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SOAH DOCKET NO. 473-16-3408.WS 2017 FEB -3 AM 11:41

PUBLIC UTILITY COMMISSION  
FILING CLERK

APPLICATION OF INLINE §  
DEVELOPMENT LLC FOR A §  
RATE/TARIFF CHANGE §

BEFORE THE PUBLIC UTILITY  
COMMISSION OF TEXAS

**JOINT MOTION REOPEN RECORD AND TO ADMIT ADDITIONAL EVIDENCE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission) representing the public interest, and Inline Development LLC (Inline) (collectively Joint Parties), files this Joint Motion to Admit Evidence, and would show the following:

**I. BACKGROUND**

On December 14, 2016, Inline and Staff entered into the attached Stipulation that resolves all issues in this proceeding and recommends approval of the rates proposed by Inline in its October 30, 2014 filing. The Stipulation and Proposed Order were considered by the Commission at the January 26, 2017 Open Meeting. The Commission expressed concern about the use of a trending study and wanted to ensure that the use of this study was done only in the absence of any other evidence to support the financial information for Inline.<sup>1</sup> The Commission issued an order remanding the proceeding to Docket Management for the purpose of entering this information into the record.<sup>2</sup> Order No. 16 was issued on January 30, 2017, requesting that, on or before February 3, 2017, the parties revise their agreement and correct the proposed order for purposes of showing that cost data was not available and the use of a trending study was appropriate.

**II. MOTION REOPEN RECORD TO ADMIT EVIDENCE**

Based on the Commission's discussion and order, the Joint Parties move that the record be reopened to admit evidence attesting to the use of the trending study in this proceeding. Attached to this pleading as Attachment A is an affidavit from Michael Martz, the owner of Inline, attesting that records relating to the original cost of the water and sewer systems do not exist. The Joint Parties request that this affidavit be admitted into the record.

<sup>1</sup> Open Meeting Tr. at 61:3-62:3 (January 26, 2017).

<sup>2</sup> Order Remanding to Docket Management (January 26, 2017).

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### **III. REVISED PROPOSED ORDER**

Based on the admission of the affidavit into the record, the Joint Parties recommend that the Proposed Order be revised to address the Commission's concern as reflected in the Revised Proposed Order, attached to this pleading as Attachment B. The Joint Parties agree that the use of a trending study was an appropriate method to support the financial information provided by Inline as information related to the original cost of plant for Inline was not available. Joint Parties further recommend that the Commission adopt the Revised Proposed Order.

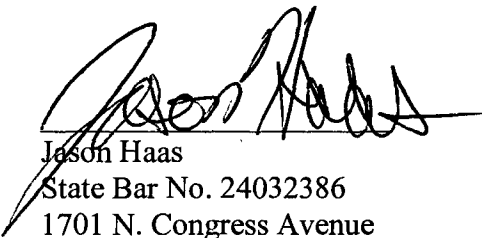
**Dated: February 3, 2017**

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

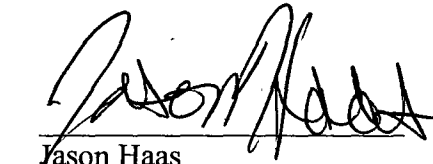
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Jason.haas@puc.texas.gov

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on February 3, 2017 in accordance with 16 Tex. Admin. Code § 22.74.

  
\_\_\_\_\_  
Jason Haas

# Attachment A

AFFIDAVIT OF MICHAEL MARTZ

STATE OF TEXAS

§  
§  
§  
§

COUNTY OF Harris

Before me, the undersigned authority, personally appeared Michael Martz, who, being by me duly sworn, deposed as follows:

“My name is Michael Martz. I am the President of Inline Development, LLC. I engaged Source Environmental Sciences, Inc. to prepare and file the Application for a Rate/Tariff Change (“Application”) for Inline Development LLC, which was filed with the Texas Commission on Environmental Quality on August 28, 2014, and subsequently transferred to the Public Utility Commission (“Commission”) on September 1, 2014. The Application is styled as Docket No. 43069 at the Commission.

