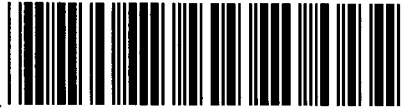




Control Number: 46333



Item Number: 132

Addendum StartPage: 0

2017 MAR 23 PM 2:33

APPLICATION OF PK-RE  
DEVELOPMENT COMPANY, INC.  
DBA GREENSHORES UTILITY  
SERVICES AND DBA OAK SHORES  
WATER SYSTEM FOR AUTHORITY  
TO CHANGE RATES AND TARIFFS  
IN TRAVIS COUNTY

§  
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§

BEFORE THE STATE OFFICE  
PUBLIC UTILITY COMMISSION  
FILING CLERK

OF

ADMINISTRATIVE HEARINGSS

**GREENSHORES ON LAKE AUSTIN PROPERTY  
OWNERS' ASSOCIATION, INC.'S  
OPPOSITION TO MOTION FOR INTERIM RATES**

**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:**

Greenshores on Lake Austin Property Owners' Association, Inc. ("Greenshores") opposes PK-RE Development Company, Inc. dba Oak Shores Water System's ("PK-RE") Motion for Interim Rates filed on March 7, 2017 and would respectfully show as follows:

**I. INTRODUCTION**

PK-RE, an investor owned utility, presently provides water and sewer service for three communities in West Austin, Greenshores, Oak Shores, and the Woods of Greenshores. PK-RE is affiliated with and controlled by the same company responsible for land and home development in those communities. As a result, Greenshores submits that, throughout the years, decisions have been made to benefit the land/home development affiliates to the economic detriment of the utility and, in turn, the utility's customers through increased rates for water and sewer service.

Prior to the rate increase application at issue in this proceeding, PK-RE filed two other rate increase applications, the last of which was filed in 2012. These two previous rate increase applications did not lead to any decision on the appropriateness of rates, but were resolved through settlements. Presently, a PK-RE customer with a 3/4" meter using just 2000 gallons of water and wastewater a month pays \$199 monthly (excluding taxes)—approximately 5.5 times what a customer in the City of Austin would pay for the same usage (\$36.40).

In October 2016, PK-RE filed another rate increase application seeking to raise rates yet again. After the effective rates were suspended for 265 days, until December 9, 2017, PK-RE prematurely filed a motion for interim rates on March 7, 2017, claiming "unreasonable economic

1321

hardship.” During the March 16, 2017 prehearing conference, Mr. Russell Eppright argued the motion on behalf of PK-RE, which is unrepresented by counsel in this matter. The matter was deferred to allow customer parties time to file written opposition.

Greenshores opposes PK-RE’s motion seeking interim rates. First, PK-RE has failed to show unreasonable economic hardship. It plainly admits that it has access to capital necessary to continue operations throughout the pendency of this proceeding. At the same time, PK-RE does offer any assurance that funds obtained through an interim rate increase will be available to credit to customers in the event it does not prevail, necessitating that any funds from increased rates be placed into escrow to protect the utility’s customers. Second, even a cursory review of PK-RE’s rate application shows that PK-RE seeks rates based on substantial operating expenses and capital expenditures that are not recoverable under the law. Thus, PK-RE is unlikely to succeed on the merits of its claims.

Accordingly, Greenshores requests that PK-RE’s motion be denied.

## II. LEGAL STANDARD

“Interim rates may be established...where the proposed increase in rates could result in an unreasonable economic hardship on the utility’s customers, unjust or unreasonable rates, or failure to set interim rates could result in an unreasonable economic hardship on the utility.” 16 Tex. Admin. Code § 24.29(d). In making a determination as to whether interim rates are appropriate, the commission may (1) set interim rates; (2) deny interim rate relief; and/or (3) require that all or part of the requested rate increase be deposited in an escrow account.” *Id.* at § 24.29(e). Further, “[t]he commission may also remand the request for interim rates to the State Office of Administrative Hearings for an evidentiary hearing on interim rates. The presiding officer shall issue a non-appealable interlocutory ruling setting interim rates to remain in effect until a final rate determination is made by the commission.” *Id.* at § 24.29(f).

Where escrow is ordered, “[d]uring the pendency of its rate proceeding, a utility may be required to deposit all or part of the rate increase into an interest-bearing escrow account with a federally insured financial institution, under such terms and conditions as determined by the commission” and “[t]he utility shall file a completed escrow agreement between the utility and the financial institution with the commission for review and approval.” *Id.* at § 24.30(a)(1)-(2). “Unless otherwise agreed to by the parties to the rate proceeding, the retail public utility shall

refund or credit against future bills all sums collected in excess of the rate finally ordered plus interest as determined by the commission in a reasonable number of monthly installments.” *Id.* at § 24.29(f).

### III. ARGUMENT

#### A. PK-RE’s Request Should Be Denied Because It Is Unjustified and Presents an Unreasonable Danger to Customer Funds

The crux of PK-RE’s motion is that interim rates are necessary to avoid Mr. Eppright having to invest additional money into the utility. According to PK-RE, Mr. Eppright has invested “\$345,000 of his own personal money since January 2014 for operating expenses.”<sup>1</sup> (PK-RE Motion for Interim Rates at 2.) Indeed, during the March 16, 2017 hearing, Mr. Eppright argued that the utility did not have cash reserves to cover operating expenses—in essence that the utility may become insolvent *if he does not provide any additional capital*.

