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Executive Director

Public Utility Commission of Texas

TO: All Parties of Record

FROM: Office of Policy & Docket Management

RE: **PUC Docket No. 48819**
SOAH Docket No. 473-20-1674.WS – *Application of Northtown Acres Water Supply for Authority to Change Rates*

DATE: February 22, 2022

The Commission will consider a proposed order in this docket at a future open meeting. The parties shall file corrections or exceptions to the proposed order on or before Friday, March 4, 2022.

On December 18, 2019, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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

APPLICATION OF NORTHTOWN	§	PUBLIC UTILITY COMMISSION
ACRES WATER SUPPLY FOR	§	
AUTHORITY TO CHANGE RATES	§	OF TEXAS

PROPOSED ORDER

This Order addresses the application of Sheroll and Roger Richardson dba Northtown Acres Water Supply for authority to change its water rates and associated tariff under certificate of convenience and necessity (CCN) number 11704. Northtown Acres filed an unopposed agreement that resolves all of the issues between the parties to this proceeding. The Commission approves the agreed water rates and associated tariff for Northtown Acres as modified by the agreement, to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Sheroll and Roger Richardson own and operate Northtown Acres and are registered with the Navarro County Clerk as doing business under the assumed name of Northtown Acres Water Supply.
2. Northtown Acres owns and operates for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public in Texas.
3. As of December 31, 2020, Northtown Acres provides potable water service for compensation to approximately 211 connections in Navarro County under CCN number 11704.
4. Northtown Acres has a long-term water supply agreement for the provision of water from the City of Corsicana.

Application

5. On January 18, 2019, Northtown Acres filed a class B application for authority to increase water rates and revise the associated tariff for its service area in Navarro County.
6. In Order No. 6 filed on July 19, 2019, the Commission administrative law judge (ALJ) found the application administratively complete.
7. On December 16, 2020, Northtown Acres filed an amended application to, among other adjustments, update the test year and include additional customers.
8. The amended application is based on a historical test year that ended on December 31, 2019.
9. In the amended application, Northtown Acres requested a revenue requirement, less other revenues, of \$292,425 and an overall rate of return of 9.04%. The requested revenue requirement included \$95,302 for water purchased from Corsicana.

Notice of the Application

10. On June 27, 2019, Northtown Acres provided revised notice of the proposed rate change via United States mail to each customers and other affected parties and the Office of Public Utility Counsel.
11. On July 8, 2019, Northtown Acres filed the affidavit of Roger Richardson, manager of Northtown Acres, attesting to the notice provided on June 27, 2019.
12. In Order No. 6 filed on July 19, 2019, the Commission ALJ found the notice sufficient.
13. On March 1, 2021, Northtown Acres provided notice of the amended application to customers, neighboring utilities, the Office of Public Utility Counsel, and affected parties.
14. On March 4, 2021, Northtown Acres filed the affidavit of Roger Richardson, owner of Northtown Acres, attesting to the notice provided on March 1, 2021.
15. In State Office of Administrative Hearings (SOAH) Order No. 13 filed on April 1, 2021, the SOAH ALJ found the notice of the amended application sufficient.

