

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
File No. SA-2022-0014

FROM: Daronn A. Williams – Water and Sewer Department
Deborah Ann Bernsen – Customer Experience Department
Amanda Coffey – Engineering Analysis Department

<u>/s/ Daronn A. Williams</u>	<u>09/16/21</u>	<u>/s/ Mark Johnson</u>	<u>09/16/21</u>
Case Manager	Date	Staff Counsel	Date

SUBJECT: Staff's Recommendation to Approve Certificate of Convenience and Necessity

DATE: September 16, 2021

EXECUTIVE SUMMARY

Staff's position, based on its review as described herein, is that the proposal for a new Certificate of Convenience and Necessity (CCN) to provide sewer service, as an extension of Elm Hills Utility Operating Company, Inc.'s (Elm Hills') existing service territory, and applying existing Elm Hills' rates, is necessary and convenient for the public service. Staff therefore recommends approval with the conditions and actions as outlined herein.

CASE BACKGROUND

On July 23, 2021, Elm Hills filed its *Application and Motion for Waiver* (Application) with the Missouri Public Service Commission (Commission). Elm Hills seeks a CCN to expand its existing sewer service area of State Park Village in Johnson County by incorporating four additional homes.

Also on July 23, 2021, the Commission issued its *Order Directing Notice, Setting Intervention Deadline, and Directing to Staff File a Pleading*, in which it directed interested parties to intervene in this case by August 24, 2021, and also directed Staff to file a pleading indicating when it could file a recommendation, no later than August 6, 2021. On August 6, 2021, Staff filed a pleading requesting the Commission issue an order directing Staff to file its recommendation no later than September 20, 2021, which the Commission granted. No parties have sought to intervene in this case.

BACKGROUND OF ELM HILLS AND THE SEWER SYSTEM

Elm Hills is an existing regulated water and sewer utility and a Missouri corporation with its principal office located at 1650 Des Peres Rd., Suite 303, St. Louis, Missouri, 63131. Elm Hills is currently providing water service to approximately 137 customers and sewer service to approximately 680 customers throughout its Missouri service areas.

The State Park Village Wastewater Treatment Facility (WWTF) was originally operated by Missouri Utilities Company, which received its CCN to operate the facility from the Commission on November 24, 1992, in Case No. WA-92-291. Elm Hills received authorization from the Commission to acquire the assets of Missouri Utilities Company, and was granted CCNs to provide water and sewer service in the area formerly served by Missouri Utilities Company, in Case No. SM-2017-0150. The WWTF was originally a 20,000 gallon per day (gpd) extended

aeration facility with chlorination and dechlorination. Elm Hills recently upgraded this facility by increasing the design average flow to 44,000 gpd and modifying it to include the following: mechanical screening, flow equalization, integrated fixed-film activated sludge reactor, clarifier, reaeration basin, ultraviolet disinfection, return activated sludge/ waste activated sludge lift station, and sludge holding basin with aeration. According to information received from Elm Hills, the State Park Village WWTF 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. Integrated fixed film provides additional fixed surface area in the aeration chamber of the activated sludge treatment plant for biological attachment and growth. This technology provides enhanced treatment of the waste stream while utilizing the existing activated sludge chamber.

Elm Hills does not have documentation for the total size or material of the collecting sewer lines in the ground at this time but is developing information about the collection system for future records.

The State Park Village sewer system operates under MSOP MO-0113573, effective January 1, 2017, modified February 1, 2020, with an expiration date of September 30, 2021. The Company has completed multiple improvements to the sewer system to comply with DNR regulations and to improve reliability. Per Staff review of DNR records, there are currently no outstanding violations associated with the sewer system. Staff inspected the State Park Village sewer system on May 13, 2020, during the investigation of Elm Hills' most recent rate case, WR-2020-0275.

STAFF'S INVESTIGATION

Service Area

In its Application, Elm Hills requests to expand its existing sewer service area of State Park Village in Johnson County by incorporating four additional lots. The current service area mirrors the State Park Village subdivision. These four lots are located outside the subdivision, but are located adjacent to the subdivision. Out of the four lots, one home is complete and another home is near completion.

Upon review of the application, Staff requested and received a revised service area map that is in color, shows local streets and highways, displays a clear and defined outlined tract that represents the entire proposed service area, and excludes extraneous surveying notes and details. The revised map can be used to easily identify if a resident is in or out of the service area. Staff also requested and received a revised legal description that is recorded on a separate page than the map in plain and straight forward language.

