

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

AUG 05 2013

by  
State Corporation Commission  
of Kansas

In the Matter of the Application of Howison Heights, Inc., for Approval of the Commission to Make Certain Changes in its Rates for Water Service. ) Docket No. 13-HHIW-570-RTS

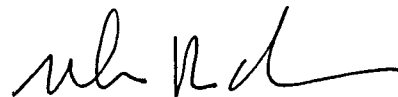
In the Matter of the Investigation of Howison Heights Inc.'s Ability to Provide Sufficient and Efficient Service. ) Docket No. 13-HHIW-460-GIV

**NOTICE OF FILING OF CURB'S REPLY  
TO STAFF'S REPORT AND RECOMMENDATION**

The Citizens' Utility Ratepayer Board (CURB) submits its *Reply to Staff's Report and Recommendation* regarding Staff's position supporting the application of Howison Heights, Inc. for authorization to increase customer rates.

CURB's Reply and the accompanying exhibits set forth the evidentiary basis for CURB's recommendation.

Respectfully Submitted,



David Springe #15619  
Niki Christopher #19311  
C. Steven Rarrick #13127  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
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(785) 271-3200  
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VERIFICATION

STATE OF KANSAS )  
 ) ss:  
COUNTY OF SHAWNEE )

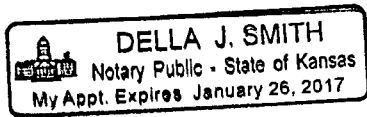
I, Niki Christopher, of lawful age, being first duly sworn upon her oath states:

That she is an attorney for the above named petitioner; that she has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.



\_\_\_\_\_  
Niki Christopher

SUBSCRIBED AND SWORN to before me this 5<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Notary Public

My Commission expires: 01-26-2017.

# Citizens' Utility Ratepayer Board

## Board Members:

Nancy Jackson, Chair  
Stephanie Kelton, Vice-Chair  
Kenneth Baker, Member  
Robert L. Harvey, Member  
Ellen K. Janoski, Member



State of Kansas  
Sam Brownback, Governor

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## REPLY TO STAFF'S REPORT AND RECOMMENDATION

**TO:** Chairman Mark Sievers  
Commissioner Thomas E. Wright  
Commissioner Shari Feist Albrecht

**FROM:** Stacey Harden

**DATE:** August 5, 2013

### **SUBJECT:**

In the Matter of the Application of Howison Heights, Inc., for Approval of the Commission to Make Certain Changes in its Rates for Water Service; Docket No. 13-HHIW-570-RTS.

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

### **EXECUTIVE SUMMARY**

On July 26, 2013, Staff filed its second Report and Recommendation with the Commission in this proceeding. Staff's second report utilizes 2012 test year data of Howison Heights Inc.'s ("Howison" or "Company"). Staff recommends the Commission approve a revenue requirement increase of \$28,891, to be phased in over a two-year period.

CURB was not able to join in Staff's audit of Howison's 2012 test year data. In its July 3, 2013, *Motion for Clarification*, CURB respectfully requested that the Commission modify its *Order Setting Aside* to allow CURB, as well as Staff, to conduct on-site visits to Howison's facilities. CURB further pointed out that much of the evidence gained in Docket No. 12-HHIW-382-RTS ("382 Docket") was received by Staff and CURB during the same on-site visit. The Commission denied CURB's motion for clarification on July 18, 2013.

The following day, July 19, 2013, CURB issued data requests to both Staff and Howison, requesting copies of all evidence obtained or provided during the course of Staff's 2012 test-year audit. These responses were to be provided on or before August 2, 2013. Staff provided

responses to the data requests on July 31, 2013. Howison faxed his responses to CURB's data requests on Friday, August 2, 2013. However, the Company's replies to CURB's data requests are unresponsive. I have attached a copy of the data requests and Company's responses to this report for the Commission's review.<sup>1</sup>

The audit I performed in this proceeding and my recommendations are based upon evidence provided by Staff in its July 26, 2013, report, and the data request responses received from Staff on July 31, 2013. As an analyst, I am uncomfortable performing a complete test-year audit of data received from a source other than the utility, in less than one week. However, the lack of a procedural schedule in this proceeding leaves no wiggle room.

Based upon my review of the Company's 2012 test year data as presented by Staff, I recommend the Commission rescind the rates approved in its April 17, 2013, *Order Granting Motion for Interim Rate Relief Subject to Refund*, and instead approve a revenue requirement increase of no more than \$27,266 in this proceeding.<sup>2</sup>

### **CURB's ADJUSTING ENTRIES**

Staff recommends the Commission approve a revenue requirement increase of \$28,891, to be phased in over a two-year period. CURB applauds Staff's efforts to establish a stronger evidentiary basis for its revenue requirement recommendation. Staff's cost of service in its report and recommendation includes only operating expenses that can be verified and identified through invoices, receipts, or in some cases, cancelled checks. While CURB agrees with the basis for many of Staff's adjustments, CURB recommends the Commission approve additional adjustments for operating expenses that were incurred outside of the 2012 test year and selected other operating expenses that are inappropriate to pass on to Howison's ratepayers.

CURB agrees with Staff's adjustments in the following categories, concurring that Staff's adjustments are based upon substantial competent evidence: hookup fees, auto expenses, depreciation expense, interest expense, mowing, repairs and maintenance, and the administrative and general expenses associated with the inclusion of an annual salary and applicable employer taxes.

Because Howison did not provide the information requested by CURB in its data requests, each of CURB's adjustments utilizes Staff's adjustments and schedules, as detailed in Staff's July 26, 2013, Report and Recommendation.

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<sup>1</sup> Attached as Exhibit SMH-1.

<sup>2</sup> CURB's supporting schedules are attached to this report as Schedules SMH-1, SMH-2, and SMH-3.

The following revenue and expense adjustments are proposed by CURB:

CURB Adjustment No. 1 – Sales of Water

CURB Adjustment No. 1 increases Staff's water revenues by \$565.61. This adjustment increases the revenues reported in Staff's schedule WEB-2, Part 1. This adjustment includes an increase of \$242.24 attributable to the collection of the Kansas Water Protection Fee and \$323.37 for the collection of Saline County Sales Tax.

The Kansas Water Protection fee was established in 1989 by K.S.A. 82a-954. This statute requires a fee of \$0.032 per 1,000 gallons of water sold to be paid quarterly to the Kansas Department of Revenue no more than 45 days following the end of each quarter. According to the statute, Howison may collect the fee directly from each consumer to which water is sold at retail or may pay the amount owed to the department from money in its operating or other fund available for that purpose.<sup>3</sup>

In addition to the Kansas Water Protection Fee, Howison is required to remit local sales tax to Saline County. While residential water sales are not taxed at the state's current sales tax rate, all sales are subject to the local tax rate. The current Saline County sales tax rate is 1%.