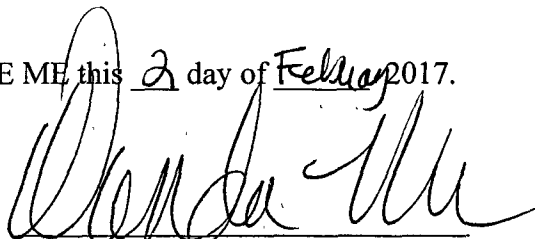
The water and wastewater facilities that are the subject of this Application have been operating for more than a decade, and after a diligent search, I could not locate any documentation regarding the original costs of such facilities. Consequently, because such documents were unavailable, I engaged GDS Associates, Inc. and Ince Engineering, LLC to conduct a trending study that would establish the trended cost and support the financial information on these facilities. I filed that trending study with the Commission on February 2, 2016, which was supplemented through additional filings at the Commission on June 24, 2016 and December 14, 2016.”

Further, Affiant sayeth not.

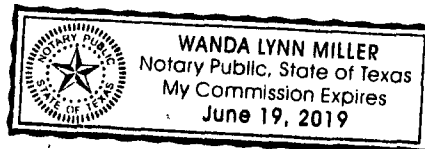


Michael Martz, President  
Inline Development, LLC

SUBSCRIBED AND SWORN TO BEFORE ME this 2 day of February 2017.



Notary Public, State of Texas



# Attachment B

**PUC DOCKET NO. 43069  
SOAH DOCKET NO. 473-16-3408.WS**

**APPLICATION OF INLINE § PUBLIC UTILITY COMMISSION  
DEVELOPMENT LLC FOR A §  
RATE/TARIFF CHANGE § OF TEXAS**

**REVISED PROPOSED ORDER**

This Order addresses the application of Inline Development LLC (Inline) for a water and sewer rate/tariff change. A stipulation and settlement agreement (agreement) was executed that resolves all issues between the parties. Consistent with the agreement, the application, as amended, is approved.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

**Procedural History**

1. On August 28, 2014, Inline filed an application with the Texas Commission on Environmental Quality (TCEQ) for a water and sewer rate/tariff change.
2. On September 1, 2014, functions relating to the economic regulation of water and sewer utilities were transferred from TCEQ to the Commission.
3. Inline holds certificates of convenience and necessity 12946 and 20879.
4. On October 29, 2014, Inline filed a supplement to the application, which included an affidavit from Michael Martz, the owner of Inline, certifying that notice of the proposed rate change was provided to each customer and other affected persons on October 20, 2014. The prior and proposed rates presented in the notice to customers are as follows:

<b>Water</b>		
<b>Base Rate (includes 0 gallons)</b>	<b>Prior</b>	<b>Proposed</b>
5/8"	\$20.00	\$28.00
<b>Volumetric Rate</b>		
Per 1,000 gallons	\$2.00	\$3.59



<b>Sewer</b>		
<b>Base Rate (includes 0 gallons)</b>	<b>Prior</b>	<b>Proposed</b>
5/8"	\$25.00	\$25.00
<b>Volumetric Rate</b>		
Per 1,000 gallons	\$2.00	\$3.59

<b>Miscellaneous Charges</b>	
Tap Fee	\$500.00
Reconnect Fee	\$ 25.00
Non-Payment	
Transfer Fee	\$ 25.00
Late Charge	10%
Returned Check Charge	\$ 20.00
Deposit	\$ 50.00
Meter Test Fee (Water)	\$ 25.00

5. Inline initially requested a total annual revenue requirement of \$348,961 for water and \$471,032 for sewer.
6. Protest letters were received from 7 of Inline's 669 water customers and 1,084 sewer customers.
7. On February 10, March 2, and March 11, 2015, Inline filed additional information regarding notice of the application.
8. On February 2, 2016, Inline filed information relating to a trending study that was conducted to determine the original cost for plant and the current values for plant.
9. On March 14, 2016, Inline filed a response to Commission Staff's first request for information relating to system maintenance matters.
10. On March 29, 2016, the Commission issued an order referring this proceeding to the State Office of Administrative Hearings (SOAH).
11. On May 5, 2016, the Commission issued a preliminary order.
12. On June 23, 2016, SOAH conducted a prehearing conference.

