



Control Number: 50197



Item Number: 49

Addendum StartPage: 0

**Peter M. Lake**  
Chairman

**Will McAdams**  
Commissioner



**Greg Abbott**  
Governor  
2021 JUN -4 PM 12:53  
FILED

**Thomas J. Gleeson**  
Executive Director

## ***Public Utility Commission of Texas***

TO: Chairman Peter M. Lake  
Commissioner Will McAdams

All Parties of Record

FROM: Judy King  
Commission Advising

RE: June 11, 2021 Open Meeting, Item No. 13  
*Application of Timbercrest Partners LLC for Authority to Change Rates*, Docket  
No. 50197, SOAH Docket No. 473-21-2237.WS, Draft Preliminary Order.

DATE: June 4, 2021

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the June 11, 2021 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the June 11, 2021 open meeting.

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

<b>APPLICATION OF TIMBERCREST</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>PARTNERS LLC FOR AUTHORITY TO</b>	<b>§</b>	
<b>CHANGE RATES</b>	<b>§</b>	<b>OF TEXAS</b>

**DRAFT PRELIMINARY ORDER**

Timbercrest Partners LLC filed an application to change its water and sewer rates. This preliminary order identifies the issues that must be addressed in this proceeding.

**I. Application**

Timbercrest is applying under Texas Water Code (TWC) § 13.1871 to change its water and sewer rates based on a test year ending on December 31, 2018. Timbercrest asserts that it provides water and sewer service in Harris County under certificate of convenience and necessity (CCN) numbers 11744 and 20583. However, the Commission's records indicate that Timbercrest Community Associates, LP holds CCN numbers 11744 and 20583.

Timbercrest seeks a combined revenue requirement for both water and sewer service of \$601,690. Due to the lack of original records and cost documentation for utility assets, Timbercrest provided a trending study to determine the original cost values for the utility plant, property and equipment. Timbercrest proposes to modify its pass-through rate for purchased water costs, and proposes to apply the charge only to commercial customers.<sup>1</sup>

Timbercrest's current water and sewer tariffs include both residential and commercial rates that each include fixed rates and volumetric rates. The application proposes to revamp the residential water and sewer rates from fixed rates and volumetric rates to a flat rate, thus eliminating the volumetric rate.<sup>2</sup> The application proposes to revise the commercial water and sewer rates, but continue to charge fixed rates and volumetric rates.<sup>3</sup> The application further

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<sup>1</sup> Application at 70.

<sup>2</sup> Application at 70-71.

<sup>3</sup> *Id.*

proposes to establish rates for additional meter sizes not currently in its tariffs. Timbercrest also seeks \$80,000 in rate-case expenses.

Timbercrest states that it is owned and managed by Harmony Communities which owns, operates, and manages several rental communities across the country. Timbercrest further states that it is “embedded with a trailer park rental property operation” and that Harmony Communities maintains a separate set of books for the entire Timbercrest Community operation.<sup>4</sup> Timbercrest asserts that it provides service to approximately five customers including a trailer park, a 245-unit apartment complex, two convenience stores, and an automotive service establishment, all of which Timbercrest asserts are separately metered.

Timbercrest asserts that the individual units at the trailer park are not individually metered but share a master meter. Timbercrest initially asserted that the residential class customers are comprised of separate trailer units that are not individually metered but do share a master meter.<sup>5</sup> However, in a later filing Timbercrest indicated that the proposed flat rates for residential customers do not apply to the high-density residential complexes with master meters; rather, that they are billed under the current rate schedule under the commercial class which consists of a monthly base charge and volumetric charge.<sup>6</sup>

## II. Procedural History

Timbercrest filed its application on January 17, 2020. In Order No. 2 the Commission administrative law judge (ALJ) found the application deficient and administratively incomplete. On April 16 and 20, 2020, Timbercrest filed additional information to cure the deficiencies. In Order No. 5 the Commission ALJ found the application administratively complete and directed Timbercrest to provide new notice of the application to all affected ratepayers with a revised effective date. In Order No. 9 the Commission ALJ found notice of the application sufficient.

