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DOCKET NO. 50197

**APPLICATION OF TIMBERCREST
PARTNERS LLC FOR AUTHORITY TO
CHANGE RATES**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**



**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION
ON NOTICE DEFICIENCY AND PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Supplemental Recommendation on Notice Deficiency and Proposed Procedural Schedule. In support thereof, Staff would show the following:

I. BACKGROUND

On January 17, 2020, Timbercrest Partners, LLC (Timbercrest) filed an application for authority to change its retail water and sewer rates under Texas Water Code (TWC) §§ 13.1871 and 13.1872(c)(2) and 16 Texas Administrative Code (TAC) §§ 24.25-.44.

On February 20, 2020, the administrative law judge (ALJ) filed Order No. 2, finding the application incomplete and deficient and directing Timbercrest to supplement the application to cure the deficiencies by March 9, 2020. On April 16, 2020, and April 20, 2020, Timbercrest filed supplemental information to its application in response to the deficiencies cited in Staff's recommendation, including confidential information.

On June 29, 2020, the ALJ filed Order No. 5, finding the application administratively complete and sufficient for further review. The ALJ further required the suspension of the effective date and directed Timbercrest to provide new notice to all affected ratepayers with a revised effective date that is at least 35 days after the date that the new notice is provided to ratepayers.

On September 15, 2020, the ALJ filed Order No. 7, deeming notice deficient and requiring Timbercrest to file the required proof of new notice in accordance with Order No. 5 by October 5, 2020. Order No. 7 also required Staff to file a supplemental recommendation on the sufficiency of notice by October 12, 2020. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON NOTICE DEFICIENCY

Staff has reviewed the proof of notice filed by Timbercrest on October 5, 2020 and recommends that it be found deficient. The first paragraph of each notice contains a sentence that

reads: “If the Commission receives a sufficient number of protests, separately or in a combined protest letter, from at least [number of] ratepayers (10 percent of the utility’s customers over whose rates the Commission has original jurisdiction) or from any affected municipality before the 91st day after the proposed effective date, the matter will be set for hearing.” The applicant is responsible for replacing “[number of]” with the actual number that equals 10% of the affected customers. Timbercrest’s supplemental notice did not include this number. Therefore, Staff recommends that the ratepayers did not receive adequate notice of the number of protests that must be received in order for this docket to be referred to the State Office of Administrative Hearings for a hearing on the merits.¹

Further, Timbercrest mailed notice using an outdated Commission notice form, which does not include information explaining the difference between protesting the proposed rate action and intervening in the proceeding. Staff requests that Timbercrest be required to use the current Commission-approved notice form, titled “Class B and C Utility Notice of Proposed Rate Change.”² In addition, Timbercrest’s supplemental notice lists January 3, 2020 as the date notice was delivered. According to the Affidavit of Tammy R. Shea, filed with Timbercrest’s supplemental notice, supplemental notice was actually delivered on September 30, 2020.

Lastly, the supplemental notice includes the amount of the annual revenue increase for both water and sewer. However, there are discrepancies between the annual revenue increases listed in the notice and those shown in the workpapers supporting the application. According to the workpapers, the revenue generated by the existing rates is \$95,664 for water and \$101,878 for sewer. The revenue generated by the proposed rates is \$181,237 for water and \$206,248 for sewer. Therefore, the annual revenue increase is \$85,574 for water and \$104,370 for sewer. Staff recommends that Timbercrest reconcile the application workpapers and the notice and correct the revenue requirements in the new notice provided to customers, if appropriate.

Staff recommends that Timbercrest’s supplemental notice be found deficient. Staff requests that Timbercrest be required to provide new notice to all affected ratepayers, correcting the above-listed deficiencies, with a new revised effective date that is at least 35 days after the date that the new notice is provided to ratepayers.

¹ 16 Tex. Admin. Code § 24.35(c)(2) (TAC).

² The current Commission-approved notice form is available for download on the Commission’s website at the following link: <http://www.puc.texas.gov/industry/water/Forms/Forms.aspx>.

III. PROCEDURAL SCHEDULE

Staff recommends that Timbercrest's notice continue to be found deficient. Therefore, Staff recommends that a deadline of November 9, 2020 be established for Timbercrest to file its revised proof of notice, with a new revised effective date that is at least 35 days after the date that the new notice is provided to ratepayers. Additionally, Staff recommends that a deadline of December 4, 2020 be established for Staff to review Timbercrest's revised proof of notice and make a supplemental recommendation on the sufficiency of notice.

IV. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that notice be found deficient and that the procedural schedule proposed above be adopted for the further processing of this docket.

Dated: October 12, 2020

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 12, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Taylor P. Denison
Taylor P. Denison