from leaving the company for higher pay and benefits elsewhere.

Q. PLEASE DISCUSS STAFF'S USE OF MERIC AS THE BENCHMARK FOR THE SALARIES OF CSWR, LLC EMPLOYEES.

A. As described in the direct testimony of Staff witness Sarver,[5] Staff relied on the MERIC database of salaries in the St. Louis region to establish the wage and salary levels that it used to develop its revenue requirement.

Q. DO YOU BELIEVE THAT IT IS APPROPRIATE TO USE MERIC FOR THIS PURPOSE?

A. No. The Company believes that MERIC is a poor tool to use for comparison and benchmarking in this case for a number of reasons. First, as discussed above, CSWR has been and continues to be viewed as a start-up company, forcing it to pay above market wages in some cases to attract and retain employees. Secondly, the most recent data available on the MERIC database is for calendar year 2021. Staff witness Sarver adjusted the 2021 salary levels to reflect cost of living increases in 2022 and 2023. Generally, the cost-of-living percentage used appears reasonable. However, this does not reflect any type of hiring market conditions that may have changed, and which might have an impact on general wage levels. One example of a market change is the unemployment rate. As published by the Bureau of Labor Statistics, the unemployment rate for the state of Missouri in 2021 stood at 4.1% and reduced to 2.5% in 2022[6]. This change means that fewer individuals were looking for work and the cost to attract an employee could be higher as a result. This also means that wage increases and benefits packages might need to be higher to retain current employees.

[5] Sarver Direct, page 22.
[6] "Regional and State Unemployment – 2022 Annual Averages". Bureau of Labor Statistics https://www.bls.gov/news.release/pdf/srgune.pdf, p 3.

But the biggest defect with the MERIC database stems from the fact it is impossible to determine what information was included in the study and what information was not. For example, employers are not legally required to provide information regarding the salaries and other compensation paid to their employees, so it is reasonable to believe many employers do not do so. Therefore, it is impossible to determine by just looking at the MERIC results whether it is representative of the employment market as a whole or only of those employers who agreed to provide salary and benefit information. If the study reflects the latter group, it is likely the salary ranges shown are skewed downward as information regarding compensation provided to those at or near the tops of their employment groupings was not included in the study.

Q. ARE YOU FAMILIAR WITH THE CONCERNS RAISED BY STAFF REGARDING TIMEKEEPING PRACTICES AND REQUIREMENTS OF CSWR, LLC?

A. Yes. During its review, Staff reviewed timesheets of CSWR staff and numerous areas of disagreement were outlined by Staff witness Sarver.[7] Company witness Josiah Cox discusses the Company's response to the issues raised by Staff and, based upon the Company's belief that historical timesheets are not indicative of ongoing operations for such a rapidly growing company, proposes to be alleviated of the requirement to maintain time sheets.

Q. MR. COX INDICATES A POSSIBLE ALTERNATIVE TIMEKEEPING PLAN. WOULD YOU OUTLINE THAT PLAN?

[7] Sarver Direct, pages 17-21.

A. Yes. The executive and director level of employees of CSWR are involved in setting procedures, monitoring operations performance, supervising employees and contractors and setting strategic direction for the Company. A significant portion of their time is spent discussing these items at a level that impacts all customers of CSWR's subsidiaries and not just those in one individual entity or another. One example of this is the time spent by executives and directors in managing their staff teams, which would include monitoring employee development, holding departmental meetings, and directing staff in the management and supervision of vendor relationships. This portion of time spent managing at a level which affects all subsidiaries, and all customers, is time and compensation expense that should be allocated based on the Company's three-factor overhead allocation methodology. This is the methodology described in my direct testimony and commented on in the direct testimony of Staff witness Sarver.[8] While much of the compensation expense of executive and director level employees could be handled this way, there are certain exceptions and special projects that these employees could allocate time to on a monthly basis. These projects might include annual audits, the rate cases of individual entities, large construction projects, certain company initiatives including software implementations or vendor selection processes and similar activities. The Company proposes a Project Time-Tracking plan in which executives and directors track their time spent on these special projects on a monthly basis. The time would be allocated and appropriately expensed according to the particular project parameters[9]. Any time

[8] Sarver Direct, pages 3-4.
[9] Among these project parameters would be the CSWR subsidiary receiving the service, the tariffed or service area and whether the project is capital or operating expense.

remaining after the project allocations would be expensed using the 3-factor methodology that the Company uses for its other overhead allocation costs.

