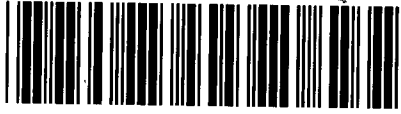




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PUBLIC UTILITY COMMISSION
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APPLICATION OF PK-RE
DEVELOPMENT COMPANY, INC.,
D/B/A GREENSHORES UTILITY
SERVICES AND D/B/A/OAK SHORES
WATER SYSTEM, FOR AUTHORITY TO
CHANGE RATES AND TARIFFS

BEFORE THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS

RESPONSE OPPOSING APPLICANT'S MOTION FOR INTERIM RATES

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

In response to the Motion for Interim Rates filed on March 7, 2017 by PK-RE Development Company, Inc. ("PK-RE" or "Applicant") in the above-referenced proceeding, Cynthia and Scott Smiley ("Smiley" or "Customer"), as customers and ratepayers of the Applicant, file this Response seeking the denial of Applicant's Motion. It is our understanding that Administrative Law Judge ("ALJ") Rodriguez, who convened the Prehearing Conference in this case on March 16, 2017, determined that the Applicant's Motion was filed prematurely on March 7, 2017; decided that it could be deemed as filed on March 16, 2017; and allowed the parties to respond to the Motion on or before March 23, 2017. We also understand that we were granted party status at the Prehearing Conference. Given those understandings, please accept this Response as a timely filed objection from a party to this proceeding.

The Motion for Interim Rates Should be Denied

The Motion for Interim Rates should be denied as an inappropriate and unjustified effort to seek compensation, through extremely high rates, for poor decisions and improper expenses associated with the utility. The Applicant has failed to demonstrate that its request, which will have significant adverse financial impacts on its ratepayers, will satisfy the required factual and legal criteria. Instead, the Applicant's own Motion (and its pending rate change application) illustrates how the Applicant has mis-handled its responsibilities in order to create the dire

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situation that it claims to be experiencing. We respectfully ask the ALJ to deny the Motion for Interim Rates, as further supported below:

1. The Chronology of Events in Pursuing a Rate Increase Shows a Lack of Diligence by the Applicant. As the Motion describes, the Applicant filed a deficient application in November 2016, made other errors requiring re-noticing of its application, and did not have an administratively complete application on file before the PUC until January 18, 2017. If the Applicant's economic challenges began in January 2014, it is hard to understand why an Applicant would have waited for almost three years to begin seeking relief from the dire situation that it is now claiming to exist.
2. The Applicant's Original Submittal Lacked a Basis for Imposing Immediately Effective Rates. The PUC and the ALJ at the State Office of Administrative Hearings both found that cause existed to suspend the effective date of the requested rates. These decisions, based upon careful expert review of the application filed a few months ago, should not be overturned in response to a short, hastily filed motion for interim rates.
3. The Applicant's Requested Rate Increase Could Have Been Filed Years Ago. Under the terms of the Settlement Agreement that PK-RE and other parties negotiated in 2013, which is included as "Exhibit B" to the Motion, PK-RE would have been eligible to file for rate increases as early as **September 2014**. Interestingly, PK-RE's Motion indicates that Mr. Eppright, its owner, began using his own personal money to cover the utility's operating expenses in **January 2014**. If this was truly an urgent matter, it is hard to understand why the Applicant waited until **November 2016** to start this process. Such a chronology does not evoke sympathy for the "economic hardship" that is now asserted.
4. The Applicant's Requested Rate Increase Contravenes the Terms of the Settlement Agreement Referenced in the Motion. According to the Settlement Agreement that PK-RE attached as "Exhibit B" to the Motion, PK-RE would have been eligible to file for rates that reflected certain maximum increases in "annual utility revenues" as early as September 2014. The Motion for Interim Rates does not explain how that provision relating to "annual utility revenues" would be satisfied if the requested interim rates are set at the Phase I rate included in the application.

5. If Granted, the Applicant's Requested Rate Increases Would Be Used to Reward its Owner for the Improper Decisions of the Past. Based on information from the Applicant, it appears that PK-RE has spent almost \$1,000,000 on the costs of "pump and haul" of raw sewage since the new houses in the PK-RE development known as the Woods of Greenshores were occupied several years ago. If a force main had been built to connect these new homes to PK-RE's own wastewater treatment plant in 2011 or 2012 (or earlier, as required by the City of Austin in its plat approvals), when PK-RE owned or controlled all of the land needed for the force main's route to the wastewater treatment plant, we understand that the cost of the force main would have been approximately \$300,000 to \$400,000. Instead, PK-RE chose to pay the enormous expenses of trucking raw sewage along the streets of its service area, in and around the City of Austin's Emma Long Metropolitan Park, instead of installing a force main to convey the waste to its own wastewater treatment plant. This was a voluntary business decision to defy the requirements of the City of Austin (for providing wastewater connections prior to occupancy of the new homes) and to avoid the costs of building a wastewater force main from a lift station at the Woods of Greenshores subdivision to the existing wastewater treatment plant. PK-RE's wastewater customers have been paying for these enormous sewage trucking expenses in recent years, and there is absolutely no reason to continue to reward this utility's owner for his absurd business decisions by allowing a rate increase at this time.
6. Although the Applicant's Motion Claims that Loans were Obtained for Capital Improvements, the Utility Continues to Struggle to Provide Adequate Water Service. It is unclear how the Applicant used its \$2.2 million in loans from OmniBank, N.A. for the benefit of the utility system. For the last year, the Applicant's water customers have been subject to mandatory watering restrictions – with outdoor watering allowed only once per week, and only between the hours of midnight and 4 AM on the assigned watering day for each street address. While we agree with policies that encourage water conservation and careful water use, it is hard to understand how a utility that is properly using its money for capital improvements would continue to need such severe operating restrictions on the sale of water. Again, this situation puts into question the Applicant's claims that it is suffering an unreasonable economic hardship that higher rates will solve.

This is only one example of many concerns about the utility's operation and expenses and its claims regarding rates and revenues. It is clear that the Applicant has made decisions that should be carefully scrutinized, using the safeguards and due process afforded by administrative hearings, to assure that the enormous rate increases it now seeks will meet all regulatory requirements. This process should not be short-circuited by the imposition of interim rates prior to its conclusion.

Prayer

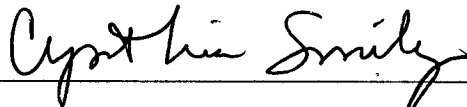
Smiley respectfully requests an order denying the Applicant's requested rate increase, so that the established administrative proceedings can fully analyze and evaluate the legal and factual components of the proposed rates. As a popular quote says, "poor planning on your part does not constitute an emergency on my part." The Applicant's poor planning in pursuing a rate increase is not a valid reason for setting aside the procedural and legal protections associated with this administrative hearing process.

Respectfully submitted,

Cynthia Smiley
6000 Shepherd Mountain Cove #2107
Austin, Texas 78730
Phone: 512-394-7121
Email: cindy@smileylawfirm.com
REPRESENTING CYNTHIA AND SCOTT SMILEY

CERTIFICATE OF SERVICE

I certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, electronic mail, or U.S. Mail to all parties on this the 23rd day of March, 2017.

A handwritten signature in cursive script, reading "Cynthia Smiley", is written over a horizontal line.

Cynthia Smiley