

**SOAH DOCKET NO. 473-20-1674.WS
PUC DOCKET NO. 48819**

**APPLICATION OF NORTHTOWN ACRES WATER SUPPLY FOR
AUTHORITY TO CHANGE RATES** § **BEFORE THE STATE OFFICE
OF ADMINISTRATIVE HEARINGS**

2020 FEB 10 AM 11:01
PUBLIC UTILITY COMMISSION
FILING CLERK

**SOAH ORDER NO. 3
MEMORIALIZING PREHEARING CONFERENCE; GRANTING
MOTIONS TO INTERVENE; ABATING PROCEEDING;
REQUIRING STATUS REPORTS**

On February 3, 2020, the undersigned Administrative Law Judges (ALJs) convened a prehearing conference at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Public Utility Commission staff (Staff) appeared in person and Mark Parker appeared by phone.

Northtown Acres Water Supply (Northtown Acres) did not appear. The parties should presume that hearing dates will occur as scheduled unless an order modifying or cancelling the hearing date is issued.¹ The ALJs note that the applicant has the burden of proof and that an application can be dismissed for failure to prosecute.² As noted in SOAH Order No. 1, the parties are expected to comply with applicable rules, and routine procedural and logistical questions may be directed to the ALJ's administrative assistant, Erin Hurley, at 512-475-3419 or erin.hurley@soah.texas.gov.

I. MOTIONS TO INTERVENE

Motions to intervene were filed by ratepayers Mark Parker and Frank Marx, III. No objections were made, and the motions to intervene were **GRANTED**.

II. ABATEMENT

On January 28, 2020, Staff filed a motion to abate. The motion states that Northtown Acres is owned by Sheroll and Roger Richardson as a sole proprietorship. However, the utility's certificate of convenience and necessity (CCN) was originally issued to Ms. Richardson's father, who passed away in 2013, naming Ms. Richardson as his sole heir and the primary beneficiary

¹ 1 Tex. Admin. Code § 155.305(a) ("a motion is not granted until it has been ruled on by the judge, even if the motion is uncontested or agreed.").

² 16 Tex. Admin. Code §§ 22.181(d), 24.12.

under his will. Staff states that an application for sale, transfer, merger (STM) must be approved by the Commission to transfer the CCN to the Richardsons. Staff requests an abatement to allow for the filing and processing of the STM application.

On February 3, 2020, Mr. Parker filed a motion to abate and rescind interim rate increase. Mr. Parker does not oppose abatement, but requests that the interim rates currently in effect be rescinded because the correct protocol/procedures have not been followed. On February 3, 2020, Mr. Marx filed a letter opposing abatement on the ground that it would allow the interim rates to remain in place for an extended period of time. Mr. Marx also questioned whether the interim rates were set at a reasonable level.

Several issues regarding the abatement of this proceeding were discussed at the prehearing conference.³ Because the 265-day suspension of the effective date expires on May 6, 2020, the parties discussed the impact an abatement would have on the effective date of the rates and under what authority the rates might be further suspended. The abatement is particularly concerning given that the utility is currently charging interim rates, which are disputed. One party expressed concern that abating the proceeding while the interim rates are in effect incentivizes the applicant to prolong the STM application process. A lengthy abatement could result in an outdated rate application by the time the abatement is lifted. Staff indicated that they were willing to re-evaluate the interim-rate amount.

The ALJs find that the concerns raised have merit, particularly the impending expiration of the suspension period and the potential prolonged STM process while the interim rates are in effect. However, given the uncertainty in the holder of the CCN,⁴ the ALJs find good cause to grant a limited abatement until the issues discussed above are addressed. Accordingly, the motions to abate are **GRANTED** subject to further consideration of the status reports ordered below.

³ The sound recording of the prehearing conference is available upon request by contacting the ALJs' secretary, Erin Hurley.

⁴ Tex. Water Code § 13.301(h) ("A sale, acquisition, lease, or rental of any water or sewer system owned by an entity required by law to possess a certificate of public convenience and necessity, or a sale or acquisition of or merger or consolidation with such an entity, that is not completed in accordance with the provisions of this section is void.")

Mr. Park's motion to rescind interim rates will be addressed after the status reports are received.

III. REQUIRING STATUS REPORTS

Accordingly, IT IS ORDERED, that –

By February 19, 2020, Staff shall file a status report addressing the following issues:


1. Under what authority the effective date may be suspended beyond May 6, 2020;
2. Whether the existing interim rates are set at the appropriate level or design;
3. How long an abatement should be expected;
4. Whether additional notice to customers will be required under 16 TAC § 24.33(c) upon lifting the abatement; and
5. Any other matter that will assist in the efficient processing of this case.

By February 19, 2020, Northtown Acres SHALL file a status report addressing the following:

1. What efforts it is taking to diligently prepare and file an STM application, including expected dates of filing and completion; and
2. Whether it agrees to extend the effective date beyond May 6, 2020 to allow sufficient time to complete the STM application.

Any other party that would like to address these issues may also file a status report on the same date.

SIGNED February 10, 2020.


CHRISTIAAN SIANO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS


CASSANDRA QUINN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS