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PUBLIC UTILITY COMMISSION
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APPLICATION OF PK-RE	§	PUBLIC UTILITY
DEVELOPMENT COMPANY, INC. dba	§	COMMISSION
OAK SHORES WATER SYSTEM AND	§	OF TEXAS
UNDINE DEVELOPMENT, LLC FOR	§	
SALE, TRANSFER OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN TRAVIS COUNTY	§	

**LIST OF CONTESTED ISSUES
REQUEST FOR A PUBLIC HEARING
SUBMITTED BY WOODS OF GREENSHORES
PROPERTY OWNERS ASSOCIATION, INC.**

Pursuant to the Order of Referral filed on October 13, 2016 by the Public Utility Commission of Texas (the "Commission"), the Woods of Greenshores Property Owners Association, Inc. (the "Association") hereby files its list of contested issues and Request for a Public Hearing on the sale of the Oak Shores Water System by PK-RE Development, Inc. ("PK-RE") to Undine Development, LLC ("Undine") and in support thereof would show the Commission as follows:

I. Relevant Factual Background

1. The Association is a Texas nonprofit corporation that was organized in 2009 for several purposes, the pertinent one of which is to own and manage common areas within the Woods of Greenshores, Section 1 and, if developed, Section 2. Common Areas are shown on

the plat of Woods of Greenshores, Section 1, which appears of record under Document No. 2009165092 in the Official Public Records of Travis County, Texas.

2. The rights and obligations of the Association are set forth in a Declaration of Covenants, Conditions and Restrictions (the "Declaration") that appears of record under Document No. 20099163 in the Official Public Records of Travis County, Texas.

Woods of Greenshores, Ltd. (WOG, Ltd.) is the Declarant that filed the Declaration. The rights and obligations of the Declarant are also set forth in the Declaration.

3. WOG, Ltd. is a Texas limited partnership. WOG, Ltd. operates through its general partner is R2 Development, Inc. ("R2"). Russell Eppright ("Mr. Eppright") owns or controls R2 and is also a limited partner in WOG, Ltd. At the time the Declaration was filed, WOG, Ltd. was the owner of all residential lots, one nonresidential lot and all Common Areas within Woods of Greenshores. Subsequently, WOG, Ltd. sold the residential lots to builders or individuals and retained ownership of the Common Areas.

4. PK-RE furnishes water and waste water services to the owners of lots within the Woods of Greenshores. All of the owners of lots in Woods of Greenshores are members of the Association. Mr. Eppright is President of and owns or controls PK-RE.

5. The Association operates through a board of directors. At all pertinent times described herein, Mr. Eppright was a member of the board of the Association.

6. Woods of Greenshores was fully developed with paved streets, utilities and, landscaping by January 1, 2009.

7. Under § 7.04 of the Declaration, not later than January 1, 2009, the Declarant became obligated to transfer all Common Areas within Woods of Greenshores, Section 1, to the Association. Under § 1.11 of the Declaration, Common Areas are defined as all street rights of way, all lots designed by the Declarant as Common Area for the primary benefit of owners of lots, any greenbelt and recreation areas shown on the final plat and any area designated as Common Area on the plat of Woods of Greenshores.

8. The Declarant has failed to transfer any of the Common Areas within Woods of Greenshores to the Association with the exception of Lot 50, which was deeded to the Association on May 21, 2014.

9. On February 26, 2009, WOG, Ltd. granted a first deed of trust lien on Lot 49 to OmniBank, N.A. to secure a loan in the amount of \$1,369,550. This lot is designated as Common Area on the Plat. The loan was made to finance business operations of PK-RE. On December 3, 2009, WOG, Ltd. granted a second deed of trust lien on lot 52 to secure another loan made to PK-RE in the amount of \$843,000. The original lender was Capital Certified Development Corporation who assigned it to the SBA. 49 is Common Area. Under §7.04 of the Declaration, WOG, Ltd. was obligated to transfer and convey Lot 49 to the Association before the granting of the aforementioned deeds of trust liens. Further, WOG, Ltd. had no right under the Declaration to grant liens on Common Areas to benefit a privately owned utility. The Association made demand on PK-RE to obtain releases of the deeds of trust but PK-RE has failed to do so. Mr. Eppright has stated that the liens will be released if the sale to Undine is approved. There is no disclosure in the Application whether the liens will be released. If the

liens will not be released, the Association intends to file suit against PK-RE and its lenders to have the deeds of trust liens declared invalidly granted.

