

**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) File No. _____

APPLICATION AND MOTION FOR WAIVER

COMES NOW Elm Hills Utility Operating Company, Inc. (“Elm Hills” or “Applicant”), and for its Application and Motion for Waiver pursuant to RSMo. 393.170 and 4 CSR 240-2.060, 3.305, and 4.017(1), respectfully states as follows to the Missouri Public Service Commission (“Commission”):

Introduction

1. Elm Hills is a Missouri corporation with its principal office and place of business at 500 Northwest Plaza Drive, Suite 500, St. Ann, MO, 63074. Elm Hills is a Missouri corporation in good standing. A certified copy of Elm Hills’s certificate of good standing was filed in Case Nos. SM-2017-0150 and WM-2017-0151 and is incorporated herein by reference.

2. Elm Hills was originally formed for the purpose of providing water and sewer service to the public in the area then served by Missouri Utilities Company and State Park Village Sewer, Inc. Elm Hills is a “water corporation,” a “sewer corporation,” and a “public utility,” as those terms are defined in RSMo. 386.020, and is subject to the jurisdiction and supervision of the Commission as provided by law.

3. In Case Nos. SM-2017-0150 and WM-2017-0151, the Commission granted to Elm Hills a Certificate of Convenience and Necessity (“CCN”) authorizing it to provide sewer service in the State Park Village subdivision development located in Johnson County, Missouri.

4. Elm Hills has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against Elm Hills from any state or

federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three years of the date of this Application.

5. Communications regarding this Application should be addressed to the undersigned counsel and to:

Josiah Cox, President
Confluence Rivers Utility Operating Company, Inc.
500 Northwest Plaza Drive, Suite 500
St. Ann, MO 63074
Phone: (314) 736-4743
E-mail: jcox@cswrgroup.com

Request for Service Area CCN

6. The Commission may grant a sewer corporation a CCN to operate after determining that the construction and operation are either necessary or convenient for the public service.

7. As an extension of its existing certificated territory, Elm Hills requests permission, approval, and a CCN to install, own, acquire, construct, operate, control, manage, and maintain sewer systems for the public in areas of Johnson County, Missouri, as set forth on the maps attached to this Application as **Appendix A and Appendix B**. Attached as **Appendix C** is the legal description for the Rainbow Acres area. Attached as **Appendix D** is the legal description for the Twin Oaks area.

8. The area depicted on Appendix A is generally known as Rainbow Acres and is currently being served by the Rainbow Acres Homeowners Association, Inc. The area depicted on Appendix B is generally known as Twin Oaks or The Preserve and is currently being served by The Preserve Homeowners Association, Inc. No utility or other entity, regulated or unregulated, currently provides sewer services in these areas.

9. Attached hereto and marked as **Appendix E-C** and **Appendix E(2)-C** are lists of ten residents or land owners within the proposed service areas. These have been identified as Confidential in accordance with Commission Rule 4 CSR 240-2.135(2)(A)(1), as they contain customer-specific information.

10. Attached hereto and marked as **Appendix F-C** and **Appendix G-C** is a feasibility study for the sewer system to serve the Rainbow Acres and Twin Oaks areas, including estimated expenses and revenues during the first three years of operation by Elm Hills. These have been identified as Confidential in accordance with Commission Rule 4 CSR 240-2.135(2)(A)(3) and (6), as they contain market specific information and information representing strategies employed in contract negotiations.

11. Elm Hills will not require any franchises or permits from municipalities, counties, or other authorities in connection with the requested CCN.

12. To provide service to the proposed areas, Elm Hills will purchase substantially all the sewer assets of the Rainbow Acres Homeowners Association and The Preserve Homeowners Association.

13. Elm Hills proposes to adopt the “standard” PSC Water and Sewer Department sample tariff and proposes to use the existing sewer rates for all residential customers. The current sewer charge for Rainbow Acres is \$15.00 per month per customer. The current sewer charge for Twin Oaks is \$140/month for the entire community.

14. The current rates for the proposed service areas do not reflect the current cost of providing service. Additionally, these systems will require substantial investment after the purchase by Elm Hills that will necessarily result in a rate increase in the near future.

15. The CCN being requested so that Elm Hills may serve the Rainbow Acres and Twin Oaks areas will not be detrimental to the public interest of the State of Missouri, and, in fact, will be consistent with and will promote the public interest.

16. Elm Hills, and all utility services provided, will be subject to the jurisdiction of the Commission. Further, Elm Hills is fully qualified, in all respects, to own and operate the systems currently being operated by the Rainbow Acres Homeowners Association and The Twin Oaks Homeowners Association, and to otherwise provide safe and reliable service.

Motion for Waiver

17. Commission Rule 4 CSR 240-4.017(1) provides that “(a)ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.” A notice was not filed 60 days prior to the filing of this Application. As such, Elm Hills seeks a waiver of the 60-day notice requirement.

18. Commission Rule 4 CSR 240-4.017(1)(D) provides that a waiver may be granted for good cause. In this regard, Elm Hills declares (as verified below) that it has had no communication with the Office of the Commission (as defined in Commission Rule 4 CSR 240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case. Further, Elm Hills notes that there are health and safety issues involved with these small companies. It would not serve the public interest to further delay the filing of this Application.

19. For the good cause shown, Elm Hills moves for a waiver of the 60-day notice requirement of Rule 4 CSR 240-4.017(1) and acceptance of this Application at this time.

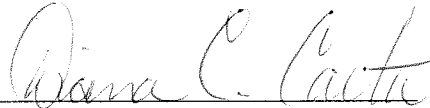
WHEREFORE, Elm Hills respectfully requests that the Commission issue its order granting Elm Hills a Certificate of Convenience and Necessity authorizing it to install, acquire, build, construct, own, operate, control, manage and maintain a sewer system for the public

within the area currently served by the Rainbow Acres Homeowners Association and The Preserve Homeowners Association. Elm Hills requests such further relief as is just and proper under the circumstances.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND, P.C.

By:



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CERTIFICATE OF SERVICE

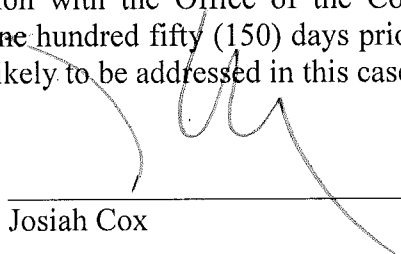
I hereby certify that the above and foregoing document was filed in EFIS on this 1st day of May, 2018, with notice of the same being sent to all counsel of record, and that a copy of the same was sent on this date by electronic transmission to Staff Counsel and the Office of the Public Counsel.



VERIFICATION

State of Missouri)
) ss
County of Cole)

I, Josiah Cox, having been duly sworn upon my oath, state that I am the President of Elm Hills Utility Operating Company, Inc. ("Elm Hills"), that I am duly authorized to make this affidavit on behalf of Elm Hills, and that to the best of my information, knowledge, and belief the matters and things stated in the foregoing Application are true and correct, and that no one representing Elm Hills has had any communication with the Office of the Commission (as defined in Rule 4 CSR 240-4.015(10)) within the one hundred fifty (150) days prior to the filing of the Application regarding any substantive issue likely to be addressed in this case.



Josiah Cox

Subscribed and sworn before me this 15th day of May, 2018.



Notary Public

My Commission Expires:

SUSAN M. BATES Notary Public - Notary Seal STATE OF MISSOURI Callaway County Commission # 15387872 My Commission Expires: 7/17/2019
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