Greenshores submits that the alleged revenue shortfall of the utility is the result of numerous expenses that are not legally recoverable through rates, as described in more detail below. (*See infra* at Section III.B.) As such, it is neither surprising nor inappropriate that Mr. Eppright, who controls both PK-RE and the affiliated home development company that has benefited from the utility’s policies, may be required to contribute capital to the utility. But those contributions are not necessarily recoverable in rates. More importantly, however, Mr. Eppright’s statements confirm that PK-RE has access to capital necessary to cover operating expenses, certainly through the brief pendency of this proceeding. In short, PK-RE has not demonstrated an “unreasonable economic hardship on the utility.”

At the same time, PK-RE’s claims establish that imposing interim rates presents a clear danger to customer funds. PK-RE has made clear that any funds recovered through interim rates will be immediately depleted. Indeed, that is the entire purpose of the motion—to use the

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<sup>1</sup> PK-RE also claims that it has taken out \$2.22 million in loans to perform capital improvements. (PK-RE Motion for Interim Rates at 2.) PK-RE fails to note that these loans were taken out in 2009, years before the prior rate case was filed. (*See* Ex. 1, p. 36 of PK-RE 2016 Rate App., filed as item 3 in this Docket on the PUC Interchange.) The loans are not a new expense, and in fact, PK-RE already obtained rate increases via settlements with the community to address those expenditures.

additional rates to fund operating expenses. As a result, the utility will not be in a position to return those funds in the event that the rate increase application is unsuccessful, a likely outcome, in Greenshores' view.<sup>2</sup>

Accordingly, the only way to properly safeguard customer funds during the pendency of this proceeding would be to require all of the additional funds recovered through interim rates to be deposited into an escrow account pursuant to the Texas Administrative Code. *See* 16 Tex. Admin. Code § 24.29(e)(3). Otherwise, by PK-RE's own admissions, there is no guarantee that those funds could be returned to customers. But if funds obtained through interim rates are escrowed as would be necessary to protect the Greenshores customers, imposing interim rates now serves no purpose. The funds would not be available to the utility, which is the sole basis upon which PK-RE seeks interim rates.

Finally, PK-RE's claim that it requires interim rates imposed now, in an emergency fashion, is belied by its years-long delay in seeking any rate increase. Based on the prior settlement agreement, PK-RE could have filed a rate increase application as early as September 19, 2014. (Ex. 2, ¶ 7.) Notably, contrary to PK-RE's representations in its motion and at the recent hearing, the customers did not agree that PK-RE would be entitled to a rate increase or that any rate increase would be deemed reasonable. (*Id.* ¶ 8.) Rather, PK-RE was prohibited from filing a rate increase application for a period of two years, after which point it was limited in the percentage increase in rates that it would be permitted to seek – but would be required to prove was legally justified – for a period of five years. (*Id.* ¶¶ 7-8.)

PK-RE did not file a rate increase application in 2014. Nor did it do so in 2015. Instead, PK-RE delayed for over two years, only to claim now that waiting 265 days for the resolution of this proceeding would impose “unreasonable economic hardship.” PK-RE's past conduct does not square with its present claims, and it should not be permitted to impose unsubstantiated rate increases on customers based on an alleged “emergency” of its own making.

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<sup>2</sup> To the extent that PK-RE represents that Mr. Eppright will reimburse the customers “out-of-pocket” in the event the application is unsuccessful, that would merely provide more evidence that PK-RE already has access to the allegedly needed capital. Customers should not be forced to provide the utility with a loan or risk having to enforce such a commitment.

## **B. PK-RE Is Unlikely to Prevail on Its Rate Increase Application**

Greenshores has not yet obtained discovery in this matter, and historically, did not receive significant discovery in prior rate cases relating to PK-RE's operations. Nevertheless, the information presently available to Greenshores raises serious concerns about the propriety of expenses PK-RE seeks to recover in this proceeding as well as the accuracy of unproven assertions made in PK-RE's rate increase application. For these additional reasons, PK-RE's motion should be denied.

### **1. PK-RE's Sewer Application Includes Grossly Excessive and Unrecoverable Expenses**

PK-RE provides sewer service to several communities. The largest community is Greenshores, which is located proximately to PK-RE's sewage treatment plant and consists of approximately 100 customers. (Ex. 3, 2012 Rate App.<sup>3</sup> at 27.) In the 2011 timeframe, the home development company affiliated with PK-RE sought to open a new phase of development in the area called the Woods of Greenshores, Phase I. The Woods of Greenshores is relatively distant from PK-RE's sewage treatment plant and, to this day, remains unconnected to PK-RE's sewer system.

In the haste to begin selling lots and/or homes in the Woods of Greenshores in the 2011 timeframe, PK-RE and the affiliated home development company failed to obtain approval for or to build a line connecting the Woods development with the existing PK-RE sewer system. Rather than connecting the system or obtaining approval for a separate system located at the Woods, PK-RE began pumping and hauling sewage from the Woods area to the sewage treatment plant located near Greenshores.

According to the information reported in PK-RE's 2012 rate increase application, PK-RE spent approximately \$50,000 in 2012 for "pump-and-haul" service relating to the 4 occupied houses in the Woods. Since 2012, PK-RE has done nothing to address this plainly unreasonable and excessive expense of trucking sewage from the Woods to the sewage treatment plant in Greenshores, and as a result the cost has skyrocketed. During a "town hall" meeting on March 14, 2017 with Undine LLC (the potential purchaser of the system), representatives from Undine stated

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<sup>3</sup> Application of PK-RE Development Company, Inc. d/b/a Oak Shores Water System for a Water & Sewer Rate/Tariff Change, filed September 19, 2012, TCEQ Docket No. 2013-0509-UCR, SOAH Docket No. 582-13-3907.

that the pump-and-haul expense, at present, was approximately \$360,000 a year based on their due diligence. (Ex. 4, Affidavit of Andrew J. Fossum ¶ 2.) During a recess at the March 16, 2017 hearing in this matter, Mr. Eppright disputed this figure, claiming it was closer to \$240,000 a year. (*Id.* ¶ 3.)

Whether the cost to haul sewage from the Woods to the Greenshores facility is \$240,000 or \$360,000 annually, it is not an allowable expense that is “reasonable and necessary to provide service to the ratepayers” as is required under the law. See 16 Tex. Admin. Code § 24.31(b). PK-RE is spending these sums to provide service to approximately 40 homes at a cost of **over \$6,000 a year per home**. No prudent utility unaffiliated with the land/home developer of the Woods would have agreed to provide service under the present conditions, and the only explanation is that PK-RE acted in the interests of the affiliated home development entity to the detriment of the utility, and in turn, to the detriment of the customers if these expenses are allowed.<sup>4</sup>

Moreover, the amount of money thrown away on pump-and-haul expenses since the Woods was prematurely opened in 2011 would have paid for the line between the Woods and the Greenshores treatment facility many times over. And it bears noting that the money wasted on pump-and-haul expenses since January 2014 exceeds by several hundred thousand dollars the amount that Mr. Eppright claims to have invested into the utility since that date. Put another way, if PK-RE had acted prudently with respect to **this single expenditure**, the utility would have been cash flow positive hundreds of thousands of dollars and Mr. Eppright’s alleged contributions would not have been necessary.

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<sup>4</sup> Mr. Eppright has argued that these pump-and-haul expenses were caused by the Greenshores Property Owners’ Association’s failure to grant an easement to PK-RE to build a line between the Woods and the treatment facility. This argument is specious. First, for years while PK-RE was engaging in the wasteful and unreasonable practice of pump-and-haul, Mr. Eppright maintained controlling interest in the Greenshores Property Owners’ Association and could have granted an easement at any time. Second, Greenshores’ present understanding is that PK-RE has not obtained approval to build the necessary line irrespective of any easement required – something that should have been done before a single house was built in the Woods.

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2. PK-RE's Water Application Includes Assets That Are Not Used and Useful for Existing Customers and Admits to Massive Water Loss

On the water side of the utility, PK-RE overstates both invested capital for assets that are “used and useful” to serve existing customers as well as operating expenses that are “reasonable and necessary” to provide service. With respect to capital expenditures, PK-RE built the current water plant with the goal of providing service (including the necessary capacity) to all of the communities the affiliated home developer intended to open in the Greenshores area. Critically, that includes providing service to approximately 45 additional customers in the future “Woods of Greenshores, Phase II” community. By seeking to open Phase II of the Woods, PK-RE has taken the position that the current water system has capacity for these additional customers. Certainly, PK-RE has disclosed no plans to expand system capacity or obtained developer contributions to do so.

These additional customers will amount to 17% of the customer base. (Ex. 5, 2016 Rate App., p. 8 (218 customers at the end of the test year).) In other words, according to PK-RE, at least 17% of the system is *not* “used and useful” for existing customers, but is intended for future customers. Yet PK-RE fails to make any adjustment for the portion of the system intended for future expansion.

With respect to operating expenses, during the test year in its application, PK-RE produced 46 million gallons of water. (Ex. 6, 2016 Rate App., p. 14.) It sold only 30 million gallons to its customers. (*Id.*) This is a massive amount of water loss. PK-RE lost more than half of the volume of water that it ultimately supplied to customers. Perhaps even more startling is the fact that this data is over a year old, and PK-RE has failed to identify or remedy the problem.<sup>5</sup> Obviously, this high volume of water loss has necessarily resulted in overinflated operating expenses, including not just volume-related expenses, but also likely increasing the cost of plant maintenance. Again, PK-RE fails to make any adjustment for these expenses, which are not “reasonable and necessary.”

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<sup>5</sup> PK-RE claims that it reduced water loss to 10-15% very recently, but that assertion is based on a single month of data followed by a return to water loss levels consistent with the 2015 test year. Regardless, PK-RE has failed to explain why this massive water loss was allowed to continue for years.



3. PK-RE's 2012 and 2016 Rate Increase Applications Include Irreconcilable Sworn Statements That Call into Question the Accuracy of Its Applications

In 2012, PK-RE filed a rate increase application with TCEQ. Therein, PK-RE claimed that the utility was entirely equity financed. (Ex. 7, 2012 Rate App. at 10-11 (water) & 23-24 (sewer).) PK-RE requested a 12% rate of return on the alleged equity financing. (*Id.*) PK-RE provided sworn attestation that these statements were correct. (Ex. 8, 2012 Rate App. at 33.)