The service area map is shown in Attachment A, and the written legal description is shown in Attachment B to this Memorandum. Staff recommends that this proposed service area and legal description be approved, and depicted in Elm Hills' tariff, as further discussed herein.

Tariff and Rate Matters

A map and a description of the entire proposed expanded State Park Village service area, reflecting the attachments to this Memorandum, will need to be included as new tariff sheets in Elm Hills' sewer tariff MO PSC No. 4.

Elm Hills has proposed that its approved 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. The monthly flat rate is \$99.88 for residential, commercial, industrial, and other public authority customers. Staff recommends that Elm Hills submit a revised tariff Sheet No. 3 that is identical to the existing Sheet No. 3, except replacing the map with the expanded State Park Village service area. In addition, Staff recommends that Elm Hills submit a revised tariff Sheet No. 13 with a new legal description for the expanded State Park Village service area.

The new revised tariff sheets, reflecting the map and description, will be:

- 1st Revised Sheet No. 3
- 1st Revised Sheet No. 13

Staff recommends that Elm Hills submit the 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.

Tartan Energy Criteria

Staff utilizes the Tartan Criteria when analyzing requests for a new CCN or, in this case, an expansion of an existing CCN. The Tartan criteria contemplate: 1) need for service; 2) the utility's qualifications; 3) the utility's financial ability; 4) the economic feasibility of the proposal; and 5) promotion of the public interest. In previous CCN and CCN transfer cases, Staff investigated these criteria and that investigation relates to this proposed acquisition.

Based on Staff's investigation, it is Staff's opinion:

- 1) There is both a current and future need for sewer service since the subdivision is expanding and it is anticipated that more homes will be built and will require service;
- 2) Elm Hills has demonstrated that it is a qualified utility by safely and reliably providing water service to approximately 137 customers and sewer service to approximately 680 customers in Clay, Clinton, Johnson, Pettis and Ray Counties, Missouri;
- 3) Elm Hills has demonstrated that it has adequate resources to operate utility systems it owns, to acquire new systems, to 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 such situations arise; furthermore, there is no external financing associated with this case, and extension of sewer mains to serve these additional customers will be governed by Elm Hills main extension procedures in its tariff,
- 4) Elm Hills' request is economically feasible; Elm Hills will be adopting existing rates established for the State Park Village service area, and, as stated above, any extension of sewer mains to serve additional customers will be governed by the main extension policies in its tariff; and

- 5) Due to the positive nature of the preceding criteria, and because the requested service area is directly adjacent to the Elm Hills' existing State Park Village service area and is a natural extension of it, this proposed acquisition promotes the public interest.

Staff's conclusion is that the points regarding the Tartan Energy criteria are all met.

Depreciation

Staff recommends the use of the sewer depreciation rates that are currently in effect for Elm Hills, which were ordered by the Commission in Case No. WR-2020-0275 and became effective January 29, 2021, for any utility plant constructed as a result of this CCN. These depreciation rates are shown in Attachment C.

Publicity and Customer Notice

Elm Hills was originally contacted by the owner (developer) of the lots to discuss the possibility of extending sewer connections to the residences to be constructed on the property. There are a total of four lots on the property. One home has already been completed, sold, and is occupied. It is unclear if the residents will connect to the system as they have already installed a septic system. Of the remaining three lots on the property, a second home is near completion. Elm Hills stated it is its understanding that the second home, as well as the undeveloped lots, are still unsold and owned by the developer. After the main extension is complete, these homes will have the option of connecting to the Elm Hills sewer system.

Customer Service and Billing

The future customers in the extended property acquired by Elm Hills will be able to contact Elm Hills by calling a customer service telephone number. Personnel are available during the hours of 8:00 am to 5:00 pm, Monday through Friday, to respond to customer inquiries and take service requests. In addition, customers may send an email to customer service at any time and this will be forwarded to the appropriate group to address the customer's question. There is also an emergency toll-free number available 24/7. Contact information for customers to reach the Company is located on the customer brochure, the website, and all written materials sent to customers.