VIII. CORPORATE GOVERNANCE

Q. ARE YOU FAMILIAR WITH THE TESTIMONY OF OPC WITNESS SCHABEN REGARDING ALLEGED "CORPORATE GOVERNANCE DEFICIENCIES" AT CONFLUENCE RIVERS?

A. Yes, I am familiar with Ms. Schaben's direct testimony on that issue. It is her contention that because Confluence Rivers lacks formal and documented policies governing subjects like accounting policies and procedures, procurement, fraud prevention, and risk management those companies should be considered "deficient" regarding their corporate governance.

Q. DO YOU AGREE WITH HER CONTENTION?

A. No, I do not. Although she mentions the danger that the lack of such formal policies "increases risk, invites increased opportunities for fraud, increases the probability of wasted resources, and amplifies the likelihood of compromised or reduced firm value," she provides no evidence any of those unwanted outcomes exists at either Confluence Rivers or CSWR. And when asked in discovery to explain "in as much detail as possible" how the lack of such formal policies represents a significant risk to Confluence Rivers or its customers," she was unwilling or unable to do anything more than refer back to her filed testimony.

Q. DO YOU BELIEVE CONFLUENCE RIVERS AND ITS CUSTOMERS ARE IN JEOPARDY BECAUSE IT LACKS THE FORMAL POLICIES MS. SCHABEN DISCUSSES IN HER TESTIMONY?

A. No, I do not. Although our policies and procedures may not be documented to Ms. Schaben's satisfaction, that doesn't mean they don't exist. For example, all vendor invoices must be personally reviewed and approved by the CSWR employee responsible for oversight of the vendor before the invoice can be paid. This kind of scrutiny coupled with the hands-on relationship CSWR has with its vendors significantly reduces or eliminates the potential for fraud. As far as accounting policies are concerned, CSWR follows the above-referenced NARUC Uniform System of Accounts ("USOA"). The Company is also subject to the accounting principles generally accepted in the Unites States ("GAAP") and is subjected to annual audits by an independent public accounting firm to ensure we conform to those standards. To ensure we comply, our accounting records and the policies that underlie them are subject to comprehensive audit by state utility regulators. With regard to Ms. Schaben's contention the lack of documented governance policies and procedures compromises or reduces the value of Confluence Rivers and its affiliates, the evidence that CSWR continues to source capital from outside its outside investors contradicts her premise. To date, those investors have entrusted CSWR with more than $400 million to acquire, own, and operate water and wastewater systems in 11 states. It is unlikely that an investment of that amount – which increases with each new acquisition – would have been made if investors feared the lack of written policies by CSWR and its affiliates placed that investment in jeopardy.

Q. HAS CSWR EVER RECEIVED ANY COMMUNICATION FROM ITS EXTERNAL AUDIT FIRM INDICATING IMPROPER CONTROLS OR FRAUD RISKS?

A. No. I have been with CSWR for the completion of annual audits dating back to 2016 and no auditor has raised significant concerns about CSWR's control, control environment, or fraud risks. While a comprehensive analysis of internal financial controls and fraud risk is not part of the basic scope of a financial audit, the controls and risk are assessed to help set audit parameters and procedures. CSWR, along with all of its audited subsidiaries, has always received unqualified audit opinions. Were the control environment as bad as Ms. Schaben states, this would not be the case.

Q. HOW DO YOU RESPOND TO MS. SCHABEN'S ALLEGATIONS THAT CONFLUENCE RIVERS FAILS TO ADEQUATELY MANAGE THIRD-PARTY SPENDING?

A. Like her other allegations, this one also is unfounded. It appears the basis for her concern stems from the fact CSWR and Confluence Rivers do not competitively bid all third-party contracts and that the company's lack a formal scoring system for contracts that are competitively bid. In responding to Ms. Schaben I would first point out there is no statute or rule in Missouri of which I have been informed – or in any of the other jurisdictions where our affiliates operate as regulated utilities – requiring competitive bidding for third-party contracts. However, even without such a requirement, CSWR routinely bids out our operations and maintenance contracts and major construction projects. The process for qualifying a selecting operations and maintenance contractors is described in the direct testimony of Confluence Rivers witness Todd Thomas. That does not mean we always select the lowest bidder – especially given the health impacts of operations, CSWR believes that factors other than price are oftentimes equally important (i.e., experience) – but competitive bidding affords us the opportunity to have work done for the least cost possible consistent with our requirements for quality. That's important not just to our customers but also to CSWR and its affiliates.

