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

APPLICATION OF TEXAS WATER UTILITIES, L.P. AND SOUTHERN HORIZONS DEVELOPMENT, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN LIBERTY AND MONTGOMERY COUNTIES § § § § § § § § **BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**TEXAS WATER UTILITIES, L.P.'S FIRST REQUEST FOR INFORMATION
TO COMMISSION STAFF**

To: Public Utility Commission of Texas (Commission) Staff, by and through their attorney of record, Kelsey Daugherty, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326.

Pursuant to 16 Texas Administrative Code (TAC) § 22.144 and the Texas Rules of Civil Procedure, Texas Water Utilities, L.P. (TWU) propounds to Public Utility Commission of Texas (Commission) Staff the requests for information set forth in the attached Exhibit "A." On or before June 17, 2024,¹ Commission Staff must answer each of the requests for information separately, fully, in writing, and under oath and serve a signed copy of the answers to these requests upon counsel for TWU, William A. Faulk, III, Eleanor D'Ambrosio, and Rashmin Asher at the following address: Spencer Fane LLP, 816 Congress Avenue, Suite 1200, Austin, Texas 78701.

All definitions and instructions governing discovery in the Texas Rules of Civil Procedure, the procedural rules of the Public Utility Commission of Texas (Commission), and the State Office of Administrative Hearings and all applicable orders issued herein shall apply to these discovery requests. Specific definitions and instructions are set forth below.

Unless written requests for clarification are received by the undersigned, it shall be presumed that all requests are fully and completely understood.

If the items requested to be produced herein have already been provided in other discovery answers to TWU or to another party, it shall not be necessary to duplicate such production. It shall

¹ See SOAH Order No. 3 Scheduling Hearing on the Merits at 3 (Apr. 3, 2024). Per SOAH Order No. 3, responses to discovery requests are due 10 calendar days after the request is received. Ten calendar days after June 5, 2024, falls on Saturday, June 15, 2024. Therefore, under 16 Tex. Admin. Code § 22.4(a), the deadline for Commission Staff to respond to TWU's First Request for Information should fall on the next day the Commission is open for business, or Monday, June 17, 2024.

be sufficient that the answer containing the requested information is clearly identified. Where only a portion of the requested information has been previously provided, this shall be disclosed and all information necessary to fully and completely answer this discovery request shall be provided in your answer.

If the answer to any request consists of a document(s) obtained by the answering party from TWU, it shall not be necessary to produce the document. It shall only be necessary to describe the document, its date, subject matter, and when/how it was obtained from TWU. If the requested document is found in the public records of the PUC or other governmental agency, the answering party shall describe the exact location, file name, and custodian from whom the specific referenced document can be obtained.

I. DEFINITIONS

The following definitions apply to all of the requests for information in their entirety, including the instructions noted below:

1. “TWU” means Texas Water Utilities, L.P. and any entity or person acting or purporting to act on its behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees, independent contractors, or other persons.
2. “Commission” means the Public Utility Commission of Texas.
3. “Communication” means any oral, written, or electronic statements, representations, discussions, conversations, speeches, meetings, remarks, questions, answers, panel discussions, or symposium of which Commission Staff has knowledge, information, or belief.
4. “Concerning” means, in whole or in part, directly or indirectly, referring to, relating to, being connected with, commenting on, responding to, showing, describing, analyzing, reflecting, embodying, mentioning, or constituting the subject matter identified in the request.
5. “Date” means the exact day, month, and year, if ascertainable or, if not, the best approximation.
6. “Describe” or “identify,” when used in reference to a **document**, means you must state, to the fullest extent possible, the following:
 - (a) The nature (*e.g.*, letter, handwritten note) of the document;
 - (b) The title or heading that appears on the document;
 - (c) The date of the document and the date of each addendum, supplement, or other addition or change;
 - (d) The identity of: the author of the document; any signatory or signatories of the document; and the person on whose behalf or at whose request or direction the document was prepared or delivered; and
 - (e) The present location of the document, and the name, address, position or title, and telephone number(s) of the person(s) having custody of the document.
7. “Describe” or “identify,” when used in reference to an **entity**, means you must state, to the fullest extent possible, the following:
 - (a) The entity’s full and correct legal name;
 - (b) The nature of the entity’s structure and/or organization;

