



October 13, 2020

Mr. Brandon Frey
Executive Secretary
Louisiana Public Service Commission
602 North Street
Galvez Building, 12th Floor
Baton Rouge, LA 70802

RECEIVED

OCT 13 2020

LA Public Service Commission

Re: Magnolia Water Utility Operating Company, LLC
Application for Approval/Non-Opposition
To Transfer Wastewater Systems Currently
Operated by Clearwater Oaks, LLC

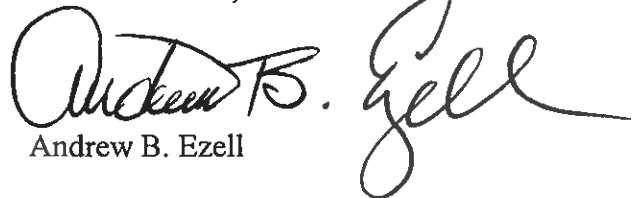
Dear Mr. Frey:

Please find enclosed an original and three copies of Magnolia Water Utility Operating Company, LLC's Application for Non-Opposition to the sale and acquisition of the wastewater systems currently operated by Clearwater Oaks, LLC. After review, please see that a docket is opened in connection with this filing and that notice is placed in the Official Bulletin on October 16, 2020. Further, we ask that you exercise the discretion provided in Rule 19 and shorten the period to protest this application from twenty-five (25) to fifteen (15) days. Upon filing, please have the Records Division date stamp and return a copy of the filing by hand to our courier.

If you have any questions concerning this filing, please notify me.

Sincerely,

Ezell Law Firm, LLC


Andrew B. Ezell

CC: Ms. Jaclyn Penzo
Mr. Thomas Broady
Mr. Don Dewald

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BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

RECEIVED

MAGNOLIA WATER UTILITY
OPERATING COMPANY, LLC, EX PARTE

DOCKET NO. OCT 13 2020

LA Public Service Commission

In re: Request for Letter of Approval/Non-Opposition to the Sale or Transfer of All or Substantially All of the Assets of a Wastewater Utility Regulated by the Louisiana Public Service Commission

PETITION FOR APPROVAL/NON-OPPOSITION TO THE SALE OR TRANSFER OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF A WASTEWATER UTILITY REGULATED BY THE LOUISIANA PUBLIC SERVICE COMMISSION

SELLER: Clearwater Oaks, LLC

BUYER: Magnolia Water Utility Operating Company, LLC

In accordance with the March 18, 1994, *General Order* regarding approval of sales and other changes in ownership or control of public utilities subject to Louisiana Public Service Commission (“Commission”) jurisdiction, Magnolia Water Utility Operating Company, LLC (“Magnolia”) seeks an order of approval or non-opposition from the Commission to the transfer and assignment by Clearwater Oaks, LLC (hereafter “Seller” or “Clearwater”), of all or substantially all of the assets and property comprising seven (7) wastewater utility systems providing regulated wastewater service to customers in Calcasieu Parish, Louisiana (the “Systems”).

Magnolia is a Louisiana limited liability company, in good standing, formed to acquire the assets of water and wastewater utilities in Louisiana and to own and operate those assets as public utilities subject to the Commission’s regulatory jurisdiction. Magnolia currently serves approximately 18,700 sewer connections and approximately 9,810 water connections in regulated systems in parishes throughout Louisiana. Magnolia is part of an affiliate group that includes Central States Water Resources, Inc. (“Central States”), a Missouri corporation in good standing, CSWR, LLC (“CSWR”), a Missouri limited liability company in good standing, and several other companies, some of which currently operate small water or wastewater utilities in Missouri, Arkansas, Kentucky, and Louisiana. A chart showing the companies in the affiliate group is attached hereto as **Exhibit A**. The significance of those affiliate relationships to the proposed transaction is discussed in greater detail below. The principal address of Central States and CSWR is 1650 Des Peres Road, Suite 303, St. Louis, MO 63131. The principal address of Magnolia is 10761 Perkins Road, Suite A, Baton Rouge, LA 70810. All notices and other official documents related to the application should be sent to the attention of Andrew B. Ezell, c/o Ezell Law Firm, LLC, 10761 Perkins Road, Suite A, Baton Rouge, Louisiana 70810, or at the following email address: aezell@ezellfirm.com. Copies also should be sent to Josiah Cox, President, Mike Duncan, Assistant Vice President, and Russ Mitten, General Counsel, at the address shown in the preceding

sentence or at the following email addresses: jcox@cswrgroup.com; mduncan@cswrgroup.com; rmitten@cswrgroup.com .