Based on PK-RE's 2016 application, it appears that PK-RE's claim that the utility was entirely equity financed were false. In particular, PK-RE's 2016 application identifies two loans totaling over \$2M that were taken out years prior to the 2012 application, and therefore should have been disclosed on the 2012 application. (Ex. 1, 2016 Rate App., p. 36 (disclosing an "SBA Loan" from 6/30/2010 and an "Omni Bank" loan from 8/31/2009).) In comparing the equity claimed on the 2012 application with the 2016 application, it appears that PK-RE previously characterized this debt financing as equity and failed to disclose it.

These previously undisclosed loans bear interest rates far lower than the 12% rate of return PK-RE claimed for its alleged "equity" in the 2012 application. By failing to disclose these loans and apparently characterizing this debt as equity in the 2012 application, PK-RE artificially inflated the rate of return to which it claimed it was entitled.

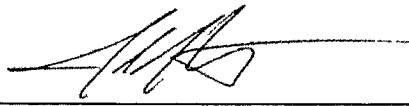
Greenshores submits that materially incorrect statements such as these in PK-RE's prior application show that PK-RE's claims must be given careful scrutiny and should not be taken at face value. Accordingly, increased rates (interim or otherwise) should not be imposed on customers until and unless PK-RE assertions in its application are subject to full and fair discovery and verification. For this additional reason, PK-RE's motion should be denied.

#### IV. PRAYER

For the foregoing reasons, Greenshores respectfully asks that PK-RE motion be denied. In the event that it is granted in whole or in part, Greenshores asks that any additional funds received by PK-RE based on the increased interim rates be deposited into an escrow account pursuant to the Texas Administrative Code. *See* 16 Tex. Admin. Code § 24.29(e)(3).

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Respectfully submitted,

By:   
John J. Carlton

John J. Carlton  
The Carlton Law Firm P.L.L.C.  
2705 Bee Cave Road, Suite 200  
Austin, Texas 78746  
(512) 614-0901  
Fax (512) 900-2855  
State Bar No. 03817600

ATTORNEY FOR GREENSHORES ON LAKE  
AUSTIN PROPERTY OWNERS'  
ASSOCIATION, INC.

### **CERTIFICATE OF SERVICE**

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 23<sup>rd</sup> day of March, 2017.

  
John Carlton

**Exhibit 1****SCHEDULE III-6 NOTES PAYABLE**UTILITY NAME: PK-RE DEVELOPMENT, INC.

SCHEDULES - CLASS B RATE/TARIFF CHANGE

**III-6 LONG TERM DEBT/ NOTES PAYABLE – WATER AND SEWER**

FOR THE YEAR ENDED: 12/31/15

List the following information concerning debt and equity of the utility and attach copies of notes payable used. Round all percentages to two (2) decimal places.

If debt from affiliated interests is allocated to the utility, provide workpapers demonstrating and justifying the allocation.

	(A) Long Term Debt Name of Bank/Lender	(B) Date of Issue	(C) Date of Maturity	(D) Original Amount of Loan	(E) Outstanding or Unpaid Balance- End of Test Year	(F) Interest Rate	(G)-Col. E, Line 20 x Col. F, Line 20 Weighted Average
1	Part 1 - Debt						
2	SBA Loan	6/30/2010		843,000.00	629,527.08	5.89%	37,079.15
3	Omni Bank	8/31/2009		1,261,598.90	1,223,002.06	7.77%	95,027.26
4	N/P Russel Epright	Various	None	Various	600,600.97	8.00%	48,048.08
5	N/P Rusty Parker	Various	None	Various	292,550.97	8.00%	23,404.08
6	Adjustment to reduce Revenue Requirement.						-10612.34
7							
8							
9	Total				2,745,681.08	7.03%	192,946.23

For Sch. III-1,  
Column G,  
Line 5

List short term debt, if any: None

SOAH Docket No. 582-13-3907  
TCEQ Docket No. 2013-0509-UCR

APPLICATION OF PK-RE DEVELOP-	§	BEFORE THE
MENT, COMPANY, INC. DBA OAK	§	STATE OFFICE
SHORES WATER SYSTEM TO	§	OF
CHANGE WATER AND SEWER RATES	§	ADMINISTRATIVE
IN TRAVIS COUNTY, TEXAS	§	HEARINGS

### **SETTLEMENT AGREEMENT AND MOTION TO REMAND**

PK-RE Development, Company, Inc. dba Oak Shores Water System (PK-RE) filed the instant water and sewer rate change application with the Texas Commission on Environmental Quality (TCEQ). The rate change was noticed to become effective on November 25, 2012. The effective date was never suspended.

The application was protested and a preliminary hearing was conducted in Austin, Texas on Tuesday, June 11, 2013. The presiding administrative law judge took jurisdiction over the case, named parties and allowed the parties to engage in settlement negotiations. While a hearing and discovery schedule was agreed to and approved in Order No. 1, the presiding administrative law judge abated that schedule at the request of the parties to allow for mediation and post-mediation settlement negotiations.