- (c) The address, telephone and fax number of the entity's principal offices;
 - (d) The principal line(s) of the entity's business or activity; and
 - (e) The officer, employee, or agent most closely connected with the subject matter of the request for information, and the officer who is responsible for supervising that officer or employee.
8. "Describe" or "identify," when used in reference to a **person or individual**, means you must state, to the fullest extent possible, the following:
- (a) The individual's full name;
 - (b) The individual's present or last known residential address, including zip code;
 - (c) The individual's present or last known occupation, job title, employer, employer's address, including zip code, and employer's telephone and facsimile number(s);
 - (d) The occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular request for information; and
 - (e) In the case of any person other than an individual, identify the officer, employee, or agent most closely connected with the subject matter of the request for information, and the officer who is responsible for supervising that officer or employee.
9. "Document(s)" or "documentation" means all written, typed, or printed matters, and all magnetic or other records, papers, or documentation of any kind or description (including, without limitation, letters, correspondence, telegrams, memoranda, notes, minutes, contracts, agreements, notations of telephone or in-person conversations, conferences, inter-office communications, e-mail, microfilm, bulletins, circulars, accounts, writings, drawings, graphs, charts, pamphlets, books, facsimiles, invoices, tape recordings, video recordings, photographs, computer printouts and work sheets), including all originals and all drafts and copies not identical to the originals, all photographs and graphic matter, however produced or reproduced, and all compilations of data from which information can be obtained, and any and all writings or recordings of any type or nature, whether or not prepared by you, in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, representatives, consultants, accountants, attorneys, agents, other natural persons, business or legal entities, presently or formerly acting in concert with, under the direct or indirect control of, or on behalf of Opposing Party.
10. "Entity" means any partnership, association, corporation, joint venture, firm, proprietorship, agency, board, authority, commission, governmental body, trust, contractor, or any other organization, legal or business entity, and all other predecessors or successors in interest.
11. "Person(s)" or "Individual(s)" means any natural person.

12. “Possession, custody or control” of an item means that the person either has physical possession of the item or has a right to possession of the item that is equal or superior to the person who has physical possession of the item.
13. The word “and” means “and/or.”
14. The word “or” means “or/and.”
15. “You,” and “your,” means Commission Staff, their agents, representatives, attorneys, and all other natural persons, businesses or legal entities, presently or formerly, acting in concert with, under the direct or indirect control of, or on behalf of Commission Staff.
16. “Application” means the Application of Texas Water Utilities, L.P. and Southern Horizons Development, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Liberty and Montgomery Counties, filed with the Commission on February 2, 2023, and which is the subject matter of PUC Docket No. 54617.

II. INSTRUCTIONS


1. As to any request for information to which you are unable to respond in whole or in part, for any reason, please state the grounds for your inability to respond. When you believe that a complete answer to a particular request for information or part thereof is not possible, please answer each request for information to the extent possible and furnish a statement explaining: (1) the reason for your inability to respond further; and (2) whatever information or knowledge you have concerning the non-responsive portion.
2. For each document or other requested information that you assert is privileged, please comply with the requirements of Rule 193.3 of the Texas Rules of Civil Procedure and 16 TAC § 22.144.
3. For every document that no longer exists or cannot be located: identify the document; state how and when the document passed out of existence, or when it could no longer be located; and state the reason(s) for the disappearance; identify each person having knowledge about the disposition or loss of the document; and identify each document evidencing the existence or nonexistence of each document that cannot be located.
4. It is requested that all documents that might impact on the subject matter of Scruggs' Complaint be preserved and that any ongoing process of document destruction involving such documents cease.
5. Furnish all requested documents available to you and known by you, or in your possession, custody, or control or that of your agents and attorneys.
6. In those instances where you choose to answer a request for information by referring to a specific document or record, it is requested that the specification be in sufficient detail to permit TWU to locate and identify the record(s) and/or document(s) from which the answer is to be ascertained, as readily as can Commission Staff.
7. In those instances when requested information or documents are stored only on software, computer based information, or other data compilations, you should either produce the raw data along with all codes and programs for translating it into usable form, or produce the information or documents in a finished usable form that includes all necessary glossaries, keys, and indices for interpretation of the material.
8. Please respond to each request for information and indicate clearly the request for information to which each response is responsive. When requests for information contain subparts, indicate in your answer the subpart to which each particular part of your response is in response.
9. You are under a duty to supplement your responses to these requests for information that are incomplete or incorrect when made. Furthermore, you are under a duty to timely supplement and/or amend your responses if you receive, obtain, or generate information within the scope of any request for information between the time of the original responses and the conclusion of this proceeding.

10. Unless otherwise indicated, the discovery requested in these requests for information relate to the time period from February 2, 2023, through and including the present. All requested documents, data compilations, and recordings whenever actually prepared or generated that relate to this time period are to be produced.

Respectfully submitted,

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**ATTORNEYS FOR TEXAS WATER
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CERTIFICATE OF SERVICE

I hereby certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on June 5, 2024, in accordance with the Order Suspending Rules, issued in Project No. 50664.



Eleanor D' Ambrosio

EXHIBIT A

SOAH DOCKET NO. 473-24-13127

PUC DOCKET NO. 54617

**TWU'S FIRST REQUEST FOR INFORMATION
TO COMMISSION STAFF**

TWU 1-1 Reference the direct testimony of James Harville at 11:1-7. Please describe the immediate capital improvements that may be warranted to address the unresolved TCEQ violations for the Southern Crossing Water System Phase 2 public water system.

TWU 1-2 Reference the direct testimony of James Harville at 11:1-7. Is it Mr. Harville's assertion that the immediate capital improvements that may be warranted to address the unresolved TCEQ violations for the Southern Crossing Water System Phase 2 public water system will cost \$100,000 or more? If yes, please explain.

