

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Mark Sievers, Chairman
 Ward Loyd
 Thomas E. Wright

In the Matter of the Application of Howison)
Heights, Inc., for Approval of Certain) Docket No. 12-HHIW-382-RTS
Changes in its Charges for Water Service.)

PREHEARING OFFICER ORDER MODIFYING PROCEDURAL SCHEDULE

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. The Commission has designated Melissa Doeblin, Advisory Counsel, to act as Prehearing Officer in this proceeding. Order Designating Prehearing Officer and Granting Intervention to the Citizens' Utility Ratepayer Board, January 4, 2012, paragraph 4 (January 4, 2012 Order, ¶ 4). Having reviewed the files and records, and being duly advised in the premises, the Prehearing Officer makes the following findings:

I. Background

1. On November 22, 2011, Tim Howison, d/b/a Howison Heights Inc., (Howison), filed an Application with the Commission seeking approval to make certain changes in its rates for water service. Application, November 22, 2011, paragraph 1.

2. The Commission issued an Order suspending the matter for 180 days, until May 20, 2012, pursuant to K.S.A. 66-117(c). The Commission reserved the right to enter further order or orders to suspend the Application for the full 240 days from the date the Application was made. Suspension Order, December 19, 2011, paragraph 4.

3. The Commission has granted intervention to the Citizens' Utility Ratepayer Board (CURB) in this docket. January 4, 2012 Order.

4. The Commission issued an order granting the request of Commission Staff and CURB to allow this Application to proceed under the requirements of K.A.R. 82-1-231b, which allows a water public utility that is classified as a Class B utility to proceed with its Application if its annual operating revenues are less than \$750,000. Order Granting Joint Motions and Authorizing Rate Case Filing to Proceed under K.A.R. 82-1-231b, January 18, 2012, paragraph 8 (January 18, 2012 Order, ¶ 8). The Commission found that good cause had been shown for the Commission to waive the procedural requirements of K.A.R. 82-1-231b(b)(2)(A) (written notice of intent to file) and K.A.R. 82-1-231b(b)(2)(C) (public meeting held before Application filed), and thus waived those requirements. January 18, 2012 Order, ¶ 9. The Commission also approved of a procedural schedule as proposed by the parties, as follows (January 18, 2012 Order, ¶¶ 5, 10):

<u>Date</u>	<u>Action</u>
February 10, 2012	Staff's Report and Recommendation, and CURB Recommendations
February 15, 2012	Interim Order
May 20, 2012	Final Order

II. Staff and CURB Recommendations

5. Staff and CURB each filed their recommendations regarding the Howison rate case before February 10, 2012. Notice of Filing of Staff's Report and Recommendation, February 8, 2012 (Staff's Report); Notice of Filing of CURB's Report and Recommendation, February 9, 2012 (CURB's Report). Staff analyzed Howison's Application and recommended a revenue requirement of \$20,981 pursuant to its investigation and audit, as well as a number of other recommendations to improve the effectiveness of the company's future operations and

financial reporting, noting its concern with the company's current financial condition and its record-keeping practices. Staff's Report, p. 1.

6. CURB recommended the Commission deny the Application because the company did not provide sufficient evidence to make a determination that the requested rates are just and reasonable. CURB's Report, p. 1. CURB pointed out a number of issues it discovered during its analysis, including but not limited to a lack of consistency in income statement presentations, the utilization of a personal checking account to deposit customer's water utility bill payments, the inability of the company to provide invoices, receipts or other documentation to support many of the expenses reported in the 2010 income statements. CURB's Report, pp. 2-6.

7. The Prehearing Officer reported on Staff and CURB's recommendations to the Commission at an Open Meeting on February 15, 2012. The Commission took Staff and CURB's Report and Recommendations under advisement and chose not to issue an Interim Order at that time. Commissioners expressed concerns relating to this docket, and directed the Prehearing Officer to work with the parties to discuss how this docket should proceed.

8. A Prehearing Conference was held to provide the parties an opportunity to discuss the issues in this docket. The parties recommended that Howison obtain legal counsel and be allowed to file a written response to Staff and CURB's recommendations, and the parties be allowed additional time to engage in settlement negotiations. Transcript of Prehearing Conference, February 23, 2012, pages 7-12.