The following settlement has been reached. The parties acknowledge that portions of this settlement agreement are outside of the state's regulatory

jurisdiction; in which case, such provisions may be enforced civilly in a court of competent jurisdiction:

1. The effective date of these settlement water and sewer rates will be November 25, 2012 as provided in the original statement of intent and notice to customers. The effective date of the settlement agreement shall be September 19, 2012, the date the rate change application was filed with the TCEQ. It is from the settlement date of September 19, 2012 that all other dates agreed to herein shall be measured.
2. PK-RE's proposed water and sewer rates as noticed to customers shall be approved as the final rates of the utility. A copy of that notice is attached hereto and incorporated herein for all purposes.
3. PK-RE's proposed non-service rates, fees and charges as noticed to customers shall be approved. Those non-service rates, fees and charges are set forth in the same attached customer notice.
4. There will be no refunds of collected increased rates.
5. There will be no surcharge of additional rate case expenses incurred by PK-RE Development after the date of filing.
6. There will be no bench mark findings on rate base in this docket. This issue is reserved to be decided in a future rate case.
7. PK-RE agrees not to file any rate increase application for at least two (2) years from the settlement date.
8. PK-RE agrees that for five (5) years after the settlement date the maximum rate increase it may seek in future rate applications to TCEQ will be 5% annually. The 5% increase in revenues cap will be cumulative. For example for illustration purposes only, at the end of year 2, PK-RE could seek a 10% increase. At the end of year 3, if PK-RE had not sought any increase before, it could seek a 15% increase. The measurement of "increase" for purposes of this settlement shall mean an increase in annual utility revenues and not a percentage increase in any given rate, rate tier or individual customer's bill.

Within 60 months following the expiration of the 5 year period, the PK-RE customers may, by a petition signed by at least 50% of the active service accounts, petition PK-RE to file a one-time application with the Public Utility Commission of Texas (PUC) (or agency with jurisdiction at that time) to review PK-RE's rates. Within 60 days of receipt of such petition, PK-RE shall file an application seeking the state's review of its

rates. PK-RE shall be entitled to seek any type of rate relief in this rate case, including but not limited to an increase in water and/or sewer service rates. The affected customers shall be entitled to seek any type of rate relief in this rate case, including but not limited to a decrease in water and/or sewer service rates.

9. The restrictions on filing rate change applications in Items 7 and 8 above shall not apply to PK-RE's right to seek or implement a purchased water pass through clause, in accordance with 30 TAC §291.21(h), for the raw water PK-RE purchases from the Lower Colorado River Authority (LCRA).

10. PK-RE will provide all customers an opportunity to enroll in the IRIS email notification system. This voluntary system requires that an enrollment form be sent and executed by customers. AWR Services, Inc. (AWR), as PK-RE's operator of the water and wastewater systems, will enter all customer information. All new customers will be sent an application for enrollment in IRIS. An annual update form will be sent to all customers each year. Customers can also contact the AWR office with any changes in their contact information. IRIS would be used for all Boil Water notices, system emergencies, and notices of termination of boil water notices. An e-mail group will be set-up in IRIS to be used for non-emergency notifications.

11. A monthly report will be prepared with information about the water and wastewater system to include: water produced, water loss, repairs, maintenance performed, etc. Each home owners association (HOA) will designate a liaison between PK-RE and its homeowners. The Oak Shores portion of the PK-RE service area does not have an HOA so those customers may collectively designate their own liaison. The report submitted to the designated liaisons may then be distributed to other customers. The decision as to whom the information will be disseminated will be left to the designated liaisons.

12. A conference call will be conducted on a quarterly basis at 10:00 a.m. on the second (2<sup>nd</sup>) Wednesday of each calendar quarter. These calls will include the three liaisons identified in Item No. 11, AWR, and PK-RE. For additional customer service support, the direct contact number of both Richard O'Donnell, Operations Manager for AWR, and Hal Lanham, President of AWR (or individuals discharging similar duties on behalf of the utility in the event that these specific individuals no longer act in their current capacity), will be provided to the three liaisons.

13. Emergency Response Protocol – During normal business hours (8 a.m. – 4:30 p.m., Monday – Friday), customer calls will be answered on-site at AWR offices. After normal business hours (including weekends

and holidays) customers will be routed through AWR's answering service to a live representative. In the event the issue cannot be resolved by the Operator, the Operator then contacts the Operations Manager of AWR (OM), who will assist the Operator in resolving the issue. If the OM is still unable to resolve the issue, he will contact Hal Lanham, who will assist the OM in resolving the issue. If the issue is of a serious nature, Mr. Lanham will directly contact the owners of PK-RE. A phone call will also be made to the designated liaison for the affected portion of the service area. If the issue affects all customers, an IRIS alert will be sent via email, text, cell phone, or a combination thereof.

14. Russell Eppright and PK-RE, through the appropriate entity, shall transfer control of the Greenshores on Lake Austin Property Owners' Association effective on the date of the execution of the settlement agreement. The transfer must be fully completed within 30 days of the execution of this agreement. Further, Mr. Eppright, PK-RE, and all affiliates agree that the "Declarant Control Period" set forth in Section 6.03(A)(ii) of the Declaration of Covenants, Conditions and Restrictions for Greenshores on Lake Austin and any amendments thereto is henceforth terminated. Mr. Eppright, PK-RE, and all affiliates hereby waive any increased voting rights relating to the Greenshores on Lake Austin Property Owners' Association, Inc., including but not limited to the Class B voting rights set forth in Section 6.03(A)(ii) of the Declaration of Covenants, Conditions and Restrictions for Greenshores on Lake Austin and any amendments thereto and any other like provisions. For the avoidance of doubt, from the effective date of this agreement, Mr. Eppright, PK-RE, and any affiliates will be entitled to a maximum of one vote for each Lot owned subject to the same restrictions as all other property owners.

