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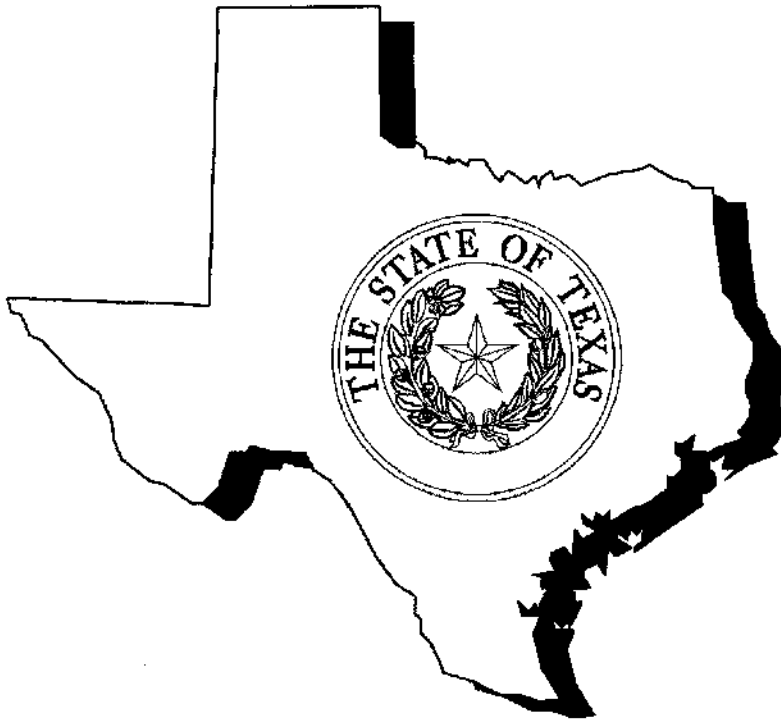
**APPLICATION OF TEXAS WATER
UTILITIES, LP AND SOUTHERN
HORIZONS DEVELOPMENT, INC.
FOR SALE, TRANSFER, OR MERGER
OF FACILITIES AND CERTIFICATE
RIGHTS IN LIBERTY AND
MONTGOMERY COUNTIES**

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**BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS**



**DIRECT TESTIMONY OF JAMES HARVILLE

INFRASTRUCTURE DIVISION

PUBLIC UTILITY COMMISSION OF TEXAS**

MAY 30, 2024

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1 **I. STATEMENT OF QUALIFICATIONS**

2 **Q. Please state your name, occupation and business address.**

3 A. My name is James Harville. I am employed by the Public Utility Commission of Texas
4 (Commission) as an Infrastructure Analyst in the Infrastructure Division. My business
5 address is 1701 N. Congress Avenue, Austin, TX 78711-3326.

6

7 **Q. Please briefly outline your educational and professional background.**

8 A. My current role at the Commission includes analyzing and reviewing fuel factor
9 applications, energy efficiency cost recovery applications, service area exception and
10 boundary change applications, and each category of water and sewer CCN and STM
11 applications or petitions.

12 My Educational Background includes a Bachelor of Science degree in Geosciences
13 and Geographic Information Systems from Texas Tech University. Prior to my
14 employment with the Commission, my professional experience consisted of working
15 as a Natural Resource Specialist for the Texas Commission on Environmental Quality
16 (TCEQ) in the Water Supply Division, and as a Senior Analyst for American Bureau
17 of Shipping. A copy of my professional resume is included as Attachment JH-1.

18

19 **Q. Have you previously testified or provided memoranda in lieu of testimony before**
20 **this Commission?**

1 A. Yes. I have previously filed direct testimony in Docket Nos. 53677,¹ 54674,² 55088,³
2 and 55390.⁴

3 **II. PURPOSE OF TESTIMONY**

4 **Q. What is the purpose of your testimony?**

5 A. The purpose of my testimony is to present my review and associated
6 recommendations regarding the application of Texas Water Utilities, LP (Texas
7 Water) and Southern Horizons Development, Inc. (Southern Horizons) for Sale,
8 Transfer, or Merger of Facilities and Certificate Rights in Liberty and Montgomery
9 Counties.