TWU 1-3 Reference the table in the direct testimony of James Harville at the bottom of page 11 and top of page 12. Please admit or deny that Southern Horizons' flat gallonage rate does not encourage water conservation. If the response is anything other than an unqualified admit, please explain.

TWU 1-4 Reference the table in the direct testimony of James Harville at the bottom of page 11 and top of page 12. Please admit or deny that the inclusion of 2,000 gallons of usage in the fixed monthly charge of \$32.20 does not encourage water conservation. If the response is anything other than an unqualified admit, please explain.

TWU 1-5 Reference the table in the direct testimony of James Harville at the bottom of page 11 and top of page 12 and the following billing comparison for a customer using 5,000 gallons per month.

Southern Horizons Current Rates	TWU's Requested Initial Rates
$32.20 + (3 * 3.18) = 41.74$	$48.37 + (2 * 6.48) + (3 * 7.98) = 85.27$

Please admit or deny that 63% of the \$45.53 difference in customer bills is attributable to the difference in gallonage rates as follows:

$$85.27 - 41.74 = 43.53$$

$$3 * 3.18 = 9.54$$

$$(2 * 6.48) + (3 * 7.98) = 36.90$$

$$36.90 - 9.54 = 27.36$$

$$27.36 / 43.53 = 0.63$$

EXHIBIT A

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**TWU'S FIRST REQUEST FOR INFORMATION
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TWU 1-6 Reference the table in the direct testimony of James Harville at the bottom of page 11 and top of page 12 and the following billing comparison for a customer using 5,000 gallons per month.

Southern Horizons Current Rates	TWU's Villas of Willowbrook Phase 4 Rates
$32.20 + (3 * 3.18) = 41.74$	$31.17 + (2 * 3.70) + (3 * 6.33) = 57.56$

Please admit or deny that 106.5% of the \$16.85 difference in customer bills is attributable to the difference in gallonage rates as follows:

$$57.56 - 41.74 = 15.82$$

$$3 * 3.18 = 9.54$$

$$(2 * 3.70) + (3 * 6.33) = 26.39$$

$$26.39 - 9.54 = 16.85$$

$$16.85 / 15.82 = 1.065$$

TWU 1-7 Please admit or deny that TWU's application has not been amended or supplemented—i.e., has not changed—since Commission Staff filed its Recommendation on Approval of the Transaction on July 17, 2023. If the response is anything other than an unqualified admit, please explain.

TWU1-8 Reference the direct testimony of James Harville at 12:2–13:1. Please admit or deny that this recommendation differs from the recommendation in the memorandum of James Harville filed with Commission Staff's Recommendation on Approval of the Transaction on July 17, 2023. If the response is anything other than an unqualified admit, please explain. The applicable section of that memorandum reads:

3.12. Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)).

The customers' rates will be higher than the current rates for the Southern Horizons. Reliability and quality of water service is expected to improve under Texas Water's management.

TWU 1-9 Reference the direct testimony of James Harville at 12:1–14:2. Please explain why Mr. Harville's recommendation regarding TWU's request for initial rates under Texas Water Code (TWC) § 13.3011 has changed from the recommendation provided in the memorandum of James Harville filed with Commission Staff's Recommendation on Approval of the Transaction on July 17, 2023.

EXHIBIT A

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**TWU'S FIRST REQUEST FOR INFORMATION
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- TWU 1-10** Reference the direct testimony of James Harville at 12:1–14:2. Please admit or deny that “rate shock” is not a defined term in the Texas Water Code, 16 TAC Chapter 24, or Commission precedent addressing applications filed by water and wastewater utilities. If anything other than an unqualified admit, please explain.
- TWU 1-11** Reference the direct testimony of James Harville at 12:1–14:2. Please define the term “rate shock” as used by Mr. Harville and explain the basis for this definition.
- TWU 1-12** Reference the direct testimony of James Harville at 3:19–4:2 and 12:1–14:2. Did Mr. Harville testify regarding “rate shock” in any of the dockets listed?
- TWU 1-13** Reference the direct testimony of James Harville at 12:1–14:2. Please admit or deny that the initial rates recommended by Mr. Harville would permit TWU a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses. Please provide any calculations or reasoning supporting your response.
- TWU 1-14** Please confirm that the dockets listed below are the only dockets in which Mr. Harville has filed a recommendation addressing a request for initial rates under TWC § 13.3011: Docket Nos. 54171, 54341, 55304, and 55817. If this is not a complete list, please provide the additional docket numbers.
- TWU 1-15** In any sale, transfer, or merger docket in which Mr. Harville has made a recommendation on the transaction, has Mr. Harvell ever recommended an initial rate that differs from the initial rate requested by the transferee? Please provide the docket number that contains each recommendation responsive to this question.
- TWU 1-16** For each docket identified in response to TWU 1-15, please provide the analysis underlying Mr. Harville’s decision to recommend an initial rate that differed from the initial rate requested by the transferee.
- TWU 1-17** Please admit or deny that TWU is the only Class A water utility with a Commission-approved tariff that includes one or more phased-in rate schedules with a final phase that is not yet effective. If deny, please list the other Class A water utilities responsive to this question.