

**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 AND REQUEST FOR RULE WAIVER**

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

**Response to Commission Order**

1. On September 16, 2020, the Commission ordered that “[n]o later than September 18, 2020, Public Counsel shall submit a specified list of issues that Public Counsel believes should be the subject of the hearing.”
2. While the OPC disagrees with several facets of the filed *Non-Unanimous Disposition Agreement*, there is only one issue sufficiently developed to be the subject of a hearing.
3. The OPC opposes the overall rate of return calculation included as item (4) of the *Non-Unanimous Disposition Agreement*, as this calculation results in rates higher than what is just and reasonable.
4. The sole issue that the OPC proposes to be the subject of the hearing is thus the proper calculation of the rate of return Elm Hills Utility Operating Company, Inc. is permitted to recover.

## Request for Rule Waiver

5. 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."

6. The OPC requests a waiver of this rule and the rule 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" pursuant to 20 CSR 4240-10.075(15).

7. The OPC cites as good cause for this waiver the continuing discovery problems related to the sole issue for hearing identified above. The nature of these discovery problems is addressed at length in the OPC's *Motion for Order regarding the Production of Documents* filed in this case on September 18, 2020.

8. To summarize, the OPC has several outstanding data requests, three outstanding subpoenas (which are twenty days past the date of service without response), and now its *Motion for Order regarding the Production of Documents* filed pursuant to 386.450 all seeking discovery of the same factual information.

9. The OPC's inability to recover this information despite extensive efforts to do so constitutes good cause for the waiver of these rules and the suspension of this case until such time as Elm Hills Utility Operating Company, Inc. and its affiliates produce the documentation requested by the OPC.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Response to Commission Order and Request for Rule Waiver*,

grant the OPC the waiver of rules requested herein, and grant 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 eighteenth day of September, 2020.

          /s/ John Clizer