

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

In the Matter of the Application of Elm Hills	)	
Utility Operating Company, Inc. and	)	
Missouri Utilities Company for Elm Hills to	)	
Acquire Certain Water and Sewer Assets of	)	<b>Case No. SM-2017-0150</b>
Missouri Utilities Company, for a Certificate	)	
Of Convenience and Necessity, and, in	)	
Connection therewith, to Issue Indebtedness	)	
And Encumber Assets.	)	

**MOTION FOR MORE DEFINITE STATEMENT  
AND SUGGESTIONS IN SUPPORT**

COMES NOW the Missouri Office of the Public Counsel (“OPC”), by and through undersigned counsel, and files this Motion for More Definite Statement and Suggestions in Support. OPC requests the Commission to direct the applicants to make a more definite statement as to the legal authority they are relying on for an increase in Commission-approved rates. In support thereof, OPC offers the following suggestions:

**I. Summary**

Elm Hills Utility Operating Company, Inc. (“Elm Hills”) serves no customers, but Elm Hills seeks to modify Commission-approved rates for customers of Missouri Utilities Company (“MUC”). Elm Hills seeks to adjust the aforementioned Commission-approved rates to be equal to the rates being paid by State Park Village, which currently uses rates that have not been approved by the Commission. In support thereof, Elm Hills offers no legal authority in its application, and Elm Hills does not invoke the small utility rate case procedure. In order to adequately respond and prepare a litigation strategy in the above-captioned matter, OPC requests that the applicants provide a more definite statement of the legal authority which provides the

foundation of their requested relief. In addition, it is not clear whether the Commission has the authority to grant the relief requested without a more definite statement from the applicants.

## **II. Background and Statement of Facts**

1. On November 22, 2016, MUC and Elm Hills filed an *Application and, if Necessary, Motion for Waiver for a merger, sale or transfer*.
2. Elm Hills is requesting approval from the Commission to establish new flat rates for water services and sewer services in the Missouri Utilities Company service territory.<sup>1</sup>
3. In support thereof, Elm Hills points out that there are no meters in place and alleges that those rates do not reflect the current cost of providing service.
4. Elm Hills further describes a variety of problems with MUC's systems and State Park Village system and proposes various improvements.
5. The company estimates the combined costs for these improvements to be \$1,450,000.
6. Residential customers of MUC currently pay \$10.93 per month as a flat fee for their sewer services while mobile home residents pay \$8.80 per month. These rates have been approved by this Commission in a prior rate case.
7. Residential customers of MUC currently pay \$7.92 per month for their water rates while mobile home residents pay \$6.34. These rates have been approved by this Commission in a prior rate case.

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<sup>1</sup> The proposed sewer rate is the same rate as is currently charged those customers in the State Park Village service area.

8. The new rates would increase all customers' bills to \$45 per month for sewer services and \$30.51 per month for water services.
9. Applicants do not cite to any statutes, regulations, prior orders, case law, or other legal authority in support of their request for an increase in rates.
10. If approved, Elm Hills would provide water and sewer services to fewer than 8,000 customers. Currently, Elm Hills does not serve any customers.
11. In previous application cases, the parties involved in the management of Elm Hills have not made a request for a rate increase(s) within the procedural contours of an application case.

### **III. Legal Authority**

12. Commission rule 4 CSR 240-2.080(12) indicates that pleadings and briefs need to substantially comply with rules, applicable statutes, or commission orders in order to be accepted for filing.
13. Furthermore, the "mere fact of filing shall not constitute a waiver of any noncompliance with these rules, and the commission may require amendment of a pleading or entertain appropriate motions in connection with the pleadings." *Id.*
14. Commission rule 4 CSR 240-2.080(4) requires that pleadings "shall contain a clear and concise statement of the relief requested, a specific reference to the statutory provision or other authority under which relief is requested, and a concise statement of the facts entitling the party to relief."

15. Commission rule 4 CSR 240-3.050 establishes the small utility rate case procedure that provides procedural requirements for a water or sewer utility serving 8,000 or fewer customers.

#### **IV. Suggestions/Argument**

16. Applicants do not provide the legal foundation upon which the applicants are seeking to increase the Commission-approved rates.

17. Without more information explaining the authority under which the applicants seek approval of their plan, it is not clear whether the Commission has the authority to grant the relief requested.

#### **V. Conclusion**

WHEREFORE, OPC prays for the Commission to direct the applicants to make a more definite statement indicating the legal authority that supports their adjustment to Commission-approved rates, and that the Commission orders any other relief it deems just.

Respectfully submitted,

OFFICE OF PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

On this 31<sup>st</sup> day of March, 2017, I hereby certify that a true and correct copy of the foregoing motion was submitted to all relevant parties by depositing this motion into the Commission's Electronic Filing Information System ("EFIS").

/s/ Ryan D. Smith