

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

Before Commissioners: Mark Sievers, Chairman  
Thomas E. Wright  
Shari Feist Albrecht

In the Matter of the Investigation of Howison )  
Heights Inc.'s Ability to Provide Sufficient and ) Docket No. 13-HHIW-460-GIV  
Efficient Service. )

**ORDER ON STAFF'S MOTION FOR COMMISSION ORDER  
COMPELLING HOWISON HEIGHTS TO ADDRESS QUALITY OF SERVICE AND  
INDEBTEDNESS ISSUES**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration. Having examined the files, the Commission concludes as follows:

1. On March 18, 2013, Howison filed the Application of Howison Heights, Inc. for Approval of the Commission to Make Certain Changes in its Rates for Water Service (Application) in Docket No.13-HHIW-570-RTS (570 Docket), requesting a permanent rate increase in the amount of \$48,702.00. Howison also filed a Motion for Interim Rate Relief Subject to Refund (570 Motion) on March 18, 2013.<sup>1</sup> On March 28, 2013, the Citizens' Utility Ratepayer Board (CURB) was granted intervention in the 570 Docket.<sup>2</sup> The Commission established a procedural schedule for the 570 Docket on April 3, 2013.

2. The Commission granted the 570 Motion on April 17, 2013, and also ordered Howison to provide a list of its creditors and corresponding debts within one week of the date of

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<sup>1</sup> See 570 Motion, pp. 1, 5.

<sup>2</sup> Order Designating Prehearing Officer, Discovery Order, Protective Order, and Order Granting CURB's Petition to Intervene (Mar. 28, 2013).

the April 17, 2013 Order.<sup>3</sup> Howison complied with the April 17, 2013 Order on April 22, 2013, by filing the Statement of Howison Heights, Inc.'s List of Creditors.

3. On May 7, 2013, Howison filed a Second Amended Rate Schedule and a New Notice to Customers. Pursuant to the modified procedural schedule, Staff filed its Report and Recommendation on May 9, 2013. On May 20, 2013, CURB filed its Reply to Staff's Report and Recommendation, and Howison filed its Response to Staff's Report and Recommendation.

4. An initial comment period was provided in the 570 Docket from April 6, 2013, through May 6, 2013. During that period, the Commission's Public Affairs and Consumer Protection Office (PACP Office) received three comments. Beginning on May 14, 2013, however, the PACP Office began to receive additional comments from Howison's customers, both through phone calls and emails. The PACP Office has received comments from over 33% of Howison's customers.

5. Comments and complaints include concerns about low or inconsistent water pressure, water main breaks, brown or "scummy" water, poor service when called (no maintenance crews), high chlorine content, fraudulent meter reading, no fire hydrants in development, and no water tower.

6. On November 21, 2012, Central National Bank sued Howison in civil court for recovery of \$396,442.04 including interest stemming from alleged unpaid loans. Central National Bank also requested foreclosure of mortgages on property owned by Howison to satisfy the debts. Central National Bank included The Bennington State Bank (Bennington) as a defendant in the foreclosure case, alleging that Bennington held a first mortgage on the same property. The case was

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<sup>3</sup> Order Granting Motion for Interim Rate Relief Subject to Refund and Motion for Waiver of Filing Requirements Under K.A.R. 82-1-231b (Apr. 17, 2013), ¶ 18.

filed in Saline County District Court, Case No. 12-CV-444, styled *Central National Bank v. Howison Heights, Inc., et al.* (Foreclosure Case).

7. On March 13, 2013, Bennington filed a Motion for Summary Judgment and Memorandum in Support (Summary Judgment Motion) in the Foreclosure Case. Since that time, no party, including Howison, has filed any response to Bennington's Summary Judgment Motion.

8. On May 29, 2013, Staff of the Commission (Staff) filed a Motion for Commission Order Compelling Howison Heights to Address Quality of Service and Indebtedness Issues. Staff alleged the complaints Howison's customers filed, as well as the foreclosure case, call into question whether Howison is providing, or will be able to continue providing, efficient and sufficient water service to its customers. Staff stated although it has begun the discovery process in this case, it would prefer Howison address these issues on the record rather than through data requests in order to provide transparency to the customers who have complained. As of June 10, 2013, CURB had not responded to Staff's Motion.

9. In its Motion, Staff requested the Commission order Howison Heights, Inc. to file the following information in this docket:

- 1) Using the customer complaints attached to Staff's Motion, provide a detailed list, on an individual customer basis, how each customer's issues have been addressed and how they will be resolved. For example, if Customer A complains about high chlorine and low water pressure, Howison must address the steps already taken to resolve the matter, as well as a future plan of action. In explaining how the customer's issues will be resolved, provide a cost estimate and an explanation of those costs. If possible, keep responses devoid of confidential information pertaining to the customer.
- 2) Explain what options Howison is currently considering to resolve the Motion for Summary Judgment.
- 3) Explain what steps, if any, Howison is taking to ensure that its customers are provided efficient and sufficient service during the pending litigation period.

- 4) Explain the likelihood that Howison will keep the utility property in its possession.
- 5) Explain how Howison will pay for needed system repairs should it retain possession of the utility property.
- 6) Explain what access to capital (debt or equity) Howison will have on a going forward basis should it retain possession of the utility property.
- 7) Explain how customers of Howison will receive water service in the event that Howison's utility property is sold pursuant to the Saline County foreclosure action.

10. The Commission finds the concerns about quality of service and indebtedness raised in the customer comments and the foreclosure case are very serious. The Commission agrees with Staff that Howison Heights, Inc. should be compelled to explain these concerns in detail. Accordingly, the Commission orders Howison to file the requested information as listed in paragraph 9 above. Howison shall file this information by June 14, 2013.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

- A. The Commission grants Staff's Motion for Commission Order Compelling Howison Heights to Address Quality of Service and Indebtedness Issues.
- B. Howison is ordered to file in this docket the information requested by Staff, as listed in paragraph 9 above, by June 14, 2013.
- C. The parties have fifteen days from the date of electronic service of this Order in which to petition the Commission for reconsideration of any issue or issues decided herein.<sup>4</sup>
- D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

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<sup>4</sup> K.S.A. 66-118b; K.S.A. 2012 Supp. 77-529(a)(1).

**BY THE COMMISSION IT IS SO ORDERED.**

Sievers, Chairman; Wright, Commissioner; Albrecht, Commissioner

Dated: JUN 13 2013



ORDER MAILED JUN 13 2013

Patrice Petersen-Klein  
Executive Director

JV

**CERTIFICATE OF SERVICE**

**JUN 13 2013**

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I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order on Staff's Motion for Commission Order Compelling Howison Heights to Address Quality of Service and Indebtedness Issues was served by electronic mail this 13th day of June, 2013, to the following parties who have waived receipt of follow-up hard copies:

JAMES G. FLAHERTY, ATTORNEY  
ANDERSON & BYRD, L.L.P.  
216 S HICKORY  
PO BOX 17  
OTTAWA, KS 66067  
Fax: 785-242-1279  
jflaherty@andersonbyrd.com

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

ANASTACIA HARDEN  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
s.harden@curb.kansas.gov

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

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

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

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

TIMOTHY B. HOWISON, PRESIDENT  
HOWISON HEIGHTS, INC.  
1212 MEYER DR  
SALINA, KS 67401-5274  
Fax: 785-825-6449  
timhowison.remax@yahoo.com

MICHAEL NEELEY, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3167  
m.neeley@kcc.ks.gov


JAY VAN BLARICUM, ADVISORY COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
j.vanblaricum@kcc.ks.gov

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Sheryl L. Sparks  
Administrative Specialist

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