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DOCKET NO. 43069

APPLICATION OF INCLINE
DEVELOPMENT LLC FOR A
RATE/TARIFF CHANGE

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PUBLIC UTILITY COMMISSION
OF
TEXAS

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STAFF'S RESPONSE TO ORDER NO. 2 AND RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Response to Order No. 2 and Recommendation.

I. BACKGROUND

On August 28, 2014, Inline Development LLC (Inline) filed an Application for Water Rate/Tariff Change (Application) for water Certificate of Convenience and Necessity (CCN) No. 12946 and sewer CCN No. 20879 in Harris County, Texas pursuant to TEX. WATER CODE ANN. § 13.187, Title 30, TEX. ADMIN. CODE (30 TAC) §§ 291.21 and 291.22, and Title 30, TEX. ADMIN. CODE (30 TAC) §§ 291.8. and 291.26.¹ TEX. WATER CODE ANN. § 13.187 and 30 TAC § 291.22 provide that in order to change its rates, a utility must file an original completed application with the Commission and must give proper notice of the proposed rate change to all affected utility customers at least 60 days prior to the proposed effective date of the rate change.

In Order No. 2, the administrative law judge (ALJ) directed Staff to file a recommendation addressing whether the application and notice are administratively complete and propose a schedule for processing by September 24, 2014. Therefore, this recommendation is timely filed.

II. COMMENTS ON ADMINISTRATIVE COMPLETENESS OF APPLICATION

Staff has reviewed Inline's Application and has determined that it is not administratively complete in accordance with TEX. WATER CODE ANN. § 13.187 and 16 TAC §§ 24.21, 24.22, 24.8, and 24.26. Specifically, 16 TAC § 24.8(a) provides that, if material deficiencies exist in a

¹ These citations refer to the statutes and rules in place at the time the Application was filed. On September 1, 2014, jurisdiction over the water utilities and rates program transferred from the Texas Commission on Environmental Quality (TCEQ) to the Commission. Inline's rate application was filed with TCEQ; accordingly, the Application filing and notice procedure were governed by the rules in effect at the time the Application was filed and notice was sent. The current versions of the statute and rule are located at TEX. WATER CODE ANN. § 13.1872 and 16 TAC §§ 24.8, 24.21, 24.22, and 24.26.

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rate/tariff change application, the application may be rejected and the effective date of the proposed rates suspended until the deficiencies are corrected. Additionally, 16 TAC § 24.26(a) allows the Commission to suspend a rate change if the utility has failed to properly complete the rate application.

Inline's Application contains the following deficiencies: (1) the Application fails to complete the affidavit and provide proper notice to the appropriate parties affected by the rate change pursuant to 16 TAC 24.22; (2) the Notice of Proposed Rate Change incorrectly calculates certain dollar amounts regarding water and sewer billing comparisons; (3) the Application fails to provide the twelve month "test year" period regarding the costs to the utility of providing water and sewer service information; and (4) the Application contains discrepancies in the rate of return for both the water and sewer long term debt and equity information. TEX. WATER CODE ANN. § 13.187(c) and 16 TAC § 22.22(a) require an applicant in a rate case proceeding to file a completed application package. Staff finds that the Application is not administratively complete. Based on the attached memorandum from George Gogonas, Utility Rates Analyst/Auditor in the Water Utilities Division, Staff recommends that the Application be rejected pursuant to 16 TAC §§ 24.8(a) and 24.26(a).

III. COMMENTS ON ADMINISTRATIVE COMPLETENESS OF NOTICE

Pursuant to 16 TAC § 24.22(c) notice of a proposed rate change by a utility must be mailed, e-mailed, or hand delivered to the customers at least 60 days prior to the effective date of the rate increase. 16 TAC § 24.22(e) requires: "Proof of notice in the form of an affidavit stating that proper notice was mailed, e-mailed, or delivered to customers and affected municipalities and stating the dates of such delivery..." Upon review, Staff has determined Incline failed to comply with 16 TAC § 24.22(e) because it did not complete the affidavit and did not provide dates of delivery of notice to customers in its Application. In addition the Notice of Proposed Rate Change inaccurately calculates certain dollar amounts regarding water and sewer billing comparisons. Accordingly, Staff finds that Incline's notice is not administratively complete pursuant to TEX. WATER CODE ANN. § 13.187 and 16 TAC § 24.22 and recommends that the notice be rejected pursuant to 16 TAC § 24.8(a).