Howison is collecting the Kansas Water Protection Fee and Saline County sales tax from its customers. Howison's current rate schedule approved in Docket No. 05-HHIW-277-COC, and unchanged since that time, indicates "all rates include water tax of \$0.032/1,000 plus 1.5% sales tax."<sup>4</sup> Additionally, the interim rates approved by the Commission on April 17, 2013, include the addition of \$0.032 per 1,000 gallons of water used for the Kansas Water Protection Fee. Staff's schedule WEB-2, Part 1, omits the revenues collected by Howison under his current tariff for the Kansas Water Protection Fee and Saline County Sales Tax.

CURB Adjustment No. 1  
Sale of Water

Howison Adjusted Test Year	\$25,863
Staff Test Year Adjustment	\$6,474
Staff Adjusted Test Year	<u>\$32,337</u>
CURB Test Year Adjustment	\$566
CURB Adjusted Test Year	<u><u>\$32,903</u></u>

<sup>3</sup> K.S.A. 82a-954(d).

<sup>4</sup> Form RF for Howison Heights, Inc. Water Company attached to CURB's May 20, 2013, *Reply to Staff's Report and Recommendation*, as Exhibit SMH-3.

CURB Adjustment No. 2 – Bank Fees

CURB Adjustment No. 2 decreases Staff's bank fees expense by \$19. Staff's adjustment removed overdraft charges and late fees from the Company's operating expenses, including only the monthly service charge in the Company's 2012 cost of service. However, the monthly service charge includes a fee for each check processed through the business checking account. In my opinion, it is inappropriate to include monthly service fees that were incurred as a result of using the account for non-utility-related transactions. My adjustment removes these inappropriate charges from the cost of service.

My review of the Company's 2012 business checking account statement shows that this business checking account is used more as a personal account for Howison's owner. Of the 278 checks or electronic transactions that were debited in 2012 to the Howison Heights, Inc. business checking account, 192 of them are unrelated to the Howison Heights water utility company. As I found in my audit in the 382 Docket, nearly all of these withdrawals are payable to cash, Tim Howison, utility companies, restaurants and other retail establishments in the Salina area.

These 192 withdrawals result in a service fee of \$19.20. Because these fees are unrelated to the Howison Heights water utility company, the costs should not be included in the Company's cost of service. My adjustment appropriately decreases bank service charges by \$19.

CURB Adjustment No. 2  
Bank Fees

Howison Adjusted Test Year	\$465
Staff Test Year Adjustment	(\$343)
Staff Adjusted Test Year	<u>\$122</u>
CURB Test Year Adjustment	(\$19)
CURB Adjusted Test Year	<u><u>\$103</u></u>

CURB Adjustment No. 3 – Contract Labor

CURB Adjustment No. 3 decreases Staff's contract labor expense by \$100.00. In its 2012 cost of service analysis, Staff included contractor labor expense of \$100 which was paid on December 31, 2011. There is no invoice from the contractor to explain what work was performed or when the work was performed. Because the only support is a cancelled check dated December 31, 2011, the presumption must be that this expense was incurred outside of the 2012 test year. CURB's adjustment removes this expense from the Company's 2012 cost of service.

CURB Adjustment No. 3

Contract Labor

Howison Adjusted Test Year	\$4,139
Staff Test Year Adjustment	(\$3,509)
Staff Adjusted Test Year	<u>\$630</u>
CURB Test Year Adjustment	(\$100)
CURB Adjusted Test Year	<u><u>\$530</u></u>

CURB Adjustment No. 4 – Legal and Accounting Expense

CURB Adjustment No. 4 decreases Staff's legal and accounting expense by \$165.44. In schedule WEB-2, part 8, Staff indicated its adjustment amortized over a five-year period the legal fees related to the 382 Docket. Howison withdrew its application in the 382 Docket in order to renegotiate its bank loans and pursue the sale of the water utility, even after the Staff had recommended a revenue requirement increase of \$20,891. Had the Commission issued a final order determining that Staff's recommendation was appropriate, Howison would have been allowed to recover appropriate rate case expense. However, the decision to withdraw its application in the 382 Docket was management's decision, and the costs associated with the withdrawn application should rest with the Company's management, and not the ratepayers.

CURB Adjustment No. 4

Legal and Accounting

Howison Adjusted Test Year	\$575
Staff Test Year Adjustment	(\$410)
Staff Adjusted Test Year	<u>\$165</u>
CURB Test Year Adjustment	(\$165)
CURB Adjusted Test Year	<u><u>\$0</u></u>

CURB Adjustment No. 5 – Permits and Fees

CURB Adjustment No. 5 decreases Staff's permits and fees expense by \$135.11. CURB's adjustment eliminates non-recurring expenses incurred by Howison for copies and blueprints. These expenses appear to be associated with Howison's efforts to sell the water utility to a neighboring rural water district. The permit and fee expense remaining appropriately includes

only fees paid to the Kansas Secretary of State and the Kansas Department of Health and Environment (“KDHE”).

CURB Adjustment No. 5  
Permits and Fees

Howison Adjusted Test Year	\$1,978
Staff Test Year Adjustment	(\$1,228)
Staff Adjusted Test Year	\$750
CURB Test Year Adjustment	(\$135)
CURB Adjusted Test Year	\$615

CURB Adjustment No. 6 – Postage

CURB Adjustment No. 6 increases Staff’s postage expense by \$47.01. CURB calculated Howison’s 2013 postage expenses using the following components:

- 62 monthly bills mailed at rate of \$0.33 each, for 12 months = \$245.52
- Monthly water samples mailed to KDHE at USPS rate of \$2.80 = \$33.60
- Annual rental of Post Office Box = \$29.00

Staff’s adjustment recognized Howison’s actual cash receipts for postage expense during the 2012 test year. On January 3, 2013, the United States Postal Service (“USPS”) raised first-class postage rates on the postcard billings from \$0.32 to \$0.33. CURB’s adjustment reflects the current 2013 USPS postage rates.

CURB Adjustment No. 6  
Postage

Howison Adjusted Test Year	\$300
Staff Test Year Adjustment	(\$39)
Staff Adjusted Test Year	\$261
CURB Test Year Adjustment	\$47
CURB Adjusted Test Year	\$308

CURB Adjustment No. 7 – Supplies

CURB Adjustment No. 7 decreases Staff’s supplies expense by \$885.96. This adjustment is made of three individual entries.



First, Staff inadvertently included a valid supply expense twice in its analysis. Staff included supply expense of \$76.61 and \$32.14 paid to Salina Supply Company for invoice numbers 1116079 and 1116719, respectively. Staff also included Howison's cancelled check numbers 4097 and 4123 payable to Salina Supply for payment of invoice numbers 1116079 and 1116719, respectively. CURB's adjustment removes the double recognition of this single expense.

Second, CURB's adjustment removes supply expense of \$97.56 paid to Salina Supply Company. This expense is not supported by invoice, but rather a cancelled check. Howison's cancelled check is dated December 30, 2011, which falls outside of the 2012 test year. Because the only support is a cancelled check dated December 30, 2011, the presumption must be that this expense was incurred outside of the 2012 test year. CURB's adjustment removes this expense from the Company's 2012 cost of service.

Third, CURB adjustment removes \$679.65 of supply expense for Watson Electric Inc. Staff included a copy of a statement of charges from Watson Electric, which shows that invoice #5838 was issued September 13, 2011, which is outside the 2012 test year. It is inappropriate to include 2011 expenses in the utility's 2012 cost of service.

CURB Adjustment No. 7

Supplies

Howison Adjusted Test Year	\$5,077
Staff Test Year Adjustment	(\$2,608)
Staff Adjusted Test Year	\$2,469
CURB Test Year Adjustment	(\$886)
CURB Adjusted Test Year	\$1,583

CURB Adjustment No. 8 – Utility Property Tax

CURB Adjustment No. 8 increases Staff's utility property tax expense by \$565.61. This adjustment offsets the increase in revenues detailed in CURB Adjustment No. 1. This adjustment includes an increase of \$242.24 attributable to the payment of the Kansas Water Protection Fee and \$323.37 for the payment of Saline County Sales Tax.

In my review of Howison's application in this proceeding and the 382 Docket, I found no evidence that Howison has been remitting the Kansas Water Protection Fee or the Saline County sales tax. However, even though there is no evidence that these taxes were paid during the 2012 test year, they are expenses which Howison is statutorily required to remit. It is inappropriate to

exclude the payment of taxes from Howison’s cost of service. CURB’s Adjustment No. 8 recognizes the payment of the taxes collected in CURB Adjustment No. 1.

CURB Adjustment No. 8  
Utility Property Taxes

Howison Adjusted Test Year	\$4,488
Staff Test Year Adjustment	(\$1,857)
Staff Adjusted Test Year	\$2,631
CURB Test Year Adjustment	\$566
CURB Adjusted Test Year	\$3,197

CURB Adjustment No. 9 – Utilities Expense

CURB Adjustment No. 9 decreases Staff’s utilities expense by \$190.69. Staff provided copies of Howison’s electric utility statements from DS&O Electric Cooperative, Inc. for the 2012 test year. The statements from DS&O show that in nearly each month, a penalty or late charge is applied due to late payment. It is inappropriate to include penalties or late charges in the utility’s cost of service. CURB’s adjustment appropriately removes the \$190.69 attributable to penalty fees.

CURB Adjustment No. 9  
Utilities

Howison Adjusted Test Year	\$4,551
Staff Test Year Adjustment	(\$30)
Staff Adjusted Test Year	\$4,521
CURB Test Year Adjustment	(\$191)
CURB Adjusted Test Year	\$4,330

CURB Adjustment No. 10 – Rate Case Expense

CURB Adjustment No. 10 decreases Staff’s total rate case expense by \$443.45. Utilizing a five-year amortization as calculated by Staff, the impact of CURB’s adjustment decreases the annual rate case expense included in the Company’s cost of service by \$88.69.

CURB’s adjustment removes legal expenses that can be specifically traced to Docket No. 13-HHIW-460-GIV (“460 Docket”). CURB agrees with Staff’s contention that legal fees related to

the foreclosure proceeding should not be included in the Company's cost of service because "Howison's non-regulated activities, not the water company, are primarily responsible for the financial distress currently being experienced by Howison ... If Howison had requested rate increases on a regular basis, the water company would not be in the financial distress it is currently in today. This decision rests on management, not the ratepayers of the utility, thus accordingly, management should pay for these costs and not ratepayers."<sup>5</sup> The 460 Docket "was opened precisely to allow the Commission to monitor the proceedings in the foreclosure action in Saline County District Court."<sup>6</sup> Any legal expenses that Howison incurred due to this investigation should not be included in the company's cost of service.

CURB reviewed copies of invoices from Anderson & Byrd and removed only costs that are attributable directly to the 460 Docket, prior to the June 19, 2013, consolidation of the 460 Docket and Docket 13-HHIW-570-RTS ("570 Docket").

CURB Adjustment No. 10  
Rate Case Expense

Howison Adjusted Test Year	\$0
Staff Test Year Adjustment	\$2,056
Staff Adjusted Test Year	\$2,056
CURB Test Year Adjustment	(\$89)
CURB Adjusted Test Year	\$1,967

CURB Adjustment No. 11 – Income Taxes

CURB Adjustment No. 11 recognizes the income tax impacts from CURB Adjustments Nos. 1 – 10. This adjustment decreases Staff's Income Tax Expense by \$9.

CURB Adjustment No. 11  
Income Tax

Howison Adjusted Test Year	\$0
Staff Test Year Adjustment	\$534
Staff Adjusted Test Year	\$534
CURB Test Year Adjustment	(\$9)
CURB Adjusted Test Year	\$525

<sup>5</sup> KCC Docket No. 13-HHIW-570-RTS, July 26, 2013, Staff's *Report and Recommendation*, at page 8.

<sup>6</sup> KCC Docket No. 13-HHIW-570-RTS, April 17, 2013, *Order Granting Motion for Interim Rate Relief Subject to Refund and Motion for Waiver of Filing Requirements Under K.A.R. 82-1-231b*, at ¶17.

## ANNUAL SALARY FOR HOWISON'S OPERATOR

CURB did not recommend an adjustment to Staff's inclusion of a \$23,500 annual salary and applicable employer taxes in Howison's cost of service. I agree with Staff, in so much as a utility needs an operator, and utility operators are not available for free. I agree with Staff that an annual salary of \$23,500 is an appropriate salary for an operator to manage a small water utility. However, I disagree with Staff's acceptance that Mr. Tim Howison is the appropriate individual to operator the Howison Heights, Inc. water utility system. I recommend the Commission order Howison to issue a request for proposal ("RFP") in order to hire a qualified, licensed water operator for three reasons: (1) using contract labor can result in less operating expense; (2) Howison is likely unable to meet the federal filing requirements for an employer; and (3) Mr. Tim Howison has lost the faith and trust of his customers.

First, using contract labor can result in decreased operating expenses and can offer many benefits for a utility the size of Howison. The use of contract labor, as opposed to a part-time or full-time employee, can decrease salary expenses, employer payroll tax expense, and state and federal unemployment taxes. Additionally, the use of contract labor eliminates the burden of other reimbursable items like mileage and personal vehicle use, and others that fall under the scrutiny of the Internal Revenue Service ("IRS"). In addition, contactors generally provide on-call services in the event of emergencies, provide their own tools and transportation, carry liability insurance, and are bonded.

