



## Filing Receipt

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**DOCKET NO. 50197**

<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>

**DIRECT TESTIMONY**

**OF**

**TAMMY R. SHEA**

**ON BEHALF OF**

**TIMBERCREST PARTNERS, LLC.**

**SEPTEMBER 27, 2022**

**DIRECT TESTIMONY OF  
TAMMY R. SHEA**

**Attachments**

Attachment TRS-1	Resume and CV of Tammy Shea
Attachment TRS-2	Affidavit of Tammy Shea
Attachment TRS-3 (Confidential)	Invoices for Docket 50197

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**DIRECT TESTIMONY OF  
TAMMY R. SHEA**

**I. INTRODUCTION**

**Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

A. My name is Tammy Shea. I am founding member of Shea & Associates PLLC. My business address is 7311 Emerald Glade Lane, Humble, Texas 77396.

**II. PURPOSE OF TESTIMONY**

**Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

I am testifying on behalf of Timbercrest Partners LLC (“Timbercrest” or “Company”)

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

Q. The purpose of my direct testimony is to address the standards by which Timbercrest is entitled to recover its reasonable and necessary rate case expenses associated with participating in this proceeding. As discussed in more detail below, the analysis in my testimony is based upon the standards set forth in Commission Subst. R. 16 Tex. Admin. Code (“TAC”) 24.44 (“Rule 25.44”) as well as relevant legal authorities.

**Q. DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.**

A. I have been practiced public utility law since 1998 and have participated in well over 40 contested case proceedings, including rate proceedings for power, gas and water utilities. I have practiced before the Public Utility Commission, the Railroad

1 Commission, and the Texas Commission on Environmental Quality. My professional  
2 resume is included as Attachment TRS-1.

3 Through my many years of professional experience dedicated mainly to public utility  
4 law, I am familiar with what is involved in trying contested cases of varying complexity  
5 before the Commission, including several base rate proceedings, pass through  
6 proceedings, such as energy efficiency cases and fuel reconciliations, certificates of  
7 convenience and necessity and complaint proceedings. I also represented clients  
8 extensively throughout deregulation in the business separation plans, stranded costs  
9 proceedings, and provider of last resort/price to beat proceedings. In addition, through  
10 this experience I am familiar with the hourly rates charged by attorneys and outside  
11 consultants and the necessary efforts that must be expended by outside and legal  
12 counsel to effectively represent a client in a rate proceeding.

13 **Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE PUBLIC**  
14 **UTILITY COMMISSION OF TEXAS (COMMISSION)?**

15 A. No, while I have prepared rate case expense affidavits and testimony on numerous  
16 occasions in my role as counsel in matters, to the best of my recollection I have not  
17 written filed testimony in any cases before the Commission.

18

19 **III. STANDARDS FOR RECOVERY**

20 **Q. DOES PURA ALLOW TIMBERCREST TO RECOVER ITS RATE CASE**  
21 **EXPENSES?**

22 A. Yes. Under Rule 24.44, utility may recover rate-case expenses, including attorney fees,  
23 incurred as a result of filing a rate-change application pursuant to TWC §13.187 or

1 TWC §13.1871, if the expenses are reasonable and necessary. Pursuant to this rule, a  
2 utility requesting rate case expenses present evidence showing:

3 (1) the nature, extent, and difficulty of the work done by the attorney or other  
4 professional in the rate case;

5 (2) the time and labor expended by the attorney or other professional;

6 (3) the fees or other consideration paid to the attorney or other professional for  
7 the services rendered;

8 (4) the expenses incurred for lodging, meals and beverages, transportation, or  
9 other services or materials;

10 (5) the nature and scope of the rate case, including:

11 (A) the size of the utility and number and type of consumers served;

12 (B) the amount of money or value of property or interest at stake;

13 (C) the novelty or complexity of the issues addressed;

14 (D) the amount and complexity of discovery;

15 (E) the occurrence and length of a hearing; and

16 (6) the specific issue or issues in the rate case and the amount of rate-case  
17 expenses reasonably associated with each issue.