10

11 **Q. Please explain the scope of your participation in the present proceeding.**

12 A. I reviewed and analyzed the application of Texas Water and Southern Horizons for
13 Sale, Transfer, or Merger of Facilities and Certificate Rights in Liberty and

¹ *Application of CenterPoint Energy Houston Electric, LLC to Adjust Its Energy Efficiency Cost Recovery Factor*, Docket No. 53677, Testimony of James Harville in Support of Stipulation and Settlement Agreement (Sept. 20, 2022).

² *Application of Entergy Texas, Inc. to Revise Fixed Fuel Factor (Schedule FF) in Compliance with Order in Docket No. 32915*, Docket No. 54674, Direct Testimony of James Harville, Infrastructure Division, Public Utility Commission of Texas (June 9, 2023).

³ *Application of CenterPoint Energy Houston Electric, LLC to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 55088, Testimony of James Harville in Support of Stipulation and Settlement Agreement (Sept. 12, 2023).

⁴ *Application of Entergy Texas, Inc. to Revise Fixed Fuel Factor (Schedule FF) in Compliance with Order in Docket No. 32915 and 40654*, Docket No. 55390, Direct Testimony of James Harville, Infrastructure Division, Public Utility Commission of Texas (Oct. 18, 2023).

1 Montgomery Counties under Texas Water Code (TWC) §§ 13.242 through 13.250 and
2 § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

3

4 **Q. Have any parties filed a motion to intervene or requested a hearing in this**
5 **proceeding?**

6 A. On March 16, 2023, a motion to intervene was filed by the Office of Public Utility
7 Counsel (OPUC) and was granted.⁵ On May 16 and May 30, 2023, the Commission
8 ALJ granted motions to intervene filed by Gerald Stover, Collin Jones, Cecil Fairfax,
9 Jeffrey Berry, and Anna Miller.⁶ On August 23, 2023, Anna Miller filed a request for
10 a hearing.⁷ On August 25, 2023, Gerald and Constance Stover and Cecil V. Fairfax
11 filed requests for a hearing.⁸

12 **III. REVIEW OF THE APPLICATION**

13 **Q. What is being requested in the application?**

14 A. Specifically, Texas Water, Certificate of Convenience and Necessity (CCN) No.
15 12983, seeks approval to acquire facilities and to transfer all of the water service area
16 from Southern Horizons under water CCN No. 12863. Additionally, Texas Water has
17 requested that the customers' rates be changed to match Texas Water's currently
18 effective approved rates.

⁵ Order No. 3 (Mar. 27, 2023).

⁶ Order No. 6 (May 16, 2023); Order No. 8 (May 30, 2023).

⁷ Request for a Hearing (Aug. 23, 2023).

⁸ Order No. 11 (Aug. 28, 2023).

1 The requested area includes 452 customer connections and approximately 728.2 acres,
2 comprised of:

3 102.5 acres of uncertificated area to amend to CCN No. 12983; 527 acres of transferred
4 area from Southern Horizons (CCN No. 12863) to Texas Water (CCN No. 12983);
5 and 98.7 acres of decertified area from CCN No. 12863.

6 The application proposes the subtraction of approximately 625.7 acres from CCN No.
7 12863 and the addition of approximately 629.5 acres to CCN No. 12983.

8

9 **Q. Did Texas Water give proper notice to the public of the application?**

10 A. On June 22, 2023, notice was found sufficient and consistent with 16 TAC § 24.239(b)
11 and (e).⁹ On April 26, 2023, Texas Water filed the affidavit of Brian Bahr, Texas
12 Water's Director of Rates and Regulatory Affairs, attesting that notice of the
13 application was provided to current customers, neighboring utilities, and affected
14 parties on April 20, 2023.¹⁰ On May 9, 2023, Texas Water filed a publisher's affidavit
15 attesting to the publication of notice in the *Houston Business Journal*, a newspaper of
16 general circulation in Harris, Liberty, and Montgomery counties, on April 21 and 28,
17 2023.¹¹ On June 7, 2023, Texas Water filed the affidavit of Mr. Bahr, attesting that
18 there are no landowners with tracts of land greater than 25 acres located wholly or
19 partially within the requested area, and included an appraisal district map overlaid with

⁹ Order No. 9 (June 22, 2023).