Referral to SOAH

16. On December 18, 2019, the Commission referred this proceeding to SOAH.

17. On January 21, 2020, the Commission filed a preliminary order listing issues to be addressed in this proceeding.
18. On January 28, 2020, Commission Staff filed a motion to abate this proceeding to allow Northtown Acres to file a sale, transfer, or merger proceeding to transfer the water system and CCN number 11704 to Sheroll and Roger Richardson.
19. In SOAH Order No. 3 filed on February 10, 2020, the SOAH ALJ granted Commission Staff's motion to abate.
20. On May 5, 2020, Northtown Acres filed an application for sale, transfer, or merger in Docket No. 50819¹ to transfer the water system and CCN number 11704 to Sheroll and Roger Richardson and to amend CCN number 11704 to include current Northtown Acres customers located in the North Petty Chapel subdivision.
21. In Order No. 8 filed on October 16, 2020 in Docket No. 50819, the Commission ALJ approved the proposed sale and held that the transfer of the water system and CCN number 11704 could proceed and be consummated.
22. In SOAH Order No. 8 filed on November 6, 2020, the SOAH ALJ lifted the abatement in this proceeding.
23. In SOAH Order No. 14 filed on April 14, 2021, the SOAH ALJ set a hearing on the merits to convene at 9:00 a.m. on August 12, 2021 at SOAH's hearing facility in Austin, Texas, and referred this proceeding to mediation.
24. On May 25, 2021, the Commission filed in Docket No. 50819 an order approving the transfer of the water system and CCN number 11704 to Sheroll and Roger Richardson and the amendment of CCN number 11704.
25. On July 8, 2021, SOAH ALJs Srinivas Behara and Andrew Lutostanski held a mediation with Northtown Acres, Commission Staff, Mr. Parker, and Mr. Marx, III, and the parties continued negotiations thereafter.

¹ *Application of Sheroll Richardson, Administrator of the Estate of Herb Madison and Sheroll and Roger Richardson dba Northtown Acres Water Supply for Sale, Transfer, or Merger of Facilities and Certificate Rights in Navarro County, Docket No. 50819, Order (May 25, 2021).*

26. On July 26, 2021, SOAH ALJs Srinivas Behara and Andrew Lutostanski filed a mediator's report informing the presiding SOAH ALJ that Northtown Acres and Commission Staff had reached an agreement in principle. At that time, Mr. Parker and Mr. Marx, III were not in agreement.
27. On August 11, 2021, Northtown Acres filed notice of an agreement resolving all issues in the proceeding. The signatories to the agreement include Northtown Acres and Commission Staff. Mr. Parker and Mr. Marx, III are in agreement as to one provision and are unopposed to the remainder of the agreement.
28. In SOAH Order No. 19 filed on August 11, 2021, the SOAH ALJ cancelled the hearing on the merits.
29. On September 30, 2021, Northtown Acres and Commission Staff jointly filed a motion to admit evidence, motion to remand, and proposed order.
30. In SOAH Order No. 21 filed on October 1, 2021, the SOAH ALJ dismissed this case from SOAH docket and remanded it to the Commission.

Return from SOAH

31. On January 12, 2022, Commission Counsel filed a memorandum directing the parties to file additional evidence to support the proposed tap fees and miscellaneous service charges.
32. On February 11, 2022, Commission Staff and Northtown Acres jointly filed the affidavit of Ms. Richardson and the memorandum of Commission Staff witness Heidi Graham in support the proposed tap fees and miscellaneous service charges. Commission Staff and Northtown Acres also filed a joint motion to admit the filings into evidence.

Interventions and Protests

33. More than 10% of ratepayers affected by the proposed rate increase filed protests in this docket.
34. In SOAH Order No. 3 filed on February 10, 2020, the SOAH ALJ granted the interventions of Mr. Parker and Mr. Marx, III.
35. In SOAH Order No. 13, filed on April 1, 2021, the SOAH ALJ granted the interventions of Timothy Barnebee, Eric Meyers, Glen Smith, and James Williams.

36. In SOAH Order No. 16 filed on July 30, 2021, the SOAH ALJ dismissed Mr. Barnebee, Mr. Meyers, Mr. Smith, and Mr. Williams as intervenors.

Testimony

37. On May 17, 2021, Northtown Acres filed the direct testimony of Ms. Richardson.
38. On June 16, 2021, Mr. Parker and Mr. Marx, III each filed statements of position.
39. On June 17, 2021, Mr. Barnebee filed a statement of position.
40. On July 16, 2021, Commission Staff filed the direct testimony and workpapers of Emily Sears and the direct testimonies of Ms. Graham and Kathryn Eiland.
41. On July 30, 2021, Northtown Acres filed the rebuttal testimony and testimony in of the agreement of Ms. Richardson.