18  
19 **Q. WAS THIS MATERIAL PREPARED BY YOU OR UNDER YOUR**  
20 **SUPERVISION?**

21 A. Yes, it was.

22 **Q. IS THIS TESTIMONY TRUE AND CORRECT?**

23 A. Yes, based on my review of documents and knowledge and experience, it is true and  
24 correct.



1    **A.**     A rate case is a specialized type of litigation that requires an experienced team and  
2           detailed management. The utility has the burden of proof and is responsible for  
3           presenting on a vast array of technical and legal data. Accordingly, this requires a utility  
4           to engage many highly trained witnesses and rely on experienced counsel to present  
5           and prosecute the case. Subject areas are highly technical and data intensive.

6    **Q.     PLEASE SUMMARIZE THE CONSULTANTS AND ATTORNEYS**  
7           **TIMBERCREST HAS ASSESSEMBLED FOR THIS PROCEEDING.**

8    **A.**     Timbercrest's lead technical consultants were GDS Associates. Charles Loy took to  
9           the lead on the filing. His resume and qualifications are set forth in his direct testimony  
10          dated September 27, 2022. Mr. Loy is a highly experienced rate consultant in water,  
11          gas, and electric proceedings. He has practiced in this area for over 28 years. His  
12          hourly rate of \$290 per hour is the same or similar to the rate charged to similar clients  
13          and approved by this Commission in prior proceedings. This rate is reasonable and  
14          necessary for this proceeding. Also assisting Mr. Loy from GDS Associates were  
15          MariaElena Eick, Tom Gebhard, Alla Strickland, Nick Weaver, and Camie Flowers.  
16          Each of these individuals are highly skilled in preparing and prosecuting rate cases  
17          before this commission. The hourly rates which they charge of \$170/hour to \$290/hour  
18          are in line with similar charges of other consultants in this area with similar experience  
19          and are reasonable and necessary.

20          Timbercrest also engaged Ray Young and J. Wilcken of Water Engineers, Inc. to take  
21          an inventory of the Timbercrest utility plant to properly identify, classify, and inventory  
22          the water and sewer plant. The billable hour rates for these individuals, which are \$185  
23          and \$115, respectively are reasonable and in fact lower than most consultants with this



1 expertise. The professional resume of Mr. Young is attached to the Application filed  
2 in this Docket.

3 Finally, Timbercrest retained my services, both when I was with the firm of Cozen  
4 O'Connor and moved to Shea and Associates PLLC for legal representation. My  
5 qualifications are set forth above and on Exhibit A. My hourly rate of \$385 for this  
6 proceeding is reasonable and necessary and is in fact less than my hourly rate charged  
7 to similar customers for similar services. It is also comparable to and in many cases  
8 less than the hourly rate of similar practitioners before this Commission.

9 Attached hereto as Exhibits 2 and 3 are the affidavits of Charles Loy and Tammy Shea  
10 supporting rate case expenses. Attached here as Confidential Exhibit 4 are the invoices  
11 submitted to Timbercrest for services to date from all consultants and attorneys.

12 **Q. WHAT OTHER COSTS ASSOCIATED WITH THE RATE CASE ARE**  
13 **INCLUDED IN THE CALCULATION OF RATES?**

14 Timbercrest includes routine administrative costs in its billing, including courier  
15 charges, notices, and copying charges when appropriate. Timbercrest has not included  
16 any costs for travel, meals or luxury items. No person billed in excess of 12 hours per  
17 day.

18 **VI. OPINIONS AND CONCLUSIONS**

19 **Q. DO TIMBERCREST'S RATE-CASE EXPENSES MEET THE STANDARDS**  
20 **FOR REASONABLENESS UNDER THE CITY OF EL PASO CASE?**

21 A. Yes. Timbercrest's rate-case expenses are reasonable in light of the City of El  
22 Paso standards.

23 Time and Labor Required/Nature and Complexities of the Case. As discussed above,  
24 rate cases are complex and are typically required to be prepared on short timelines.

1 A utility must have experienced and specialized individuals working to  
2 put together the application and supporting testimony, and perform necessary  
3 studies related to multiple specialized issues including return on equity, capital  
4 prudence, original cost, affiliate expenses, depreciation, and rate design. Outside  
5 counsel must prepare briefs and respond to discovery with support from outside  
6 consultants and internal utility personnel. The rate-case team must respond to  
7 discovery from other parties, file testimony, prepare for hearing, and  
8 prepare briefing following hearings. This case requires tremendous coordination, and time  
9 and effort from lawyers, consultants, and regulatory specialists.

