

Control Number: 43674



Item Number: 17

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PUC DOCKET NO.43674
SOAH DOCKET NO. 473-15-1149.WS

2014 DEC -5 PM 2:43

**PETITION FOR REVIEW
BY THE CITY OF DALLAS
FROM ACTION OF THE SABINE
RIVER AUTHORITY AND REQUEST
FOR INTERIM RATES**

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§

BEFORE THE PUBLIC UTILITY

COMMISSION OF TEXAS

**CITY OF DALLAS' MOTION FOR EXPEDITED COMMISSION
ESTABLISHMENT OF INTERIM RATES UNDER P.U.C. SUBST. R. 24.29 (d) AND (e)**

TO THE HONORABLE PUBLIC UTILITY COMMISSION:

The City of Dallas ("Dallas"), Petitioner, files this Motion for Expedited Commission Establishment of Interim Rates under P.U.C. SUBST. R. 24.29(d) and (e), ("Motion for Expedited Interim Rates"), in this proceeding due to the immediate actions of the Sabine River Authority of Texas ("SRA") in attempting to establish and collect a rate for Dallas' water in Lake Fork reservoir. This Motion is filed pursuant to P.U.C. SUBST. R. 24.29(d) and (e), which permits the Public Utility Commission of Texas ("Commission") to set interim rates based on oral argument and to set the rates not lower than the authorized rates prior to the proposed increase nor higher than the requested rates. Specifically Dallas requests that the rates be set at the level prior to November 2, 2014. Dallas requests expedited consideration of this Motion by the Commission at its December 18, 2014 Final Order Meeting as part of the Commission's consideration of the Preliminary Order in this case. In support of this Motion for Expedited Interim Rates, Dallas respectfully states as follows:

I. INTRODUCTION AND FACTUAL BACKGROUND

On October 9, 2014, the SRA Board of Directors, in violation of the October 1, 1981 *Water Supply Contract and Conveyance* between Dallas and Sabine River Authority (the "Lake

Fork Contract,” or “Contract”), unilaterally attempted to set a rate to be charged to Dallas for water from the Lake Fork Reservoir which is authorized for use by Dallas. This action of SRA is both in excess of any reasonable calculation of SRA’s Lake Fork cost of service, and is also outside the specific terms of the Contract. The relevant procedural history of this controversy before the Commission and the State Office of Administrative Hearings (“SOAH”) is as follows:

- A. Dallas filed Original Petition for Review and Request for Interim Rates (“Original Petition”) on October 30, 2014;
- B. PUC Commission Advising and Docket Management (“CADM”) issued the Order of Referral to SOAH on November 10, 2014, which states that the any party may file with the Commission a list of issues to be addressed in the Docket by December 2, 2014; the Order of Referral also states that the Preliminary Order is scheduled to be considered on December 18, 2014;
- C. SOAH Administrative Law Judge (“ALJ”) William G. Newchurch issued SOAH Order No. 1 Requiring Proposed Dates for Prehearing Conference on November 12, 2014. SOAH Order No. 1 notes that the Commission is scheduled to consider adoption of a preliminary order on December 18, 2014, and directs: “The parties shall confer and by November 19, 2014, propose not less than three alternative dates on which the ALJ could hold the prehearing conference;”
- D. Counsel for SRA entered an appearance on November 17, 2014, and filed a Response to the Petition on December 2, 2014;
- E. Dallas, after conferring with other Parties in this case, filed a Response to SOAH Order No. 1 with SOAH on November 19, 2014, suggesting three dates agreed upon by all parties in compliance with SOAH Order No. 1;
- F. SOAH issued Order No. 2 on November 20, 2014, directing the Parties to present available dates after December 18, 2014;
- G. Dallas, after conferring with the other Parties, filed Response to SOAH Order No. 2, listing available dates for a Preliminary Hearing after December 18, 2014;
- H. SOAH issued Order No. 3 on December 2, 2014, setting the Preliminary Hearing for January 6, 2015;

- I. SRA filed Sabine River Authority's Response to City of Dallas' Original Petition and Request for Interim Rates on December 2, 2014; and
- J. The Parties filed their lists of issues with the Commission on December 2, 2014.
- K. The initial Prehearing Conference (SOAH Order No. 3) will be convened on January 6, 2015.

The unilateral action of the SRA Board of Directors purports to increase significantly the cost to Dallas for its water supply from Lake Fork reservoir in violation of the plain language of the Lake Fork Contract. Specifically, while Dallas' costs for its Lake Fork water supply in Fiscal Year 2014 was \$4,648,231, the amount due to SRA under the unilateral rate setting by SRA for Fiscal Year 2015 is \$27,139,238.93, which amount includes Dallas' payment of its proportional share of the Lake Fork operating budget (\$3,022,023.00)—the "Service Charge" —plus the additional charge (\$24,117,215.93) imposed on Dallas on October 9, 2014 by the SRA board. (*See* Affidavit of Terry Lowery, Assistant Director, Business Operations, Dallas Water Utilities Department, which details the historical association between Dallas and SRA concerning the financing, construction, operation and maintenance of Lake Fork reservoir, attached hereto as Exhibit "A," and incorporated herein for all purposes.) SRA's proposed price increase is on its face excessive and unreasonable, even if it were not unlawful. SRA's proposed rate increase is not based on any cost of service study or evaluation, and is simply baseless overreaching by SRA in its exercise of stewardship over Texas' water resources permitted to SRA's use under water rights Permit No. 05-4669.

Since Dallas filed its Original Petition, it has had no success in obtaining agreement regarding Interim Rates from SRA. Specifically:

- A. Dallas counsel contacted SRA counsel on November 21, 2014, to attempt to reach agreement on interim rates, as provided for and contemplated in the Lake Fork Contract between the parties.
- B. Counsel for SRA did not respond to the Dallas request, and only filed the Response to the Petition Tuesday afternoon, December 2, 2014.
- C. On December 3, 2014, Dallas received an invoice (included as Attachment C to Exhibit A, Affidavit of Terry Lowery, and incorporated herein for all purposes) purporting to bill Dallas \$2,009,758.00, as a monthly installment against the full additional \$24,117,215.93.

II. LEGAL BASIS FOR MOTION

P.U.C. SUBST. R. §24.29. *Interim Rates*, states that the Commission may establish interim rates on the motion of the Commission staff or an appellant such as Dallas. Further, the Commission's rules state:

§24.29(a): The Commission may, on a motion by the Commission staff or by the appellant under TWC, §13.043(a), (b), or (f), as amended, establish interim rates to remain in effect until a final decision is made.

§24.29(b): At any time after the filing of a stated of intent to change rates under Chapter 13 of the TWC the commission staff may petition the commission to set interim rates to remain in effect until further commission action or a final rate determination is made. After a hearing is convened, any party may petition the judge or commission to set interim rates.

24.29(d): Interim rates may be established by the commission in those cases under the commission's original or appellate jurisdiction where the proposed increase in rates could result in an unreasonable economic hardship on the utility's customers, *unjust or unreasonable rates*, or failure to set interim rates could result in an unreasonable economic hardship on the utility. [Emphasis supplied.]

24.29(e): In making a determination under subsection (d) of this section, the commission may limit its consideration of the matter to oral arguments of the affected parties and may:

- (1) set interim rates not lower than the authorized rates prior to the proposed increase nor higher than the requested rates;
- (2) deny interim rate relief; and
- (3) require that all or part of the requested rate increase be deposited in an escrow account in accordance with §24.30 of this title (relating to Escrow of Proceeds Received under Rate Increase).

In this proceeding, SRA's requested delay of the Preliminary Hearing at SOAH has been granted, and there will be no pre-hearing until January 6, 2015. There is ample basis for the Commission to consider establishing interim rates to remain in effect during the pendency of this contested rate case now.

Therefore, Dallas believes that expeditious consideration by the Commission is warranted, in light of the delay associated with end-of-year schedules, and the delay in the commencement of the SOAH process. Failure to set an interim rate at this time will allow SRA to impose unjust and unreasonable rates for Dallas and its customers, and failure to set interim rates expeditiously could result in economic hardship for Dallas. The establishment of an interim rate at the level that existed prior to November 1, 2014, subject to surcharge on final determination will not result in an unreasonable economic hardship on SRA. Dallas requests that the Commission set interim rates at its December 18, 2014 final order meeting, or in the alternative direct the SOAH to set an evidentiary hearing on interim rates forthwith. Dallas further asks that any interim rate if in excess of the amount charged prior to November 1, 2014 be deposited in an escrow account in accordance with PUC SUBST. Rule 24.29(e) (3).

III. IMPACT OF CURRENT SRA SET RATE ON DALLAS

As outlined below and supported by the Affidavit of Terry S. Lowery, Assistant Director of Dallas Water Utilities for Business Operations, the failure of the Commission to immediately establish interim rates at the reasonable level suggested by Dallas, could impose an unnecessary and therefore unreasonable economic hardship on Dallas and its customers, and would result in unjust and unreasonable rates. Dallas' failure to pay the unreasonable rate established by SRA on October 9, 2014 will not result in any hardship on SRA.

A. Direct Impact on Dallas as a Customer

The unlawful SRA rate should be reduced because it exceeds SRA's Lake Fork cost of service and has no cost basis. The imposition of the SRA rate could result in an unreasonable economic hardship for Dallas, because it so far exceeds the known budgetary requirements of SRA and was not part of an orderly budget process related to the capital and operating costs of Lake Fork. Pursuant to the Dallas City Charter, Chapter XI, Section 14, the only source of revenue for Dallas to pay the Lake Fork water rate is the rates paid by Dallas ratepayers. Dallas' ratepayers are legally bound to pay the cost of service for water supplied to them by Dallas from all sources, including Lake Fork. Therefore, if Dallas is forced to pay the extremely high rate set by SRA, then Dallas must make difficult choices to identify revenues to pay that rate within the current fiscal year, possibly including:

1. Deferral of scheduled capital improvements, could increase the ultimate costs of those improvements to the detriment of Dallas' customers; and

2. Imposition of a rate increase for Dallas' customers, at some time, to collect additional revenues. This rate increase would include wholesale customers who have the same right to appeal the SRA Lake Fork water rate to the Commission as Dallas.

Both of these choices are untenable and would impose an unnecessary and therefore unreasonable economic hardship on Dallas.

B. Deferral of Planned Capital Improvements

Dallas has recently undertaken and adopted a Long Range Water Supply Plan to address demands within its service area for the next 50 years. Dallas' independent study was undertaken in accordance with the Region C Water Planning Group efforts mandated by the Texas Water Development Board under Texas Water Code, Chapter 16, "*Procedures Generally Applicable to Water Development*," Subch. C, "Planning." Dallas' capital improvements budget for Fiscal Year 2015 includes projects needed to continue to meet the demands of Dallas' customers for water service both now and into the future. While Dallas has determined that the expenditure of those funds in Fiscal Year 2015 is necessary to continue operating, maintaining and developing its water resources, some of Dallas' planned projects may have to be deferred to fund the Lake Fork water rate payments as set by SRA. If there were a legitimate cost of service basis for the SRA's rate increase, then the deferral of capital projects would be justified. But, where SRA has adopted no operating or capital budget in support of the Lake Fork water rate it set, then charging those rates to Dallas, and causing a deferral of Dallas' needed capital projects is unjustified and unfair to Dallas customers in addition to being unlawful. (*See*, Fiscal Years 2009 – 2014, the Lake Fork Budget summary, attached hereto as Exhibit "B")

C. Impact on wholesale and retail customers of Dallas.

Dallas has 27 customer communities, which depend wholly or partially on Dallas for their municipal water supply, including Dallas' Lake Fork water. (*See*, Paragraph 3, Affidavit of Terry S. Lowery) Dallas contracts with these customers based on an annual determination of the cost of service, which it arrives at through an inclusive and participatory cost of service analysis. Consequently, the unlawfully-established Lake Fork water rate not only has an economic impact on Dallas and its Water Utilities Department, but also has an economic impact on all Dallas' service area and customers. Dallas and its customers are committed to lawful water rates based on cost of service; the imposition of an additional rate increase would be contrary to the relationship Dallas has established with its customers to establish just and reasonable rates based on cost of service.

At some point, the Dallas City Council could take action to impose a higher rate to address the SRA imposed Lake Fork water rate. But, the City Council actions, like SRA's, would be subject to appeal by some Dallas customers for lack of any reasonable relationship to cost of service for Lake Fork water. Moreover, Dallas' customers would be asked to pay a rate clearly over and above the cost of service for Dallas' Lake Fork water, which is already included in their current cost of service rates. Under the circumstances, the excessive rate proposed by SRA would impose an economic hardship on Dallas from both a regulatory and a financial standpoint, because payment of the unreasonable rate cannot be justified within Dallas' current budget or as a rate collected from Dallas' current customers.

Considering the unnecessary and therefore unreasonable economic impacts of the unlawful SRA rate for Dallas' Lake Fork water, the Commission should impose an interim rate as quickly as possible pending resolution of this contested rate case.

IV. IMPACT OF CURRENT SRA SET RATE ON SRA

SRA would not be harmed if it did not collect the excessive rate from Dallas. All of its costs for the operation of Lake Fork, both capital and operation and maintenance are collected in the rate existing before the October 9, 2014 SRA rate action, and pursuant to SRA's Lake Fork budget. Dallas pays an amount equal to the percentage of its Lake Fork water entitlement under Permit No. 05-4669 as calculated in 1981 and agreed upon by the Parties.

A. No need for additional Lake Fork funds

As set forth in its annual Lake Fork budget, SRA has no need for the additional funds it seeks from Dallas in the current fiscal year. Although the Fiscal Year 2015 SRA budget is styled as an operating budget, it has typically included capital projects needed to be addressed in the current fiscal year. (See, Exhibit B, the Lake Fork Budget Summary) For example, SRA collected funds from Dallas in Fiscal Year 2012 to pay for repair and/or replacement of gates in the Lake Fork spillway. No other capital projects for SRA related to Lake Fork have been adopted to date for Fiscal Year 2015. Therefore, although SRA has imposed the Lake Fork water rate effective for Fiscal Year 2015, there is no budgetary justification or need for the additional \$24,117,215.93 rate increase.

B. No ability to repay expended funds deemed unjust and unreasonable

At the same time, if SRA is allowed to collect this rate from Dallas, and to use this rate for expenditures as yet unplanned and unjustified, then Dallas fears that SRA will never be able to return all or any portion of the rates which are determined to have been unjust and unreasonable. As stated in the Lake Fork Contract:

Water Supply Facilities Agreement, Exhibit I to the Lake Fork Contract.

Section 6.04. The Corporations [now Dallas] recognize that the Authority's only assured source of funds to pay the expenses of operation and maintenance of the Facilities will be from the payments of the Service Charges to be made by The Corporations pursuant to this Agreement, and that the Authority shall not be expected or required otherwise to provide for any part of the Service Charge from other sources, unless and until the Authority sells the Authority's water to other parties.

SRA has now sold its 26% share of Lake Fork water to other customers at rates which are considerably lower than the rate it proposes to charge the City of Dallas. The rates reflected in the rate schedule for Lake Fork Water adopted by the SRA for 2015 are attached to the Affidavit of Terry Lowery as Attachment "C." SRA will not have any funds to repay Dallas for funds expended which are related to the unlawfully established Lake Fork water rate. Accordingly, Dallas has a reasonable concern that once SRA collects the unlawful and excessive rates from Dallas and its Board of Directors authorizes expenditure of those funds, SRA would never be in a position to repay Dallas regardless of the outcome of this contested rate case hearing. Interim rates at the former level should be imposed to guard against this possible outcome. If interim rates at the former level are not imposed quickly, then all funds collected under the October 9, 2014 rates should be placed in escrow, pending the outcome of this contested rate case.

C. The SRA proposed rate is unjust and unreasonable.

Under the terms of the Lake Fork Contract Dallas has paid over the past 33 years all of the capital costs and 74% of the operating costs of the Lake Fork Project. (See, Terry S. Lowery Affidavit, at Paragraphs 5, 6, and 7) Specifically, Dallas has paid the entire principal and all of the interest on the bonds that were outstanding, or issued by SRA for the Lake Fork Project. In addition, the annual Service Charge calculation for the project includes capital improvements maintenance and capital additions for the project. Thus, unlike other sellers, SRA has no capital

costs for the Lake Fork Project. Further under the terms of the Contract, the annual Service Charge has Dallas paying 74% of all operation and maintenance expense for the Lake Fork Project. The Service Charge includes all of the direct operation and maintenance expense of the Project, an allocated amount for administrative and general expense of the Sabine River Authority and capital improvement projects on a cash basis. Thus, a rate such as the rate proposed by SRA, which is in addition to all of SRA's operation and maintenance expense, which is in addition to capital costs, and which is approximately nine times or \$24.9 million more annually than has been paid before now, is per se unreasonable and unjust.

V. CONCLUSION AND REQUESTED RELIEF

PUC Subst. R. §24.29(d) establishes the criteria for setting interim rates. Dallas has met all requirements.

1. The increase in the Lake Fork water rate for Dallas could result in an unnecessary and therefore unreasonable economic hardship on Dallas' wholesale and retail customers. The imposition of an unlawfully high rate without any cost of service basis is on its face unreasonable; requiring the payment of that rate indefinitely during the pendency of this contested case hearing which SRA hopes will progress at a leisurely pace produces a long-term unreasonable economic impact on Dallas. SRA proposes an excessive rate increase with no cost of service or budgetary justification. The actual Lake Fork Water rate set by SRA and applied to Dallas could force Dallas to make difficult and unnecessary economic decisions for no legally justifiable reason. In order to finance the exorbitant Lake Fork water rate set by SRA for Dallas, Dallas may have to either reschedule capital projects or impose an equally unreasonable rate

increase on its own customers, subjecting Dallas to Commission appeals for unjust and unreasonable rates.

2. SRA's increase in the Lake Fork water rate for Dallas will result in unjust and unreasonable rates. As stated above, SRA has already collected all its capital costs for Lake Fork reservoir, and stands to collect all its annual capital and operation and maintenance costs from Dallas through the annual Service Charge, and from SRA customers through SRA's water sales contracts for its 26% share of Lake Fork water. Consequently, before its actions of October 9, 2014, SRA already had a rate sufficient to support all its Lake Fork reservoir costs. The additional \$24,117,215.93 SRA seeks to collect from Dallas is simply unlawful overreaching and is on its face unjust and unreasonable.
3. Failure to set interim rates quickly could result in an unreasonable economic hardship on Dallas to the extent that the rates collected by SRA are unreasonably high and were proposed with no cost justification by SRA. Moreover, the funds collected by SRA from Dallas, if expended, could be forever lost to Dallas, regardless of the outcome of this contested rate case hearing. The Commission can establish interim rates to avoid providing a temporary windfall to SRA at the (unreasonable) expense of Dallas' ratepayers.

The annual costs of operating, maintaining, and providing for capital improvements at Lake Fork reservoir are known by both Dallas and SRA. The actions of SRA in imposing the Dallas Lake Fork water rate for Fiscal Year 2015 unlawfully exceed any reasonable Lake Fork costs. Allowing SRA to collect the unlawful rate would be harmful to both SRA and Dallas in both the short term and the long run.

WHEREFORE, PREMISES CONSIDERED, Dallas prays that the Commission:


1. Grant this Motion for Expedited Interim rates, and consider and hear argument on interim rates at the December 18, 2014 Final Order Meeting;
2. Establish interim rates at the level that existed prior to November 1, 2014, subject to refund or surcharge upon the ultimate decision of this Commission;
3. Alternatively, if the Commission establishes interim rates at a level higher than the level that existed before November 1, 2014, require SRA to deposit any additional revenues received as a result of the higher rates in an escrow account in accordance with PUC SUBST. Rule 24.29(e) (3) and require SRA to defend Dallas before the Commission in any rate appeals filed by Dallas customers; and
4. Grant such other and further relief to which Dallas may be entitled.

Respectfully submitted,

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By: 
Norman J. Gordon

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, US mail and/or Certified Mail Return Receipt Requested on all parties whose names appear on the mailing list below on this 5th day of December, 2014.

FOR THE ADMINISTRATIVE LAW JUDGE:

Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
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GWENDOLYN HILL WEBB

P.U.C. DOCKET NO. 43674
SOAH DOCKET NO. 473-15-1149.WS

PETITION FOR REVIEW	§	BEFORE THE PUBLIC UTILITY
BY THE CITY OF DALLAS	§	COMMISSION OF TEXAS
FROM ACTION OF THE SABINE	§	
RIVER AUTHORITY AND REQUEST	§	
FOR INTERIM RATES	§	

State of Texas)
)
County of Dallas)

AFFIDAVIT OF TERRY S. LOWERY

Before me the undersigned authority on this day personally appeared Terry S. Lowery,
who upon her oath deposes and says:

"My name is Terry S. Lowery. My business address is Dallas City Hall, 1500 Marilla Street, Room 4A North, Dallas, Texas, 75201. I am over 18 years of age and not disqualified to make this affidavit. The statements contained in this affidavit are based on my personal knowledge.

1. I am the Assistant Director for Business Operations of the Dallas Department of Water Utilities. I have both a Bachelor of Science Degree and a Master of Science Degree from the University of Texas at Dallas in mathematics. I have been employed by the City of Dallas ("City") in the Department of Water Utilities since 1991 in various positions, and was promoted to my current position in 2010. As Assistant Director of the Department of Water Utilities for Business Operations, I am responsible for the Water Planning Division, the Financial Planning Division, the Wholesale Services Division, the Water Conservation Division, and the Administrative Systems Division. I report to Jo M. Puckett, P.E. the Director of the Department of Water Utilities.

2. As Assistant Director for Business Operations, my responsibilities include development and management of all financial operations of the Water Utilities Department, including both the capital and operating budgets. My responsibilities also include wholesale and retail cost of service studies, retail rate development, sales and management of the debt issues of the Water Utility as well as water rights and water supply contracts. In my capacity as Assistant Director for Business Operations I have direct knowledge of the Department's budget, the contracts and costs for raw water, and impacts of costs on the budget, rates and our customers.

3. The Department of Water Utilities provides water and wastewater services to about 2.4 million people in Dallas and 27 nearby communities. The City has



27 wholesale water customers. The Department has 1431 employees who are dedicated to providing services vital to the health and safety of Dallas citizens and our customers. Part of our mission is also to continuously plan for the future.

4. As part of the Department's and City's planning efforts, the City entered into a Water Supply Contract and Conveyance (hereafter "Contract") with the Sabine River Authority of Texas ("SRA") as of October 1, 1981. The Contract, as amended entitles the City to 131,860 acre feet of water per year from Lake Fork of which 120,000 acre feet can be transported to the Trinity River Basin; in other words to the City and nearby areas.

5. Pursuant to Section 3.05 of the Contract, since 1981, the City has made three types of payments: facilities charges, pipeline and pump station facilities expenses, and service charges. First, the City paid semi-annually the facilities charge in amounts equal to the amounts required by the various bond resolutions for the project. The facilities charge payments included both principal and interest on the bonds that had been sold by SRA in order to finance the construction of the dams and related infrastructure. Since 1981, the City has paid \$115,000,000 in principal and \$155,841,822.50 in interest for a total of \$270,841,822.50 in the facilities charge to SRA in addition to \$1,440,998 to Texas Utilities Generating Company ("TUGCO") for amounts previously paid by it TUGCO.

6. The costs in the paragraph above do not include any of the costs for transporting the water from Lake Fork to the Dallas area. Under the Contract, the City was responsible for the design, construction and financing of the facilities necessary to transport the water to the Dallas area. The City has designed and constructed those facilities which include an approximately 30-mile-long pipeline and a pump station at Lake Fork. Excluding right-of-way acquisition costs, the City also paid or committed to pay \$202,619,429 for its raw water pipeline and Lake Fork Pump Station, the facilities it was required to build under the Contract in order to transport its raw water from Lake Fork to the Dallas area. Thus, the City has paid close to \$475 million in capital costs for its water from Lake Fork. SRA has not paid any of those costs.

7. Under the Contract, the annual Service Charge to be paid by the City is designed to be equal to 74% of the direct Operation and Maintenance Expenses of the Lake Fork reservoir. Each year SRA provides the City with the operating budget in advance, which includes an allocation of the SRA administrative and general expense, as well as amounts for expected Capital Improvement Projects or repairs for the year. Since FY 2009, Dallas has paid an average of \$3,082,833 per year in the Service Charge. Although the service charge is calculated in advance of the fiscal year, the Contract provides, and the parties have agreed on true up or settle up amounts, so that if the actual costs exceed the budget, the City pays its share of the remainder during the ensuing year. The SRA operating budget for Lake Fork used to set the current Service Charge is attached to this affidavit as Attachment "A."

8. Thus, under the provisions of the Contract, all of the Capital Costs of the project have been paid by the City as well as 74% of all the Operation and Maintenance ("O&M") costs for the project over the past 33 years. The SRA also has revenues from other contracts for raw water out of Lake Fork reservoir.

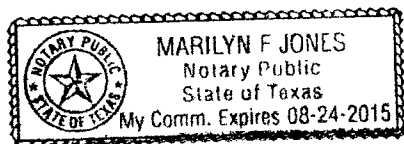
9. On October 13, 2014, the Dallas Department of Water Utilities received a letter from SRA advising that effective November 2, 2014, the City's compensation payment will be based on \$0.5613 per 1,000 gallons payable on a take-or-pay basis based on 131,860 acre feet per year. This amount is more than 2 times the \$0.110 per 1,000 gallons for in-basin sales plus the \$0.166 per 1,000 gallons adopted on the SRA water rate schedule for out-of-basin transfers effective January 1, 2015, which rates include recovery of capital costs and operating costs already paid by the City. The total amount that would be charged under this rate for one year would be equal to \$24,117,215.93 or \$2,009,768 per month in addition to the service charge described above. That amount is also 8.98 times the \$3,022,023 service charge, which compensates SRA for 74% of its O&M expense for 2015.

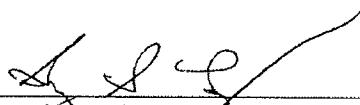
10. The SRA published rate schedules for water from Lake Fork effective January 1, 2015. The rate schedule provides rates substantially lower than the rate the SRA proposes to charge the City for water from Lake Fork. A copy of the SRA's schedule is attached to this affidavit as Attachment "B."

11. Prior to the October 13, 2014 correspondence from SRA, the City had to complete its budgeting process and water rate determination for fiscal year 2015, which began on October 1, 2014. Rates for FY 2015 for both wholesale and retail customers were set and do not include an additional expense of almost \$25 million for water as proposed by SRA.

12. On December 3, 2014, the City received a bill consistent with the SRA's letter of October 13, 2014. A copy of that letter is attached as Attachment "C."

Further Affiant sayeth naught.




Terry S. Lowery, Affiant

Subscribed and sworn to before me the undersigned authority by Terry S. Lowery, on this

5th day of December, 2014.


