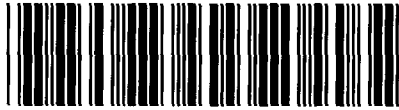




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APPLICATION OF PK-RE
DEVELOPMENT COMPANY, INC.
D/B/A GREENSHORES UTILITY
SERVICES AND D/B/A OAK SHORES
WATER SYSTEM FOR AUTHORITY
TO CHANGE RATES AND TARIFFS
IN TRAVIS COUNTY

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**PK-RE DEVELOPMENT COMPANY'S
REPLY TO RESPONSES TO MOTION FOR INTERIM RATES**

PK-RE Development Company, Inc., d/b/a Greenshores Utility Services, d/b/a Oak Shores Water System ("PK-RE") files this Reply to parties' Responses to PK-RE's Motion for Interim Rates ("Motion"). Pursuant to the Administrative Law Judge's ruling at the prehearing conference held on March 16, 2017, requiring replies to the responses to PK-RE's Motion to be filed on March 31, 2017, this Reply is timely filed.

I. RESPONSES FAIL TO REBUT PK-RE'S ECONOMIC HARDSHIP

The parties' responses to PK-RE's Motion contain unsupported factual allegations to bolster their opposition to the request for interim rates, without ever providing arguments to rebut PK-RE's financial predicament if the Public Utility Commission ("Commission") denies its request for interim rates. The responses seek to punish PK-RE for past business decisions which the customers feel have resulted in higher rates and poor service. However, these responses do not rebut the fact that Mr. Eppright, PK-RE's owner, is currently funding the utility out of his own pocket, and that the utility is not recovering enough in rates to provide safe and adequate service to its customers.

The Motion states that Mr. Eppright has funded the utility with his own funds,¹ and will continue to do so until higher rates are approved and recovered. The utility is upside down and

¹ PK-RE Development Company, Inc. d/b/a Greenshores Utility Services d/b/a Oak Shores Water System's Motion for Interim Rates at 2 (Mar. 7, 2017) ("Motion").

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is not recovering enough money in rates to cover operations and maintenance costs for the system.

Many of the arguments against the Motion seek to punish PK-RE for past business decisions, even though the biggest source of contention, PK-RE's decision to use pump-and-haul service, is not as clear cut as the responses make it seem. PK-RE applied for an easement from the Greenshores Property Owners' Association to build the force main on December 17, 2015. That easement has not been granted. In essence, there are factual disputes surrounding the decision to use pump-and-haul service. Greenshores on Lake Austin Property Owners Association, Inc. ("Greenshores") claims that PK-RE acted in the interests of its affiliated home development entity, not its customers, and therefore PK-RE should fund the utility out of its own pocket.² Furthermore, Greenshores claims, without any proof, that if PK-RE had made different business decisions, the utility would be "cash flow positive hundreds of thousands of dollars" and Mr. Eppright's personal contributions would be unnecessary.³ However, Greenshores fails to provide any proof or analysis about the costs of running the utility and makes assumptions about how the utility would operate now if different decisions had been made in the past.

Several of the responses argue that the customers are unhappy with PK-RE's service but state they do not believe higher rates will improve service. Cynthia and Scott Smiley ("Smiley") allege that higher rates will not solve service problems since the loans PK-RE took out for operating expenses have not improved service.⁴ Nonsensically, the Smiley Response also claims that since the rate increase could have been requested years ago, the current need for a rate increase does not result in "economic hardship."⁵ Staff, Greenshores, and the Smileys also argue that, under the 2012 settlement agreement, PK-RE had the ability to bring a rate case in 2014.

² Greenshores on Lake Austin Property Owners Association, Inc.'s Opposition to Motion for Interim Rates at 6 (Mar. 23, 2017) ("Greenshores Response").

³ *Id.*

⁴ Cynthia and Scott Smiley Response Opposing Applicant's Motion for Interim Rates at 3 (Mar. 23, 2017).

⁵ *Id.* at 2.

While this is true, a rate case is expensive to litigate and often the cost of the rate increase only covers rate case expenses, so bringing a rate case sooner or even every year would potentially not solve the economic hardship PK-RE currently finds itself in.

Most egregiously, the responses make unsupported allegations against PK-RE which attempt to prove that the utility should be making enough money in rates to cover operating expenses. Alexander B. Williams' ("Williams") response goes so far as to allege that PK-RE has not invested the \$2.2 million in loans into the system.⁶ The Williams response fails to support this serious accusation with any evidence or facts, but draws wild conclusions from the customers' dissatisfaction with current rates and service.⁷

Additionally, Greenshores alleges that PK-RE has overstated its invested capital for assets because it will provide service to future customers.⁸ Therefore, Greenshores claims that 17% of the system is not used and useful. This is an unsupported claim, and has no bearing on whether Mr. Eppright can continue to support the system as built with his personal funds.

II: THE RATE INCREASE IS SPECIFICALLY WITHIN THE BOUNDS OF THE 2012 SETTLEMENT AGREEMENT

Commission Staff responded that PK-RE has not demonstrated "an unreasonable economic hardship on the utility" and argues that by asking for the 20% increase authorized by the 2012 settlement agreement, PK-RE's request will result in rate shock.⁹ Staff's Response ignores that the 2012 settlement agreement explicitly allows PK-RE to seek cumulative increases and that the requested 20% increase is in line with the terms of the settlement agreement.¹⁰ PK-RE is not assuming the rates' reasonableness as Staff Response alleges, but is seeking to increase

⁶ Response of Alexander B. Williams, Resident in Woods of Greenshores and Intervenor to PK-RE's Application for Interim Rates at 2 (Mar. 23, 2017).

⁷ *Id.* at 2.

⁸ Greenshores Response at 7.

⁹ Commission Staff's Response to PK-RE Development Company d/b/a Oak Shores Water System's Motion for Interim Rates at 2 (Mar. 27, 2017).

¹⁰ See Motion, Exhibit B, Item No. 8.

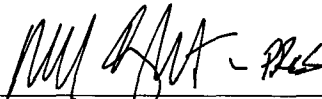
rates within the ceiling explicitly agreed to by parties in the 2012 settlement agreement. It is the Commission's job to determine the reasonableness of those rates.

III. PRAYER

PK-RE respectfully requests that the Commission grant PK-RE's Motion for Interim Rates. The responses to the Motion fail to rebut the economic hardship PK-RE and its owner will suffer if the requested rates are denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 31st, 2017, true and correct copy of the foregoing document has been served on all parties of record in accordance with 16 Tex. Admin. Code § 22.74.



GEORGIA N. CRUMP