



## Filing Receipt

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**SOAH DOCKET NO. 473-21-2237**  
**PUC DOCKET NO. 50197**

<b>APPLICATION OF TIMBERCREST</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>PARTNERS LLC FOR AUTHORITY TO</b>	<b>§</b>	<b>OF</b>
<b>CHANGE RATES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**JOINT PROPOSED ORDER**

This Order addresses the application of Timbercrest Partners LLC (“Timbercrest”) for authority to change its rates for water and wastewater services. Timbercrest and Commission Staff filed a unanimous agreement regarding the rate changes. The Commission approves the terms of the settlement to the extent provided in this Order.

**I. Findings of Fact**

The Commission adopts the following findings of fact.

**Applicant**

1. Timbercrest Partners LLC is a Delaware Limited Liability Corporation registered to do business in Texas under Texas Secretary of State File No. 800696741.
2. Timbercrest owns and operates facilities for providing water service in Harris County, Texas.
3. Timbercrest provides water and sewer service for compensation to five connections, which consist of a residential mobile home community and four commercial establishments, under water and sewer Certificates of Convenience and Necessity Nos. 11744 and 20583.

**Application**

4. On November 15, 2019, Timbercrest filed its application to change rates for water and wastewater service.
5. The application is based on a historical test year ending December 31, 2018, adjusted for known and measurable changes.
6. Timbercrest requested that the Commission approve a revenue requirement of \$181,237 for water, and \$206,248 for wastewater, as well as a rate of return of 7.29%
7. Timbercrest also requested approval of a pass-through fee for the North Harris County Regional Water Authority.
8. Timbercrest further requested recovery of all reasonable and necessary rate case expenses.

9. On April 16, 2020, Timbercrest filed responses to Commission Staff's recommendations and requests for additional information for application sufficiency.
10. In Order No. 5 filed on June 29, 2020, the Commission administrative law judge (ALJ) found Timbercrest's rate application administratively complete and suspended the effective date for all proposed rates for the pendency of the proceeding.

### **Notice**

11. On November 10, 2020, Timbercrest filed its revised proof of notice.
12. In Order No. 9 filed on December 4, 2020, the Commission ALJ found notice sufficient.

### **Referral to the State Office of Administrative Hearings**

13. On May 4, 2021, the Commission referred the proceeding to the State Office of Administrative Hearings (SOAH) for a contested case hearing.
14. On June 14, 2021, the Commission filed a preliminary order.
15. In SOAH Order No. 3 filed on July 12, 2021, the SOAH ALJ abated the proceeding and referred it mediation.
16. On July 20, 2022, Timbercrest filed a motion to lift the abatement.
17. In SOAH Order No. 4 filed on July 22, 2022, the SOAH ALJ set a prehearing conference.
18. On September 9, 2022, Commission Staff filed a proposed procedural schedule.
19. In SOAH Order No. 6 filed on September 23, 2022, the SOAH ALJ adopted the proposed procedural schedule and set the proceeding for a hearing on the merits.
20. On November 8, 2022, Timbercrest and Commission Staff filed a joint motion to cancel the hearing and abate the proceeding pending the filing of final settlement documents.
21. In SOAH Order No. 8 filed on November 8, 2022, the SOAH ALJ canceled the hearing and abated the proceeding.
22. On March 13, 2023, Timbercrest and Commission Staff filed a unanimous agreement.
23. In SOAH Order No. \_\_ filed on \_\_\_\_\_, the SOAH ALJ dismissed the proceeding from SOAH's docket and remanded the case to the Commission.

### **Evidentiary Record**

24. In SOAH Order No. \_\_ filed on \_\_\_\_\_, the SOAH ALJ admitted the following evidence into the record:
  - a) The Application of Timbercrest Partners LLC for Authority to Change Rates