IV. REQUEST FOR SUSPENSION OF EFFECTIVE DATE OF PROPOSED RATES AND REQUEST FOR SUSPENSION OF RATE CHANGE

Staff has determined Inline's Application and notice are not administratively complete pursuant to TEX. WATER CODE ANN. § 13.1872 and 16 TAC § 24.22 due to the inadequacy and inaccuracies of the information provided in the Application and deficiency of the notice. 16 TAC § 24.8(a) provides that, if the Commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for Commission action addressed in 16 TAC Chapter 24, regarding a rate/tariff change application, the Commission may suspend the effective date of the rate change application until the deficiencies are corrected. Under 16 TAC § 24.26(a), the Commission may suspend a rate change if the utility has failed to properly complete the rate application, has included unnecessary costs of service in the application, or has failed to comply with notice requirements and proof of notice requirements. Because the Application and notice are materially deficient, Staff respectfully requests that an order be issued suspending both the effective date of the proposed rate change in accordance with 16 TAC § 24.8(a) and the rate change in accordance with 16 TAC § 24.26(a), until all deficiencies are corrected.

V. PROPOSED PROCEDURAL SCHEDULE

Staff has determined that Inline's Application and notice are not administratively complete due to the inadequacy of the Application and deficiency of the notice. Staff therefore recommends that the Application and notice be rejected and the effective date of the proposed rate change be suspended until the deficiencies are corrected. Accordingly, Staff has not proposed a procedural schedule for this Application at this time.

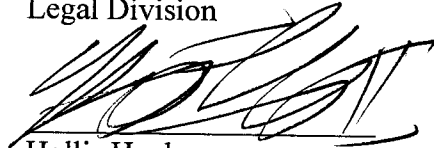
VI. CONCLUSION

Because Inline's Application and notice are not administratively complete, Staff recommends that the Application be rejected and respectfully requests that the effective date and rate change be suspended until all deficiencies are corrected. Staff further requests that an order be issued directing the Applicant to submit a revised proposed notice with a revised proposed effective date pursuant to 16 TAC § 24.22(a).

Respectfully Submitted,

Joseph P. Younger
Division Director
Legal Division

Karen S. Hubbard
Managing Attorney
Legal Division



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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on September 24, 2014 in accordance with P.U.C. Procedural Rule 22.74.


Hollis Henley

PUC Interoffice Memorandum

To: Hollis Henley
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: George Gogonas, Utility Rates Analyst/Auditor
Ahmad Tavakoly, Engineer
Water Utilities Division

Date: September 22, 2014

Subject: Executive Summary and Staff Recommendation for Commission Approval of Control No(s). 43069.

Inline Development LLC has filed Rate/Tariff Change Applications for Certificate of Convenience and Necessity (CCN) No. 12946 & 20879, in Harris County, pursuant to the criteria in the Texas Water Code §13.3187, Statement of Intent to Change Rates; Hearing; Determination of Rate Level and Title 16, Texas Administrative Code §24.22, Notice to Change Rates.

Based upon our review of the information in the application, we recommend the Applicant correct the following deficiencies:

1. The Applicant failed to complete the affidavit and provide proper notice to the appropriate parties affected by the rate change pursuant to 16 TAC §24.22. The Applicant unsuccessfully calculated certain dollar amounts regarding the water and sewer billing comparisons on the Notice of Proposed Rate Change. The Applicant also failed to provide the date the customer notice was mailed. Pursuant to 16 TAC §24.22(c) notice of a proposed rate change by a utility must be mailed, e-mailed, or hand delivered to the customers at least 60 days prior to the effective date of the rate increase.
2. The Applicant failed to provide the twelve month "test year" period regarding the costs to the utility of providing water and sewer service information. The Applicant should provide the "test year" regarding the costs to the utility of providing water and sewer information.
3. The Applicant provided discrepancies in the rate of return for both the water and sewer long term debt and equity information. The Applicant should provide the "test year" regarding the costs to the utility of providing water and sewer information.