¹⁰ Proof of Notice (Apr. 26, 2023).

¹¹ Supplemental Proof of Notice (May 9, 2023).

1 a map of the requested area and a list of the owners of tracts of land that are wholly or
2 partially located in the requested area according to the most current tax appraisal rolls,
3 including the total acreage owned by each individual.¹²

4

5 **Q. Is adequate service currently being provided to the requested area (TWC**
6 **§ 13.246(c)(1), 13.301(e)(3)(A); 16 TAC §§ 24.227(a) and (e)(1), 24.239(h)(3)(A),**
7 **(h)(5)(A), and (h)(5)(I))?)**

8 A. Southern Horizons has two TCEQ approved public water systems (PWS) registered as
9 Southern Crossing Water System Phase 2, PWS ID No. 1460158, and Southern Oaks
10 Water System Phase 2, PWS ID No. 1460150.

11 For the Southern Crossing Water System Phase 2, the last TCEQ compliance
12 investigation was on March 6, 2023. To date, Commission Staff (Staff) notes there are
13 no treatment violations and four central registry violations which include two active
14 capacity violations for this system with the TCEQ as described below:

15 (1) Failure to provide a minimum of two or more service pumps with a total capacity
16 of 2.0 gallons per minute per connection (conn).

17 (2) Failure to provide a minimum total storage capacity of 200 gallons per connection.

18 (3) Failure to maintain copies of properly completed Customer Service Inspection
19 certifications on file; and

¹² Texas Water Utilities, L.P.'s Response to Order No. 7 (June 7, 2023).

1 (4) Failure to provide emergency power to deliver water to the distribution system in
2 the event of the loss of normal power supply.

3 Staff notes in the testimony of Steve Sullivan on behalf of Southern Horizons, “A copy
4 of the EPP demonstrating how we have resolved the fourth violation listed above was
5 submitted to TCEQ on March 15, 2024, and is provided as Confidential Attachment
6 SCS-3. We are in the process of putting together the documentation needed to resolve
7 the other three.”¹³

8 For the Southern Oaks Water System Phase 2, the last TCEQ compliance investigation
9 was on May 27, 2022. To date, Staff notes there are no treatment violations or central
10 registry violations for this system with the TCEQ.

11 At the time of review, the Commission’s complaint records, which date back five
12 years, show four complaints against Southern Horizons. All of the complaints were
13 reviewed and closed by the Commission’s Customer Protection Division.

14

15 **Q. What is the effect of approving the transaction on Southern Horizons, Texas**
16 **Water, the landowners in the area, and on any other retail public utility of the**
17 **same kind already servicing the proximate area (TWC § 13.246(c)(3), 16 TAC §§**
18 **24.227(e)(3), 24.239(h)(5)(c))?**

19 A. Texas Water will be the certificated entity for the requested area and will be required
20 to provide continuous and adequate service to the requested area. There will be no

¹³ Direct Testimony of Steve Sullivan on behalf of Southern Horizons Development, Inc. at 8:21-24 (Sullivan Direct) (Apr. 18, 2024).

1 effect on landowners as the area is currently certificated. There are no landowners with
2 25 or more acres in the requested area. There will be no effect on any retail public
3 utility servicing the proximate area. All retail public utilities in the proximate area
4 were provided notice of the transaction taking place in this application and did not
5 request to intervene.

6

7 **Q. Has Texas Water demonstrated adequate managerial and technical ability to**
8 **provide adequate service to the area being acquired (TWC §§ 13.241(a) and (b),**
9 **13.246(c)(4); and 13.301(b) and (e)(2); 16 TAC §§ 24.227(a) and (e)(4), and**
10 **24.239(D and (h)(5)(D))?**

11 A. Texas Water will have licensed operators to run the system operations. Class B, C, and
12 D operators will be the responsible operators for the systems. Texas Water has the
13 ability to provide adequate service in the requested area. Texas Water has several
14 registered TCEQ approved public water systems. Texas Water has active violations
15 listed in the TCEQ database which are being addressed. In addition, the Commission's
16 complaint records, which date back five years, show 34 complaints against Texas
17 Water. All of the complaints have been reviewed and closed by the Commission's
18 Customer Protection Division.

