

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

In the Matter of the Application of	)	
Elm Hills Utility Operating Company, Inc.,	)	
and Missouri Utilities Company	)	
for Elm Hills to Acquire Certain Water and	)	Files Nos. SM-2017-0150 and
Sewer Assets of Missouri Utilities Company,	)	WM-2017-0151
For a Certificate of Convenience and Necessity,	)	
and, in Connection Therewith, To Issue	)	
Indebtedness and Encumber Assets.	)	

**ELM HILLS’ RESPONSE TO STAFF RECOMMENDATION**

COMES NOW Elm Hills Utility Operating Company, Inc. (“Elm Hills”) and, in response to the Staff Recommendation, states as follows to the Missouri Public Service Commission (Commission):

1. On November 22, 2016, Elm Hills, in conjunction with Missouri Utilities Company filed a *Joint Application* for Elm Hills to acquire certain water and sewer assets of Missouri Utilities and its certificate of convenience and necessity (CCN). Elm Hills has also filed for a CCN for a sewer service area known as State Park Village that is presently served by a non-regulated entity, State Park Village Sewer, Inc.

2. On June 8, 2017, the Staff of the Commission (Staff) filed its Staff Recommendation and an associated Memorandum. In response to a *Motion for Extension of Time to Respond to Staff Recommendation*, the Commission allowed the parties until June 28, 2017, to respond to the Staff Recommendation.

3. Elm Hills has reviewed the Staff Recommendation and, provided the application is approved based on the Staff Recommendation, does not object to the “Recommendations” proposed by the Staff (specifically items 1-30, found on pages 15 – 19 of the Official Case File Memorandum).

4. Elm Hills notes that the Staff Recommendation also in narrative “recommends that as a part of this transfer of assets and CCN case, the Commission issue an order approving the use of interim rates and adopting a process to implement interim rates, which would go into effect after review and approval by the Commission, no earlier than thirty days after the filing of Elm Hills’ next rate case.” (Staff Rec., para. 13) Elm Hills has had the opportunity to discuss this proposal with the Staff and Office of the Public Counsel (OPC) and believes that it would be an intriguing way to both effectuate a phase-in of what is necessarily a large rate increase, and to provide some recognition at an earlier time period of the relatively substantial investments that must be made in this situation. However, it does not appear at this time that all parties will agree to this process. Given that situation and the condition of the subject systems, Elm Hills does not believe it would be worthwhile to litigate this issue in the current posture, and Elm Hills does not object to an order approving the Joint Application that does not approve the Staff’s recommendation as to interim rates at this time.

5. While not in the list of Staff recommendations, Elm Hills notes that the Memorandum includes a statement that “. . . Staff suggests the Commission order the Applicants to submit a financing agreement with a reasonable prepayment penalty, if any, that allows for refinancing at a rate lower than 14%.” (Memo, p. 13) Elm Hills has difficulty responding to this item as it is unsure of what will be viewed in hindsight as “reasonable” for this purpose. Certainly, Elm Hills would not agree to something it believes is unreasonable within the context of the Missouri Utilities and State Park Village circumstances. Elm Hills is further concerned in that it does not have control over this provision and cannot guarantee an outcome no matter what its intent. That being said, there has been an understanding that the 20 year period of prepayment penalty found in prior agreements that was referenced in Staff’s Memorandum was

an issue that needed to be discussed and addressed. Elm Hills believes that it can obtain terms that will improve upon that prior provision. However, it is unable to unilaterally commit that this improvement will meet whatever definition of “reasonable” the Staff intends to apply.

**WHEREFORE**, Elm Hills requests the Commission grant it permission, approval and a Certificate of Convenience and Necessity, subject the identified recommendations proposed in the Staff Recommendation/Memorandum (items 1-30, found on pages 15 – 19 of the Official Case File Memorandum), and authorizing Elm Hills to:

(A) Authorizing Missouri Utilities Company to sell and Elm Hills to acquire the assets of Missouri Utilities Company identified herein, to include the certificates held by Missouri Utilities Company or, in the alternative grant Elm Hills a new certificates to provide water and sewer service in the area now served by Missouri Utilities Company;

(B) Authorizing Elm Hills and Missouri Utilities Company to enter into, execute and perform in accordance with the terms described in the Agreement attached to this Application and to take any and all other actions which may be reasonably necessary and incidental to the performance of the acquisition;

(C) Authorizing Elm Hills to enter into, execute and deliver loan agreements as described herein and to incur indebtedness, provided that the aggregate principal amount of all such debt obligations shall not exceed One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000), pursuant to the terms identified herein;

(D) Authorizing Elm Hills to create and make effective a first lien on all of the franchises, certificates of convenience and necessity, plant and system of Elm Hills, to secure its obligations under the loan as provided herein;

(E) Authorizing Elm Hills to enter into, execute, deliver and perform the necessary promissory notes, loan agreements and other documents necessary to effectuate the described

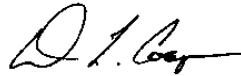
financing transactions;

(F) 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 State Park Village Sewer, Inc.;

(G) Granting Elm Hills permission to acquire the assets identified herein of State Park Village Sewer, Inc.; and,

(H) Granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the Agreements and the Application and to consummate related transactions in accordance with the Agreements.

Respectfully submitted,



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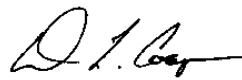
**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 28<sup>th</sup> day of June, 2017, to:

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