In its application at section 3A, Howison included an estimate of the cost to operate the Howison Heights, Inc. water utility system from Earles Engineering & Inspection, Inc. This \$29,535 estimate includes the following costs:

- daily cost of checking three water wells,
- reading 62 customer meters each month,
- providing monthly billing to 63 customers,
- all mileage and travel times to the sites,
- contract any repairs required, and
- contract any leak repairs needed

Alternatively, Staff's cost of service includes \$26,037.75 for salary and employer payroll taxes. Additionally, Staff has included \$3,056 of expense associated with the use of Tim Howison's personal vehicle. Staff's cost of service shows that for Mr. Tim Howison to operate this system, the expense to the company is \$29,093.75.

The amount of payroll expense Staff is recommending be paid to Mr. Tim Howison, is slightly less than the estimate provided by Earles Engineering & Inspection, Inc. However, Staff's cost of service excludes the cost of tools and expenses for equipment, which would likely increase Howison's overall level of operating expenses. In addition, Staff's cost of service includes expenses for contract labor – which is in addition to the recommended salary and wage expense. When the dust settles, it is my opinion that the use of contract labor to operate the Howison Heights, Inc. water system will result in decreased operating expenses.

Second, a business that has even one employee must adhere to filing and payment deadlines established by the IRS. If Mr. Tim Howison begins receiving a salary from Howison Heights, Inc., he will be required to file an IRS Form 941: Employer's Quarterly Federal Tax Return each quarter, along with payment of employer payroll taxes within 30 days of the end of the quarter. Additionally, Howison will be required to file, by January 31 of each calendar year, IRS W-2 Wage and Tax Statements to employees of Howison, as well as the IRS W-3 Transmittal of Wage and Tax Statement. These federal forms are in addition to forms that Howison will be required to remit to the Kansas Department of Revenue.

The additional burden of adhering to IRS filing and payment guidelines may be overwhelming for Howison. My audit of Howison for years 2010 and 2012, have shown a pattern of non-payment of state and local taxes. Additionally, Mr. Howison was granted a \$23,500 annual salary in the Commission's April 17, 2013 *Order Granting Interim Rates*. If Mr. Howison began receiving this salary in May 2013, there should be a record of three months of withheld federal and state taxes. CURB requested this information in CURB Data Request No. 49. The Company refused to provide a response.

Based upon my audits and the Company's unwillingness to provide current payroll data, I have no reason to believe that Howison will make timely filings or payments of federally required employer taxes. I am uncertain whether Mr. Howison is simply unfamiliar with the process of how to properly remit the appropriate forms and payment, or if he just doesn't do it. Either way, increasing this Company's taxation burden, when evidence clearly shows a history of non-payment of all taxes, is, in my opinion, irresponsible.

Finally, it is my opinion that Mr. Tim Howison is no longer able to effectively operate the Howison Heights, Inc. water utility system. I completely agree with Staff's conclusion that "Howison has lost the trust and respect of its customers, and they are deeply dissatisfied with their water service. This is a condition which has no chance of being resolved until the water quality and service quality issues discussed above are resolved."<sup>7</sup> The evidence presented in this proceeding, as well as the 460 Docket and the 382 Docket, show a lengthy history of fiscal mismanagement, a high number of customer complaints, and a low quality of water being

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<sup>7</sup> KCC Docket No. 13-HHIW-570-RTS, July 26, 2013, Staff's *Report and Recommendation*, at page 11.

provided to customers in the Howison Heights, Inc water system. The litany of mismanagement in this company – which is solely in the hands of Mr. Tim Howison – has exceeded any level of reasonableness. While there may have been a time when Mr. Tim Howison was the right man for the job, it is no longer the case. The only conclusion that can be reached, in my opinion, is that until Howison Heights, Inc. makes personnel changes – specifically to its manager and water system operator – water quality and customer service issues will not be resolved.

As such, I recommend the Commission order Howison to issue an RFP in order to hire a qualified, licensed water operator. The cost of this contract should not exceed the estimate provided by Earles Engineering & Inspection, Inc. in Howison's application. I further recommend the Commission wait to award Howison any rate increase in this proceeding until the RFP process has been completed and executed contracts with a licensed, qualified water system operator have been filed with the Commission.

### **RATE DESIGN**

Due to the abbreviated nature of this proceeding, CURB has not had an opportunity to complete a full and updated rate design for Howison. However, before any rate design is approved by the Commission, an analysis of the amount of revenues received from the April 17, 2013, Commission order *Granting Motion for Interim Rate Relief Subject to Refund* must be recorded and analyzed, to determine if a refund is appropriate. Staff did not undertake this analysis, likely because of the lack of available time in this proceeding.

As a recommendation, the revenue requirement increase I am recommending in this proceeding is \$1,625 less than Staff's recommendation. A simple rate design resolution would be to reduce Staff's recommended monthly customer charge from \$28 to \$26. This one simple action would reduce Staff's revenue calculation by \$1,488, a figure much closer to my revenue requirement recommendation.

### **BUSINESS PRACTICE RECOMMENDATIONS**

In February 2012, both Staff and CURB made recommendations to the Commission that would help Howison improve some of its record-keeping deficiencies. Howison has been in receipt of these recommendations for over eighteen months at the time of this filing. My review and audit of Howison's 2012 test year data shows that Howison did not implement and put into action any of CURB's or Staff's recommendations that were made in February 2012. Specifically, my audit of Howison's 2012 test year shows the following areas in which Howison is not complying with either Staff or CURB recommendations made in February 2012:

- Howison has made no effort to separate the personal banking activities of its owner and the utility. Howison continues to operate its business checking account like a personal checking account – depositing non-utility monies into the account, withdrawing, either through checks made payable to “cash” or direct withdrawals from the account, over \$7,500 in cash from the business checking account, and paying personal expenses.
- Howison is not depositing all money received from the Company’s water customers into the Howison Heights, Inc. checking account. My audit of Howison’s 2012 bank statement shows \$35,757.40 in deposits attributable to Howison’s customers was made in 2012. However, Howison reported in its response to CURB data request 3, that the amount it received in customer payments in 2012 was \$36,886.78. While the amount of 2012’s discrepancy of \$1,129.38 is less than the discrepancy in 2010 (the discrepancy in 2010 was \$3,996.42), it is nevertheless a discrepancy that should not exist.
- Howison has not purchased property liability insurance. Howison has not requested bids or provided estimates of what property liability insurance premiums may be.
- Howison has not kept and maintained a file folder that includes all customer billings for the year. Similarly, it does not appear that Howison has kept and maintained a separate file folder for utility expenses, invoices or receipts.
- Howison did not pay any of its required state or local taxes in 2012. Howison continues to collect the Kansas Water Protection Fee of \$0.032 per 1,000 gallons from its customers, and does not remit it to the Kansas Department of Revenue. Howison has not paid the 1% Saline County Sales Tax based on water sales, and has not paid its property taxes to Saline County.

