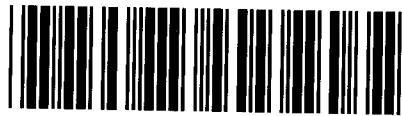


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DOCKET NO. 43121

**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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OF TEXAS
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COMMISSION STAFF'S RESPONSE TO ORDER NO. 2

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 2, 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 29, 2015, Commission Staff recommended that RCH be ordered to provide additional information. On September 30, 2015, the Commission administrative law

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).

judge (ALJ) issued Order No. 2, requiring RCH to file the additional information requested by Staff by October 15, 2015 and for Staff to file a response regarding the adequacy of the additional information and provide a procedural schedule for further processing of this proceeding, if appropriate, by October 22, 2015. On October 15, 2015, RCH filed additional information including RCH's current tariff, though asked for an extension of 30 days regarding filing information relating to its status as a non-profit for the Secretary of State's Office. On October 21, 2015, RCH filed additional material relating to its status as a non-profit. Staff's response is timely filed.

II. 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:

(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.

III. STAFF'S RESPONSE TO RCH'S REQUEST FOR MORE TIME TO PRODUCE INFORMATION AND STAFF'S REQUEST FOR MORE INFORMATION

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 is still reviewing the supplemental materials RCH submitted on October 21, 2015, but would note that it appears that on February 7, 2014, RCH received a Certificate of Involuntary Termination, but on October 15, 2015, RCH filed a Nonprofit Periodic Report.

Upon further review of the petition, Staff respectfully recommends that RCH be ordered to provide additional 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 the tariff in place in June of 2010, and confirmation that RCH's tariff at the time did not include the "Owners and Renters" provision of Section E of the tariff.
- 2) Confirmation that there was a "Grievance Procedures" on Section B of RCH's previous tariff versions, and documentation that RCH followed this procedure with Petitioners Ede and Randy Bullock regarding the dispute at issue.
- 3) Confirmation that Petitioners signed paperwork with RCH in the summer of 2010 that stated that Petitioners would be responsible for J&M Tire Store's water bill in the event J&M Tire Store defaulted on its bill.
- 4) Confirmation that the April 2015 tariff was voted on in an open meeting after notice was given to members.

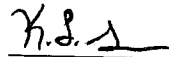
IV. CONCLUSION

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

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

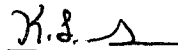
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 22, 2015, in accordance with 16 TAC § 22.74.



Katherine Lengieza Gross