Clearwater provides regulated wastewater services to approximately five hundred sixty (560) connections in the Chosen Valley Subdivision, LeFirm Part One Subdivision, LeFirm Part Two Subdivision, Maggy's Ridge Subdivision, Lakes of Clearfield Subdivision and Pierre's Ridge Subdivision in Calcasieu Parish. Clearwater is a Louisiana limited liability company, in good standing, whose principal office address is 102 East Highway 90, Iowa, Louisiana 70647. All notices and other official documents related to the application should be sent to the attention of Jevon Natali, 102 East Highway 90, Iowa, Louisiana 70647, or at the following email address: jnatali@aol.com.

The Seller proposes to sell, transfer and assign to Magnolia all of its franchises, works, operations, systems, land and related improvements, easements, rights-of-way, permits, leases, service facilities, equipment, machinery, lines, plant, pipes, manholes and appurtenances, supplies, and other assets used to provide regulated water and wastewater services to the Systems. Magnolia and Seller have entered into a formal purchase and sale agreement ("Sale Agreement") specifying the terms of the proposed transaction, which is attached hereto as **Exhibit B** and incorporated herein by reference. In accordance with Rule 12.1 of the Commission's Rules of Practice and Procedure, Exhibit B has been designated "Confidential" because it contains information regarding strategies employed in contract negotiations and other competitively sensitive information.

The proposed transaction is scheduled to close (a) within forty-five (45) days of the effective date of any required regulatory approval, (b) upon satisfaction of Seller's representations, warranties, and conditions set forth in the Sale Agreement or (c) at such other time as the parties mutually agree. During the period between the date of the Commission's order and the scheduled closing date, Clearwater and Magnolia will cooperate to satisfy all remaining closing conditions specified in the Sale Agreement and take other steps necessary to ensure the proposed sale does not adversely affect customers. At closing, Magnolia will adopt and provide service in accordance with tariff rates and fees currently in effect for Clearwater.

The need to comply with increasingly stringent federal and state health and environmental regulations has imposed cost and compliance burdens small wastewater utilities are finding difficult, if not impossible, to bear. Difficulty in securing capital necessary to make investments or expenditures for improvements required to bring systems into full regulatory compliance has forced many such utilities to seek buyers for those systems whose technical, managerial, and financial resources make them better able to bear those burdens. This motivation is especially strong for system owners, particularly developers, whose primary business is not the operation of regulated water or wastewater utilities.

Magnolia is the type of qualified buyer that small system operators and developers seek out to assure that customers receive safe, efficient and reliable wastewater operations and service. Through its relationship with CSWR (which acts as a service company for the group) and other companies within the affiliate group, Magnolia has access to highly skilled technical, managerial, and financial experts and resources not usually available to small water and wastewater companies. Magnolia's access to CSWR's personnel provides extensive experience in the technical,

managerial, and financial aspects of the utility industry, particularly small systems, and also innovative operational, marketing, and customer service programs that provide high quality advanced services at fair and reasonable rates.

Magnolia is a Commission-authorized operator of water and wastewater systems in Louisiana. Magnolia currently operates numerous water and wastewater systems throughout the state. Thus far, most of the systems Magnolia has acquired, if not all, have experienced some degree of operational neglect, with several recording numerous, and oftentimes ongoing violations of applicable health and environmental regulations. Significant capital improvements have been completed in many of the systems currently operated by Magnolia, and most are operating in full compliance with the rules and regulations of all applicable regulatory authorities. Those systems currently not in compliance are being systematically brought into compliance. Magnolia's systems are currently operated pursuant to agreements with the Louisiana Department of Environmental Quality and the Louisiana Department of Health and Hospitals concerning the timing and methodology required to bring troubled systems into post-acquisition compliance.

As previously noted, consummation of the proposed transfer of assets is contingent upon receipt of Commission approval to the transaction of the System. To secure approval of the transaction, Magnolia provides the following information required by the March 18, 1994, *General Order*.

