

Please provide copies of all discovery responses provided in File No. WR-2023-0006 (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) by any Affiliate of Red Bird listed on the CSWR/Central States Water Resources Corporate Entity Organizational Chart provided with this data request.

3. In its Order Granting Motion to Compel (Order), the Commission stated regarding Public Staff Data Request No. 13-6:

The Commission further orders Red Bird to provide to the Public Staff a copy of the discovery responses produced by its affiliate, Confluence, in the Missouri rate case. The Presiding Commissioner is not persuaded that the information sought in Data Request No. 13 is either overbroad, unduly burdensome, vague, ambiguous, or indefinite. Indeed, the information sought in Data Request No. 13-6 is identified with particularity and should be readily accessible by Red Bird as it has already been produced in the Missouri proceeding. Moreover, because of the common upstream ownership of Red Bird and its Missouri affiliate, the information appears relevant to the issues of public interest and financial viability of Red Bird in this case or reasonably calculated to lead to the discovery of admissible evidence.

4. In its Motion, Red Bird asserts that the fact that the Public Staff's Motion to Compel specifically references only the Investment Memoranda indicates that the Investment Memoranda are the only materials the Public Staff is seeking in response to Public Staff Data Request 13-6. Red Bird's assertion is incorrect and contrary to communications between the Public Staff and counsel for Red Bird just hours before Red Bird filed its Motion in which the Public Staff confirmed that it had not narrowed the request it made in Public Staff Data Request No. 13-6 and stated that the Public Staff did not believe the Commission had limited Red Bird's requirement to respond to Data Request No. 13-6 to producing the Investment Memoranda.

5. The Public Staff referenced the Investment Memoranda in its Motion to Compel as an example of discovery produced in Red Bird's Missouri affiliate in its rate case that is reasonably calculated to lead to the discovery of evidence admissible before the North Carolina Utilities Commission. This should not be taken as an indication that the Public Staff is only seeking the Investment Memoranda. As Red Bird acknowledges in its Motion, the Public Staff does not have visibility to the data requests propounded on Red Bird's Missouri affiliate during its rate case and cannot, therefore, specifically list additional materials that, like the Investment Memoranda, are relevant to the issues of public interest and financial viability in this case due to the common upstream ownership of Red Bird and its Missouri affiliate.

6. The Public Staff also does not believe the Commission intended to limit the scope of Red Bird's response to Public Staff Data Request No. 13-6 to the Investment Memoranda. The Commission's Order does not contain the term "Investment Memorandum" or "Investment Memoranda," much less state that Red Bird is only required to produce those materials.

7. Finally, the Public Staff is frankly confused by Red Bird's contention that it would be "impossible for Red Bird to recreate and compile all [responses produced by its Missouri affiliate in its rate case] so that they could be transmitted to the Public Staff by next Wednesday." It would be a prudent business practice and reasonable to expect a utility to maintain copies on its computer system of discovery served in a recent case such as the Confluence Rivers rate case. Absent

a reasonable explanation from Red Bird as to why the discovery responses are not readily available, the Public Staff does not believe the Commission should give any weight to Red Bird's contention, limit the Company's duty to respond to Public Staff Data Request No. 13-6, or extend the Company's time to respond to Public Staff Data Request No. 13-6.

8. For the foregoing reasons, the Public Staff moves the Commission to deny Red Bird's Motion.

WHEREFORE, the Public Staff moves:

1. That the Commission deny Red Bird's Motion for Clarification or, Alternatively, for Reconsideration; and

2. For such other and further relief as the Commission may deem just and proper.

This the 8th day of September, 2023.

PUBLIC STAFF
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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Response of the Public Staff to Red Bird's Motion for Clarification or, Alternatively, for Reconsideration on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 8th day of September, 2023.

Electronically submitted
/s/ Megan Jost