As for our customer service provider – Nitor – that contractor has served our affiliate group since its beginnings, and there is a substantial benefit to both our affiliates and our customers to ensuring we provide a good and consistent customer service experience whether the customer is from Missouri or any of the other states where our group provides service. It makes no sense and is administratively infeasible, based solely on the outcome of a competitive bidding process, for one customer service vendor to serve Missouri customers and another to serve customers in Louisiana or Tennessee. It also makes no sense to change customer service vendors periodically just to take advantage of a new, perhaps temporary, lower bid price. We work with Nitor on a daily basis to ensure it provides the level of service our customers and regulators demand, and we're convinced we are paying a fair price for the services that vendor provides.

Q. WHAT ADJUSTMENT TO THE REVENUE REQUIREMENT DOES MS. SCHABEN PROPOSE BECAUSE OF THE "CORPORATE GOVERNANCE DEFICIENCIES" SHE ALLEGES?

A. Ms. Schaben proposes to disallow ten percent (10%) of the test period cost of contracted operations, which would reduce the revenue requirement for water operations by $69,786 and for wastewater operations by $92,921. These proposed adjustments are arbitrary and punitive, and therefore should be rejected. As my rebuttal testimony makes clear, insofar as CSWR and Confluence Rivers are concerned, Ms. Shaben's corporate governance concerns are a solution in search of a problem.

IX. STAFF'S RECOMMENDED REPORTS

Q. HAVE YOU REVIEWED THE TESTIMONY FILED BY STAFF REGARDING VARIOUS REPORTS WHICH STAFF RECOMMENDS THE COMPANY PRODUCE?

A. Yes. I have reviewed the direct testimony of Staff witnesses Amenthor, Dhority and Sarver which all recommend that the Company produce certain reports. The specific reports recommended are listed below.

- Electric service report: Amenthor (page 12)
- Chemical usage report: Amenthor (pages 13-14)
- Monthly billing reports for January 2021 through January 2023: Amenthor (page 15)
- Monthly billing reports for February 2023 forward including customer detail: Amenthor (pages 15-16)
- Day to day collection report by tariff rate district: Dhority (page 14)
- Customer refund report: Dhority (page 18)
- Quarterly allocation surveillance report: Sarver (page 6)

Q. IS THE COMPANY IN POSSESSION OF THE INFORMATION THAT WOULD BE COLLATED INTO THESE REPORTS.

A. The Company is in possession of the component data that would make up the reports recommended by Staff.

Q. WHAT IS THE RATIONALE BEHIND STAFF'S RECOMMENDATIONS FOR THESE REPORTS?

A. In testimony, Staff alluded to various problems and issues encountered regarding the data that the Company was able to produce during the discovery period of this proceeding. In most cases there were specific, non-recurring issues that led to the data inconsistencies that Staff experienced. One example relates to billing data. The Company transitioned to a new billing and customer information system that is cheaper and will provide better customer service and payment options for customers. However, given that the system is different, the reports that are generated are different, making period to period comparison of billing data more difficult. The Company does not anticipate any similar billing and customer information system changes in the near future and feels that some of the data concerns raised by Staff can be resolved as result. In other instances, such as the issues with chemicals and electric usage, the data Staff sought is available but not in a summative fashion. Rather, it is available by examining invoices.

Q. DOES THE COMPANY AGREE WITH STAFF'S RECOMMENDATION TO PRODUCE THESE REPORTS?

A. No, the Company believes that Staff's request is unreasonable for at least two reasons. First, as mentioned above, the data is currently available. Converting the data from one format to another does nothing to improve the quality of the data. Staff did not recommend a report template and something that the Company would produce might be no more helpful than the formats in which the data is currently available. Secondly, the Company and its parent, CSWR, LLC, seek to keep costs down for ratepayers. Unnecessary reporting requirements, simply for Staff's auditing convenience, will create extra work for someone on the staff of CSWR, LLC which translates to compensation and benefits expense. Given that no other jurisdiction has asked for similar reports, the costs would be passed directly on to Confluence Rivers and its ratepayers.

X. LATE FEES

Q. WHAT IS CONFLUENCE RIVERS' POSITION REGARDING LATE FEES?

A. As reflected in the proposed tariffs in this case, Confluence Rivers seeks to charge a late fee on all delinquent bills of $5 or 3% of the balance. This late fee is consistent with the current Confluence Rivers' late fee.