1. The proposed transfer of assets to Magnolia is in the public interest. Magnolia and its affiliates have the technical, managerial, and financial expertise and experience necessary to own and operate the utility assets it proposes to acquire and ready access to sufficient financial resources to make necessary capital investments and expenditures, if necessary, required to bring the system into compliance with current and future health and environmental regulations. Moreover, Magnolia is committed to providing customers safe, efficient and reliable service at fair and reasonable rates.
2. Magnolia is ready, willing, and able to provide safe, reliable, and adequate service to customers of the Systems it proposes to acquire and to do so at rates that are fair and reasonable.
3. Magnolia's only business is ownership and operation of small water and wastewater systems. Further, because of its ability to readily access any capital necessary to bring the subject system into compliance with health and environmental regulations and operate the Systems in a manner consistent with those regulations, Magnolia's acquisition of the system assets will certainly enhance the financial condition of the Systems.
4. The Systems have, in the past, failed to satisfy one or more health or environmental regulations. As detailed elsewhere in the petition, Magnolia has identified capital investments and expenditures necessary to correct past problems and ensure that in the future the Systems will operate in full compliance with all applicable regulations. These system improvements and Magnolia's commitment to operate the Systems in a manner that ensures customers receive safe, reliable, and adequate service at a fair price will combine to maintain or improve the overall quality of service that customers of the Systems currently receive.

5. Authorizing Magnolia to acquire the Systems will bring both short and long-term benefits for customers. Technical, managerial, and financial resources available from its affiliates will enable Magnolia to quickly identify and remedy any deficiencies in the operation or management of the subject system. Also, because of economies of scale available to Magnolia as an affiliate of CSWR, Magnolia can access and utilize those resources at a lower cost than would otherwise be available to a stand-alone company. As explained below, Magnolia's affiliate group also has access to funds required to make capital investments and expenditures necessary to ensure the system provides safe, efficient and reliable service that complies with all applicable health and environmental regulations.
6. The transaction would not adversely affect competition because Clearwater is the only wastewater utility authorized to serve customers within its service area.
7. As noted elsewhere herein, personnel from Central States and CSWR have far greater technical, managerial, and financial expertise and experience than is available to most small wastewater utilities. This personnel will be actively involved in overseeing Magnolia's day-to-day operations and in assisting the company in planning any system improvements and additions necessary to provide safe, efficient and reliable service. As a result of the involvement of these highly skilled and experienced utility professionals, the quality of service that Magnolia can provide to customers will be greatly improved and enhanced.
8. Magnolia intends to hire a qualified and experienced third-party contractor to manage and operate the Systems day-to-day. It is Magnolia's intent that the third-party contractor offer employment to most, if not all, qualified current employees of Clearwater, if any.
9. The proposed transfer would be fair and reasonable to Clearwater, as evidenced by the fact that the sole member of Clearwater negotiated the financial terms of the transaction and executed the Sale Agreement. Further, Magnolia and Clearwater have no other business relationship or family affiliations. The terms of the transaction satisfy both Magnolia and Clearwater and are the result of fair, arms-length negotiation.
10. The proposed transaction will have an overall positive effect on state and local economies. From a local property tax standpoint, the transfer of assets should have no adverse effect on state or local taxing authorities. If the transaction is approved, only the identity of the taxpayer would change. And overall, the proposed transaction should prove beneficial to the state of Louisiana and the local communities where Clearwater's customers reside. All those entities have an interest in ensuring their citizens receive safe, adequate, and reliable water and wastewater services at fair and reasonable rates. Authorizing Magnolia to acquire Clearwater's assets would produce that desired result.
11. Magnolia concedes the Commission's authority to regulate its rates and operations in the manner prescribed by Louisiana law. Therefore, the proposed transfer would have no effect on the Commission's jurisdiction over the Systems.

