

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

In the Matter of the Application of Elm Hills            )  
Utility Operating Company, Inc., for a Certificate        )  
Of Convenience and Necessity to Provide Sewer        )        File No. SA-2022-\_\_\_\_\_  
Service In Johnson County, Missouri, as an            )  
Expansion of Its Existing Service Area.                )

**APPLICATION AND MOTION FOR WAIVER**

**COMES NOW** Elm Hills Utility Operating Company, Inc. (“Elm Hills” or “Company”) pursuant to Sections 393.170 and 393.190, RSMo., 20 CSR 4240-2.060, 20 CSR 4240-3.305 and 20 CSR 4240-4.017, and for its *Application and Motion for Waiver*, states as follows to the Missouri Public Service Commission (“Commission”):

**INTRODUCTION**

1. Elm Hills is a Missouri corporation with its principal office and place of business at 1650 Des Peres Rd., Suite 303, St. Louis, MO 63131. Elm Hills is a Missouri corporation in good standing. A certified copy of Elm Hills’s certificate of good standing was filed in File No. SM-2017-0150 and is incorporated herein by reference.

2. Elm Hills provides water service to approximately 137 customers and sewer service to approximately 680 customers in Clay, Clinton, Johnson, Pettis and Ray Counties, Missouri, pursuant to certificates of convenience and necessity previously granted in Commission Files Nos. SM-2017-0150, SA-2018-0313, and SM-2020-0146. Elm Hills is a “water corporation,” a “sewer corporation,” and a “public utility,” as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction and supervision of the Commission as provided by law.

3. Elm Hills has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against Elm Hills from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three years of the date of this Application.

4. Communications regarding this application should be addressed to the undersigned counsel and to:

Josiah Cox  
Elm Hills Utility Operating Company, Inc.  
1650 Des Peres Rd., Suite 303  
St. Louis, MO 63131  
Phone: (314) 380-8544  
E-mail: jcox@eswrgroup.com

**REQUEST FOR SERVICE AREA CCN**

5. The Commission may grant a sewer corporation a certificate of convenience and necessity (“CCN”) to operate after determining that the construction and operation are either necessary or convenient for the public service.

6. As an extension of its existing certificated territory, Elm Hills requests permission, approval, and a CCN to install, own, acquire, construct, operate, control, manage, and maintain sewer systems for the public in an area of Johnson County, Missouri, currently containing four residential lots. A document containing both a map and legal descriptions of this area is attached hereto as **Appendix A**.<sup>1</sup>

7. The area in question is located adjacent to Elm Hills State Park Village service area. It contains four residential lots. The developer of these lots has requested that Elm Hills extend its sewer service to this area. One home is currently constructed and uses a septic system. A second home is nearing completion, leaving two more lots to build out in the near future.

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<sup>1</sup> If the requested CCN is granted, Elm Hills maybe able to revise tariff Sheets Nos. 3 and 13 to modify the State Park Village service area to include the new territory.

8. No utility or other entity, regulated or unregulated, currently provides sewer services in this area.

9. Attached hereto and marked as **Appendix B-C** is a list of the only two landowners within the proposed service area. **Appendix B-C** has been identified as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(1), as it contains customer-specific information.

10. Attached hereto and marked as **Appendix C-C** is a feasibility study associated with providing sewer service to the subject residential lots, including estimated expenses and revenues during the first three years of operation by Elm Hills. **Appendix C-C** has been identified as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(3) and (6), as they contain market specific information and information representing strategies employed in contract negotiations.

11. No external financing is anticipated. To provide service to the proposed areas, Elm Hills will extend its mains in accordance with its tariff provisions. Elm Hills asks for a waiver of any requirement to provide plans and specifications related to the construction of the collection systems as this will be a standard main extension under the Company's tariff. The collection system used to serve the proposed service area will be connected to Elm Hills' existing State Park Village system. No expansion of the existing treatment facilities will be required to provide the proposed service.

12. Elm Hills will not require any franchises or permits from municipalities, counties, or other authorities in connection with the requested CCN.

13. Elm Hills proposes provide sewer service utilizing the rules governing the rendering of service that are currently found in Elm Hills existing Commission-approved tariff

(P.S.C. MO No. 4). Elm Hills proposes to utilize the rates and service charges currently found in that tariff that are applicable to State Park Village (Sheet No. 24 and Sheets Nos. 25-28).

**PUBLIC INTEREST**

14. The grant of the requested CCN is in the public interest and will result in regulated sewer services provided to the current and future residents of this service area. Elm Hills is fully qualified, in all respects, to provide the sewer service for which the certificates are sought.

**MOTION FOR WAIVER**

15. Commission Rule 20 CSR 4240-4.017(1) requires “[a]ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.” Because it did not file such a notice within the time period prescribed by that rule, Elm Hills seeks a waiver of the 60-day pre-filing notice requirement.

16. Under Rule 20 CSR 4240-4.017(1)(D), a waiver of the pre-filing notice requirement may be granted for good cause. In this regard, Elm Hills declares, as verified below, that it has had no communication with the Office of the Commission (as defined in 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case. Good cause for the requested waiver exists in accordance with Commission Rule 20 CSR 4240-4.017(1)(D) (“Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case....”)

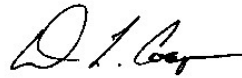
17. Therefore, as authorized by Rule 20 CSR 4240-4.017(1)(D), Elm Hills moves for a waiver of the 60-day notice requirement and acceptance of this application at this time.

**WHEREFORE**, for the reasons previously stated, Elm Hills respectfully requests the Commission issue an order:

(A) Waiving the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) for good cause shown; and,

(B) Granting Elm Hills a CCN authorizing it to install, acquire, build, construct, own, operate, control, manage, and maintain a sewer system for the public within the area identified herein.

Respectfully submitted,



Dean L. Cooper MBE #36592  
**BRYDON, SWEARENGEN & ENGLAND P.C.**  
312 E. Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65012  
(573) 635-7166 telephone  
[dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)

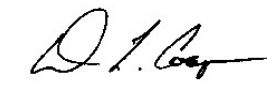
**ATTORNEYS FOR ELM HILLS  
UTILITY OPERATING COMPANY, INC.**

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on July 23, 2021, to the following:

Office of the General Counsel  
Governor Office Building  
Jefferson City, MO 65101  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

Office of the Public Counsel  
Governor Office Building  
Jefferson City, MO 65101  
[opcservice@opc.mo.gov](mailto:opcservice@opc.mo.gov)



**AFFIDAVIT**

State of Missouri     )  
                                  )  
County of St. Louis    )     ss

I, Josiah Cox, having been duly sworn upon my oath, state that I am the President of Elm Hills Utility Operating Company, Inc. ("Elm Hills"), that I am duly authorized to make this affidavit on behalf of Elm Hills, that I have knowledge of the matters stated herein, and that said matters are true and correct to the best of my information, knowledge and belief. Additionally, no representative of Elm Hills has had any communication with the office of the Missouri Public Service Commission as defined in Commission Rule 20 CSR 4240-4.015(10) within the one hundred fifty (150) days immediately preceding the filing of the Application regarding any substantive issue likely to be addressed in this case.



MERANDA K. KEUBLER  
My Commission Expires  
November 13, 2022  
St. Louis County  
Commission #14631487

  
\_\_\_\_\_  
Josiah Cox (Jul 23, 2021 09:44 CDT)

Subscribed and sworn before me this 23<sup>rd</sup> day of July, 2021.

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

My Commission Expires 11/13/2022