- filed on January 17, 2020;
- b) Errata No. 1 filed on June 17, 2020;
  - c) Timbercrest's Response to Order No. 1 filed on January 31, 2020;
  - d) Timbercrest's Response to Order No. 2 (Infrastructure Division) filed on April 16, 2020;
  - e) Timbercrest's Response to Order No. 2 (Rate Regulation) filed on April 16, 2020;
  - f) Timbercrest's Confidential Response to Order No. 2 filed on April 20, 2020;
  - g) Timbercrest's Amended Response to Order No. 2 (Infrastructure Division) filed on August 26, 2020;
  - h) Timbercrest's Revised Proof of Notice filed on November 10, 2020;
  - i) Timbercrest's Response to Commission Staff's Requests for Information Nos. 1-11 filed on August 26, 2020, May 12, June 8, September 27, 2021, June 17, August 15 and 31, September 8, 9, and 19, October 20, and November 3, 2022;
  - j) Direct Testimony of Charles Loy filed on September 27, 2022;
  - k) Direct Testimony of Tammy Shea filed on September 27, 2022;
  - l) Confidential Attachment TRS-3 filed on September 27, 2022;
  - m) Confidential Attachment CEL-3 filed on September 27, 2022;
  - n) Direct Testimony of Heidi Graham filed on October 14, 2022;
  - o) Direct Testimony of Kathryn Eiland filed on October 14, 2022;
  - p) Direct Testimony of Emily Sears filed on October 14, 2022;
  - q) Direct Testimony of Adrian Narvaez filed on October 14, 2022;
  - r) Rebuttal Testimony of Charles E. Loy filed on October 24, 2022;
  - s) Amended Rebuttal Testimony of Charles E. Loy filed on October 25, 2022;
  - t) Unanimous Stipulation and Settlement Agreement, along with Joint Proposed Order and Proposed Tariffs, filed on March 13, 2023;
  - u) Staff's Testimony in Support of Stipulation filed on March 13, 2023;
  - v) Timbercrest's Testimony in Support of Stipulation, filed on March 13, 2023; and
  - w) Supplemental Affidavit on Rate Case Expenses filed on March 13, 2023.

## **Terms of Settlement Agreement**

### **Rate Base**

25. Timbercrest's transmission rate base of \$804,725 for water and \$602,784 for wastewater is based on a test year ending December 31, 2018.
26. Timbercrest's rate base was determined using the engineering study conducted by Water Engineers, Inc.
27. The rate base established by the engineering study is reasonable.
28. Timbercrest's investment included in its proposed rate base is used and useful and prudently incurred.
29. Timbercrest's proposed water and wastewater rate base is reasonable and necessary.

### **Revenue Requirement**

30. Timbercrest's total annual revenue requirement for rate design is \$157,425 for water, and \$184,811 for wastewater, for a total revenue requirement of \$342,236.
31. Timbercrest's revenue requirement reflects operation and maintenance expense of \$181,398, depreciation and amortization expense of \$31,596, taxes other than income taxes of \$25,383, federal income taxes of \$15,901, and a return on rate base of \$92,755, less other revenues of \$4,798.
32. Timbercrest's operation and maintenance expenses, depreciation and amortization expenses, taxes other than income taxes, federal income taxes, and return on rate base, as stated above are reasonable and necessary.

### **Rate of Return**

33. Timbercrest's rate of return is 6.59% based on a 8.5% cost of equity and 4.67% cost of debt and a proxy capital structure of 50% equity and 50% debt.
34. Timbercrest's rate of return is reasonable.
35. Timbercrest's proxy capital structure is reasonable.
36. Timbercrest's rates will provide it a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses.

### **Rates**

37. Timbercrest's proposed water rates are reflected in the tariff attached as Exhibit A.

- 38. Timbercrest's proposed rates are reasonable and necessary.
- 39. The rate design of a fixed base rate and a single tier volumetric rate is reasonable and necessary.
- 40. Timbercrest proposed wastewater rates are included in the tariff attached as Exhibit B.
- 41. The rate design of a fixed sewer rate with no volumetric rate is reasonable and necessary.
- 42. The use of a 12" proxy meter for purposes of determining total meter equivalent values is reasonable and necessary for the design of both water and sewer rates.
- 43. Timbercrest's wastewater rates are reasonable and necessary.

Rate Case Expenses

- 44. Timbercrest's rate case expense that will be recovered through metered customers is \$50,214, \$23,742 of which will be collected from water customers and \$26,472 of which will be collected from wastewater customers. Timbercrest will recover its rate case expenses over a three-year period.
- 45. Timbercrest will recover rate case expenses through a surcharge as reflected in the tariff's attached hereto as Exhibits A and B.
- 46. Timbercrest's proposed rate case expenses and recovery period are reasonable and necessary.
- 47. Timbercrest may not seek to recover any additional rate case expenses incurred in connection with this application in a future proceeding and will not seek to recover such expenses from its non-metered tenants at the residential mobile home park owned by Timbercrest.
- 48. Timbercrest will file an annual update to the Commission, within one year from the date of the final order, and every year thereafter, that contains the number of customers charged the rate case expense surcharge, the amount to be collected to date, and the remaining balance of rate case expenses.

Pass-Through Fees

- 49. Timbercrest will recover fees related to the North Harris County Regional Water Authority through the pass-through rate identified on Exhibit A.
- 50. Timbercrest will recover the share of the fees for the non-metered residential customer of the mobile home park through rent revenues.