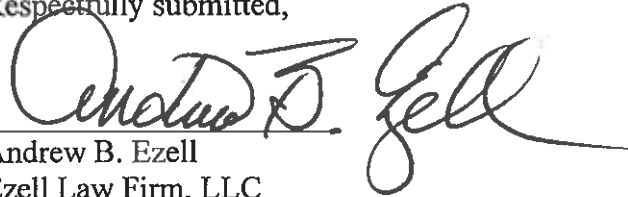
12. Neither Clearwater nor Magnolia anticipates any adverse consequences to customers or other interested stakeholders if the Commission approves the transaction proposed in the petition. Both parties are committed to ensuring that the sale of assets is concluded and operational authority over those assets transferred in a manner that is as transparent as possible and causes no adverse effects to customers.
13. Magnolia was formed for the purpose of acquiring and operating water and wastewater utilities in Louisiana. It has a good, but limited, track record of regulatory compliance in Louisiana. However, Central States, through its work with other companies within Magnolia's affiliated group, has compiled an enviable record of acquiring severely distressed systems, bringing them into compliance, and then successfully operating those systems in full compliance with health and environmental regulations. Affiliated companies within the group operating in Missouri and Kentucky have a good customer service and operating reputation with utility regulators in that state. (Arkansas, the other state where Magnolia's affiliates currently operate, does not regulate rates or operations of small water and wastewater utilities.)
14. Through its affiliated group, Magnolia has ready access to capital required to make necessary investments and expenditures in the subject system. CSWR will provide the equity financing necessary to make the proposed asset acquisition. Ongoing capital needs will be financed through debt from providers approved by the Commission on terms and conditions that accurately reflect the current state of this system. Current plans envision a capital structure for Magnolia consisting of fifty percent (50%) equity and fifty percent (50%) debt. CSWR's consolidated income statement and balance sheet for 2019 is attached hereto as **Exhibit C** and incorporated by reference. In accordance with Rule 12.1 of the Commission's Rules of Practice and Procedure, **Exhibit C** has been designated "Confidential" because it contains competitively sensitive information.
15. Based on its initial due diligence, Magnolia has determined that the Chosen Valley Wastewater System serves approximately 75 residential customers. The Chosen Valley Subdivision is fully developed and no additional customers are expected. Initial due diligence has also determined that the wastewater collection system is in satisfactory operating condition given its age and that the wastewater treatment facility is in relatively good operational condition. A more detailed description of the system, along with an Estimate of Probable Construction Costs, prepared by Balor Engineers & Surveyors is contained in the Engineering Memorandum and attached hereto as **Exhibit D**. It must be pointed out that the estimated construction costs may be adjusted upward due to any system damage caused by Hurricane Laura. The LeFirm #1 Wastewater System serves approximately 58 residential customers. The LeFirm Part One Subdivision is fully developed and no additional customers are expected. Initial due diligence has determined that the wastewater collection system is in satisfactory operating condition given its age and that the wastewater treatment facility is also in good operable condition. A more detailed description of the system, along with an Estimate of Probable Construction Costs, prepared by Balor Engineers & Surveyors is contained in the Engineering Memorandum and attached hereto as **Exhibit E**. As with the Chosen Valley System, the estimated construction costs may be adjusted upward in the event of system damage caused by

Hurricane Laura. LeFirm #2 Wastewater System serves approximately 30 residential customers and is permitted to serve an additional 20-30 apartment connections. Initial due diligence has determined that the wastewater collection system is in satisfactory operating condition given its age and that the wastewater treatment facility appears to be in excellent condition. A more detailed description of the system, along with an Estimate of Probable Construction Costs, prepared by Balor Engineers & Surveyors is contained in the Engineering Memorandum and attached hereto as **Exhibit F**. The Maggy's Ridge Wastewater System currently serves 2 customers, but is developed to service approximately 86 residential customers. The wastewater collection system is in excellent condition, as is the wastewater treatment facility. A more detailed description of the system, along with an Estimate of Probable Construction Costs prepared by Balor Engineers & Surveyors is contained in the Engineering Memorandum and attached hereto as **Exhibit G**. Assuming no material damage from Hurricane Laura, there should be no basis for a material adjustment of the projected future construction costs. The Lakes of Clearfield #1 Wastewater System serves an estimated 120 residential customers in the Lakes of Clearfield Subdivision. Initial due diligence has determined that the wastewater collection system is in satisfactory operating condition given its age and that the wastewater treatment facility is also in relatively good condition. A more detailed description of the system, along with an Estimate of Probable Construction Costs, prepared by Balor Engineering & Surveyors is contained in the Engineering Memorandum attached as **Exhibit H**. Assuming no material damage from Hurricane Laura, there should be no basis for a material adjustment of the projected construction costs. The Lakes of Clearfield #2 Wastewater System serves approximately 106 additional customers in the Lakes of Clearfield Subdivision. Initial due diligence has determined that the wastewater collection system appears to be in satisfactory operating condition due to its recent construction and that the wastewater treatment facility is in excellent condition. A more detailed description of the system, along with an Estimate of Probable Construction Costs, prepared by Balor Engineers & Surveyors is contained in the Engineering Memorandum and attached hereto as **Exhibit I**. Again, there should be no basis for a material adjustment of the projected future construction costs unless material damage occurred due to Hurricane Laura. Finally, the Pierre's Ridge Wastewater System serves approximately 85 residential customers in the Pierre's Ridge Subdivision. Like the Lakes of Clearfield systems, initial due diligence has determined that the wastewater collection system is in good operating condition because it is relatively new and that the wastewater treatment facility is in excellent condition. A more detailed description of the system, along with an estimate of Probable Construction Costs, prepared by Balor Engineers & Surveyors is contained in the Engineering Memorandum attached hereto as **Exhibit J**. Again, no material adjustment of the projected construction costs is expected if little or no damage was inflicted on the system by Hurricane Laura. In accordance with Rule 12.1 of the Commission's Rules of Practice and Procedure, **Exhibits D, E, F, G, H, I and J** have been designated "Confidential" because they contain competitively sensitive information.