10 Amount of Money or Value of Property or Interest at Stake. Timbercrest's  
11 total proposed revenue requirement in this case is \$596.891, including the  
12 groundwater pass through, or \$387,485 excluding the pass through. The time  
13 commitment required of the outside lawyers and consultants makes it very  
14 difficult for them to take on any other significant work. Their work on  
15 behalf of Timbercrest may also create legal, business, and ethical conflict  
16 issues that can limit the other parties for whom they may undertake work.

17 Benefits to the Client. The Company derives a real benefit from having its  
18 team represent it in rate proceedings. The outside attorney teams have  
19 decades of experience handling the issues presented in this case. In most instances,  
20 the attorneys and consultants assigned to a particular issue in this case have handled  
21 that issue previously. All of Timbercrest's outside witnesses have demonstrated  
22 expertise in the areas on which they will testify.

23 Q. **DO TIMBERCREST'S RATE-CASE EXPENSES MEET THE STANDARDS**  
24 **FOR REASONABLENESS UNDER THE RCE RULE?**

1 A. Yes. Based on those factors that can be adequately evaluated at this point  
2 in the proceeding, Timbercrest's rate-case expenses are reasonable under the  
3 RCE Rule.

4 1. With respect to the first factor regarding the nature, extent, and difficulty of  
5 the work done by the professionals on the case, as discussed previously, rate  
6 cases such as this one, are complex proceedings that require genuine  
7 specialization.

8 2. The second factor is focused on the time and labor required as part of the  
9 proceeding. As discussed in more detail previously, rate cases are time  
10 intensive proceedings that require a significant amount of work from the  
11 rate case team.

12 3. The third factor directs the utility to provide information regarding  
13 the fees paid to attorneys and other professionals. From my experience  
14 in this field and my review of other Commission rate cases, I am aware of  
15 billing rates that attorneys and other professionals generally charge  
16 for litigation of this kind. Compensation for outside counsel and consultants  
17 is typically done on a per-hour basis with out-of-pocket expenses reimbursed  
18 at cost. I have reviewed invoices over the course of the proceeding and  
19 will continue to do so. The rates charged to Timbercrest in the  
20 relevant proceedings and the measures employed to keep costs down are in  
21 line with and in fact much less than what I have encountered in  
22 other proceedings.

23 4. With respect to the fourth factor regarding expenses incurred for  
24 lodging, meals and beverages, transportation, or other services, it is not

1 possible this early in the proceeding to fully evaluate this factor, but  
2 Timbercrest is committed to ensuring such costs are reasonable and  
3 not excessive. To date, Timbercrest has not charged for lodging,  
4 meals, beverages, transportation or other similar services.

5 5. The fifth factor focuses on the nature and scope of the rate case.  
6 Timbercrest is a regulated water and sewer utility. Because of the structure  
7 of the business, and the fact that the utility was purchased from a third  
8 party without prior original cost records, etc., a significant amount of work  
9 had to be done to structure this rate case to comply with the Public Utility  
10 Commission's requirements. In addition, as noted in previous filings, this  
11 case has been on file for nearly three years and countless members of staff  
12 have been replaced. This case has had nine rounds of discovery and  
13 two mediations. In short, the scope of this rate case in terms of work  
14 required by consultants and attorneys has been increased due to these  
15 delays and replacements.

16 6. The sixth factor focuses on specific issues in the rate case and the amount of  
17 rate case expenses reasonably associated with each issue. I have reviewed the  
18 invoices to date and the amount of rate cases associated with each issue,  
19 such as pre-preparation meetings, preparation of the filing, discovery,  
20 motions, notice, and testimony are reasonable and commensurate with  
21 the amount of work expected for tasks of this nature.