15. PK-RE will provide the designated liaisons with copies of the utility's annual financial statements when they are prepared and distributed to management. TCEQ or PUC annual reports will be filed as required by law and will be public record at the appropriate agency.

16. All parties acknowledge that they are aware of PK-RE's plan to pursue a sale of the water and sewer systems to the City of Austin. All parties agree to take all requested and reasonable actions necessary to further such a sale. All parties agree that if such a sale is closed, PK-RE shall be released from all further obligations to its customers arising under this settlement agreement effective the day the City of Austin assumes operating responsibility for the water and sewer systems.

17. Contacts and Notices: The following are the contacts and addresses for the entities to receive notices under this agreement. These

contacts and addresses may be changed with written notice to all listed  
entitles:

PK-RE Development Company, Inc. dba Oak Shores Water System  
Attn: Russell Eppright  
6836 Bee Caves Road  
Austin, Texas 78746  
(512) 347-9955

AWR Services, Inc.  
Attn: Hal Lanham  
500 N. Capital of Texas Hwy.  
Bldg. 1, Suite 125  
Austin, Texas 78746  
(512) 402-1990

Greenshores on Lake Austin Property Owners' Association\*  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
Austin, Texas 787\_\_\_\_  
(512) \_\_\_\_-\_\_\_\_

The Woods Property Owners' Association\*  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
Austin, Texas 787\_\_\_\_  
(512) \_\_\_\_-\_\_\_\_

Oak Shores Customers\*  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
Austin, Texas 787\_\_\_\_  
(512) \_\_\_\_-\_\_\_\_

\* Information to be provided by customer groups at a later date.

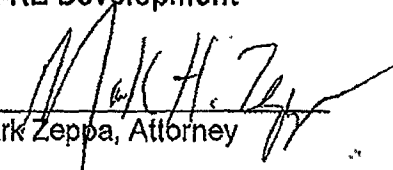
With the execution of this settlement agreement, the undersigned parties state  
that there are no longer any contested issues of law or fact in this docket. The  
parties jointly move for SOAH to remand this docket to the TCEQ Executive  
Director for entry of appropriate administrative approval orders.



EXECUTED the \_\_\_\_\_ day of November, 2013.

PK-RE Development

Kevin Usleman

  
Mark Zeppa, Attorney

\_\_\_\_\_  
John Carlton, Attorney

The Riveras

\_\_\_\_\_  
Dora Alicia Rivera, Individually

\_\_\_\_\_  
Albert Rivera, Individually

TCEQ Executive Director\*

TCEQ Public Interest Counsel\*

\_\_\_\_\_  
Kayla Murray, Staff Attorney

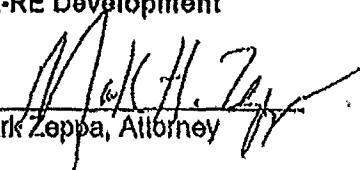
\_\_\_\_\_  
Blas Coy, Jr., Public Interest Counsel

\* By their authorized signatures above, the TCEQ ED and PIC signify that they have no objections to the other parties' settlement and join in the motion to remand.

EXECUTED the \_\_\_\_\_ day of November, 2013.

PK-RE Development

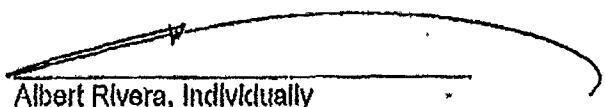
Kevin Uselman

  
Mark Zeppa, Attorney

  
John Carllon, Attorney

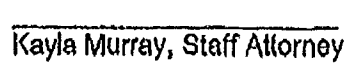
The Riveras


  
Dora Alicia Rivera, Individually

  
Albert Rivera, Individually

TCEQ Executive Director\*

TCEQ Public Interest Counsel\*

  
Kayla Murray, Staff Attorney

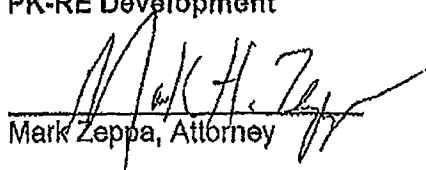
  
Blas Coy, Jr., Public Interest Counsel

\* By their authorized signatures above, the TCEQ ED and PIC signify that they have no objections to the other parties' settlement and join in the motion to remand.

EXECUTED the \_\_\_\_\_ day of November, 2013.

PK-RE Development

Kevin Usleman

  
Mark Zeppa, Attorney

\_\_\_\_\_  
John Carlton, Attorney

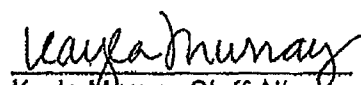
The Riveras

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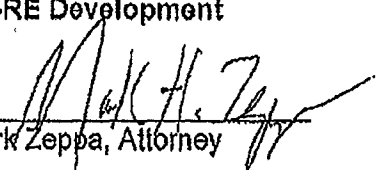
\_\_\_\_\_  
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EXECUTED the \_\_\_\_\_ day of November, 2013.

