

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 14th day of October, 2021.

In the Matter of the Application of Elm Hills)
Utility Operating Company, Inc., for a)
Certificate Of Convenience and Necessity to)
Provide Sewer Service In Johnson County,)
Missouri, as an Expansion of Its Existing)
Service Area.)

File No. SA-2022-0014
Tariff No. YS-2022-0072

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Issue Date: October 14, 2021

Effective Date: November 2, 2021

On July 23, 2021, Elm Hills Utility Operating Company (Elm Hills) filed an application with the Missouri Public Service Commission requesting a Certificate of Convenience and Necessity (CCN) to install, own, acquire, construct, operate, control, manage, and maintain a sewer system Johnson County, Missouri, as an addition to Elm Hills' existing service territories.

The Commission issued notice and set a deadline for intervention requests, but received none. On September 16, 2021, the Commission's Staff (Staff) filed its recommendation and memorandum to approve Elm Hills' request for a CCN, with specified conditions. Staff also recommended that Elm Hills submit revised sewer tariff sheets such that they may become effective on or before the effective date of a Commission order issuing a CCN in this case. Elm Hills responded on September 20, 2021, that it had no objection to Staff's recommendation or the proposed conditions therein. Elm Hills filed tariff sheets on October 4, 2021, to revise the service

area and legal description to conform to the service area recommended in Staff's memorandum. Those tariff sheets bear an effective date of November 3, 2021.

Elm Hills is a "water corporation," a "sewer corporation," and "public utility" as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction of the Commission.

The requested CCN would allow Elm Hills to provide wastewater treatment service to four residential lots adjacent to Elm Hills' State Park Village service area. Elm Hills states it does not anticipate the need for external financing as it will extend its mains pursuant to its tariff provisions. The State Park Village Wastewater Treatment Facility provides sewer service to 176 residential customers located in a subdivision in Johnson County, Missouri. The current sewer rate for State Park Village is a flat rate of \$99.88. The State Park Village sewer system is a gravity flow system that uses two lift stations in the collection system to convey wastewater to an integrated fixed film activated sludge plant with UV light for disinfection before it is discharged into a tributary of Clear Fork in Johnson County. The Company has completed multiple improvements to the sewer system to comply with Missouri Department of Natural Resources (DNR) regulations and to improve reliability.

Elm Hills has proposed that its approved monthly flat rate \$99.88 rates on MO PSC No. 4 Sheet No. 24, applicable to certain named service areas, be applied to the expanded State Park Village service area for residential, commercial, industrial, and other public authority customers.

Ten days have passed since Staff filed its recommendation and no party has objected to Elm Hills' application or Staff's recommendation. No party has requested an evidentiary hearing.¹ Thus, the Commission will rule upon the application.

The Commission may grant a sewer corporation a CCN to operate after determining that the construction and operation are either "necessary or convenient for the public service."² The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case combined the standards used in several similar certificate cases, and set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.³ These criteria are known as the Tartan Factors.⁴

There is a current and future need for sewer service because the subdivision is expanding and it is anticipated that more homes will be built that will require service. Elm Hills is qualified to provide the service as it is currently providing safe and reliable water service to approximately 137 customers and sewer service to approximately 680 customers throughout its Missouri service areas. Elm Hills has demonstrated that it has adequate resources to operate utility systems it owns, to acquire new systems, to

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

² Section 393.170.3, RSMo.

³ The factors have also been referred to as the "Tartan Factors" or the "Tartan Energy Criteria." See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994).

⁴ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

undertake construction of new systems and expansions of existing systems, to plan and undertake scheduled capital improvements, and timely respond and resolve emergency issues when they arise. Elm Hills has the financial ability to provide the service and no financing approval is being requested. Elm Hills' State Park Village sewer system has the capacity to serve the additional customers. Elm Hills will be adopting existing rates established for the State Park Village service area. The proposal promotes the public interest as demonstrated by positive findings in in the first four Tartan Factors.

Based on the application and Staff's recommendations, the Commission concludes that the factors for granting a CCN to Elm Hills have been satisfied and that it is in the public interest for Elm Hills to provide wastewater treatment service to residential lots adjacent to Elm Hills State Park Village service area in Johnson County Missouri. Further, Commission finds that the flat fee of \$99.88 for sewer service is just and reasonable. Therefore, the Commission will grant Elm Hills' requested CCN, subject to the conditions described by Staff's recommendation. In consideration of the effective date of the tariff the Commission will make this order effective on November 2, 2021.

THE COMMISSION ORDERS THAT:

1. Elm Hills is granted a certificate of convenience and necessity to provide sewer service in the proposed State Park service area as modified in Staff's September 16, 2021 memorandum and attachments thereto.

2. Elm Hills shall adopt the current monthly residential flat rate of \$99.88 for its State Park Village service area to apply to its expanded State Park Village service area.

3. Elm Hills shall distribute to any new State Park Village customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its sewer service, consistent with the requirements of Commission Rule 20 CSR 4240-13, as customers initiate service with Elm Hills.

4. The Commission makes no finding that would preclude it from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the CCN to Elm Hills, including expenditures related to the certificated service area, in any later proceeding.

5. Elm Hills shall provide to the Customer Experience Department Staff a copy of the first bill it renders to a customer in the extended service area.

6. This order shall become effective on November 2, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeier CC., concur.

Clark, Senior Regulatory Law Judge


STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 14th day of October, 2021.**





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 14, 2021

File/Case No. SA-2022-0014

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.