22 All of these factors weigh in favor of finding that Timbercrest's rate-case expenses of  
23 \$160,727, as detailed in the Direct Testimony of Charles Loy, are reasonable and  
24 necessary for this proceeding. While Timbercrest is only proposing to recover a portion

1 of this, as shown in the direct testimony of Charles Loy, this total amount is reasonable  
2 and necessary under the above standards.

3 **VII. CONCLUSION**

4 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

5 A. Yes, it does.

# **ATTACHMENT TRS-1**

**RESUME OF TAMMY R. SHEA**

## Contact

tshea@tshealaw.com

[www.linkedin.com/in/tammy-wavle-shea-b017955b](http://www.linkedin.com/in/tammy-wavle-shea-b017955b) (LinkedIn)

## Top Skills

Commercial Litigation

Litigation

Civil Litigation

# Tammy Wavle Shea

Attorney at Shea & Associates, PLLC  
Houston, Texas, United States

## Summary

Tammy R. Shea focuses her practice on environmental litigation and utility regulation. She represents clients in state and federal courts on matters related to energy law and commercial law. Tammy represents clients in administrative proceedings before the Public Utility Commission of Texas and the Federal Energy Regulatory Commission, and in matters before the Electric Reliability Council of Texas.

Tammy graduated summa cum laude from St. Mary's University of Law in 1998.

## Experience

Successfully handled numerous water rate cases, Sale/Transfer/Merger proceedings, and rulemakings for water utilities in the state of Texas.

Successfully litigated highly contested case before the PUCT on novel issues related to electric utility service territories.

Represented natural gas company in highly contested rate case before the Railroad Commission of Texas. Successfully reversed a preliminary dismissal by the administrative law judge and persuaded the Commission to strike 70% of the Railroad Commission's primary witness testimony. Resulted in a favorable settlement for client and recovery of consulting and attorneys' fees.

Represented varied clients as first or second chair attorney in over 20 ratemaking proceedings before the Public Utility Commission of Texas and New Mexico Public Regulation Commission.

Advises clients on pending legislation related to public utilities in Texas.

Successfully represented lending institution in high profile litigation against a former NFL player.

Won a jury verdict in favor of our client, a large electric cooperative, centering on a property dispute launched by a landowner over an electric distribution line which ran across his rural ranch land. The trial centered on the validity of an unrecorded easement from the 1940s, and after only two hours of deliberation, the jury returned a verdict in client's favor on easement by estoppel.

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## Experience

### Shea & Associates, PLLC

Attorney

January 2020 - Present (2 years 9 months)

Houston, Texas

### Cozen O'Connor

Member

June 2011 - January 2020 (8 years 8 months)

### attorney

Epstein Becker Green Wickliff & Hall

2002 - 2011 (9 years)

### Wickliff & Hall, PC

Attorney

September 1998 - June 2002 (3 years 10 months)

### Supreme Court of Texas

Briefing Clerk

July 1997 - August 1997 (2 months)

Austin, Texas

### Law Clerk

AAA Insurance Michigan

June 1996 - 1996 (less than a year)



## Education

St. Mary's University School of Law

JD · (1995 - 1998)

## **ATTACHMENT TRS-2**

**AFFIDAVIT OF OF TAMMY R. SHEA**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

**AFFIDAVIT OF TAMMY SHEA**

Before me, the undersigned authority, on this date personally appeared Tammy Shea known to me to be the person whose name is subscribed below, and being by me first duly sworn, stated upon oath as follows:

1. "My name is Tammy Shea I am over 18 years of age, of sound mind, and fully competent to make this affidavit. Each statement of fact herein is true and of my own personal knowledge.
2. I am a partner in the Houston, Texas law firm of Shea Associates PLLP ("Shea"), and have practiced law in Travis County since 1998. I have held positions at Wickliff & Hall, Epstein Becker Green, Cozen O'Connor and Shea & Associates PLLC. My law practice encompasses a wide range of administrative areas, including the representation of electric, gas and water utilities. I have extensive experience representing and defending clients before the Public Utility Commission, TCEQ, and Railroad Commission as well as countless federal and state district courts.
3. I am counsel of record for Timbercrest Partners LLC ("Timbercrest" or the "Company") Inc. in PUC Docket No. 50197, *Application of Timbercrest Partners LLC for Authority to Change Rates*.
4. In Docket No. 50197, my firm was engaged to assist with the presentation and defense of the Company's Statement of Intent to Change Rates. To date, the services performed in this docket include the preparation of the rate filing package to address requests by Commission Staff ("Staff") to assist in their review of the proposed commercial rates of the Timbercrest water and sewer systems, consultation with expert witnesses, reviewing and coordinating responses to discovery, attention to prehearing matters, and the drafting of various pleadings throughout the proceeding.
5. Depending on the course and resolution of Docket No. 50197, my firm expects to continue to assist Timbercrest Partners LLC with responding to discovery, which to date comprises of eight sets of discovery received from Staff, and other prehearing matters. In addition, it is expected that my firm will assist Timbercrest Partners LLC prepare direct testimony, will review Staff testimony, the prepare rebuttal testimony, and prepare for and participate in a hearing on the merits, post-hearing briefing and pleadings, as well as other activities. The rate case expense estimate prepared by Timbercrest Partners LLC reflects the estimated cost of these legal services, as well as the costs expected to be incurred by professional consultants retained to provide direct and rebuttal testimony and participate in the hearing.
6. I have reviewed the billings of Shea submitted to Timbercrest Partners LLC for legal services performed in Docket Nos. 50197 through September 7, 2022, and I affirm that those billings accurately reflect the time spent and expenditures incurred by Shea and Associates PLLP on Timbercrest Partners LLC's behalf.

7. The rate charged by each attorney and professional of Shea and Associates in Docket Nos. 50197 reflect a discount over the standard hourly billing rates charged by the attorney or professional for other matters, is less than or comparable to the hourly rate charged by other attorneys and professionals for similar services provided to other Texas utilities and is less than the standard hourly billing rate charged by the attorneys and professionals of Shea for services to non-regulated entities.
8. The charges and rates of my firm are reasonable and consistent with those billed by others for similar work, and the legal rates charged by the Shea attorneys that worked on these matters are comparable to rates charged by other professionals with the same level of expertise and experience and commensurate with the complexity of the issues in the proceedings. The calculation of the charges is correct and there was no duplication of services and no double billing of charges.
9. The hours spent to perform the tasks assigned to Shea working on Docket No. 50197 were reasonable and necessary to complete the required tasks in a professional manner on a timely basis. The nature of work was appropriate for the attorneys and professionals of Shea and Associates and expert witnesses given their legal, professional, and expert training and their experience in administrative utility law and prior cases involving similar issues.
10. The amount of expenses and fees charged by Shea attorneys in Docket No. 50197 are less than or commensurate to the size and complexity of the issues addressed. In particular, the nature of the utility operation within the mobile home park which provides water and sewer service to unmetered residential customers and the need for a new water rate for a larger, multi metered commercial customer has contributed the complexity of this case.
11. I have reviewed and am familiar with the Commission's requirements for recovery of rate case expenses set forth in 16 Tex. Admin. Code § 24.44. Based on my experience in cases of similar size as well as the novelty and complexity of issues particular to this case, all of the fees and expenses charged by Shea to Timbercrest Partners LLC in Docket No. 50197 are reasonable, necessary, and appropriately reimbursable.
12. No single attorney or professional of Shea and Associates billed in excess of 12 hours in a single day.
13. No attorney or professional of Shea and Associates has billed for charges that result from hotel or lodging.
14. No portion of Shea and Associate's fees or expenses is or will be from the use of a non-commercial aircraft or first-class air travel commercial aircraft or first-class air travel.
15. No portion of Shea and Associate's fees or expenses is or will be for luxury items, such as limousine service, sporting events, alcoholic beverages, gourmet coffee, bottled water, hotel movies, satellite radio, or other entertainment.
16. No portion of Shea's fees or expenses are in excess of \$25 per person per meal.



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Tammy renee Shea

~~TAMMY SHEA~~ RF

State of Texas / County of Harris

8th

**SWORN AND SUBSCRIBED** before me on this ~~7th~~ <sup>XX</sup> day of September 2022. By Tammy renee Shea.

RF

Roosevelt Flahnma Roosevelt Flahnma  
Notary Public in and for the State of Texas

Notarized online using audio-video communication