PK-RE Development

Kevin Usleman

  
Mark Zeppa, Attorney

\_\_\_\_\_  
John Carlton, Attorney

The Riveras

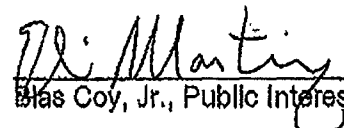
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\_\_\_\_\_  
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TCEQ Executive Director\*

TCEQ Public Interest Counsel\*

\_\_\_\_\_  
Kayla Murray, Staff Attorney

by   
Blas Coy, Jr., Public Interest Counsel

\* By their authorized signatures above, the TCEQ ED and PIC signify that they have no objections to the other parties' settlement and join in the motion to remand.

**B. KNOWN & MEASUREABLE (K&M)**

If you listed anything in TABLE VI. A. above as an increase/decrease expected in the next 12 months, please provide a

Line [F] Annualize the costs of grinder pump maintenance over the past four years ( Average costs \$35,532 less Test

Year amount of \$20,427 = \$15,105 adjustment)

Line [J] Rate Case Expenses - Estimated cost to filing

Line [N] Franchise Tax at .0575 times the Cost of Service

-Attach additional sheet(s) or a separate listing for sewer service if necessary-

**SECTION VII - CUSTOMER INFORMATION - SEWER****NUMBER OF CUSTOMERS**

How many customers (active connections) did you have at the beginning and at the end of the twelve month test year?

Table VII

Connection Type	Line	Beginning of Period ①	End of period ②	Equivalency Factor ③	Meter Equivalents ④=②*③
Non-Metered Connections:					
Residential	[A]			1	-
Commercial	[B]			1	-
Standby	[C]			1	-
Metered Connections:					
5/8" x 3/4"	[D]	15	15	1	15
3/4"	[E]	66	69	1.5	104
1"	[F]	15	16	2.5	40
1 1/2"	[G]		-	5	-
2"	[H]		-	8	-
3"	[I]		-	15	-
Other:	[J]				-
Total	[K]	96	100		159 ④

④ To Table IX. B., Line [B] AND Table X. A., Line [F]

20

**Exhibit 5**  
**SCHEDULE I-3 METERED CON**

UTILITY NAME: <u>PK-RE DEVELOPMENT COMPANY, INC.</u> SCHEDULES - CLASS B RATE/TARIFF CHANGE <b>I-3 METERED ACTIVE CONNECTIONS BY METER SIZE</b> FOR TEST YEAR ENDED: <u>December 31, 2015</u>							
A	B	C	D	E	F	G	H
		Number of Connections					
Line No.	Meter Size	End of Prior Year	Test Year Additions	End of Test Year	Average	Meter Ratios	Meter Equivalencies End of TY
		PUC report Sch. 9		(C+D)	(C + E) / 2		(E x G)
1.	5/8" x 3/4"	77	2	79	78	1.0	79
2.	3/4"	90	20	110	100	1.5	165
3.	1"	33	-4	29	31	2.5	72.5
4.	1 1/2"	0	0	0	0	5.0	0
5.	2"	0	0	0	0	8.0	0
6.							
7.							
8.							
9.	Total	200	18	218	209		316.5
10	Average						

21

## SCHEDULE II-1 PRODUCTION

UTILITY NAME: <u>PK-RE DEVELOPMENT, INC.</u> SCHEDULES - CLASS B RATE/TARIFF CHANGE <b>II-1(a) AND II-1(b) - HISTORICAL OF WATER PRODUCTION</b> FOR TEST YEAR ENDED: 12/31/15					
--	--	--	--	--	--

**SCHEDULE II-1(a): WATER PRODUCTION:  
(COMPANIES WITH METERED RATE CUSTOMERS)**

Line No.	Water Production (1,000 Gallons)	A	B	C= A+B	D
		Test Year	K & M Changes	Adjusted Test Year	Reference
1	Total water pumped	9,294	0	9,294	PUC Annual Report
2	Total water purchased	37,522	0	37,522	PUC Annual Report
3	Total water produced	46,816	0	46,816	Line 1 + line 2
4	Total water sold	30,750	0	30,750	PUC Annual Report
5	Total accounted for non-revenue water*	44.3	0	44.3	
6	Total unaccounted for water	16,022	0	16,022	Lines 3 less 4 less 5
7	Percentage	34.22%		34.22%	Line 6 divided by Line 3

\* Describe the tracking technique for calculating line 5 and provide the records reflecting the calculation.

\* Loss and unaccounted for water is based on monthly engineering estimates.

Known and measurable calculations and explanations:

**SCHEDULE II-1(b) WATER PRODUCTION  
(COMPANIES WITH UNMETERED (FLAT) RATE CUSTOMERS)**

Line No.	Description	A Test Year	B K & M Change	C=A+B Adjusted Test Year	D Reference
1	Water Purchased (1,000 gallons)				PUC report Sch. D-1
2	Water Pumped (1,000 gallons)				PUC report Sch. D-1
3	Total production (1,000 gallons)				Lines 13 + 14

Known and measurable calculations and explanations:

- C. DEVELOPER CONTRIBUTIONS - WATER**  
If any of the Items listed in the Depreciation Schedule were contributed by a developer, please list those items and the associated cost below.

