

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

In the Matter of Elm Hills Utility ) Operating Company, Inc.'s Request for ) a Water and Sewer Rate Increase )	Case No. WR-2020-0275
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**RESPONSE TO COMMISSION ORDER REGARDING A PROCEDURAL  
SCHEDULE, SECOND REQUEST FOR A RULE WAIVER, AND OTHER  
MATTERS**

**COMES NOW** the Office of the Public Counsel (“OPC”) and for its *Response to Commission Order Regarding a Procedural Schedule, Second Request for a Rule Waiver, and Other Matters*, states as follows:

**Response to Commission Order regarding procedural schedule**

1. On September 16, 2020, the Commission issued an order stating in part that “[n]o later than September 22, 2020, the parties shall submit a joint proposed schedule as described in this order.”
2. The OPC engaged in good faith efforts to reach an agreement with the Staff of the Commission (“staff”) and Elm Hills Utility Operating Company, Inc. (“Elm Hills”) regarding such a joint procedural schedule, but an agreement could not be reached.
3. The principle point of dispute lay with whether there should be two rounds of testimony or three. The OPC seeks three, Staff and Elm Hills have represented they would prefer two.

4. Because an agreement could not be reached, the OPC independently presents this proposed procedural schedule:

Direct Testimony (all parties)	September 29, 2020
Rebuttal Testimony (all parties)	October 6, 2020
Sur-rebuttal Testimony (all parties)	October 13, 2020
List of Issues and Order of Hearing Components	October 14, 2020
Statement of Positions	October 15, 2020
Joint Stipulation of Facts	October 15, 2020
Hearing via WebEx	October 22, 2020
Expedited transcript due	October 26, 2020
Briefs due	October 30, 2020

**Second request for a rule waiver**

1. As noted in the Commission’s September 16, 2020, order, rule 20 CSR 4240-10.075(13) requires that “[t]he small utility rate case shall be wholly submitted to the commission for decision not later than two hundred forty (240) days after the small utility rate case is opened.”

2. In its *Response to the OPC’s Request for an Evidentiary Hearing*, Elm Hills maintained that there was insufficient time to properly prepare for a hearing in this matter due to this rule.

3. Staff has also communicated to the OPC that it believes there is insufficient time for a full three rounds of testimony in this case for effectively the same reasons.

4. The OPC believes that the position expressed by Elm Hills, if true, constitutes good cause for a waiver of rule 20 CSR 4240-10.075(13) and the requirement that “the report and order to resolve the case be effective no later than two hundred seventy (270) days after the small utility rate case is opened” found in to 20 CSR 4240-10.075(15).<sup>1</sup>

5. Therefore, should the Commission determine that there is insufficient time under the rules for a procedural schedule consisting of a full three rounds of testimony, the OPC requests a waiver of rules 20 CSR 4240-10.075(13) and 20 CSR 4240-10.075(15) and further requests the Commission order the parties to file a joint procedural schedule for this case to include direct, rebuttal, and sur-rebuttal testimony.

6. This request is made independently of the OPC’s other request for waiver of the same rules made on September 18 and should not be construed to either waive, supersede, supplant, or otherwise invalidate that request.

### **Other matters**

7. In the event that the Commission issued a procedural schedule in this case that does not include pre-field sur-rebuttal testimony for whatever reason, the

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<sup>1</sup> The OPC does not state its agreement with Elm Hill’s assertion. Rather, the OPC simply maintains that if Elm Hills is right, then the rule should be waived.

OPC further moves that it be given an opportunity to present sur-rebuttal testimony in a manner consistent with 20 CSR 4240-2.130(7)(D) live during the course of the evidentiary hearing.

8. Such practice has occurred before this Commission previously. *See, e.g.*, Case Nos. GO-2019-0356 and GO-2019-0357.

9. The OPC further requests that, as of the date of an order approving the procedural schedule set forth herein, the response time for data requests shall be five (5) calendar days to provide the requested information, and three (3) business days to object or to notify the requesting party that more than five (5) calendar days will be needed to provide the requested information.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission order a procedural schedule in this case consistent with the one laid out herein or, in the alternative, grant such other relief as requested herein as well as any such other relief as is reasonable.

Respectfully submitted,

By:           /s/ John Clizer            
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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this twenty-second day of September, 2020.

/s/ John Clizer