Commission Staff filed a request for referral of this proceeding to the State Office of Administrative Hearings (SOAH) for a hearing on the merits. The Commission then filed an order

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<sup>4</sup> Application at 5.

<sup>5</sup> *Id.*

<sup>6</sup> Timbercrest Partner LLC’s Response to Order No. 2 (Infrastructure Department Memorandum) at 2 (Apr. 16, 2021).

of referral to SOAH. In the order of referral Timbercrest was directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed. Timbercrest and Commission Staff each timely filed a list of issues.

### **I. Issues to be Addressed**

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>7</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

#### **Identification**

1. What is the legal name and all assumed names, if any, of the utility seeking a rate increase in this proceeding? If the utility has an assumed name, does it have a currently valid certificate for its assumed name?
2. What is the utility's business form (e.g., corporation, partnership, sole proprietorship)? What is the charter or authorization number, the date the business was formed, and the dates any changes were made?
3. What is the name of the utility in this proceeding, and what is the name of the utility that possesses CCN numbers 11744 and 20583?
4. Does the utility have a CCN for the services for which it seeks rates? If not, should this case be dismissed?

#### **Notice**

5. Did the utility provide notice of the proposed rate change that complies with applicable statutes and rules? TWC § 13.1871(b), (c); 16 Texas Administrative Code (TAC) § 24.27; Notice of proposed rate change form for class B and C utilities.

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<sup>7</sup> Tex. Gov't Code § 2003.049(e).

**Revenue requirement**

6. What revenue requirement will give the utility 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? TWC § 13.183(a)(1); 16 TAC § 24.43(a).
7. Will that revenue requirement preserve the utility's financial integrity? If not, what revenue requirement is required to do so? TWC § 13.183(a)(2); 16 TAC § 24.43(a).

**Allowable Expenses**

8. What are the utility's allowable expenses calculated in accordance with the applicable statutes, Commission rules, and form? TWC §§ 13.183(a)(1), 13.185; 16 TAC § 24.41(b).

**Rate base**

9. What is the appropriate rate of return on the utility's rate base? TWC §§ 13.183(a)(1), 13.184(a), (b), 13.185(a) through (e), (i); 16 TAC § 24.41(c) through (g).
10. Did the utility properly account for accumulated depreciation and for developer or customer contributions? TWC §§ 13.183(b), 13.185(b), (i), (j); 16 TAC § 24.41(c)(2), (c)(3)(D).

**Affiliates**

11. Does the utility have any affiliates? TWC § 13.002(2); 16 TAC § 24.3(3). If so, has the utility included in allowable expenses or in rate base any payments to affiliates? Are the payments reasonable and necessary? Were affiliate costs properly assigned to the utility? What are the costs to the affiliate of each item or class of items in question, and is the price to the utility no higher than prices charged by the supplying affiliate to its other affiliates or divisions or to unaffiliated persons or corporations for the same item or items? TWC § 13.185(e).

**Rates**

12. Do the proposed rates properly reflect the utility's fixed and variable costs and allocate responsibilities appropriately?
13. Did the utility use the appropriate number of connections and meter sizes in designing rates?
14. Do the proposed rates recover the utility's revenue requirement?
15. Are the proposed rates just and reasonable, and do they meet all other legal requirements? TWC § 13.182(a), (b).

16. What is the appropriate effective date of the rates fixed by the Commission in this proceeding?

TWC § 13.1871(b), (e) through (h); 16 TAC §§ 24.25(h), 24.33.

**Tariff**

17. Are the utility's proposed revisions to its tariffs and rate schedules appropriate?

**Refund or Surcharge**

18. If a refund or surcharge results from this proceeding, how and over what period of time should the refund or surcharge be made? TWC § 13.1871(u); 16 TAC § 24.35(e).