10. On May 21, 2014, WOG, Ltd. conveyed Lot 50 in the Woods of Greenshores to the Association. Lot 50 is designated as Common Area on the Plat. In 2015, PK-RE filed an application with the TCEQ to amend Permit No. WQ001428001 to be allowed to install drip irrigation lines in Lot 50 to disperse effluent from the PK-RE waste treatment plant located near Oak Shores and Pearce Road. PK-RE's application was signed by its President, Mr. Eppright, who falsely claimed that WOG, Ltd. owned Lot 50 and failed to disclose to the TCEQ that Lot 50 was subject to a United States Fish and Wildlife bird sanctuary permit that did not allow for the installation of drain fields in the areas shown on the PK-RE application. The TCEQ granted PK-RE's application without knowledge of the ownership misrepresentation and the failure to disclose the Fish and Wildlife Permit. The Association and residents of Woods of Greenshores have filed a petition with the TCEQ to revoke the provisions in the amended permit authorizing PK-RE to install drip irrigation lines in the bird preserve in Lot 50.

11. PK-RE, through Mr. Eppright, has informed the Association and its residents that drain fields in the Woods of Greenshores are necessary in order to develop Section 2. PK-RE has informally informed the Association that it will seek to construct all necessary drain fields in Section 2 but wants to retain its authorization under the amended permit to install drain fields in Lot 50. WOG, Ltd. is also seeking to grant Travis County a conservation easement over Lot 50 for the benefit of PK-RE in order for it to be able to construct drain fields in the bird preserve in Lot 50. The Application does not disclose whether PK-RE and its proposed assignee, Undine,

will be able to serve the residents of Woods of Greenshores if Section 2 cannot be developed because the bird preserve in Lot 50 cannot be used for drain fields.

12. On or about June 20, 2016, PK-RE filed an application with the PUC to sell the assets of PK-RE to Undine (the "Application").

13. The Association requests that the Application be disapproved because:

(a) It does not disclose whether the deeds of trust liens on Lot 49 will be released upon approval of a sale to Undine; and,

(b) it does not disclose whether it will be able to provide continuous and adequate service to the residents of Woods of Greenshores if the deeds of trust liens will not be released from Lot 49 and the Association obtains an order from a court invalidating the liens; and,

(c) it does not disclose whether it will be able provide continuous and adequate service to the residents of Woods of Greenshores if the TCEQ revokes the provisions in the amended permit allowing PK-RE to construct drain fields in Lot 50.

II. List of Issues to be addressed by Commission

14. The Association proposes that the Commission address the following issues:

(a) If the Application is approved, will the deeds of trust liens on Lot 49 be released?

(b) If the deeds of trust liens on Lot 49 will not be released, upon a sale to Undine, did WOG, Ltd. have the right under the Declaration to grant deeds of trust liens

on Lot 49 for the benefit of PK-RE and, if not, will Undine be able to provide continuous and adequate service to the residents of Woods of Greenshores if the liens are invalidated?

(c) If the provisions in TCEQ amended Permit No. WQ00142800 allowing for drain fields in Lot 50 are revoked, will Undine be able to provide continuous and adequate service to the residents of Woods of Greenshores?

III. List of Contested Issues

15. The Association requests the Commission to submit the following contested issues to an administrative law judge:

(a) Whether WOG, Ltd. had the right under the Declaration to grant liens on Lot 49 for the benefit of PK-RE; and,

(b) Whether the Fish and Wildlife Permit precludes PK-RE from using Lot 50 for the drain fields described in amended TCEQ Permit No. WQ00142800.

(c) Whether, under the Declaration, WOG, Ltd. can grant conservation easement over Lot to enable to enable PK-RE to construct for drain fields on Lot 50 even though WOG, Ltd is no longer the owner of Lot 50.