16. Magnolia's affiliates always hire a qualified and experienced third-party contractor to manage and operate the Systems day-to-day and will ensure the contractor's personnel have or obtain all required health, safety, and other permits.

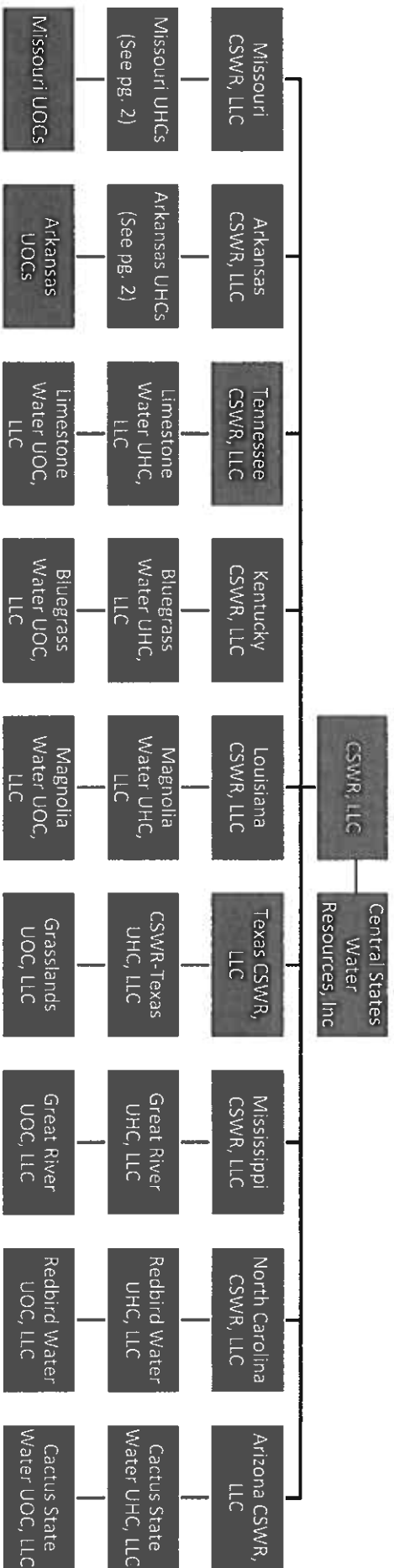
17. Magnolia, through CSWR, will invest equity capital to purchase Clearwater's assets. Consequently, the asset purchase would not encumber the utility's assets in any way. Ongoing capital needs will be financed through debt from providers approved by the Commission on terms and conditions that accurately reflect the current state of this system.
18. The acquisition of assets proposed in the petition is fair and reasonable in all respects. Consequently, the Commission should not impose or attach any conditions to the transaction.