Staff has once again recommended the Commission order Howison to make the 14 record keeping and business practice recommendations that are contained on pages 13-16 of Staff’s report in the 382 Docket. While I agree with Staff that the Commission should order Howison to implement these record keeping and business practice recommendations, it is my opinion that Mr. Howison has no intention of complying with any recommendations made by Staff, CURB or the Commission. With that in mind, it is my recommendation that Commission do more than simply order Howison to implement these practices. The Commission should order Howison to not only implement certain business practice changes, but to file compliance reports with the Commission Staff and CURB each month. Further, the Commission should notify Howison that non-compliance will result in penalties assessed to Howison Heights, Inc.

#### **FAILURE TO COMPLY WITH K.S.A. 66-122**

All of the state’s regulated utilities are required to file an annual report with the Commission pursuant to K.S.A. 66-122. In the course of my investigation of Howison’s application, I checked the Commission’s file bank of annual reports filed by the state’s utilities. I discovered that Howison has only filed one annual report since the Commission approved its certificate of

convenience in 2005. The report was dated May 4, 2011, right before Howison filed its rate case in the 382 Docket.

According to Staff's response to CURB Data Request No. 63, Staff requested Howison's "2011 and 2012 annual report on February 18, 2013. Staff mailed a follow-up letter on June 12, 2013. Staff's attorney called Howison Heights' attorney on July 3, 2013 concerning the annual reports, and the Company's attorney said he would pass on Staff's request for the annual reports to Mr. Howison. As of July 29, 2013, Staff has not received Howison Heights' annual reports for 2011 and 2012. The Company has not requested and Staff has not granted an extension of time. No civil penalties have been assessed."<sup>8</sup>

While the contents of annual reports are not necessarily the best evidence of how a business is being managed, the annual requirement of filling out the required information on the form provided by the Commission at least encourages utilities to keep records organized and properly preserved so that filing the report each year is not an impossible chore. I recommend the Commission order Howison to file its 2011 and 2012 annual reports within 30 days of its order in this proceeding. Further, the Commission should urge Howison to make timely filings each year, and impose penalties under K.S.A. 66-123 if it fails to adhere to the Commission's order in the future.

In addition, not only is Howison failing to file its annual operating report with the KCC, it is also failing to make timely payments for assessments levied from the KCC and CURB. Howison has received KCC and CURB assessments for investigations performed in the 382, 460, and 570 Dockets. Howison has yet to remit a single payment for any of these assessments. According to Staff's response to CURB Data Request No. 62, the Commission has not received any payments for assessments billed from January 1, 2012 through July 19, 2013.

### **ONGOING CONCERNS FOR HOWISON HEIGHTS, INC.**

Howison's financial distress has been well-documented and discussed over the course of three KCC Dockets. Howison has excessive levels of debt, co-mingles personal, non-regulated and water utility finances together, and is currently facing foreclosure in Saline County due to non-payment of almost half a million dollars of debt. Further complicating Howison's situation, CURB and Staff received notification on July 25, 2013, from Howison's counsel, that Howison Heights, Inc. filed for Chapter 11 bankruptcy on July 24, 2013.<sup>9</sup>

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<sup>8</sup> Staff's response to CURB Data Request No. 63, attached as Exhibit SMH-1.

<sup>9</sup> A copy of the Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines in Case No. 13-11906 is attached as SMH-2.



Chapter 11 of the Bankruptcy Code provides, generally, for reorganization, usually involving a corporation or partnership. A chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. Howison's Chapter 11 bankruptcy application likely will result in a stay or suspension of the foreclosure action in Saline County District Court. Because Chapter 11 Bankruptcy typically involves the reorganization of a business, and not the liquidation of a business's assets, it would be my assumption that Howison intends to continue operating the Howison Heights, Inc., water system in the future.

This bankruptcy application of Howison signals its intention to continue its operation of the water utility company. It no longer appears likely, that at least in the immediate future, the Howison Heights, Inc. water utility will be sold to another party voluntarily or through court action. The Commission must act now if it truly intends to resolve customer service issues and water quality issues within the Howison Heights, Inc., water utility system. The Commission has broad discretion and authority to demand changes to be made in Howison Heights, Inc.

As such, I recommend the Commission order Howison to make changes in Howison's management and day-to-day operations. As I have previously reported, there is no board of directors at Howison or management oversight of any kind. Because this is not a cooperative utility, the water utility ratepayers are beholden to Mr. Tim Howison's management decisions. There is no checks-and-balance system for Howison Heights, Inc. Mr. Tim Howison is currently, and has been, solely responsible for the overall management, day-to-day operation, and financial health of this water utility company. Mr. Howison's actions have a direct impact on each of the utility's customers.

### **CONCLUSION & RECOMMENDATION**

I recommend the Commission approve a revenue requirement increase of no more than \$27,266 for Howison Heights, Inc. I further recommend that the rate design be analyzed to determine if any refund from the Commission's April 17, 2013, *Order Granting Motion for Interim Rate Relief Subject to Refund*, is appropriate. Finally, I recommend that any revenue requirement increase be delayed until Howison has filed an executed contract with a licensed, qualified water system operator for the on-going operation of the Howison Heights, Inc. water system.

**KCC DOCKET NO. 13-HHIW-570-RTS**  
**KCC DOCKET NO. 13-HHIW-460-GIV**

**CURB'S SUPPORTING SCHEDULES**

SMH-1: REVENUE REQUIREMENT

SMH-2: CURB ADJUSTED AND PRO FORMA OPERATING INCOME STATEMENT

SMH-3: CURB ADJUSTED AND PRO FORMA CALCULATION OF TAXABLE INCOME

**HOWISON HEIGHTS, INC.**  
**KCC DOCKET NO. 13-HHIW-570-RTS**  
**KCC DOCKET NO. 13-HHIW-460-GIV**  
**CURB ADJUSTED AND PRO FORMA CALCULATION OF TAXABLE INCOME**  
**TEST YEAR BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012**

**SCHEDULE**  
**SMH-1**

LINE NO.	DESCRIPTION	CURB ADJUSTED
*****		
1	CURB ADJUSTED TEST YEAR NET OPERATING EXPENSE	\$59,115
2	OPERATING MARGIN REQUIREMENT	<u>8.0%</u>
3	OPERATING MARGIN REQUIRED	4,729
4	CURB ADJUSTED TEST YEAR OPERATING MARGINS	<u>(22,012)</u>
5	REVENUE INCREASE/(DECREASE) REQUIREMENT	26,741
6	GROSS UP FOR TAX EXPENSE	<u>525</u>
7	PROFORMA REVENUE REQUIREMENT INCREASE/(DECREASE)	<u><u>\$27,266</u></u>