19

20 **Q. Did Texas Water provide a capital improvements plan, including a budget and**
21 **estimated timeline for construction, of all facilities necessary to provide full**
22 **service to the entire proposed service area (TWC § 13.244(d)(3))?**

1 A. Texas Water is proposing to make improvements to Southern Horizons' public water
2 systems. The proposed capital improvements are expected to exceed \$100,000,
3 therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is
4 required. Construction of water system facilities is expected to occur in 2023 and 2024.
5 In Mr. Bahr's redacted testimony, he specifies that "[t]here is no capital investment
6 needed to ensure the provision of continuous and adequate service to the requested
7 area because no investment is needed to bring Southern Horizons' PWSes into
8 compliance with TCEQ minimum standards."¹⁴ Bahr also stated that although the
9 application included initial estimates of the capital improvements Texas Water intends
10 to make post-acquisition to facilitate the long-term health of the systems, neither of
11 these projected improvements are needed or required in the near term to ensure that
12 Texas Water can provide continuous and adequate service to the CCN area it proposes
13 to acquire from Southern Horizons.¹⁵ Instead, Bahr noted that the projected
14 improvements are proposed projects to improve system reliability identified during
15 due diligence for the acquisition and based on preliminary cost and timing estimates
16 that are subject to change after a more thorough evaluation of the systems after
17 acquisition is completed.¹⁶

18

¹⁴ Redacted Direct Testimony of Brian D. Bahr on behalf of Texas Water Utilities, L.P. at 20:5-7 (Bahr Redacted) (Apr. 18, 2024).

¹⁵ *See id.* at 20:10-16.

¹⁶ *See id.* at 20:13-16.

1 **Q. Do you agree with Texas Water’s assessment of the Southern Horizons public**
2 **water systems?**

3

4 A. It is my opinion that based on the current TCEQ central registry violations for Southern
5 Crossing Water System Phase 2 described in this testimony, immediate capital
6 improvements may be warranted to provide continuous and adequate service to the
7 requested area if the listed violations are outstanding or unaddressed.

8

9 **Q. What are the initial rates for certain water or sewer systems Texas Water is**
10 **requesting to charge the customers after purchase or acquisition (TWC §**
11 **13.3011)?**

12 A. As allowed by TWC § 13.3011, Texas Water has requested that the customers’ rates
13 be changed to match Texas Water’s currently effective approved rates. Texas Water’s
14 currently approved rates have been in effect since September 6, 2022,¹⁷ which is prior
15 to the date the application was filed in this proceeding, February 2, 2023,¹⁸ and prior
16 to the date the application was deemed administratively complete, April 5, 2023.¹⁹

17 Texas Water provided a comparison of rates in its initial application:

Rate Type	SHDI Rate	TWU Rate
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¹⁷ *Application of Utilities Investment Company, Inc. and UIC 13 LLC and Monarch Utilities I L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris, Liberty, and Chambers Counties*, Docket No. 52201, Stamped Approved Tariff (Sept. 6, 2022).

¹⁸ Application.

¹⁹ Order No. 4 (Apr. 5, 2023).

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

1

2 **Q. Is there a probable improvement of service or lowering of cost to consumers in**
3 **the requested area resulting from approving the transaction (TWC §**
4 **13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H))?**

5 A. The initial rates requested in Texas Water's application are significantly higher than
6 the current rates for Southern Horizons. Considering Southern Horizons' active TCEQ
7 capacity violations, the rate change is potentially necessary for the reliability and
8 quality of water service to be improved upon under Texas Water's management.
9 However, Texas Water has optional phased-in rate schedules in its tariff which could
10 be applied as a contingency to initial rates to alleviate rate shock for the current
11 customers and ratepayer parties in this docket. Therefore, I recommend the potential
12 implementation of the following phased rate schedule:

13

**Texas Water Utilities (Villas of Willowbrook) - RATES effective 06-01-2024
 (Phase 4 of 7)²⁰**

METER SIZE	MONTHLY BASE RATE (includes 0 gallons)	GALLONAGE TIER	CHARGE PER 1,000 GALLONS
5/8"	\$31.17	0 to 2,000	\$3.70
5/8"x3/4"	\$31.17		
3/4"	\$46.76	2,001 to 10,000	\$6.33
1"	\$77.93		
1½"	\$155.86	10,001 to 20,000	\$6.94
2"	\$249.37		
3"	\$467.57	over 20,000	\$7.27
4"	\$779.29		
6"	\$1,558.57		
8"	\$2,493.71		
10"	\$3,584.71		
12"	\$6,701.86		

1
2
3
4

A comparison of Texas Water’s proposed initial rates to the above optional phased-in rate schedule is included in Attachment JH-2. Further, in response to Question 15. B of the application, the Applicants specified that “TWU anticipates filing a request for

²⁰ 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 County at 91 (Feb 2, 2023).

1 a system improvement charge and true-ups for purchased water pass-throughs but does
2 not anticipate filing a general rate case within the next 12 months.”²¹

3

4 **Q. Are any deposits held for the customers to be transferred following the approval**
5 **of the proposed transaction?**

6 A. Staff notes that the Applicants’ original response to Question 5 of the application
7 specifies that 472 customers²² without deposits held by the transferor will be
8 transferred following the approval of the proposed transaction.²³ This information
9 was further depicted in Staff’s recommendation on the approval of the transaction.²⁴
10 Staff now revises its previous recommendation as in his direct testimony filed on April
11 18, 2024, Steve Sullivan stated that Southern Horizons currently holds deposits for
12 398 accounts, with the amount of each deposit totaling \$50, as shown on Southern
13 Horizons’ tariff.²⁵

14

15 **V. RECOMMENDATION**

16 **Q. What is your recommendation in this proceeding?**

²¹ Application at 8.

²² Application at 5.

²³ Application at 4.

²⁴ Application at 8.

²⁵ Sullivan Direct at 10:7-8.

1 A. Based on the above information, I recommend that the Commission find that the
2 transaction will serve the public interest and that the Applicants be allowed to proceed
3 with the proposed transaction. I also recommend considering implementing the
4 phased-in rates specified above, as opposed to Texas Water's initial rates.
5 Additionally, I note that there are 398 deposits held by Southern Horizons for the
6 customers it serves.

7

8 **Q. Does this conclude your direct testimony?**

9 A. Yes, but I reserve the right to supplement this testimony during the course of the
10 proceeding as new evidence may be presented.

JAMES L. HARVILLE

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Austin, TX 78701

Experienced analyst with 5+ years in the regulatory field performing advanced research and analysis of program specific rule requirements, policy procedures, and data standards. Demonstrated assessment and evaluation abilities to provide recommendations towards compliance, project submittals, proposals, and administrative requirements to ensure adequate consultation with applicants, petitioners, the public, or other associated agencies or parties.

EDUCATION

BSc. Texas Tech University, Geosciences Completed Aug. 2019
Minor: Geographic Information Systems
Field: Bartell Field Camp, Tularosa Basin, Caprock Canyon

AA Lone Star College, General Studies Completed Jan. 2015

WORK EXPERIENCE

Public Utility Commission of Texas, Infrastructure Analyst Jan. 2022 to Current
Infrastructure Analysis & Mapping

- Performs evaluations and technical reviews of submitted applications and petitions for water, sewer, electric, and telecom dockets submitted to the Commission.
- Identifies, analyzes, and provides recommendations on issues relating to water, sewer, electric, and telecom dockets including infrastructure planning and operations, service areas, service quality, facility need and costs, and energy efficiency.
- Reviews legal documentation, plan approvals, technical documents, tariff details, agreements and contracts, and regulatory compliance investigations or violation data for systems.
- Creates memorandums and notice documentation, and performs outreach to applicants and petitioners, counsel, or other associated parties or representatives to dockets, including preparing written testimony for filing in contested proceedings.
- Participates in working groups involving electric utilities, the Electric Reliability Council of Texas, and regional transmission organizations.