Respectfully submitted,



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Baton Rouge, LA 70810
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Facsimile: (225) 763-2273
aezell@ezellfirm.com

Central States Water Resources Corporate Entity Organizational Chart



Missouri & Arkansas CSWR Organizational Chart Detail

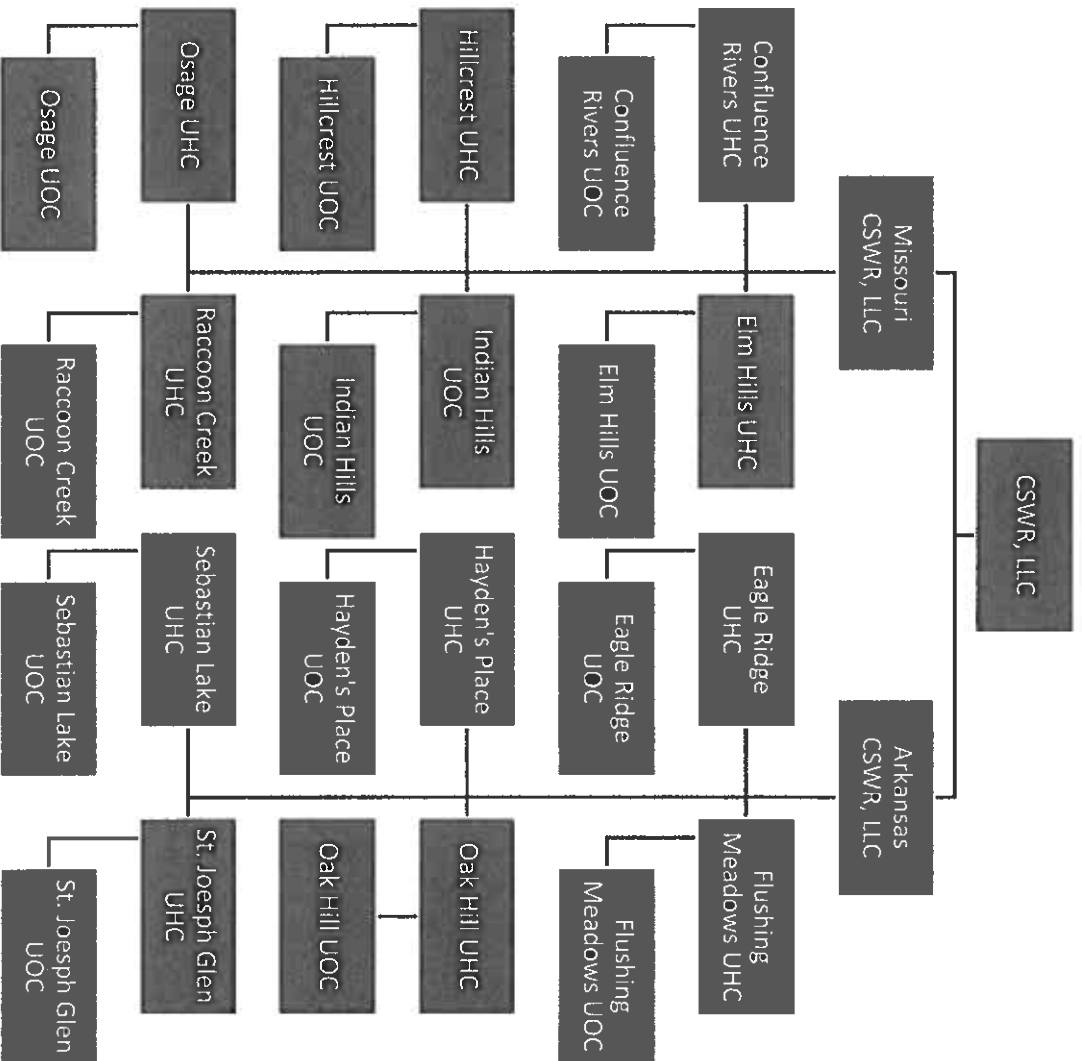


EXHIBIT B - PUBLIC

In accordance with Rule 12.1 of the Louisiana Public Service Commission's Rules of Practice and Procedure, this exhibit has been designated "confidential" and submitted under seal as it contains information regarding strategies employed in contract negotiations and other competitively sensitive information.

EXHIBIT C - PUBLIC

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EXHIBIT H - PUBLIC

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EXHIBIT I - PUBLIC

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EXHIBIT J - PUBLIC

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