Evidentiary Record

42. In SOAH Order No. 21 filed on October 1, 2021, the SOAH ALJ admitted the following evidence into the record:
- a. Northtown Acres' class B application for authority to change rates, filed on January 18, 2019;
 - b. Northtown Acres' amended application and confidential attachments, filed on December 16 and 17, 2020;
 - c. Northtown Acres' affidavit of second notice, filed on March 4, 2021;
 - d. the direct testimony of Ms. Richardson on behalf of Northtown Acres, filed on May 17, 2021;
 - e. the direct testimony and workpapers of Ms. Sears on behalf of Commission Staff, filed on July 16, 2021;
 - f. the direct testimony of Ms. Graham on behalf of Commission Staff, filed on July 16, 2021;
 - g. the direct testimony of Ms. Eiland on behalf of Commission Staff, filed on July 16, 2021;

- h. the confidential direct testimony of Ms. Eiland, including attachment KE-9, on behalf of Commission Staff, filed on July 16, 2021;
 - i. the rebuttal testimony and testimony in support of a non-unanimous stipulation of Ms. Richardson on behalf of Northtown Acres, filed on July 30, 2021;
 - j. the unopposed agreement filed on August 11, 2021;
 - k. the testimony of Ms. Eiland, in support of the agreement, filed on September 30, 2021; and
 - l. the water utility tariff attached to the joint motion to admit evidence filed on September 30, 2021.
43. In Order No. 9 filed on February 14, 2022, the Commission ALJ admitted the following evidence into the record:
- a. the affidavit of Ms. Richardson, with attachments, in support of the requested tap fees, attached as Exhibit 15 to the joint motion to admit evidence filed on February 11, 2022; and
 - b. the memorandum of Heidi Graham, attached as exhibit 16 to the joint motion to admit evidence filed on February 11, 2022.

Revenue Requirement, Rates, and Pass-Throughs

44. In its amended application, Northtown Acres requested an annual revenue requirement, less other revenues, of \$292,425 consisting of the following:

Description	Amount
Operating Expenses	\$213,840
Depreciation	\$30,195
Taxes other than income taxes	\$6,032
Federal income tax	\$7,866
Return on rate base	\$38,084
Total	\$292,425

45. The signatories agreed that Northtown Acres' annual revenue requirement for CCN number 11704 is \$158,534. This amount does not include Northtown Acres' cost of purchased water.
46. The signatories agreed to an annual salary expense of \$33,800 for Ms. and Mr. Richardson.
47. The signatories agreed to an annual contract labor expense of \$24,000 for operations and maintenance assistance and \$12,000 for accounting assistance. The signatories further agreed that Northtown Acres must file proof of the contract labor expense in the form of executed contracts, within 30 days from the date of an Order approving the agreement and that the annual contract labor expense will be reported in Northtown Acres' annual report to be filed each year.
48. The signatories agreed that Northtown Acres is authorized to charge the base rates below, which are included in the water tariff attached to the joint motion to admit evidence.

<u>Meter Size</u>	<u>Monthly Minimum Charge</u> (includes 0 gallons of usage)	<u>Gallonge Charge</u>
5/8"	<u>\$28.30</u>	<u>\$3.00</u> per 1,000 gallons from 0 to 10,000 gallons
3/4"	<u>\$42.45</u>	<u>\$3.45</u> per 1,000 gallons from 10,001 to 25,000 gallons
1"	<u>\$70.75</u>	<u>\$3.60</u> per 1,000 gallons over 25,001 gallons
1 1/2"	<u>\$141.50</u>	
2"	<u>\$226.40</u>	

49. The agreed base rates are designed to recover the agreed annual revenue requirement.
50. The agreed base rates are just and reasonable.
51. The signatories agreed that Northtown Acres is authorized to charge the pass-through rates below to collect its purchased-water costs, adjusted for line loss.

