

**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                    )  
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**

**STAFF RECOMMENDATION TO GRANT  
CERTIFICATE OF CONVENIENCE AND NECESSITY**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), through the undersigned counsel, and for its *Staff Recommendation to Grant Certificate of Convenience and Necessity*, respectfully states as follows:

1. On July 23, 2021, Elm Hills Operating Company, Inc. (“Elm Hills”) filed its *Application and Motion for Waiver* with the Missouri Public Service Commission (“Commission”) requesting, as an extension of its existing certificated territory, a Certificate of Convenience and Necessity (“CCN”) to install, own, acquire, construct, operate, control, manage, and maintain a sewer system in an area of Johnson County, Missouri, currently containing four residential lots.

2. Also on July 23, 2021, the Commission issued its *Order Directing Notice, Setting Intervention Deadline, and Directing Staff to File a Pleading*. In its Order, the Commission directed Staff to file a pleading indicating when it can 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; on August 10, 2021, the Commission issued its *Order Directing Staff to File a Recommendation and Setting a Time for Responses*, establishing Staff’s suggested filing date.

3. Pursuant to Section 393.170, RSMo (Supp. 2020), no sewer corporation shall provide service to consumers without first obtaining Commission approval. When reviewing whether a utility should be granted a CCN, the Commission typically applies the five “Tartan Energy Criteria” established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994). The criteria examine (1) the need for the service; (2) the applicant’s qualifications; (3) the applicant’s financial ability; (4) the economic feasibility of the project; and (5) promotion of the public interest.

4. As explained in *Staff’s Memorandum*, attached hereto as Appendix A, Staff investigated Elm Hills’ request. Based upon this review, Staff concludes that Elm Hills fulfills the Tartan Energy Criteria. Accordingly, Staff asserts that approving Elm Hills’ request for the issuance of a CCN as an extension of its existing certificated area is necessary and convenient for the public service and Staff recommends approval with conditions described in *Staff’s Memorandum*.

5. Staff does not oppose Elm Hills’ request for a waiver of the 60-day notice requirement of 20 CSR 4240-4.017(1).

6. The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989). Should no party or individual request a hearing in this matter, the Commission need not hold a hearing to allow the utility’s sale and issuance of a CCN to Elm Hills.

**WHEREFORE**, Staff respectfully submits this *Staff Recommendation* for the Commission’s information and consideration, and recommends the Commission approve Elm Hills’ request for the issuance of a CCN, as an extension of its existing certificated

area, allowing Elm Hills to install, own, acquire, construct, operate, control, manage, and maintain a sewer system, with conditions, to provide sewer service to the requested service area; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

**/s/ Mark Johnson**

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Missouri Public Service Commission**

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and/or counsel of record on this 16<sup>th</sup> day of September, 2021.

**/s/ Mark Johnson**