**Rate-case expenses**

19. What are the utility's rate-case expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest? Does that amount include any prospective rate-case expenses to be incurred after the Commission's final order? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility? 16 TAC § 24.44.

**Additional issues**

**Shared Services**

20. Does Harmony Communities also own, operate, or manage other rental communities in Texas that are embedded with water or sewer utilities, such as Atascocita or Pinewood?

21. Does Timbercrest have any shared services with Harmony Communities? If so, are the costs allocated to Timbercrest properly allocated?

22. Does Timbercrest have any shared services with any affiliates such as Atascocita or Pinewood? If so, are the costs allocated to Timbercrest properly allocated?

23. Has Timbercrest properly segregated its utility assets from its non-utility assets?

24. Does Timbercrest have costs that are common to both the utility and non-utility functions? If so, has Timbercrest properly allocated those expenses?

**Customer Connections, Type of Service, and Customer Classes**

25. How many connections does the water utility serve and how many connections does the sewer utility serve?

26. If there are no residential water or sewer connections, is it appropriate to have tariffs that include residential water and sewer rates?
27. For the trailer park, please address the following:
- a. Is the trailer park considered one water connection via a master meter?
    - i. If so, does the trailer park take service as a residential or commercial customer?
    - ii. If so, does the trailer park allocate the master meter bill for water service among the trailer park tenants?
  - b. Is the trailer park considered one sewer connection via a master meter?
    - i. If so, would the trailer park take service as a residential or commercial customer?
    - ii. If so, does the trailer park allocate the master meter bill for sewer service among the trailer park residents?
28. Are the trailer park tenants charged a flat water rate or a flat sewer rate for each of the 335 units?
- a. If so, does each tenant receive its own bill or is the flat rate part of the tenant's rent?
  - b. If so, what is the purpose of the master meter and what charges are included in the master meter billings?
29. For the apartment complex, please address the following:
- a. Is the apartment complex considered one water connection via the master meter? If so, does the apartment complex take service as a residential or commercial customer?
  - b. Is the apartment complex considered one sewer connection via a master meter? If so, does the apartment complex take service as a residential customer or a commercial customer?
30. For the residential and commercial classes, please address the following:
- a. Is there a sufficient difference between the residential and commercial classes to justify a separate rate design for the two separate classes?
  - b. What studies or analyses were performed to develop the separate classes?
  - c. Does the utility define commercial class and residential class?



- d. If not, how does the utility determine what customers fall within each of the classes?
- e. What is the justification for commercial rates for meter sizes above 5/8" x 3/4" that are significantly higher than the residential rates for the same meter sizes above 5/8" x 3/4"?
- f. If both residential and commercial classes are justified, what is the appropriate rate design for each rate class under 16 TAC § 24.43? Does a rate design that assesses flat rates for the residential class and both fixed rates and volumetric rates for the commercial class properly reflect the utility's fixed and variable costs and allocate responsibilities appropriately?

**Trending Study**

- 31. For the trending study provided as part of the application, please address the following:
  - a. Does the trending study appropriately establish investment in the plant?
  - b. Does the trending study properly evaluate depreciation costs of the plant used for rates?

**Pass-Through**

- 32. Do the proposed modifications to the pass-through rates result in pass-through charges that include only the actual costs charged to the utility? 16 TAC § 24.25(b)(2)(C).
- 33. Why does Timbercrest propose to apply the pass-through rate for purchased water costs only to commercial customers? If there are residential customers, how are purchased water costs fairly allocated to those customers? Does the proposed pass-through rate appropriately allocate purchased water costs to both residential and commercial customers?
- 34. If any of the purchased water costs are recovered through the fixed base rates proposed for residential customers, does the proposed pass-through rate properly exclude charges that are already included in the utility's cost of service? 16 TAC § 24.25(b)(2)(C).

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

**II. Effect of Preliminary Order**

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

**Signed at Austin, Texas the \_\_\_\_\_ day of June 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**