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonge Charge</u>
5/8"	<u>\$2.23</u>	<u>\$4.48</u> per 1,000 gallons
3/4"	<u>\$3.35</u>	
1"	<u>\$5.58</u>	
1 1/2"	<u>\$11.16</u>	
2"	<u>\$17.86</u>	

52. The agreed pass-through rates are just and reasonable.

53. In its second notice to ratepayers filed on March 1, 2021, Northtown Acres requested to replace its \$300 tap fee with a new \$1,000 tap fee for 3/4" meters and a new \$1,500 tap fee for 1" meters; to establish a new \$45 transfer fee; to change its \$5 late charge to a 10% late charge; to increase its returned check charge from \$10 to \$30; and to set maximum amounts for its \$50 deposit and \$25 meter test fees at \$50 and \$25, respectively.
54. The signatories agreed that Northtown Acres may change its miscellaneous fees as proposed in its second notice to ratepayers filed on March 1, 2021.
55. The agreed miscellaneous fees are just and reasonable.
56. Northtown Acres agreed to a 90-day grace period, starting from the date this Order is filed, for customers with meters greater than 1 inch to downsize, at the request of the customer, at the cost of materials.
57. Northtown Acres agreed to offer payment of invoices by Venmo, Cash App, and credit card and to check the envelopes containing payments from customers for the date mailed (postmarked) for purposes of determining whether to assess late fees.

Payments to Affiliated Interests

58. Northtown Acres does not make payments to, or receive payments from, affiliates.

Rate Base

59. In its amended application, Northtown Acres requested a total original cost for plant in service of \$985,276 and accumulated depreciation of \$590,816.06, resulting in a requested net plant in service of \$394,459.94.
60. The signatories agreed that as of December 31, 2019, Northtown Acres' total original cost for plant in service is \$988,004.69 and that Northtown Acres' accumulated depreciation is \$621,087.25, resulting in \$366,917.44 of net plant in service as shown in attachment HG-3 to the direct testimony of Commission Staff witness Heidi Graham, filed on July 16, 2021.
61. The components of Northtown Acres' net plant in service are reasonable and necessary.
62. In its amended application, Northtown Acres requested cash working capital of \$26,730, which was less than 1/8 of its requested total operations and maintenance costs.
63. In its amended application, Northtown Acres requested an overall rate of return of 9.04%.

64. The signatories agreed that Northtown Acres overall rate of return is 6.51%
65. The signatories agreed that Northtown Acres' invested capital is approved with the adjustment recommended in Commission Staff's testimony to capitalize tires and a cabinet. The signatories further agreed that the updated test-year-end invested capital is based on a trended original cost, less depreciation, of property used and useful in the provision of water service.

Rate-Case Expenses

66. Northtown Acres agreed to waive the recovery of its actual rate-case expenses incurred in this proceeding.
67. Northtown Acres agreed that it will not seek to recover any rate-case expenses incurred in this proceeding in a future proceeding.

Agreed Tariff Provisions

68. The signatories agreed to the tariff provisions set forth in the tariff filed on September 30, 2021, which includes the miscellaneous service charges listed in Northtown Acres' notice filed on March 4, 2021.
69. The signatories agreed that the terms and conditions of the tariff are just and reasonable.
70. The terms and conditions of the tariff are just and reasonable.

Interim Rates

71. In Order No. 7 filed on November 6, 2019, the Commission ALJ approved interim rates for Northtown Acres, effective with the first billing cycle following the date of the order.
72. In SOAH Order No. 5 filed on April 6, 2020, the SOAH ALJ adopted revised interim rates, effective with the first billing cycle following the date of the order, based on an agreement between Northtown Acres and Commission Staff.
73. In SOAH Order No. 20 filed on August 13, 2021, the SOAH ALJ approved interim rates that are identical to the rates agreed to by the signatories, effective the date of the order.
74. The signatories, Mr. Parker, and Mr. Marx, III agreed that Northtown Acres will not seek recovery of any true-up of interim rates, an amount in excess of \$75,000, to resolve any issues raised by intervenors in the proceeding.

Effective Date

75. In the amended application, Northtown Acres proposed an effective date of April 5, 2021.
76. In SOAH Order No. 13 filed on April 1, 2021, the SOAH ALJ suspended the proposed effective date for 265-days, or until December 27, 2021.