III. Procedural Schedule

9. The Prehearing Officer finds the procedural schedule should be modified as recommended by the parties at the Prehearing Conference. The Prehearing Officer removes the date for an Interim Order to be issued by the Commission, to allow for additional time to

investigate the issues in this docket. The Commission may choose to issue an Interim Order at a later date.

10. The Prehearing Officer also adopts the recommendation of the parties for additional dates to be added to the procedural schedule as follows, with additions in bold:

<u>Date</u>	<u>Time</u>	<u>Action</u>
March 23, 2012	5:00 p.m.	Howison Written Comments to Staff's Report & Recommendation and CURB's Report & Recommendation
April 23, 2012	1:30 p.m.	Prehearing Conference, First Floor Hearing Room

11. The Prehearing Officer finds that a prehearing conference should be scheduled to allow the parties to provide an update on whether they are able to jointly recommend a resolution of the issues in this docket, to address any pending matters, and to consider any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. To this end, the Prehearing Officer schedules a Prehearing Conference on April 23, 2012, beginning at 1:30 p.m. in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. Prehearing Officer Melissa Doebelin, telephone 785-271-3186, email address m.doebelin@kcc.ks.gov, will preside. Any party who fails to attend or participate in the Prehearing Conference or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act (KAPA). K.S.A. 77-516(c)(8); K.S.A. 77-520. At the Prehearing Conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by the KAPA. K.S.A. 77-516(c)(7).

12. The Prehearing Officer notes that the modifications to the procedural schedule are established to allow Howison to obtain legal counsel and determine how to proceed with its rate increase request, and to allow Howison to file written comments to Staff and CURB's

recommendations, as set forth in K.A.R. 82-1-231b(c)(4). If the parties are able to work through the issues sooner, the parties are directed to contact the Prehearing Officer so a Prehearing Conference may be scheduled prior to the April 23 date as set forth above.

IV. Agency Attorneys of Record

13. The attorneys designated to appear on behalf of the agency in this proceeding are Bob Fox, telephone number 785-271-3118, email address b.fox@kcc.ks.gov; and Matt Spurgin, telephone number 785-271-3279, email address m.spurgin@kcc.ks.gov, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. K.S.A. 2010 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

WHEREFORE, THE PREHEARING OFFICER FINDS AND CONCLUDES AS FOLLOWS:

A. The Prehearing Officer modifies the procedural schedule as set forth above in paragraph 10. The Prehearing Officer sets March 23, 2012 as the deadline for Howison to file written comments to Staff and CURB's recommendations, as set forth in K.A.R. 82-1-231b(c)(4).

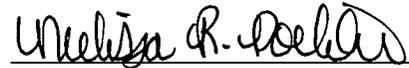
B. The Prehearing Officer schedules a Prehearing Conference for April 23, 2012, beginning at 1:30 p.m., in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as set forth above in paragraph 11. Prehearing Officer Melissa Doeblin, telephone 785-271-3186, email address m.doeblin@kcc.ks.gov, will preside.

C. This is a procedural order and constitutes nonfinal agency action. K.S.A. 77-607(b)(2). Parties have 15 days, plus three days if service of this Order is by mail, from the date

of service of this Order in which to petition the Commission for review. K.S.A. 2010 Supp. 77-527.

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

Dated: March 1, 2012



Melissa R. Doebelin
Prehearing Officer

mrd

ORDER MAILED MAR 02 2012

CERTIFICATE OF SERVICE

MAR 01 2012

12-HHIW-382-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Prehearing Officer Order Modifying Procedural Schedule was placed in the United States mail, postage prepaid, or hand-delivered this 1st day of March, 2012, to the following:

NIKI CHRISTOPHER, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
n.christopher@curb.kansas.gov
Hand Delivered

C. STEVEN RARRICK, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rarrick@curb.kansas.gov
Hand Delivered

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov
Hand Delivered

SHONDA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
sd.smith@curb.kansas.gov
Hand Delivered

DAVID SPRINGE, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.springe@curb.kansas.gov
Hand Delivered

TIMOTHY B. HOWISON, PRESIDENT
HOWISON HEIGHTS, INC.
1212 MEYER DR
SALINA, KS 67401-5274
Fax: 785-825-5695

ROBERT A. FOX, SENIOR LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
b.fox@kcc.ks.gov
Hand Delivered

MATTHEW SPURGIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
m.spurgin@kcc.ks.gov
Hand Delivered



Sheryl L. Sparks
Administrative Specialist

ORDER MAILED MAR 02 2012