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SOAH DOCKET NO. 473-21-2237.WS

PUC DOCKET NO. 50197

2021 MAY 14 AM 10:13

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

**SOAH ORDER NO. 2
DESCRIPTION OF CASE; NOTICE OF PREHEARING CONFERENCE;
AND GENERAL PROCEDURAL REQUIREMENTS**

I. DESCRIPTION OF CASE

Timbercrest Partners LLC (Applicant) filed with the Public Utility Commission of Texas (Commission) an application for a rate/tariff change (Application) under water Certificate of Convenience and Necessity (CCN) No. 11744 and sewer CCN No. 20583. The Applicant is a Class D utility based in Harris County with a total of five active connections.

The Commission's Administrative Law Judge (ALJ), having previously found the revised application administratively complete, deemed the revised notice sufficient, and suspended the effective 265 days from the proposed effective date, pursuant to Texas Water Code § 13.1871(g).¹ Applicant's revised notice of intent proposed an effective date of December 8, 2020. Therefore, the effective date is **August 30, 2021**.

On May 4, 2021, this case was referred to the State Office of Administrative Hearings (SOAH) for hearing, if necessary. The Order of Referral also states that the Commission will consider and possibly adopt a preliminary order at an open meeting currently scheduled for June 11, 2021. The preliminary order will include a list of issues and any necessary statement of Commission policy, precedent, or position on threshold issues.

¹ Order No. 10 (Mar. 18, 2021).

The Commission has jurisdiction over this matter pursuant to TWC §§ 13.041, 13.181, 13.1871, and 13.1872. SOAH has jurisdiction over matters in this case relating to the conduct of the hearing and issuance of a proposal for decision, if needed, pursuant to Texas Government Code § 2003.049.

II. NOTICE OF PREHEARING CONFERENCE

A prehearing conference will be convened at **1:30 p.m. on June 11, 2021, via Zoom videoconference**. You may access the preliminary hearing by going to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, selecting “Join a Meeting,” and entering the following information when prompted:

Meeting ID: 160 113 9852

Passcode: Lnx4EG

If you do not have access to a device that would allow videoconferencing capabilities, you may join by telephone by calling either number below and entering the following Meeting ID and passcode. Note that the passcode to join by telephone is different than the passcode to join via a computer or smart device.

(669) 254-5252

(646) 828-7666

Meeting ID: 160 113 9852

Passcode: 052562

You may access information for participating in a Zoom meeting at www.zoom.us under the “support” tab.

The purpose of the conference is to discuss setting a procedural schedule; naming the parties, whether this matter is appropriate for mediation; and any other matter that may assist in the disposition of this case in a fair and efficient manner.

At least 20 days before the prehearing conference, the Applicant **SHALL** provide notice of the prehearing conference to the governing body of each affected municipality and county and to each ratepayer pursuant to Texas Water Code § 13.1871(m)-(n) and 16 Tex. Admin. Code § 24.27(d)(2). The notice **SHALL** include the text of the paragraphs (including the prehearing conference date and Zoom information) immediately before, and the paragraph immediately after, this paragraph. Before providing notice, the Applicant must consult Commission Staff regarding the notice to be provided. **No later than June 8, 2021**, the Applicant must file an affidavit and a copy of the notice demonstrating that it provided the notice as required. Although the Commission previously set an intervention deadline of March 8, 2021, there is no indication that the customers received instructions on how to intervene as required under Water Code § 13.1871(n) and 16 Tex. Admin. Code § 24.27(d)(2)(B). Accordingly, the ALJ finds good cause to extend the intervention deadline.²

Any person who wants to intervene in this case (i.e., participate as a party) shall move to intervene either: (1) in a written motion to intervene **filed at the Commission no later than June 9, 2021**; or (2) **orally at the June 11, 2021 prehearing conference**. Any motion shall refer to SOAH Docket No. 473-21-2237.WS and PUC Docket No. 50197, include the person's contact information, and otherwise comply with the Commission's procedural rules. Previous submission of a protest does not meet the requirement of a motion to intervene as described above.