13. On June 24, 2016, Inline filed a response to Commission Staff's second request for information, which included additional information related to the trending study.
14. The only parties to this proceeding are Commission Staff and Inline.
15. On December 14, 2016, Inline filed additional information relating to the trending study for its water and sewer systems.
16. On December 14, 2016, Inline and Commission Staff filed an agreement resolving all issues between the parties.
17. On December 14, 2016, Commission Staff filed a memorandum in support of the agreement.
18. On December 14, 2016, the parties filed a joint motion to admit evidence, and remand the proceeding to the Commission.
19. On December 16, 2016, SOAH issued Order No. 3, admitting evidence, returning the case to the Commission, and dismissing the SOAH docket.
20. On January 26, 2017, the Commission considered the agreement and remanded the proceeding to Docket Management for further processing.
21. On January 30, 2017, Order No. 16 was issued, requiring that the Parties modify their agreement and correct the proposed order for purposes of showing that cost data was not available and the use of a trending study was appropriate.
22. On February 3, 2017, the Parties filed a Joint Motion to Admit Evidence, requesting that an affidavit from Michael Martz be entered into the record indicating that information relating to the original cost of plant for Inline was not available.
- ~~19-23.~~ On \_\_\_\_\_, Docket Management issued Order No. 17, admitting the evidence into the record.

Agreement

~~20-24.~~ The signatories agree that Inline's proposed rates are appropriate.

~~21-25.~~ Inline's proposed rates, included in the water and sewer tariffs attached to this Order as Attachments 1 and 2, respectively, are just and reasonable.

~~22-26.~~ Inline's proposed changes in rates permit the utility a reasonable opportunity to earn a reasonable return on invested capital and to preserve the financial integrity of the utility.

27. The signatories agree that the total original cost for plant, as set out in the trending study, shall be used in all future proceedings for Inline.

**Trending Study**

~~28.~~ Information related to the original cost of the utility systems for Inline was not available.

~~23-29.~~ The use of a trending study to support the financial information for Inline is appropriate.

**Informal Disposition**

~~24-30.~~ More than 30 days have passed since the completion of all notice requirements.

~~25-31.~~ This matter has been fully resolved so that there are no issues of fact or law disputed by any party.

**II. Conclusions of Law**

1. Inline is a public utility as defined in Texas Water Code § 13.002(23).<sup>1</sup>
2. Prior to September, 1, 2014, TCEQ had jurisdiction to consider Inline's application for a rate increase under TWC §§ 13.181 and 13.187.
3. Under revised TWC, chapter 13, effective September 1, 2014, jurisdiction over water utility ratemaking now vests in the Commission.
4. The Commission has jurisdiction to consider Inline's application for a rate increase under TWC §§ 13.041, 13.181, and 13.187.
5. Proper notice of the application was given by Inline as required by TWC § 13.187 and 16 Texas Administrative Code (TAC) § 22.24.
6. This docket was processed in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
7. This docket contains no remaining contested issues of fact or law.

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<sup>1</sup> Tex. Water Code Ann. § 13.002(23) (West 2008 and Supp. 2016) (TWC).

<sup>2</sup> Tex. Gov't Code Ann. §§ 2001.001-902 (West 2016).

8. The agreement results in just and reasonable rates, terms, and conditions. The agreement is consistent with chapter 13 of the TWC and should be approved.
9. The rates agreed to in the agreement are not unreasonably discriminatory, preferential, or prejudicial.
10. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Consistent with the agreement, Inline's application for authority to change water and sewer rates is approved.
2. The water and sewer tariffs implementing the rates, terms, and conditions provided with this Order as Attachments 1 and 2, respectively, are approved.
3. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order shall not be regarded as a binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.
4. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the \_\_\_\_\_ day of ~~January~~ February 2017.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**