Q. WHAT IS STAFF'S POSITION REGARDING THE PROPOSED LATE FEE?

A. While he doesn't discuss the magnitude of the proposed late fee, Staff witness Amenthor states that "Staff reviewed a history of late fees for the time period available to Staff, January 2021 through January 2023. Staff believes test year is the most appropriate level of miscellaneous revenue [which includes late fees] to include in the cost of service."[10] Given that Staff includes late fees as an ongoing revenue source in its revenue requirement calculation, it is apparent that Staff believes that late fees are an appropriate charge going forward.

[10] Amenthor Direct, page 8.

Q. WHAT IS PUBLIC COUNSEL'S POSITION ON LATE FEES?

A. At pages 12-14 of his testimony, Dr. Marke discusses late fees. As support for his opposition to late fees, Dr. Marke states "I have not seen any evidence to support that late payment fees are an appropriate deterrent to non-payment, and I believe that any additional fee added to an already financially struggling customer will increase the likelihood of disconnection."[11] Given this, Dr. Marke "recommend[s] that the late fee be removed from Confluence's tariff in its entirety."[12]

Q. DO YOU AGREE WITH DR. MARKE'S ASSESSMENT?

A. No. There are two primary arguments undermining Dr. Marke's suggestion that a late fee is not "an appropriate deterrent to non-payment." First, it is clear that contrary to Dr. Marke's opinion, the rest of the world disagrees. As the Commission is well aware, late fees are not only prevalent in the utility industry, they are also prevalent in all aspects of our economy including service contracts, banking fees, and credit cards. Interestingly, the State of Missouri also apparently believes in the effectiveness of late fees in deterring non-payment. For instance, relative to sales and use tax, Section 144.250 RSMo mandates the imposition of a late payment charge of 5% per month. Additionally, relative to income tax, Section 143.225 RSMo mandates a 5% penalty for underpayment of quarter-monthly remittance.

Q. IS THERE ANOTHER REASON THAT ELIMINATION OF THE LATE FEE IS DETRIMENTAL TO CUSTOMERS?

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[11] Marke Direct, page 12.
[12] *Id.* at page 14.

A. Yes. Eliminating the late fee, as proposed by Dr. Marke, simply shifts the cost burden of late or non-payment from the customer in question to all remaining customers. In any rate case, total revenues are netted against the revenue requirement to determine the necessary rate increase. Included in total revenues are revenues from miscellaneous charges such as late fees. To the extent that a miscellaneous charge is excluded, such as the elimination of the late fee proposed by Dr. Marke, then miscellaneous revenues in the next rate case will be reduced. Absent these miscellaneous revenues, total revenues will be less, and the base rate charged will be increased. Since this overall rate increase will be recovered through rates from all customers, Dr. Marke's proposal essentially shifts the cost impact of the late fee from the affected customer to all customers, including the customers that are conscientious about paying their bills on time.

Q. IN HIS TESTIMONY, DR. MARKE POINTS OUT THAT MISSOURI AMERICAN HAS RECENTLY AGREES TO NO LONGER IMPOSE A LATE FEE. DO YOU BELIEVE THAT THIS IS RELEVANT TO CONFLUENCE RIVERS?

A. No. As an initial matter, I believe that Dr. Marke's reference to Missouri American is an isolated example. First, Missouri American agreed to eliminate its late payment charge in the context of a Stipulation and Agreement.[13] Also included in this Stipulation was the agreement to an overall revenue requirement and rate increase.[14] Given this, it is uncertain how much rate increase Public Counsel may have conceded in order to obtain Missouri American's agreement to waive its late payment charge. As such, the applicability of

[13] See, Stipulation and Agreement, Case No. WR-2022-03030, filed March 3, 2023, at page 3.
[14] *Id.* at pages 1 and 2.

Missouri American's agreement to no longer charge a late fee to other Missouri utilities is dubious.

More importantly, however, unlike Confluence Rivers, Missouri American is overwhelmingly a water utility. For instance, while Missouri American claimed sewer revenues of $15.8 million in 2022 (4.1%), it claimed water revenues of $366.5 million (95.9%).[15] In contrast, Confluence Rivers annual sewer revenues are $4.7 million (57.3%) and water revenues are $3.5 million (42.7%).[16]

The importance of the relative magnitude of revenues for Missouri American as opposed to Confluence Rivers is that, as a predominantly water utility, Missouri American has unfettered ability to manage bad debt, and any resulting decrease in earnings, through water service disconnection. Specifically, through the water shutoff valve, a water utility can disconnect a customer that refuses to pay its bill. As such, for 95.9% of its revenues, and the resulting earnings from water operations, Missouri American can limit bad debt through a disconnection.[17] Given this, Missouri American does not rely on late payment charges and its earnings are not threatened by eliminating this late payment charge.

In contrast, for a predominantly sewer utility, like Confluence Rivers, there is no sewer shutoff valve. Instead, disconnection is achieved by excavating the sewer line and physically disconnecting the customer's sewer service from the Company's collection

[15] See, Missouri American 2022 Annual Report, filed with Commission on May 15, 2023.
[16] Thies Direct, Schedules BT 2.1 and 2.2.
[17] Ultimately, Missouri American's ability to manage bad debt may go beyond simply its water revenues. Specifically, there is a great deal of overlap between Missouri American's sewer operations and its water operations. As such, many of Missouri American's sewer customers are also water customers. Therefore, Missouri American can manage bad debt associated with sewer customers by disconnecting water service. As such, Missouri American has almost absolute ability to protect its earnings by limiting bad debt.

lines. This is an expensive process. As such, a sewer utility, like Confluence Rivers, is effectively limited to the use of late fees to attempt to entice customers to pay their bills. Given this, Dr. Marke's reference to Missouri American's willingness to eliminate the late payment charge, when it is predominantly a water utility, is of questionable relevance to Confluence Rivers, largely a sewer utility.[18]

Q. WHAT IS YOUR CONCLUSION?

A. I believe that the Commission should reject Dr. Marke's proposal to eliminate the Confluence Rivers' late payment charge. The late payment charge is one of the only tools that Confluence Rivers has to incentivize customers to pay their bills. Moreover, late payment charges are ubiquitous throughout our economy including for payment of bills owing to the State of Missouri. Finally, the elimination of the late payment charge effectively takes the cost associated with late payment and socializes it for recovery from all customers including those that have paid their bills on a timely basis.

XI. DEBT AND CAPITAL STRUCTURE

Q. ARE YOU FAMILIAR WITH OPC WITNESS MURRAY'S TESTIMONY REGARDING THE DEBT IN CONFLUENCE RIVERS' CAPITAL STRUCTURE?

A. Yes, in testimony Mr. Murray recommends a hypothetical capital structure that includes the full amount of debt that would be allowed by CoBank based on the covenants contained in the loan documentation. In order to arrive at his conclusion Mr. Murray must assume

[18] Undoubtedly Dr. Marke will claim that Confluence Rivers should attempt to reach agreements with water utilities such that the water utility will agree to disconnect water service for failure to pay sewer bills. Generally, since such an arrangement threatens the water utility's revenue stream from a customer that may otherwise be paying its water bills, the water utilities are hesitant to enter into such agreements. Moreover, to my knowledge, there is no statute which would require water utilities to enter into such agreements.

that the Company would no longer acquire systems that would drive further net operating losses. Any additional net operating losses, resulting from further acquisitions, would reduce retained earnings and therefore total equity. This would greatly increase the risk of debt covenant violations.

In addition to a poor assumption about the future growth of the Company, Mr. Murray makes an error in his calculation of the Company's cash flows that could be used to support debt service. In Exhibit DM-D-7 C, Mr. Murray adds back a total of $2,405,003 which he assumes to be CSWR Overhead. This amount is taken from financial information provided by the Company in response to Staff data request 4. In that data request the Company labels a component of its income statement 'General and Administrative Expense'. Mr. Murray erroneously concludes that this amount is entirely comprised of CSWR Overhead. In fact, this amount includes significant administrative expenses which are directly incurred by and expensed to Confluence River such as insurance, bank fees, property taxes and customer service and billing costs. The amount that should be added back for purposes of cash flow available for debt service is $1,002,978. This materially alters Mr. Murray's analysis such that EBITDA would equal $973,338 instead of $2,375,363. Based on the loan covenant requires total debt to be less than six times EBITDA, the corrected analysis yields a total debt capacity of $5,840,028.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

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 BRENT THIES

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

Brent Thies, of lawful age and being first duly sworn, deposes and states:

1. My name is Brent Thies. I am the Vice President and Corporate Controller for 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.

Brent Thies

Subscribed and sworn to me this 27th day of June, 2023

STATE OF MISSOURI
My Commission Expires Oct. 16, 2026
NOTARY SEAL
NOTARY PUBLIC
Commission # 22630144
REECE GILMORE • ST LOUIS CITY

Reece Gilmore
Notary Public

My commission expires Oct 16th, 2026.