III. PROCEDURES

A. Filing Procedures

The rules setting out how to file documents are available on the Commission's website at www.puc.texas.gov, in Subchapter E of the Commission's procedural rules.³ Further instructions are available at <http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>.

² 16 Tex. Admin. Code § 22.104(b).

³ All PUC filings are available on the Commission's website under Filings: click on "Filings Search," and enter the control number 50197, and click "Search." A list of documents filed in this docket will appear and you may access those documents by clicking on the document number.

All pleadings must contain both the SOAH and PUC docket numbers. All pleadings must be filed with the Commission's Central Records (not with SOAH). The Commission's filing clerk will forward a copy of the pleadings to SOAH. Pleadings and other documents shall be deemed filed when the proper number of legible copies is presented to the PUC filing clerk for filing.

B. Service Procedures

A copy of any document filed with the Commission must also be served on (given to) all parties. All parties shall provide their current telephone and facsimile number, if available, and email address, if available, to all other parties.

When a party files a document with the Commission, that party must also serve (i.e., provide a copy of that document to) every other party. Filing of pleadings is governed by 16 Tex. Admin. Code § 22.71 and service is governed by 16 Tex. Admin. Code § 22.74. However, under the Commission's order suspending those rules,⁴ all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website (<https://interchange.puc.texas.gov/filer>) and provide notice, by e-mail, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer. It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange.

To receive service from SOAH by email, click on E-Services on SOAH's website, www.soah.texas.gov, for information and the form to request email service. Otherwise, parties will receive all orders and other case related correspondence by first class mail or by fax.

⁴ The Commission's order is available at: http://interchange.puc.texas.gov/Documents/50664_205_1075813.PDFF. The parties are encouraged to consult the Commission's website for the latest information on how COVID-19 is impacting the Commission's procedural requirements.

C. Motions

Motions for continuance shall be governed by 16 Texas Administrative Code § 22.79. If a continuance or extension of time is sought, the motion shall propose a new date or dates and shall indicate whether the other parties agree to the new date or dates. Because the ALJ or a hearing room may not be available on a given day, a proposed range of dates would be preferable. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, a contested motion for continuance or extension is not granted and the existing schedule remains in place.

Unless otherwise specified in the applicable procedural rules, responses to any motion or other pleading shall be filed within **five working days** from receipt of the motion or pleading. The response shall state the date of receipt of the motion or pleading to which a response is made. If a party does not respond to a motion, the ALJ will assume that the party agrees with the motion or does not oppose the requested relief.

D. Courtesy Copies

SOAH has implemented revised procedures relating to emailing courtesy copies to SOAH. Accordingly, in this docket the parties **SHALL NOT** email courtesy copies of any document to SOAH. The parties may file Microsoft Word (Word) versions of prefiled testimony or briefs, if any, on the Public Utility Commission of Texas Interchange.⁵ If the ALJ needs a Word version of prefiled testimony and briefs, the ALJ will either (1) download a Word version from the Interchange if it is available or (2) convert the PDF version on the Interchange to a Word version. If that is insufficient, the ALJ will issue an order providing instructions on how to submit courtesy Word versions of prefiled testimony and briefs to SOAH. The ALJ does not need a Word version of any material covered by a Protective Order or of any filing in this case except prefiled testimony

⁵ See 16 Tex. Admin. Code § 22.72(i)(1) (“Electronic filings shall be made in accordance with the current list of preferred file formats available in Central Records and on the commission’s World Wide Web site”) and <https://www.puc.texas.gov/industry/filings/FilerFaq.aspx> (listing Microsoft Word as a common file type that the Commission Interchange supports).

or briefs. The ALJ also does not need a courtesy hard copy of any document, except that if the case goes to hearing, the ALJ will issue an order providing instructions about delivery to SOAH of hard copies of exhibits.

E. Other Procedural Matters

Any matters not addressed by this order shall be governed by the procedural rules of the Commission, which are available for viewing and downloading from the Commission's website at www.puc.texas.gov.

Discovery⁶ may begin immediately pursuant to Subchapter H of the Commission's procedural rules.

SIGNED May 14, 2021.



DANIEL WISEMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁶ Commission Staff's May 10, 2021 Motion to Compel will be addressed in a subsequent order.