



## **Filing Receipt**

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**SOAH DOCKET NO. 473-24-13127  
PUC DOCKET NO. 54617**

<b>APPLICATION OF TEXAS WATER UTILITIES, LP AND SOUTHERN HORIZONS DEVELOPMENT, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN LIBERTY AND MONTGOMERY COUNTIES</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
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**OFFICE OF PUBLIC UTILITY COUNSEL’S STATEMENT OF POSITION**

The Office of Public Utility Counsel (“OPUC”), representing the interests of residential and small commercial consumers in Texas, respectfully submits this statement of position pursuant to 16 Texas Administrative Code (“TAC”) § 22.124. OPUC does not intend to file direct testimony in this proceeding, but has reviewed the application, discovery responses, and testimonies filed by Texas Water Utilities, LP (“Texas Water”) and Southern Horizons Development, Inc. (“Southern Horizons”) and takes the following positions:

**I. OPUC’S POSITION**

It is OPUC’s position that Texas Water should not be allowed to implement the proposed initial rates in this proceeding because doing so would result in the transaction failing to be in the public interest. OPUC has serious concerns with applying Texas Water’s pre-existing tariff, which was never tailored to the Southern Horizons systems, or Southern Horizons’ customers because of the rate shock it would invariably cause.

Texas Water Code (“TWC”) § 13.301 requires the Public Utility Commission of Texas (“Commission”) to determine whether a transaction will be in the public interest when reviewing a sale, transfer, or merger application.<sup>1</sup> TWC § 13.301(e)(5) allows for the consideration of the factors outlined in TWC § 13.246(c) when determining if a transaction is in the public interest.<sup>2</sup> Newly adopted 16 TAC § 24.240 offers rule guidance in situations in which the application is a request for authorized acquisition rates under TWC §13.3011. Pursuant to 16 TAC § 24.240(c)(1),

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<sup>1</sup> TWC § 13.301(e)(5).

<sup>2</sup> *Id.*

“a transferee *must* use existing rates as initial rates unless the commission authorizes the use of different initial rates.”<sup>3</sup> As 16 TAC § 24.240(c)(5) explains, “In determining whether to approve an acquisition under §24.239 of this title, the commission will consider whether approving the transferee’s request to charge authorized acquisition rates under this section would change whether the proposed transaction would serve the public interest under §24.239(h)(5) of this title.”

16 TAC § 24.239(h)(5)(H) allows the Commission to consider “the probable improvement of service or lowering of costs to consumers in the requested area as a factor in determining if the transaction is in the public interest.” Notably, after Texas Water’s provision of notice to Southern Horizons’ customers that rates may increase as a result of the transaction,<sup>4</sup> six customers filed requests to intervene<sup>5</sup> and one filed a ratepayer protest<sup>6</sup> in this proceeding. Of those customers, five of them cited the *increase* in rates as the reason for their participation. It is worth noting that the application conveys a total of 472 existing water connections, across two systems,<sup>7</sup> which means 472 customers are going to be affected by the proposed transaction.<sup>8</sup> Furthermore, Ms. Constance Stover states in her direct testimony that, “Most of the customers do not understand what this about ‘rate shock’ is an understatement. Others were lost in the intimidating legal process and language problems.”<sup>9</sup> As an administrator on Southern Horizons’ community wall, Ms. Stover has received many questions from her neighbors that she could not answer about the rate increase,<sup>10</sup> implying that more than just the customers participating in this proceeding are concerned about rate shock. As set forth in its application, Texas Water’s proposed rates would

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<sup>3</sup> Emphasis added.

<sup>4</sup> See Application of Texas Water Utilities, LP and Southern Horizons Development, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Liberty and Montgomery Counties at 12 (Feb. 2, 2023) (stating, “All of the customers will be charged. . . higher monthly bills.”). (Application).

<sup>5</sup> Collin Jones (May 2, 2023), Cecil Fairfax (May 2, 2023), Jeffrey Berry (May 2, 2023), Anna Miller (May 8, 2023), Adriana Carrillo Pillow (May 12, 2023), and Gerald Stover (May 22, 2023).

<sup>6</sup> Jeffrey Berry (May 23, 2023).

<sup>7</sup> Southern Crossing Water (TCEQ PWS 146015) and Southern Oaks (TCEQ PWS 1460151).

<sup>8</sup> Application at 9-11 (PDF pgs.9-11).

<sup>9</sup> Direct Testimony of Constance Stover at pg. 3 (May 8, 2024).

