

Control Number: 43121



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DOCKET NO. 43121

**INVESTIGATION PURSUANT TO
TEXAS WATER CODE § 13.004 OF RCH
WATER SUPPLY CORPORATION, CCN
NO. 10087 IN ROCKWALL COUNTY,
TEXAS #37766-I**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**
2015 SEP 29 PM 4:13
FILING CLERK

COMMISSION STAFF'S RESPONSE TO ORDER NO. 1

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 1, and would show the following:

I. BACKGROUND

On October 14, 2013, Ede and Randy Bullock (Petitioners) filed a petition with the Texas Commission on Environmental Quality (TCEQ) to investigate RCH Water Supply Corporation (RCH) pursuant to TEX. WATER CODE (TWC) § 13.004. On November 26, 2013, the TCEQ notified the Petitioners that the petition had been accepted for filing. On December 6, 2013, counsel for RCH WSC filed a letter with the TCEQ contending that RCH could not respond to the petition because it was factually deficient and RCH could not determine what allegations were made.¹

On September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case was transferred from the TCEQ to the Commission for further review. On September 15, 2014, this case was filed in the Commission's Central Records Division interchange. On March 20, 2015, the Petitioners filed a letter with the Commission providing additional details regarding their request to investigate RCH. Specifically, the Petitioners allege various violations of the TWC and seek to resolve an underlying billing issue.

The Petitioners have filed their request under TWC § 13.004 and P.U.C. SUBST. R. 24.35, which provides the Commission with jurisdiction over water supply corporations under certain conditions. On September 4, 2015, the Commission administrative law judge (ALJ) issued Order No. 1, requiring RCH to file a response to Petitioners' complaint by September 24, 2015 and for

¹ Letter to Heidi Graham from Attorney Arturo D. Rodriguez, Jr. in Regards to RCH Water Supply Corporation (Dec. 6, 2013) (PUC Interchange Item 4).

Staff to file a response and propose a procedural schedule, if appropriate, by October 1, 2015. Staff's response is therefore timely filed.

II. COMPLAINT

Petitioners allege in their complaint that they are being held liable by RCH for a delinquent balance that a former tenant of one of their properties incurred. However, Petitioners allege that they never signed an "Alternate Billing Agreement," and therefore under RCH's tariff, Petitioners cannot be held liable for the balance their former tenant incurred. When Petitioners sent written inquiries to RCH and the Board of Directors regarding this dispute, Petitioners allege they did not receive a written response of resolution from RCH, as required by the Grievance Policy under RCH's tariff. Petitioners additionally allege that for the property at issue, Petitioners have timely paid each water bill in person, but that RCH has not cashed any of the checks for those bills, and instead continue to add late fees to Petitioners' bill. Petitioners also allege that RCH's non-profit status is not compliant, and that RCH has not posted notice with the County Clerk's Office regarding monthly Water Board meeting dates and locations.²

III. RCH'S RESPONSE

In its response to Petitioners' complaint, RCH argues that Chapter 13 of the Texas Water Code prescribes a very limited jurisdiction for the Commission over a water supply or sewer service corporation, and that none of Petitioners' complaint deal with the requirements for classification of RCH as a non-profit water supply or sewer service corporation in Sections 13.002(11) and (24), or with RCH's conducting of its annual or special meetings. Therefore, RCH argues that the Commission does not have jurisdiction over Petitioners' complaint.³

IV. JURISDICTION

Section 13.004 of the Texas Water Code provides:

(a) Notwithstanding any other law, the utility commission has the same jurisdiction over a water supply or sewer service corporation that the utility commission has under this chapter over a water and sewer utility if the utility commission finds that the water supply or sewer service corporation:

² Letter to Marie Reyna from randy Bullock (March 20, 2015).

³ RCH Response at 3-4 (Sept. 24, 2015).

- (1) is failing to conduct annual or special meetings in compliance with Section 67.007; or
- (2) is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002(11) and (24).

Section 13.002(24) of the Texas Water Code states that:

“Water supply or sewer service corporation” means a nonprofit corporation organized and operating under Chapter 67 that provides potable water service or sewer service for compensation and that has adopted and is operating in accordance with by-laws or articles of incorporation which ensure that it is member-owned and member-controlled.

V. STAFF’S MOTION FOR ISSUANCE OF AN ORDER REQUIRING INFORMATION FROM RCH

The economic regulation of water and sewer service transferred to the PUC on September 1, 2014, pursuant to House Bill 1600. TWC § 13.004 authorizes the Commission to exercise jurisdiction over certain WSCs. In this proceeding, Staff seeks to determine whether RCH is operating in compliance with TWC § 13.004.

Staff respectfully recommends that RCH be ordered to provide information to demonstrate that it is operating in a manner that complies with the requirements for classification as a nonprofit water service corporation under Section 13.002(24). Specifically, Staff asserts that RCH should be required to provide the following information:

- 1) A copy of RCH’s current tariff and service regulations.
- 2) Documentation showing that RCH is registered as a non-profit with the Texas Secretary of State’s Office, documentation that RCH has been registered as a non-profit for the past two years, and documentation that RCH’s status as a non-profit is up-to-date and in good standing with the Secretary of State’s Office.


VI. CONCLUSION

For the reasons discussed above, Staff recommends that RCH be ordered to provide the information requested above.

Respectfully Submitted,

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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 29, 2015, in accordance with 16 TAC § 22.74.



Katherine Lengieza Gross