**Table III. C.**

Item	Date of installation or Contribution	Total Cost	Amount of Developer Contribution	Net Book Value
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	0 <sup>ⓐ</sup>

<sup>ⓐ</sup> Insert this amount in Table IV. E., Line [E]

- Attach additional sheet(s) if necessary -

**SECTION IV - LONG TERM DEBT & EQUITY INFORMATION - WATER**

- A. EQUITY**  
How much equity or total capital does the company have in the utility? \$4,429,019  
Enter also in Table IV. D., Box ⓐ below
- B. RATE OF RETURN**  
What rate of return (profit) on investment in plant (equity) is expected? 12.00%  
Enter also in Table IV. D., Box ⓐ below

**NOTE: You may choose**

- an average equity return established by the staff each year and included with the Annual Report
- an interest rate that you think is fair that is less than the rate established by the staff OR
- to use the Rate of Return Worksheet which is attached to the Instructions.

- C. BANKRUPTCY**  
Has the utility or utility owner filed bankruptcy within the last seven years?  
                     Yes                     X                     No

If YES, explain status of applicant at this time.

N/A

23



D. NOTES PAYABLE - WATER

List the following information concerning debt and equity of the utility and attach copies of notes payable:

Round all percentages to two (2) decimal places.

TABLE IV.D.

[A] Name of Bank/Lender	[B] Date of Issue	[C] Date of Maturity	[D] Original Amount of Loan	[E] Outstanding or Unpaid Balance End of Test Year	[F] Interest Rate	[G] Weighted Average [E]/⑤*[F]
Part 1 - Debt						
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total			\$ - ①	\$ - ②		⑥
Part 2 - Investment/Equity						
				\$ 4,429,019 ③	12.00% ④	12.00% ⑦
Total Debt & Equity				\$ 4,429,019 ⑤		
					Rate of Return	12.00% ⑧

- ① Total amount of original loans
- ② Total amount of the outstanding balance on the loans
- ③ Equity in the utility - From Section IV. A.
- ④ Return on Equity - From Section IV. B.
- ⑤ Total of ② + ③
- ⑥ Total weighted average of debt - To Table V, Line [C]
- ⑦ Weighted average of Investment/Equity ③ + ⑤ \* ④
- ⑧ Sum of ⑥ + ⑦ - To Table IV. E., Line [G]

24

**C. DEVELOPER CONTRIBUTIONS - SEWER**

If any of the items listed in the Depreciation Schedule were contributed by a developer, please list those items and the associated cost below.

Table III. C.

Item	Date of installation or Contribution	Total Cost	Amount of Developer Contribution	Net Book Value
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A
Total	N/A	N/A	N/A	\$0 ①

① Insert this amount in Table IV. E., Line [E]

- Attach additional sheet(s) if necessary -

**SECTION IV - LONG TERM DEBT & EQUITY INFORMATION - WATER**

**A. EQUITY**

How much equity or total capital does the company have in the utility?  
Enter also in Table IV. D., Box ④ below

\$2,412,470

**B. RATE OF RETURN**

What rate of return (profit) on investment in plant (equity) is expected?  
Enter also in Table IV. D., Box ④ below

12.00%

**NOTE: You may choose**

- an average equity
- an interest rate that you think is fair that is less than the rate established by the staff OR
- to use the Rate of Return Worksheet which is attached to the Instructions.

**C. BANKRUPTCY**

Has the utility or utility owner filed bankruptcy within the last seven years?

           Yes           X           No

If YES, explain status of applicant at this time.

          N/A          

25

D. NOTES PAYABLE - WATER

List the following information concerning debt and equity of the utility and attach copies of notes payable:

Round all percentages to two (2) decimal places.

TABLE IV.D.

[A] Name of Bank/Lender	[B] Date of Issue	[C] Date of Maturity	[D] Original Amount of Loan	[E] Outstanding or Unpaid Balance End of Test Year	[F] Interest Rate	[G] Weighted Average [E]/⑤*[F]
Part 1 - Debt						
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total			\$ - ①	\$ - ②		⑥
Part 2 - Investment/Equity				\$ 2,412,470 ③	12.00% ④	12.00% ⑦
Total Debt & Equity				\$ 2,412,470 ⑤		
					Rate of Return	12.00% ⑧

- ① Total amount of original loans
- ② Total amount of the outstanding balance on the loans
- ③ Equity in the utility - From Section IV. A.
- ④ Return on Equity - From Section IV. B.
- ⑤ Total of ② + ③
- ⑥ Total weighted average of debt - To Table V, Line [C]
- ⑦ Weighted average of Investment/Equity ③ + ⑤ \* ④
- ⑧ Sum of ⑥ + ⑦ - To Table IV. E., Line [G]

file

AFFIDAVIT

STATE OF COLORADO  
 COUNTY OF PROCTOR

I, Russell Parker, being duly sworn, file this NOTICE OF PROPOSED RATE CHANGE as Vice President - (indicate relationship to Utility, that is, owner, member of partnership, title as officer of corporation, or other authorized representative of Utility); that, in such capacity, I am qualified and authorized to file and verify such NOTICE; and that all statements made and matters set forth herein are true and correct.

I further represent that a copy of the attached notice was provided by Mail to each customer or other affected party on or about September 19, 2012.

[Signature]  
 Affiant (Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Utility, or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this the 19th day of SEPTEMBER 2012 to certify which witness my hand and seal of office.

[Signature]  
 SEAL

NOTARY PUBLIC IN AND FOR THE  
 STATE OF TEXAS

HELEN ZEUBHAWER  
 PRINT OR TYPE NAME OF NOTARY

MY COMMISSION EXPIRES

2/27/2016