<sup>10</sup> *Id.*

amount to a greater than 50% increase in impacted ratepayers' base rates<sup>11</sup> and a consumer using 11,000 gallons in a given month would face a greater than two-fold increase in their water bill.<sup>12</sup>

### Rate Comparison Chart<sup>13</sup>

Rate Type	SHDI rate	TWU rate
5/8" base	\$32.20	\$48.37
Usage (0-2 kgal)	\$0.00	\$6.48
Usage (2-5 kgal)	\$3.18	\$7.98
Usage (5-10 kgal)	\$3.18	\$7.98
Usage (10-20 kgal)	\$3.18	\$9.05
Usage (>20 kgal)	\$3.18	\$9.64

As can be seen from the table above, the gallonage rate for Southern Horizons under the initial rates proposed by Texas Water is astronomical – a customer using 0 to 2,000 gallons will see an increase of 100%; a customer using 2,000 to 5,000 gallons will see an increase of 131.44%; a customer using 10,000 to 20,000 gallons will see an increase of 184.59%; and a customer using over 20,000 gallons will see an increase of 203.14% in usage rates. The initial rates proposed by Texas Water are astronomical and must be rejected.

Texas Water states in the Direct Testimony of Mr. Brian D. Bahr that the initial rates requested were approved by the Commission in Docket No. 50944<sup>14</sup> pursuant to a settlement agreement.<sup>15</sup> As part of that settlement agreement, all of Texas Water's systems were consolidated under the requested initial rate in this proceeding.<sup>16</sup> However, sixteen systems were put on phased-in rate schedules,<sup>17</sup> no doubt to alleviate the rate shock of consolidating such a large number of customers within unique systems into one rate. As contemplated by the application in the instant docket, the customers of the Southern Horizons system impacted by the transfer will

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<sup>11</sup> Application at Attachment 1 (PDF pg. 18-20).

<sup>12</sup> *Id.* (Southern Horizons' current rate of \$60.82 versus Texas Water's proposed \$134.22.)

<sup>13</sup> Application at Attachment 1, pg. 2 (PDF pg. 20).

<sup>14</sup> *Application of Monarch Utilities for Authority to Change Rates*, Docket No. 50944 (Feb. 23, 2022).

<sup>15</sup> Direct Testimony of Brian D. Bahr at 14:20-21 (Apr. 18, 2024). (Bahr Direct).

<sup>16</sup> *Id.* at 15:3-4.

<sup>17</sup> *Id.* at 15:5-6.

not be given a similar opportunity despite being a small system that has only had two rate adjustments in the past fourteen years.<sup>18</sup> Additionally, Texas Water's requested initial rates were tailored to the systems included in its application in Docket No. 50944.<sup>19</sup> Because the customers of Southern Horizons were not considered in the Commission's review of Texas Water's requested initial rates and the customers of Southern Horizons have not had regular rate adjustments in the past fourteen years, the Commission should decline to adopt Texas Water's requested initial rates.

It is also worth noting that Texas Water "anticipates filin[g] a request for a System Improvement Charge and true-ups for purchased water pass-throughs, but does not anticipate filing a general rate case within the next 12 months."<sup>20</sup> Furthermore, Mr. Bahr demonstrated in his testimony that the additional revenue generated from the Southern Horizons systems at Texas Water's requested initial rate would make up less than 1% of Texas Water's rate base.<sup>21</sup> Therefore, OPUC believes there is no need to adopt Texas Water's proposed initial rate in this proceeding.

## II. CONCLUSION

For the reasons stated above, it is OPUC's position that Texas Water should not be allowed to implement its requested initial rates in this proceeding. OPUC reserves the right to amend or supplement this statement of position by the deadline set forth in the Commission's rules. OPUC reserves the right to participate at the hearing, cross-examine witnesses, and file briefs related to the issue of initial rates. OPUC further requests such other relief to which it may be entitled.

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<sup>18</sup> Direct Testimony of Steven Sullivan at 6-7 (Apr. 18, 2024).

<sup>19</sup> *Application of Monarch Utilities for Authority to Change Rates*, Docket No. 50944, Application to Change Rates (July 15, 2020).

<sup>20</sup> Application at 7 (PDF pg. 7).

<sup>21</sup> Bahr Direct at 14.

Date: May 9, 2024

Respectfully submitted,

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**ATTORNEYS FOR THE  
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**CERTIFICATE OF SERVICE**

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I hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 9<sup>th</sup> day of May 2024, by facsimile, electronic mail, and/or first class, U.S. mail.



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Kourtnee Jinks