IV. Request for a Public Hearing

16. The Woods of Greenshores Property Owners Association, Inc.'s address is 115 Wild Basin Rd., Suite 308, Austin, Texas 78746. Its daytime telephone number is (512) 659 7625, which is the telephone of its President, Steve Stratton.

17. The Applicant is PK-RE Development Company, Inc. dba Oak Shores Water System. The Application is docketed under No. 46150 and pertains to CCN Numbers 12407 and 20948.

18. The Association requests a public hearing.

19. The Association's membership is comprised of all residential lot owners in Woods of Greenshores with the exception of one lot that is owned by WOG, Ltd. Under the Declaration, the Declarant, WOG, Ltd. is obligated to transfer Common Areas designated on the plat to the Association for the benefit of members. Lot 49 on the plat is designated as Common Area. Instead of transferring Lot 29 to the Association, WOG, Ltd retained ownership and granted deeds of trust liens to secure loans made to PK-RE to finance its operations. These deeds of trust were granted in breach of the Declaration and expose the Association to loss of Common Area through foreclosure if PK-RE defaults in the payment of the loans secured by Lot 49. The Association has demanded that the deeds of trust liens be released. PK-RE through Mr. Eppright has stated that the deeds of trust liens will be released upon a sale to Undine but the Application does not contain such a disclosure.

20. PK-RE is seeking to install drain fields in Lot 50, which is owned by the Association. Lot 50 is a bird preserve under the Fish and Wildlife Permit TE 029780 issued on February 14, 2006. The drain fields proposed for construction by PK-RE and, presumably, its assignee Undine, are described in amended TCEQ Permit No. WQ0014286001. The drain fields described in the amended TCEQ Permit are not allowed under the Fish and Wildlife Permit because they would be in the bird preserve. The Association is opposing any construction of

drain fields in the bird preserve. The Application does not disclose whether Undine will be capably of continuously and adequately serving the residents of Woods of Greenshores if it cannot construct drain fields in Lot 50

21. WOG, Ltd. is also seeking to grant Travis County a conservation easement over Lot 50 that includes a provision that it reserves a right to construct drain fields in Lot 50 if necessary. This provision is for the benefit of PK-RE and its proposed assignee, Undine. WOG, Ltd. does not own Lot 50, which is designated as Common Area on the plat. Only the Association can grant a conservation easement to Travis County over Lot 50. The Association opposes any drain fields in the bird preserve in Lot 50. The Application fails to disclose whether Undine is capable of providing continuous and adequate service to the residents of Woods of Greenshores if it is precluded from constructing drain fields in Lot 50.

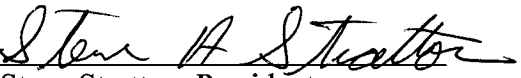
22. The Association would withdraw its request for a hearing if:

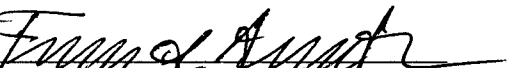
- (a) The deeds of trust liens against Lot 49 are released; and,
- (b) PK-RE permanently abandons all efforts to construct drain fields in the bird preserve in Lot 50; and,
- (c) PK-RE joins in the petition filed by the Association with the TCEQ to revoke all provisions in the amended permit authorizing PK-RE to construct drain fields in the bird preserve in Lot 50; and,
- (d) WOG, Ltd. permanently abandons all efforts to grant Travis County a conversation easement over Lot 50 without the prior written consent of the Association; and,

(e) The Commission grants the relief requested by the homeowners of Woods of Greenshores who have also filed a list of issues and request for a public hearing.

Respectfully submitted,

Woods of Greenshores Property Owners Association, Inc.

By: 
Steve Stratton, President

By: 
Francis S. Ainsa, Jr. Vice-President

By: 
Cynthia Lee, Secretary/Treasurer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on the following person on this 17 day of October 2016:

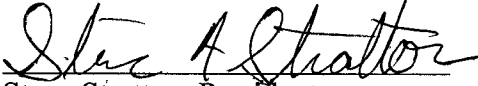
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Steve Stratton, President

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