HOWISON HEIGHTS, INC.  
 KCC DOCKET NO. 13-HHIW-570-RTS  
 KCC DOCKET NO. 13-HHIW-460-GIV

SCHEDULE  
 SMH-2

CURB ADJUSTED AND PRO FORMA CALCULATION OF TAXABLE INCOME  
 TEST YEAR BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012

LINE NO.	DESCRIPTION	A APPLICANT ADJUSTED TEST YEAR	B STAFF TEST YEAR ADJUSTMENTS	C CURB TEST YEAR ADJUSTMENTS	D CURB ADJUSTED TEST YEAR	E CURB PRO FORMA ADJUSTMENTS	F CURB PRO FORMA TEST YEAR
<u>OPERATING REVENUES:</u>							
1	SALE OF WATER	\$25,863	\$6,474	\$566	\$32,903	\$27,266	\$60,169
2	HOOKUP FEES	12,600	(8,400)	0	\$4,200		4,200
3	TOTAL REVENUES	\$38,463	(\$1,926)	\$566	\$37,103	\$27,266	\$64,369
<u>OPERATING EXPENSES:</u>							
4	AUTO	\$674	\$2,521	\$0	\$3,195		\$3,195
5	BANK FEES	465	(343)	(19)	\$103		\$103
6	CONTRACT LABOR	4,139	(3,509)	(100)	\$530		\$530
7	DEPRECIATION EXPENSE	10,337	(2,272)	0	\$8,065		\$8,065
8	INTEREST EXPENSE	41,400	(33,339)	0	\$8,061		\$8,061
9	LEGAL AND ACCOUNTING	575	(410)	(165)	\$0		\$0
10	MOWING	300	0	0	\$300		\$300
11	PERMITS AND FEES	1,978	(1,228)	(135)	\$615		\$615
12	POSTAGE	300	(39)	47	\$308		\$308
13	REPAIRS AND MAINTENANCE	5,832	(5,103)	0	\$729		\$729
14	SUPPLIES	5,077	(2,608)	(886)	\$1,583		\$1,583
15	UTILITY PROPERTY TAXES	4,488	(1,857)	566	\$3,197		\$3,197
16	UTILITIES	4,551	(30)	(191)	\$4,330		\$4,330
17	DONATIONS	0	0	0	\$0		\$0
18	ADMINISTRATIVE AND GENERAL	0	28,188	(89)	\$28,099		\$28,099
19	TOTAL OPERATING EXPENSES	\$80,116	(\$20,029)	(\$972)	\$59,115		\$59,115
20	ADDITIONAL REVENUE FOR TAXES	\$0				\$525	525
21	NET OPERATING INCOME	(\$41,653)	\$18,103		(\$22,012)	\$26,741	\$4,729

HOWISON HEIGHTS, INC.  
 KCC DOCKET NO. 13-1111W-570-RTS  
 KCC DOCKET NO. 13-1111W-460-GIV  
 CURB ADJUSTED AND PRO FORMA CALCULATION OF TAXABLE INCOME  
 TEST YEAR BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012

SCHEDULE  
 SM11-3

LINE NO.	DESCRIPTION	A	B	C	D	E	F
		APPLICANT ADJUSTED TEST YEAR	STAFF TEST YEAR ADJUSTMENTS	CURB TEST YEAR ADJUSTMENTS	CURB ADJUSTED TEST YEAR	CURB PRO FORMA ADJUSTMENTS	CURB PRO FORMA TEST YEAR
1	NET OPERATING AND MAINTENANCE EXPENSES	\$80,116	(\$20,029)	(\$972)	\$59,115		\$59,115
2	ADD: INTEREST EXPENSE	0	0		0		0
3	MARGIN REQUIRED	\$80,116	(\$20,029)	(\$972)	\$59,115		\$59,115
4	O & M MARGIN PERCENTAGE	8%	8%	8%	8%		
5	MARGIN REQUIRED	6,409	(1,602)	(78)	4,729	525	5,255
<u>STATE TAXABLE INCOME</u>							
	FROM	TO	TAX	RATE	AMOUNT OVER		
6	0	50,000	0	0.00%	0	0	0
7	50,000	999,999,999	0	0.00%	50,000	0	0
8	KANSAS INCOME TAX - CURRENT		\$0	\$0		\$0	\$0
9	TAXABLE FEDERAL INCOME		\$6,409	(\$1,602)		\$4,729	\$5,255
<u>FEDERAL TAXABLE INCOME</u>							
	FROM	TO	TAX	RATE	AMOUNT OVER		
10	0	17,850	0	10.00%	0	0	525
11	17,850	72,500	1,785	15.00%	17,850	0	0
12	72,500	146,400	9,983	25.00%	72,500	0	0
13	146,400	223,050	28,458	28.00%	146,400	0	0
14	223,050	398,350	49,920	33.00%	223,050	0	0
15	398,350	450,000	107,769	35.00%	398,350	0	0
16	450,000	999,999,999	125,846	39.60%	450,000	0	0
17	FEDERAL INCOME TAX - CURRENT		\$0	\$473		\$473	\$525

**CURB EXHIBITS**

SMH-1: REFERENCED DATA REQUESTS

SMH-2: CHAPTER 11 BANKRUPTCY APPLICATION OF HOWISON HEIGHTS, INC.

DATA REQUESTS TO HOWISON HEIGHTS, INC.  
FROM THE CITIZENS' UTILITY RATEPAYER BOARD  
DOCKET NO. 13-HHIW-570-RTS/13-HHIW-460-GIV

- CURB-38. Please provide a copy of Howison Heights Inc.'s monthly water sales journal for calendar year 2012. Please separate applicable taxes charged to customers from actual water sales. This information was originally requested in CURB -2. However the Company's response included only the 2012 Master Meter Readings form. CURB is requesting the monthly sales journal for each month of 2012. This journal would include a customer number, gallons of water consumed, and total bill charged to customer.
- CURB-39. Please provide a copy of Howison Heights Inc.'s monthly customer payment receipt journal for calendar year 2012. This information was requested in CURB-2. However, the Company never provided the requested information. Please provide the 2012 monthly customer payment receipt journal, which should include a customer number, amount of payment, and date payment was applied.
- CURB-40. Please provide invoices to support operating expenses incurred by Howison Heights Inc. during calendar year 2012. Specifically, please include invoices supporting the following expenses:
- Auto Expense (2013 mileage log, maintenance invoices, receipts for diesel fuel for equipment, etc)
  - Contract Labor expense
  - Accounting and Legal expenses
  - Permits and Fees expense
  - Postage
  - Repair and Maintenance for water distribution system
  - Supplies for water distribution system
  - Utility bills for water distribution system
- CURB-41. This information was requested in CURB-4. The company objected to providing the information because it was not seeking to support 2012 operating expenses. In light of recent Commission orders, CURB is requesting copies of all invoices/receipts supporting operating expenses incurred by Howison during 2012.
- CURB-42. Please provide a copy of the 2012 bank statements for the Howison Heights Inc. business checking account and any other account that operating expenses are paid from. This information was requested in CURB-7. The company objected to providing the information because it was not seeking to support 2012 operating expenses. In light of recent Commission orders, CURB is requesting a copy the Howison Heights Inc. business checking account statement for each month of 2012.
- CURB-43. Please provide a statement from Saline County that shows the property taxes owed by Howison Heights, Inc. Please include the amount for past due taxes, penalties or fees, and any other charges to the property tax records.