Informal Disposition

77. More than 15 days have passed since the completion of notice provided in this docket.
78. Northtown Acres, Commission Staff, Mr. Marx, III, and Mr. Parker are the only remaining parties to this proceeding.
79. All parties are signatories to the agreement or are unopposed to the agreement.
80. No hearing is needed in this proceeding.
81. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Northtown Acres is a utility, public utility, and water utility as those terms are defined in TWC § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(39).
2. Northtown Acres is a retail public utility as that term is defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. At the time Northtown Acres filed its application, it was a Class C utility as defined in former TWC § 13.002(4-b) and 16 TAC § 24.3(16). Northtown Acres is now a Class D utility.
4. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.181, 13.1871, and 13.1872(c)(2).
5. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,² and Commission rules.

² Tex. Gov't Code §§ 2001.001-.903.

6. Northtown Acres gave proper notice of the application in accordance with the requirements of TWC § 13.1871, 16 TAC § 24.27(d)(1), and the Administrative Procedure Act.
7. Northtown Acres gave proper notice of its interim rates in accordance with the requirements of 16 TAC § 24.37(j).
8. The establishment of interim rates does not preclude the Commission from establishing, as final rates, different rates than the interim rates in accordance with 16 TAC § 24.37(g).
9. Northtown Acres met its burden of proof under TWC § 13.184(c) and 16 TAC § 24.12 to show that the rates approved in this Order are just and reasonable.
10. The rates approved by this Order are just and reasonable under TWC § 13.182(a).
11. The rates approved in this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customers in accordance with TWC § 13.182(b).
12. Northtown Acres' operating expenses are reasonable and necessary under 16 TAC § 25.41(b).
13. As required by TWC § 13.183, the rates approved by this Order will permit Northtown Acres a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses and will preserve Anderson Water's financial integrity.
14. No affiliate payments are included in the rates approved in this Order; therefore, TWC § 13.185(e) and 16 TAC § 24.41(b) are not implicated in this proceeding.
15. As required by TWC § 13.185(h), the rates approved in this Order do not include legislative advocacy expenses, the costs of processing a refund or credit, or any expenditure that is unreasonable, unnecessary, or not in the public interest.
16. An overall rate of return of 6.51% will not yield Northtown Acres more than a fair return on the invested capital used and useful in rendering service in accordance with TWC § 13.184(a) and 16 TAC § 24.41(c)(l).

17. In accordance with TWC § 13.185 and 16 TAC § 24.41(c)(2)(B), the rates approved in this Order are based on original cost, less depreciation, of property used and useful in Northtown Acres' provision of service.
18. The rates approved in this Order comply with 16 TAC § 24.43(b)(l) regarding conservation.
19. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves Northtown Acres' change in water rates as provided in this Order.
2. The Commission approves the tariff filed on September 30, 2021, including its rates, pass-through charges, terms, and conditions, effective the first day of the month following the date of this Order.
3. Northtown Acres must not file for an increase in base rates with an effective date that is sooner than 12 months after the date of this Order.
4. The Commission establishes the rate base for Northtown Acres as of December 31, 2019, is \$379,378 and includes \$366,917.44 of net plant in service as shown in attachment HG-3 to the direct testimony of Commission Staff witness Heidi Graham. Northtown Acres must use this specific rate base as of December 31, 2019 in determining its rate base in its next filing for a base rate increase.
5. Within 30 days of the date of this Order, Northtown Acres must execute and file with the Commission written agreements for operations and maintenance assistance and accounting assistance.
6. Northtown Acres must not seek to recover any rate-case expenses incurred in this proceeding in a future proceeding.

7. Northtown Acres must not seek a true-up of interim rates for the purpose of assessing a surcharge to customers.
8. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the amended agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the amended agreement.
9. Within ten days of the date of this Order, Commission Staff must file a clean copy of Northtown Acres' tariff with Central Records to be marked *Approved* and kept in the Commission's tariff book.
10. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER