

FILED
September 1, 2023
Data Center
Missouri Public
Service Commission

Exhibit No. 218

OPC – Exhibit 218
Terre Du Lac Unanimous Stipulation from WM-2020-0403
File No. WR-2023-0006

Exhibit 218
noted 8/14/23
11:07 AM

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

In the Matter of the Application of)
Confluence Rivers Utility Operating)
Company, Inc., to Acquire Certain Water) **File Nos. WM-2020-0403**
and Sewer Assets of Terre Du) As Consolidated with
Lac Utilities Corporation.) **SM-2020-0404**

UNANIMOUS STIPULATION AND AGREEMENT

COMES NOW Confluence Rivers Utility Operating Company, Inc. (Confluence), the Missouri Public Service Commission (Commission) Staff (Staff), the Office of the Public Counsel (Public Counsel), and Terre Du Lac Utilities Corporation (TDLU) (collectively Signatories), and, pursuant to CSR 20 CSR 4240-2.115, presents this *Unanimous Stipulation and Agreement* (*Stipulation and Agreement*) as a complete resolution of the above-captioned case. In support of this *Stipulation and Agreement*, the Signatories state as follows:

BACKGROUND

1. On June 12, 2020, Confluence filed its *Application and Motion for Waiver*, seeking authority to acquire substantially all of the water and/or sewer assets of TDLU and approval of the transfer of TDLU’s existing certificates of convenience and necessity (CCNs), or for the Commission to grant new CCNs authorizing Confluence to own, install, construct, operate, control, manage and maintain the systems it proposed to acquire. Confluence also sought an acquisition incentive under Commission Rule 20 CSR 4240-10.085(1)(C).

2. The Staff of the Commission (Staff) filed a recommendation on September 18, 2020 (*Staff Recommendation*). Staff recommended that Confluence’s request for a return premium and debt acquisition adjustment pursuant to Commission Rule 20 CSR 4240-10.085 be denied. Staff further recommended that if the request for an acquisition incentive is denied, the proposed transfer of assets would not be detrimental to the public interest, the transfer of TDLU’s existing CCNs, or

the granting of new CCNs, to Confluence authorizing it to install, acquire, build, construct, own, operate, control, manage, and maintain water and sewer systems would be in the public interest, and under such circumstances Staff would recommend approval with “conditions and actions” 1-12 described in the *Memorandum*. (*Memorandum*, p. 26-28). Confluence and TDLU initially objected to the *Staff Recommendation*. However, Confluence and TDLU have subsequently amended the Purchase and Sale Agreement that is the subject of this case and no longer object to the *Staff Recommendation*.

STIPULATION

3. The Signatories agree and intend this *Stipulation and Agreement* to settle all issues within the above-captioned case. The Parties recommend that the Commission approve this Stipulation and Agreement as a just and a fair compromise of their respective positions.

4. The Signatories recommend approval of the transfer of assets of TDLU and transfer of the affected CCNs, subject to the conditions and actions outlined in the *Staff Recommendation*, as modified below:

1. Authorize TDLU to sell and transfer utility assets to Confluence, and transfer the CCN currently held by TDLU to Confluence upon closing on any of the respective systems;

2. Upon closing of the asset transfer, authorize TDLU to cease providing service, and authorize Confluence to begin providing service;

3. Require Confluence to submit an adoption notice prior to closing on the assets, to adopt the existing TDLU tariffs;

4. The parties agree that Confluence will initially record a net book value of \$521,912 for the TDLU water system and a net book value of \$339,738 for the TDLU sewer system, as of June 30, 2020, as reflected in the Staff Recommendation and updated to the date of closing. Confluence will use the depreciation rates that are currently approved for TDLU in regard to the TDLU assets going forward.

5. Require Confluence to create and keep financial books and records for plant-in-service, revenues, and operating expenses (including invoices) in accordance with the NARUC Uniform System of Accounts;

6. Require Confluence to follow the recommendations agreed to by TDLU in the Notice of Partial Disposition filed in the previous TDLU Rate Case Nos. WR-2017-0110 under agreement 3 listed below:

a. Within thirty (30) days of the closing on the assets, Confluence shall report all plant additions related to customer service to Account 345 – Customer Services for water operations and Account 353 – Customer Services for sewer operations per the USOA.

b. Within one hundred eighty (180) days of closing on the assets, Confluence shall record capitalized payroll related to customer connections as a separate journal entry to ensure this capitalized labor is properly reflected in Company’s plant balances for ratemaking purposes. All journal entries to related to customer connects should be made on a quarterly basis.

c. Within one hundred eighty (180) days of closing on the assets, Confluence shall record customer connection fees collected as a separate journal entry to ensure these amounts are properly reflected in Company’s CIAC balance. All journal entries related to customer connections should be made on a quarterly basis.

d. Within one hundred eighty (180) days of closing on the assets, Confluence shall track all meters installed on its water system separately from other costs to ensure proper Commission approved depreciation rate is applied for ratemaking purposes, and to ensure adequate records for tracking meter life, locations, and meter accuracy.

e. Confluence shall submit, on or before August 15th of each year, to the Manager of the Auditing Department for the Staff copies of disks containing the final billed water usage, sewer service revenues and all miscellaneous revenues for each month on a separate basis for the period covering January through June. On or before February 15th of each year, Confluence shall provide to the Manager of the Auditing Department for the Staff copies of disks containing the final billed water usage, sewer service revenue, and all miscellaneous revenue for each month on a separate basis for the period covering July through December.

f. Confluence shall maintain a Plant Additions and Retirements spreadsheet along with supporting documentation. This supporting documentation shall include any bids received, sale or purchase agreements, loan agreements, invoices by vendor and proof of payment.

g. Confluence will keep a record of the customers that are added and dropped off the system between the previous rate case and Confluence’s next rate case.

h. Confluence shall continue tracking costs related to each customer connection to the sewer system and the water system using the form provided in the last rate case.

i. Confluence shall continue recording all parts purchased for customer connections as a separate journal entry to ensure a proper accounting of this cost.

7. Confluence will provide training to its call center personnel regarding rates and rules applicable to the customers acquired from the Selling Utilities, prior to the customers receiving notification of the pending acquisition;

8. Confluence will distribute to the newly acquired customers, prior to the first billing from Confluence, an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its utility service, consistent with the requirements of Commission Rule 20 CSR 4240-13, as well as notification regarding changes to the billing cycle, bill format, and payment options within fifteen (15) days of closing on the assets;

9. Confluence will provide to the Customer Experience Department Staff and Public Counsel a sample of its actual communication with its newly acquired customers regarding its acquisition and operations of the utility assets, and how customers may reach Confluence, within fifteen (15) days after closing on the assets;

10. Confluence will provide to the Customer Experience Department Staff and Public Counsel a sample of five (5) billing statements for the acquired company from the first month's billing within thirty (30) days of such billing;

11. Confluence will file notice in this case once the personnel training, informational brochure, communications, and billing listed in conditions 7, 8, 9, and 10 are completed. Such notice shall include the informational brochure referenced in condition 8 and information on the call center personnel training referenced in condition 7; and

12. The Commission should make no finding that precludes it from considering the ratemaking treatment to be afforded any matters in any later proceeding.

5. The signatories acknowledge that Confluence has withdrawn its request for an Acquisition Incentive.

GENERAL PROVISIONS

6. In presenting this *Stipulation and Agreement*, none of the Signatories shall be deemed to have approved, accepted, agreed, consented or acquiesced to any procedural principle, and none of the Signatories shall be prejudiced or bound in any manner by the terms of this *Stipulation and Agreement*, whether approved or not, in this or any other proceeding, other than a proceeding limited to the enforcement of the terms of this *Stipulation and Agreement*, except as

otherwise expressly specified herein. The Signatories further understand and agree that the provisions of this *Stipulation and Agreement* relate only to the specific matters referred to in this *Stipulation and Agreement*, and no signatory waives any claim or right which it otherwise may have with respect to any matter not expressly provided for in this *Stipulation and Agreement*.

7. The terms of this *Stipulation and Agreement* are interdependent. If the Commission does not approve this *Stipulation and Agreement* in total, or approves it with modifications or conditions to which a signatory objects, then this *Stipulation and Agreement* shall be void and no signatory shall be bound by any of its provisions. The agreements herein are specific to this proceeding and are made without prejudice to the rights of the Signatories to take other positions in other proceedings except as otherwise noted herein.

8. If the Commission does not unconditionally approve this *Stipulation and Agreement* without modification, and notwithstanding its provision that it shall become void, neither this *Stipulation and Agreement*, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any signatory has for a decision in accordance with Section 536.080, RSMo, or Article V, Section 18, of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this *Stipulation and Agreement* had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this *Stipulation and Agreement* shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

9. If the Commission unconditionally accepts the specific terms of this *Stipulation and Agreement* without modification, the Signatories waive, with respect to the issues resolved

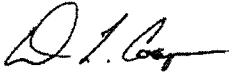
herein: their respective rights (1) to call, examine and cross examine witnesses pursuant to Section 536.070(2), RSMo; (2) their respective rights to present oral argument and/or written briefs pursuant to Section 536.080.1, RSMo; (3) their respective rights to the reading of the transcript by the Commission pursuant to Section 536.800.2, RSMo; (4) their respective rights to seek rehearing pursuant to Section 386.500, RSMo; and (5) their respective rights to judicial review pursuant to Section 386.510, RSMo. These waivers apply only to a Commission order respecting this *Stipulation and Agreement* issued in this above-captioned proceeding, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this *Stipulation and Agreement*.

10. This *Stipulation and Agreement* contains the entire agreement of the Signatories concerning the issues addressed herein.

WHEREFORE, the Parties hereby respectfully submit this *Stipulation and Agreement*, and request the Commission issue an Order approving the same; and granting any further relief


the Commission deems just and reasonable.

Respectfully submitted,

<p>BRYDON, SWEARENGEN & ENGLAND P.C.</p>  <p>Dean L. Cooper, MBE #36592 312 E. Capitol Avenue P.O. Box 456 Jefferson City, MO 65012 (573) 635-7166 telephone (573) 635-0427 facsimile dcooper@brydonlaw.com</p> <p>ATTORNEYS FOR CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.</p>	<p><u>/s/ Whitney Payne</u> Whitney Payne Senior Counsel Missouri Bar No. 64078 Attorney for the Staff of the Missouri Public Service Commission P. O. Box 360 Jefferson City, MO 65102 (573) 751-8706 (Telephone) (573) 751-9285 (Fax) whitney.payne@psc.mo.gov</p>
<p><u>/s/ Michael C. Pendergast</u> Michael C. Pendergast MoBar#31763 Of Counsel, Fischer & Dority, P.C. 423 (R) South Main Street St. Charles, MO 63301 Telephone: (314) 288-8723 Email: mcp2015law@icloud.com</p> <p>ATTORNEYS FOR TERRE DU LAC UTILITIES CORPORATION</p>	<p>OFFICE OF THE PUBLIC COUNSEL</p> <p><u>/s/ Caleb Hall</u> Caleb Hall, #68112 200 Madison Street, Suite 650 Jefferson City, MO 65102 P: (573) 751-4857 F: (573) 751-5562 Caleb.hall@opc.mo.gov Attorney for the Office of the Public Counsel</p>

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail on this 18th day of December 2020, to all counsel of record.



Dean L. Cooper