- CURB-44. On what date did Howison Heights Inc last pay Saline County property tax?
- CURB-45. Please provide a statement from the Kansas Department of Revenue that shows the Water Protection Fee owed by Howison Heights, Inc. If applicable, please include the amount for past due Water Protection Fees, penalties or fees, and any other charges to the Kansas Water Protection fee records.
- CURB-46. On what date did Howison Heights Inc last pay the Kansas Department of Revenue for the Water Protection fee?
- CURB-47. Please provide receipt or other proof of payment of Howison Heights Inc.'s assessments issued by both the Kansas Corporation Commission and the Citizens' Utility Ratepayer Board from January 1, 2012, through July 19, 2013.
- CURB-48. On what date did Mr. Tim Howison begin receiving a salary, as approved by the Commission in its April 17, 2013 Order?
- CURB-49. Please provide a copy of Howison Heights, Inc. payroll journal for 2013. This journal should include gross pay, net pay, and all other withholding taxes for Howison Heights, Inc.'s employees.
- CURB-50. Please provide a copy of Howison Heights, Inc. 2012 Federal Income Tax Return.
- CURB-51. Please provide a copy of Howison Heights, Inc.'s 2012 general ledger, balance sheet, income statement, statement of retained earnings, and any other 2012 financial reports.
- CURB-52. During a customer meeting on July 18, 2013, several customers indicated that they were charged late penalties incorrectly. Please provide the following information:
- Howison's May and June 2013, Water Sales journal (this journal should include customer number, gallons of water consumed, and total amount of customer bill),
  - Howison's May and June 2013, Payment receipts journal (this journal should include customer number, amount of payment, and date payment was received),
  - Howison's business checking account statements for May and June 2013
- CURB-53. Please provide a list of all system improvements, and actual costs associated with the system improvements, made to the Howison Heights Inc. distribution system since January 1, 2011. System improvements include, but are not limited to: the installation or replacement of water meters, water line replacements, water line extensions, installation of any water treatment devices.
- CURB-54. Please provide a copy of Howison Heights Inc.'s 2012 depreciation schedule.
- CURB-55. Does Mr. Howison utilize the Howison Heights Inc. business checking account for non-utility business payments and deposits?



- CURB-56. Please provide a copy of Howison Heights Inc's trip log to support auto expenses incurred in Mr. Howison's personal vehicle. This log should include the date of each trip to the certificated area, the purpose of the trip, and total miles driven for business purposes.
- CURB-57. Effective with Howison's July 1, 2013 billing date, how many customers does the Howison Heights Inc. water system currently have?
- CURB-58. Does Howison Heights Inc. sell wholesale water to any other water utility? If so, please provide information relating to the sale, including: name of purchaser, date water was sold, gallons of water sold, and amount charged for the sale of water.
- CURB-59. Does Howison Heights Inc. sell water to any individual or business that is unmetered? For example, allowing an individual or business to fill up a water tank on a truck, with water from Howison's wells or from any other point in the distribution system. If so, please provide information relating to the sale, including: name of purchaser, date water was sold, gallons of water sold, and amount charged for the sale of water.

Submitted By: David Springe

Submitted To: James Flaherty

If for some reason, the above information cannot be provided by the date requested, please provide a written explanation of those reasons.

VERIFICATION OF RESPONSE

I have read the foregoing Data Request and Answer(s) thereto and find the answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the Citizens' Utility Ratepayer Board any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Dated: \_\_\_\_\_

C. U. R. B.

AUG 05 2013

JUST THE FAX FROM RE/MAX

CONSUMER COUNSEL

415 E. Iron Ave.  
Salina, KS 67401  
Phone: 785-825-5200  
Fax: 785-825-5695

*Tim Howison*

To: <i>David Springs</i>	From: <i>HOWISON HTS-INC.</i> RE/MAX Advantage REALTORS, Inc.
Fax Number: <i>785-271-3116</i>	Date: <i>8-2-13</i>
Phone Number: <i>" " 3200</i>	Pages (Including Cover): <i>3</i>

Urgent     Reply ASAP     Please Comment     Please Review     For your information

Comments:

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**RE/MAX Advantage REALTORS, Inc.**



Received Time Aug. 2, 2013 5:12PM No. 2462

Pg 1

Curb 38 & 39

Bill Baldry has received. Previously you requested the monthly water sales and did receive it. Then you came back and asked for individual monthly water uses (current). Quit twisting the facts!

Curb 40

Bill Baldry has received. Get it

Curb 40

Bill Baldry has received. Get it from him! SMH-1

Curb 41

Ditto

Curb 42

"

Curb 43

"

Curb 44

You already have this! 2010 I believe. The hundreds of thousands can't quite make up a 3 year extravagance at getting a rate increase. They don't figure it, I do. Unless you are paying it that day, it won't be any good. It will have when I get adequate funds! 2 months doesn't make any difference when you have years of running an extreme deficit without help!

Curb 45

~~Curb 45~~

See Curb 44.

Curb 46

You already have it!

Curb 47

" " "

Curb 48

Curb 49

I know what your twisted mind is trying to do. You already have this answer!

Curb 50

" " "

Curb 51

A couple of deposits were

Curb 52

Received Time Aug. 2, 2013 5:12PM No. 2462

Page 2

missed by me. All accounts affected have been corrected with late charges returned. You find out any mistakes that have not been corrected & I'll will address it immediately. Besides I was not invited or had opportunity to respond. It was

OPPORTUNITY TO respond. IT WAS SMH-1  
not disclosed when I asked about  
this "Open Meeting"!

Curb 53

You have 5 complete years  
of information thru 2012. That's  
more than adequate!

Curb 54

~~you~~ " " " 2012 has  
to be figured by my accountant.  
You know the story. No money.  
No work. Is there something  
that is repetitive here?