It is anticipated that a total of four homes will be built within the requested service area. Should the Commission approve Elm Hills' Application, homeowners that elect to be connected to the system will begin receiving monthly flat-rate invoices for the sewer service once the connections have been made and the homes are occupied. Elm Hills proposes to utilize the rates and charges that are currently in the tariff applicable to State Park Village, the existing system to which new customers in this area will be connected.

In order to incorporate any new sewer customers into its billing and customer service systems, it will be necessary for Elm Hills to properly enter the appropriate customer information into its systems and apply the appropriate Commission-approved rate. Elm Hills will also need to ensure that its call center personnel are familiar with rates and rules applicable to the new customers so that customer service matters are handled accurately and in a timely manner.

OTHER ISSUES

Elm Hills is a corporation that is in good standing with the Missouri Secretary of State.

Elm Hills is current with annual report filings with the Commission through calendar year 2020, as documented on EFIS.

Elm Hills is current on its annual assessment quarterly payments through the second quarter of fiscal year 2020.

Elm Hills has other pending cases before the Commission, as follows:

WM-2021-0412 Confluence Rivers Utility Operating Company, Inc. (“Confluence”) and its subsidiary companies (Hillcrest Utility Operating Company, Inc., Elm Hills, Osage Utility Operating Company, Inc., Raccoon Creek Utility Operating, Inc., and Indian Hills Utility Operating Company, Inc. filed a *Joint Application and Motion for Waiver* and request from the Commission an Order approving the merger of the Applicants. The surviving company will be Confluence Rivers Utility Operating Company, Inc.

This above-noted pending case could impact this proposed CCN for sewer service, should a Commission order approving the request for merger in WM-2021-0412 prior to an order in in this case. If a Commission order approving the CCN requested by Elm Hills in this matter becomes effective prior to the effective date of an order in WM-2021-0412, no additional action by this Commission would be necessary.

STAFF’S RECOMMENDATIONS AND CONCLUSIONS

Staff’s position, based on its review as described herein, is that the proposal for a new CCN to provide sewer service, and applying existing Elm Hills’ rates, is necessary and convenient for the public service and not detrimental to the public interest. Staff therefore recommends approval with the conditions and actions as outlined herein.

STAFF’S RECOMMENDATIONS

Based upon the above, Staff recommends that the Commission:

1. Grant Elm Hills a CCN to provide sewer service in the proposed State Park Village service area, as modified and outlined herein;
2. Approve Elm Hills’ current monthly residential flat rate of \$99.88 for its State Park Village service area to apply to the expanded State Park Village service area;

3. Require Elm Hills to submit new and revised tariff sheets that include:
 - a. Service area map (Sheet No. 1st Revised Sheet No. 3)
 - b. Service area written description (Sheet No. 1st Revised Sheet No. 13)

as applicable to sewer service in its State Park Village service area, to be included in its EFIS sewer tariff P.S.C. MO No. 4;

4. Make no finding that would preclude the Commission 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. Require Elm Hills to 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;
6. Require Elm Hills to provide to the CXD Staff a copy of the first bill they render to a customer in the extended area;

Staff will submit a further recommendation regarding tariff sheets after filing by Elm Hills in this matter.

Attachments:

- A: Proposed Sewer Service Area Map
- B: Proposed Sewer Service Area Description
- C: Depreciation Rates

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) **File No. SA-2022-0014**
Certificate Of Convenience and Necessity to)
Provide Sewer Service in Johnson County,)
Missouri, as an Expansion of Its Existing)
Service Area)

AFFIDAVIT OF DEBORAH ANN BERNSEN

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COME NOW Deborah Ann Bernsen, and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief, under penalty of perjury.

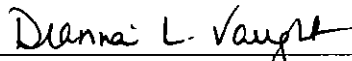
Further the Affiants sayeth not.


Deborah Ann Bernsen

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15th day of September, 2021.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377


Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

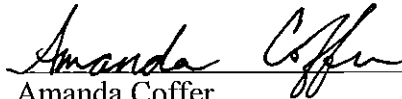
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Service Area)

AFFIDAVIT OF AMANDA COFFER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

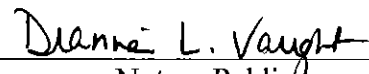
COME NOW Amanda Coffe, and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief, under penalty of perjury.

Further the Affiants sayeth not.


Amanda Coffe

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15th day of September, 2021.


Notary Public

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377