University of Texas-Arlington/TCEQ, Natural Resource Specialist Aug. 2019 to Jan. 2022
Water Supply Division

- Performed research and analysis on TAC 30 Chapter 290 D, E, F, G, and H rules and regulations regarding Public Drinking Water, including general policies towards water quality, waste disposal, public notice, and air quality.
- Reviewed compliance and policy procedures for the Ground Water Rule, Total Coliform Rule, Chemical Rule, Surface Water Rule, and Public Notice Rule.
- Assisted in inventory database management and outreach for creation of new public water systems, integration of new infrastructure IDs for existing systems, and ensuring general data standards for associated internal and external applications such as SDWIS, Texas Drinking Water Watch, and Central Registry.
- Assisted in inventory database management and outreach for merge and consolidation requests of water systems.
- Evaluated project submittals and plans for water systems towards new infrastructure and facilities, associated site and facility maps, and site assessments for new and existing systems.

- Aided city and county officials, water operators or owners, associated engineers, or counsel, towards submittal, data, and compliance requirements.

American Bureau of Shipping, Senior Analyst

Mar. 2012 to Dec. 2015

- Provided and coordinated help desk solutions for a large international marine and energy classification organization.
- Performed research and analysis toward technical support for regulatory compliance solutions for services offered by internal branches.
- Assisted surveyors and engineers with access to internal and external applications, licensing, registration, including software or hardware resources.
- Performed software and hardware assembly and configuration diagnostics, including network maintenance, or associated peripherals for solutions.
- Performed daily tasks including the generation of reports for data analysis, including the utilization of the HEAT ticketing system to track on-going collaborative efforts, technical support issues, outages, migrations, or other associated project developments.
- GIS service requests, portal, and database updates as required.
- Experienced support in Windows (all), macOS, Linux, Android, iOS and Microsoft office suites.

Rate comparison - Water

Meter Size	Current Rate	Including ____ # of gallons	Tiered Rates	Gallonage Range		Gallons		
				Lowest	Highest	2,000	5,000	10,000
5/8"	\$32.20	2000	\$0.00	2,000	2,000	\$32.20	\$41.74	\$57.64
					2,000			
			\$3.18	2,001	5,000			
			\$3.18	5,001	10,000			
			\$3.18	10,001	20,000			
			\$3.18	20,001	9,999,999			

New Proposed Rates:

Meter Size	Proposed	Including ____ # of gallons	Tiered Rates	Gallonage Range		Gallons		
				Lowest	Highest	2,000	5,000	10,000
5/8"	\$48.37	0		0	0	\$61.33	\$85.27	\$125.17
			\$6.48	1	2,000			
			\$7.98	2,001	5,000			
			\$7.98	5,001	10,000			
			\$9.05	10,001	20,000			
			\$9.64	20001	9,999,999			

Increase \$29.13 \$43.53 \$67.53
 90.47% 104.29% 117.16%

Rate comparison - Water

Meter Size	Current Rate	Including ____ # of gallons	Tiered Rates	Gallonage Range		Gallons		
				Lowest	Highest	2,000	5,000	10,000
5/8"	\$32.20	2000	\$0.00	2,000	2,000	\$32.20	\$41.74	\$57.64
					2,000			
			\$3.18	2,001	5,000			
			\$3.18	5,001	10,000			
			\$3.18	10,001	20,000			
			\$3.18	20,001	9,999,999			

New Proposed Rates:

TWU Villas of Willowbrook Phase 4

Meter Size	Proposed	Including ____ # of gallons	Tiered Rates	Gallonage Range		Gallons		
				Lowest	Highest	2,000	5,000	10,000
5/8"	\$31.17	0		0	0	\$38.57	\$57.56	\$89.21
			\$3.70	1	2,000			
			\$6.33	2,001	10,000			
			\$6.94	10,001	20,000			
			\$7.27	20,001	9,999,999			
				1E+07	9,999,999			

Increase \$6.37 \$15.82 \$31.57
 19.78% 37.90% 54.77%