51. The pass-through rate will be subject to an annual true-up as the fee changes from NHCRWA.
52. Until the true-up, the appropriate pass-through rate is \$5.41 per gallon.

#### *Affiliate Expenses*

53. Timbercrest omitted any affiliate expenses from this filing. Instead Timbercrest relied upon the common-cost allocation methodology developed by its witness, Chuck Loy. The cost allocation methodology properly allocated expenses that are common to both the utility and non-utility functions.
54. Timbercrest will file an annual update within one year from the date of the final order to indicate any changes in the organizational structure of Timbercrest Partners LLC, Haven at Augusta Woods Village, LP, and August Woods, among others. To the extent any affiliate provides services to Timbercrest for payment, Timbercrest will execute a written agreement with such affiliate for such services.

#### *Rate Design*

55. Timbercrest will use a proxy master meter of 12 inch for the residential home park for purposes of rate design.
56. The rates, terms, and conditions of the tariffs resulting from the agreement are just and reasonable.

#### *Informal Disposition*

57. More than 15 days have passed since the completion of notice provided in this docket.
58. Timbercrest and Commission Staff are the only parties to this proceeding.
59. No hearing is necessary.
60. The decision is not adverse to any party.

## **II. Conclusions of Law**

The Commission adopts the following conclusions of law:

1. Timbercrest is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
2. Timbercrest is a class D utility under TWC § 13.002(4-d) and 16 TAC § 24.3(8) because it has less than 500 active water connections.
3. The Commission has jurisdiction to consider Timbercrest's application for rate increases

and related tariff changes, and to conduct both formal and informal ratemaking hearings in accordance with TWC §§ 13.041, 13.181, and 13.1872, using the procedures in subchapter B of 16 TAC Chapter 24.

4. The Commission processed this Docket in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
5. Timbercrest complied with the requirement to provide notice of the rate application as required by TWC § 13.1871(b) and 16 TAC § 24.27(d).
6. The rates approved in this proceeding are just and reasonable under TWC § 13.182(a).
7. As required by TWC § 13.182(b), the rates approved in this proceeding are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customers.
8. Under TWC § 13.183(a), the Commission is required to establish a revenue requirement in setting rates.
9. Timbercrest's overall revenues will permit it 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 Timbercrest's financial integrity.
10. The rate-case expenses approved in this Order are just, reasonable, necessary, and in the public interest as required under 16 TAC § 24.44(a).
11. 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 Order:

1. The Commission approves the terms of the settlement agreement to the extent discussed in this Order.
2. The Commission approves the tariffs, including its rates, pass-through rate (until the annual true-up), rate case expense surcharges, terms, and conditions included in the tariffs. The approved tariffs are effective the first day of the month following the date of

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<sup>1</sup> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001-.902 (APA).



this Order is signed.

3. Within one year of this Order, Timbercrest must file compliance reports tracking its affiliates to include executed contracts with affiliates, specifically with regard to transactions within the trailer park rental property operation and allocations of costs in lieu of payments. Timbercrest agrees to provide annual updates to the comprehensive organizational structure, which includes Timbercrest; Haven at Augusta Woods Village, LP; and August Woods, among others. To the extent entities are added or removed, Timbercrest agrees to include the updates.
4. Beginning with the next billing cycle after the date of this Order, Timbercrest must recover its rate case expenses through the monthly surcharges of \$5.54 and \$6.75 included in the tariffs in Exhibits A and B as follows:
  - a) the surcharge must be applied equally to all present and future utility customers; and
  - b) the surcharge must be collected for 36 months or until the amount of \$23,742 is collected from water customers and the amount of \$26,472 is collected from wastewater customers, whichever occurs first.
5. Beginning with the next billing cycle after the date of this Order, Timbercrest must submit annual reports to the Commission that contain the following:
  - a) the number of customers charged the rate case expense surcharges authorized in this Order;
  - b) the amount collected to date by the rate case expense surcharges authorized by this Order; and
  - c) the remaining balance of rate case expenses.
6. Timbercrest must implement the surcharge for rate case expenses described in Ordering Paragraph No. 4 and file the annual reports described in Ordering Paragraphs Nos. 3 and 5 in Docket No. \_\_ (*Compliance Filing for Docket No. 50197 (Application of Timbercrest Partners LLC for Authority to Change Rates)*).
7. Within ten days of the date of this Order, Commission Staff must file a clean copies of Timbercrest's tariffs, modified to comply with this Order, with Central Records to be marked Approved and kept in the Commission's tariff book.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**SIGNED AT AUSTIN, TEXAS the \_\_\_\_ day of \_\_\_\_\_ 2023.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**