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# Exhibit No. 106

Staff – Exhibit 106  
Roos Direct  
File No. WR-2023-0006

*Exhibit No.:*  
*Issue(s): Prudency Review*  
*Witness: David C. Roos*  
*Sponsoring Party: MoPSC Staff*  
*Type of Exhibit: Direct Testimony*  
*Case No.: WR-2023-0006*  
*Date Testimony Prepared: May 26, 2023*

**MISSOURI PUBLIC SERVICE COMMISSION**

**INDUSTRY ANALYSIS DIVISION**

**WATER, SEWER, & STEAM DEPARTMENT**

**DIRECT TESTIMONY**

**Cost of Service**

**OF**

**DAVID C. ROOS**

**CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.**

**CASE NO. WR-2023-0006**

*Jefferson City, Missouri*  
*May 2023*



Direct Testimony of  
David C. Roos

1 A. In Missouri, Confluence owns and operates 26 water systems and 42 wastewater  
2 treatment (sewer) systems, for a total of 68 systems.<sup>1</sup> Since its last rate case, case number  
3 WR-2020-0053, Confluence made capital improvements to nearly all of the systems. Staff  
4 members from WSS inspected 19 of these water systems and 32 of these sewer systems, for a  
5 total of 51 operating systems inspected. Staff selected the systems to inspect based on  
6 three criteria: (1) system capital improvements valued greater than \$80,000,<sup>2</sup> or (2) the last  
7 Staff inspection occurred two or more years ago, or (3) there are customer complaints  
8 concerning system reliability and mechanical failure.

9 Q. Which Confluence water and sewer systems did Staff inspect for prudence in  
10 this rate case?

11 A. For this rate case, Staff inspected the following Confluence water (“W”) and  
12 sewer (“S”) systems:  
13

Auburn Lake W&S	Evergreen Lakes W	Park Estates S
Berkshire Glen S	Freeman Hills S	Port Perry W&S
Branson Cedars W&S	Fox Run S	Private Gardens S
Calvey Brook W&S	Gladlo W&S	Roy-L W&S
Cedar Glen W&S	Hillcrest W&S	Smithview W
Chelsea Rose W&S	Hunters Ridge S	Terre Du Lac W&S,S,S
Cimarron Bay W&S	Hwy KK S	Twin Oaks S
Country Hills S	Indian Hills W	Villa Ridge S
Countryside S	Lake Virginia S	Villages S
Eagle Woods W&S	Majestic Lakes W&S	Willows W&S
Elm Hills W&S	Mill Creek S	Wilmar S
Eugene W		

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<sup>1</sup> Per Confluence response to Staff Data Requests 0047 and 0048.

<sup>2</sup> The \$80,000 threshold is based on January 2023 Confluence engineering cost estimates and does not reflect Staff auditing costs for capital expenditures. By reviewing the estimates, \$80,000 appeared to be a reasonable breakpoint between the larger and smaller total capital expenditures by system. Staff inspected twenty-one systems that had capital expenditures greater than \$80,000.

1 Q. Did Staff find evidence of deficiencies in Confluence's operations and  
2 maintenance of its water and sewer systems?

3 A. Yes. Staff found deficiencies in Confluence's operations and maintenance of  
4 its water and sewer systems. These deficiencies and Staff's remedies are discussed in  
5 Staff witness Curtis B. Gateley's direct testimony.

6 Q. Did Staff find evidence of imprudence in the capital projects Confluence included  
7 in this rate case?

8 A. No. Based on its review, Staff found no imprudence in the capital projects  
9 included in this rate case.

10 Q. How did Staff review the prudence of Confluence's capital projects?

11 A. In reviewing prudence, Staff evaluates whether a reasonable person making the  
12 same decision would find that both the information the decision-maker relied on and the  
13 process the decision-maker employed was reasonable based on the circumstances at the time  
14 the decision was made, *i.e.*, without the benefit of hindsight. The decision actually made  
15 is disregarded and the review is instead an evaluation of the reasonableness of the information  
16 the decision-maker relied on and the decision-making process the decision-maker employed. If  
17 either the information relied upon or the decision-making process employed was imprudent,  
18 then Staff examines whether the imprudent decision caused any harm to ratepayers. Only if an  
19 imprudent decision resulted in harm to ratepayers, will Staff recommend a disallowance.<sup>3</sup>

20 Q. How did Staff investigate the prudence of Confluence River's capital projects?

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<sup>3</sup> Staff uses the Commission's prudence standard that the Western District Court of Appeals approvingly cited in *State ex rel. Associated Natural Gas Co. v. Public Service Com'n of State of Mo.* 954 S.W.2d 520, 528-29. Staff uses this same prudence standard for the prudence review of costs related to the fuel adjustment clause for the regulated electric utilities and natural gas procurement reviews of natural gas purchases by regulated natural gas utilities.

1           A.     In general, Staff reviewed the information available to Confluence at the time  
2 decisions were made. This information is contained in Staff’s files from previous rate cases,  
3 and acquisition and merger cases, and is summarized in Staff’s recommendations in each case.  
4 Staff also inspected the physical condition of the selected water or sewer systems, and reviewed  
5 system performance and compliance with drinking water and environmental regulations. Staff  
6 reviewed information from DNR records, including operating permits, inspections, notices of  
7 violation, letters of warning, and Abatement Orders. Staff also reviewed Confluence’s replies  
8 to several Staff Data Requests.

9           Three Staff members inspected most of the selected water and sewer systems over a  
10 two-week period from February 12 through February 24, 2023, and on April 11, 2023. These  
11 inspections included an on-site review of the current condition of each system, and a discussion  
12 with Confluence Rivers’ personnel on operational history, and capital improvements made  
13 since acquisition or the last rate case.

14           Q.     What are Staff’s findings?

15           A.     In Missouri, Confluence has acquired a number of distressed water and sewer  
16 utilities, refurbished them, and operates them. Typically, these distressed systems have  
17 significant environmental compliance issues, and are in need of significant investment due to  
18 deferred maintenance and neglect by the previous owner. Often Confluence enters into  
19 compliance agreements with DNR in the form of an Administrative Order on Consent (“AOC”)  
20 that allows Confluence to make a good faith effort to operate the system in compliance with  
21 its operating permit and the Missouri Clean Water Law while making necessary repairs and  
22 capital improvements.

1           From its investigation, Staff has concluded that Confluence’s capital projects are  
2 consistent with site specific conditions and operational information. Based on its review, Staff  
3 found no imprudence in the capital projects included in this rate case.

4           Q.     Can Confluence improve on its capital project planning?

5           A.     Yes. Confluence stated in response to Staff Data Request No. 0036 that  
6 Confluence has no short-term or long-term plans or guidelines. Based on several conversations  
7 with Confluence personnel, Staff concludes that Confluence has an informal, but adequate  
8 plan for prioritizing and completing capital projects in the short term – meaning the period of  
9 time after acquisition in which a system is initially evaluated and refurbished to meet  
10 modern safety, reliability and environmental standards. However, Staff is concerned that  
11 Confluence has no adequate long-term capital plan for its Missouri water and sewer utilities.  
12 Staff Data Request No. 0182 requested a projection of capital expenditures over the next  
13 five years, and Confluence response was a single line of yearly totals. Confluence Rivers then  
14 objected to Staff Data Request No. 0182.1, which requested additional detail.

15           Q. What is the value of developing and updating a detailed 5-year capital plan?

16           A. At a minimum, this planning process requires an annual meeting between  
17 engineering and maintenance personnel to evaluate and discuss issues of any trends that  
18 indicate system weakness, as well as customer growth versus capacity. This process provides  
19 considerable value in avoiding predictable system failures. Missouri American Water  
20 Company routinely submits a five-year capital plan in EFIS, and Staff has also received a  
21 five-year capital plan from Liberty Utilities LLC.

22           Q.     What does Staff recommend?

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1           A.     Staff recommends that the Commission order Confluence to file in EFIS no later  
2 than four months after the effective date of the Commission's Report and Order in this case a  
3 five-year capital plan. Staff further recommends that by January 30 of each year until its next  
4 rate case, Confluence file an updated five-year plan. This five-year capital plan will provide  
5 projected plans for years one through five. For each water system, each yearly plan will be  
6 divided between plant and transmission systems. For each sewer system, each yearly plan will  
7 be divided between treatment plant and collection system.

8           Q.     Does this conclude your direct testimony?

9           A.     Yes it does.



BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Confluence Rivers Utility )  
Operating Company, Inc.'s Request for ) Case No. WR-2023-0006  
Authority to Implement a General Rate )  
Increase for Water Service and Sewer )  
Service Provided in Missouri Service Areas )

**AFFIDAVIT OF DAVID C. ROOS**

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

**COMES NOW DAVID C. ROOS** and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Direct Testimony of David C. Roos*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
**DAVID C. ROOS**

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 22<sup>nd</sup> day of May 2023.

D. SUZIE MANKIN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: April 04, 2025  
Commission Number: 12412070

  
\_\_\_\_\_  
Notary Public

## **David C. Roos**

### **Present Position**

I am an Associate Engineer in the Water, Sewer and Steam Department, Industry Analysis Division for the Missouri Public Service Commission, and formerly a Regulatory Economist III in the Energy Resources Department, Industry Analysis Division for the Missouri Public Service Commission. I transferred to the position of Associate Engineer in the Water and Sewer Department in August 2017.

### **Educational Background and Work Experience**

In May 1983, I graduated from the University of Notre Dame, Notre Dame, Indiana, with a Bachelor of Science Degree in Chemical Engineering. I also graduated from the University of Missouri in December 2005, with a Master of Arts in Economics. I have been employed at the Missouri Public Service Commission as a Regulatory Economist III from March 2006 through July 2017. Since August 2017, I have been employed at the Missouri Public Service Commission as an Associate Engineer. I began my employment with the Commission in the Economics Analysis section where my responsibilities included class cost of service and rate design. In 2008, I moved to the Energy Resource Analysis section where my testimony and responsibility topics include energy efficiency, resource analysis, and fuel adjustment clauses. In 2017, I transferred to the Water and Sewer Department as an Associate Engineer. My responsibilities include performing system inspections for rate and acquisition cases and performing special investigations related to the various regulatory requirements that affect Missouri's investor-owned water and sewer utilities and their customers.

Prior to joining the Public Service Commission, I taught introductory economics and conducted research as a graduate teaching assistant and graduate research assistant at the University of Missouri. Prior to the University of Missouri, I was employed by several private firms where I provided consulting, design, and construction oversight of environmental projects for private and public sector clients.

Previous Cases

<u>Company</u>	<u>Case No.</u>
Empire District Electric Company	ER-2006-0315
AmerenUE	ER-2007-0002
Aquila Inc.	ER-2007-0004
Kansas City Power and Light Company	ER-2007-0291
AmerenUE	EO-2007-0409
Empire District Electric Company	ER-2008-0093
Kansas City Power and Light Company	ER-2008-0034
Greater Missouri Operations	HR-2008-0340
Greater Missouri Operations	ER-2009-0091
Greater Missouri Operations	EO-2009-0115
Greater Missouri Operations	EE-2009-0237
Greater Missouri Operations	EO-2009-0431
Empire District Electric Company	ER-2010-0105
Greater Missouri Operations	EO-2010-0002
AmerenUE	ER-2010-0036
AmerenUE	ER-2010-0044
Empire District Electric Company	EO-2010-0084
Empire District Electric Company	ER-2010-0105
AmerenUE	ER-2010-0165
Greater Missouri Operations	EO-2010-0167
AmerenUE	EO-2010-0255
Greater Missouri Operations (Aquila)	EO-2008-0216
Ameren Missouri	ER-2011-0028
Empire District Electric Company	EO-2011-0066
Empire District Electric Company	EO-2011-0285
Ameren Missouri	EO-2012-0074
Greater Missouri Operations	EO-2012-0009
Ameren Missouri	EO-2012-0142
Ameren Missouri	ER-2012-0166
Greater Missouri Operations	EO-2013-0325
Ameren Missouri	EO-2013-0407
Empire District Electric Company	EO-2014-0057
Greater Missouri Operations	EO-2014-0256
Empire District Electric Company	ER-2014-0351
Greater Missouri Operations	EO-2015-0252
Kansas City Power and Light Company	EO-2015-0254
Empire District Electric Company	ER-2015-0214
Greater Missouri Operations	EO-2016-0053
Empire District Electric Company	ER-2016-0023
KCP&L Greater Missouri Operations Company	ER-2016-0156
KCPL	ER-2016-0285
Empire District Electric Company	EO-2017-0065
Greater Missouri Operations	EO-2017-0231

**cont'd David C. Roos**

Liberty Utilities LLC	WR-2018-0170
SK&M	SR-2019-0157
Osage Utility	WA-2019-0185
Confluence / Port Perry	WA-2019-0299
CSWR Rate Case	WR-2020-0053
Confluence Rivers	WM-2020-0282
MAWC	WR-2020-0344
Carl Mills	WM-2020-0387
Harris Complaint	WC-2021-0129
Carl Mills	WR-2021-0177
MAWC / Eureka	WA-2021-0376
Carl Mills	WM-2022-0144
Carl Mills	WC-2021-0223
SK&M	WR-2022-0240
Argyle	WR-2022-0345
MAWC	WR-2022-0303