Curb 55

You know all funds have always  
been itemized with 100%  
complete CHECK REGISTARS.  
You've ignored this, along with  
KCC.. With a shortage of  
cash on HHI, I have to  
continually subsidize HHI.  
Once again you ignore this  
and take things out of context!  
Tell the truth for awhile!

Curb 56

This was covered when Stacy  
Hardin was present!

Curb 57

You have this! 62 active

Curb 58

" " " No

Curb 59

" " " No

Jim Hardin

SMH-1

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Mark Sievers, Chairman  
Thomas E. Wright, Commissioner  
Shari Feist Albrecht, Commissioner

Sam Brownback, Governor

**C. U. R. B.**

**JUL 31 2013**

**CONSUMER COUNSEL**

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of Howison )  
Heights, Inc. for Approval of the Commission ) Docket No. 13-HHIW-570-RTS  
To Make Certain Changes in its Rates for )  
Water Service )

**RESPONSES TO DATA REQUESTS TO THE STAFF OF THE  
KANSAS CORPORATION COMMISSION FROM THE  
CITIZENS' UTILITY RATEPAYER BOARD**

COMES NOW the Staff of the Kansas Corporation Commission and for its responses to data requests from the Citizens' Utility Ratepayer Board, states:

**CURB-60.** Please provide a copy of all documentation (invoices, receipts, statements, etc) received by Staff to support Staff's 2012 revenue requirement recommendation for Howison Heights Inc.

**Response:** Please see Staff's Report and Recommendation as filed on July 26, 2013 with the Kansas Corporation Commission.

**CURB-61.** Please provide a copy of the information Staff requested from Howison Heights Inc. in preparation of Staff's 2012 revenue requirement recommendation.

**Response:** See attached.

**CURB-62.** Has the Kansas Corporation Commission received payment from Howison Heights Inc. for any assessments billed to Howison Heights Inc. from January 1, 2012 through July 19, 2013? If so, please provide payment amount and payment date.

**Response:** The Commission has not received any payments for assessments billed from January 1, 2012 through July 19, 2013.

CURB-63. Please provide a copy of Howison Heights Inc.'s Annual Operating Report, filed with the Kansas Corporation Commission, for operating years 2011 and 2012. If the Kansas Corporation Commission is not in receipt of these operating reports, please explain if an extension of time has been requested or granted, or if civil penalties, as allowed by K.S.A. 66-123, have been assessed.

Response: Staff mailed an initial letter requesting that Howison Heights file its 2011 and 2012 annual reports on February 18, 2013. Staff mailed a follow-up letter on June 12, 2013. Staff's attorney called Howison Heights' attorney on July 3, 2013 concerning the annual reports, and the Company's attorney said he would pass on Staff's request for the annual reports to Mr. Howison. As of July 29, 2013, Staff has not received Howison Heights' annual reports for 2011 and 2012. The Company has not requested and Staff has not granted an extension of time. No civil penalties have been assessed.

Submitted By: David Springe

Submitted To: Michael Neeley

If for some reason, the above information cannot be provided by the date requested, please provide a written explanation of those reasons.

VERIFICATION OF RESPONSE

I have read the foregoing Data Request and Answer(s) thereto and find the answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the Citizens' Utility Ratepayer Board any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: William E. Baldry  
Name: William E. Baldry  
Position: Senior Auditor  
Dated: July 29, 2013



SMH-2

UNITED STATES BANKRUPTCY COURT District of Kansas (Wichita)

Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines

A chapter 11 bankruptcy case concerning the debtor(s) Corporation listed below was filed on 7/24/13.

You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.

NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

Creditors-Do not file this notice in connection with any proof of claim you submit to the court. See Reverse Side For Important Explanations

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Howison Heights Inc  
1212 Meyer Dr  
Salina, KS 67401

Case Number / Presiding Judge:  
13-11906 / Robert E. Nugent

Social Security/Individual Taxpayer ID/Employer ID/Other Nos.:  
48-0970677

Attorney for Debtor(s) (name and address):

Susan G. Saidian  
900 Olive Garvey Building  
200 West Douglas  
Wichita, KS 67202  
Telephone number: 316-303-0100

Meeting of Creditors

Date: August 29, 2013

Time: 10:00 AM

Location: Room B-56 US Courthouse, 401 North Market, Wichita, KS 67202

All individual debtors are required to produce photo ID and proof of Social Security Number to the Trustee at this meeting. Non-lawyers SHOULD NOT bring cell ular telephones, pagers, two-way radios, personal digital assistants, cameras, or other electronic communication devices to the courthouse.

Deadline to File a Proof of Claim

Proof of claim must be received by the bankruptcy clerk's office by the following deadline:

Notice of deadline will be sent at a later time.

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office:

167 US Courthouse  
401 North Market  
Wichita, KS 67202  
Telephone number: (316) 315-4110

For the Court:

Clerk of the Bankruptcy Court:  
David D. Zimmerman

Hours Open: 9:00 AM - 4:00 PM Monday - Friday  
Phone Hours: 9:30 AM - 3:30 PM Monday - Friday

Date: 7/25/13

EXPLANATIONS

B9F (Official Form 9F) (12/12)

Filing of Chapter 11 Bankruptcy Case	A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time and location listed on the front side. <i>The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date without further notice. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. A Proof of Claim form (Official Form B 10) can be obtained at the United States Courts web site ( <a href="http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx">http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx</a> ) or at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is <i>not</i> listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all <i>or</i> if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim or you might not be paid any money on your claim and may be unable to vote on the plan. The court has not yet set a deadline to file a Proof of Claim. If a deadline is set, you will be sent another notice. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims will be set in a later court order and will apply to all creditors unless the order provides otherwise. If notice of the order setting the deadline is sent to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i>
Discharge of Debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See Bankruptcy Code § 1141(d). A discharge means that you may never try to collect the debt from the debtor, except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 1141(d)(6)(A), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.
<b>Refer to Other Side for Important Deadlines and Notices</b>	
<b>D. Kan. LBR 6007.1 ABANDONMENT OF PROPERTY OF THE ESTATE</b>	
When the clerk of the court provides the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines, the Notice must contain a provision that within 60 days from the conclusion of the meeting of creditors held under § 341, the trustee may file notice of intended abandonment of any or all of the debtor's property in the estate as authorized by § 554 without further service on creditors or interested parties. Unless a creditor or interested party objects to abandonment within 75 days after the meeting of creditors held under § 341 concludes, the property subject to the intended abandonment will be deemed abandoned without further notice or order of the court.	

**CERTIFICATE OF SERVICE**

13-HHIW-570-RTS/13-HHIW-460-GIV

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 5<sup>th</sup> day of August, 2013, to the following parties who have waived receipt of follow-up hard copies:

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