Marilyn F. Jones
Notary Public, State of Texas

LAKE FORK

June 25, 2014
Budget Fiscal Years 2015

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ACCOUNT	DESCRIPTION	Current Year	Actual To-date 5/31/2014	Next Year
VII. LFD-M & O SYSTEM INCOME				
4007A	A. DALLAS - SERV CHG 130.176***	\$ 4,648,231	\$ 3,591,815	\$ 3,022,023
	TOTAL VII	<u>\$ 4,648,231</u>	<u>\$ 3,591,815</u>	<u>\$ 3,022,023</u>
OPERATIONS BRANCH-LF-M&O EXPENDITURES				
A. PERSONAL SERVICES				
5007A01	1 SUPERVISION AND MANAGEMENT	\$ 248,712	\$ 186,534	\$ 254,196
5007A02	2 ADM., CLERICAL & TECHNICAL	127,116	94,746	131,208
	3 LABOR-OPERS & MAINTENANCE			
5007A03B	B EQUIPMENT & VEHICLES	213,768	160,326	255,072
5007A04	4 EXTRA HELP	12,000	-	12,000
	6 CONTRACT SERVICES			
5007A06A	A. LEGAL	10,000	5,320	10,000
5007A06B	B ENGINEERING	21,500	13,872	8,500
5007A06E	E AUDITING/FINANCIAL CONSULTING	19,300	10,511	19,500
5007A06F	F JANITOR SERVICE	15,000	8,922	15,000
5007A07	7 SERVICE INCENTIVE	17,720	17,720	18,728
5007A08	8. SALARY ACTION - MGT & STEPS	5,208	3,906	6,048
	TOTAL A	<u>\$ 690,324</u>	<u>\$ 501,857</u>	<u>\$ 730,252</u>
B. SUPPLIES				
5007B01A	1 OFFICE SUPPLIES & EXPENSES	\$ 9,700	\$ 7,834	\$ 10,000
5007B02	2. FUEL	500	17	500
5007B03	3 UNIFORMS, MISC CLEANING SUPPLIES	5,400	4,445	5,500
5007B07	7 MINOR TOOLS & APPARATUS, MECHANICAL	6,200	3,475	6,200
5007B09	9 CHEMICAL/MEDICAL, EDUCATIONAL, OTHER	8,500	7,353	16,000
	TOTAL B	<u>\$ 30,300</u>	<u>\$ 23,124</u>	<u>\$ 38,200</u>
C. MAINTENANCE-STRUCTURES				
	1 BUILDINGS, STREETS & ROADS			
5007C01A	A MAINTENANCE	\$ 20,000	\$ 11,599	\$ 153,000
	2 SPILLWAY			
5007C02A	A MAINTENANCE	35,000	9,362	35,000
	3 RESERVOIR & ADJACENT LAND			
5007C03A	A MAINTENANCE	34,000	6,387	34,000
	TOTAL C	<u>\$ 89,000</u>	<u>\$ 27,348</u>	<u>\$ 222,000</u>
D. MAINTENANCE-EQUIPMENT				
5007D01	1 FURN, FIXTURES & EQUIPMENT, RADIOS	\$ 20,000	\$ 9,039	\$ 22,500
5007D02	2 MACHINERY, TOOLS, INSTRUMENTS	13,000	3,692	6,000
	TOTAL D	<u>\$ 33,000</u>	<u>\$ 12,731</u>	<u>\$ 28,500</u>

Cost of Living Increase - 2%

LAKE FORK

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ACCOUNT	DESCRIPTION	Current Year	Actual To-date 5/31/2014	Next Year
E. UTILITIES, INS., & ADM. SERVICES				
5007E01	1 COMMUNICATIONS	\$ 13,000	\$ 7,624	\$ 13,000
5007E02	2 VEHICLES, SUPPLIES, FUEL, REPAIRS	60,000	29,997	60,000
5007E03	3 EQUIPMENT, SUPPLIES, FUEL, REPAIRS	34,000	16,622	34,000
5007E04	4 MARINE EQUIP, SUPPLIES, FUEL, REPAIRS	2,000	570	2,000
5007E06	6 RETIREMENT, SOC SEC & HOSP	459,929	342,934	492,086
5007E07	7 INSURANCE	243,227	181,476	255,388
	8 TRAVEL EXPENSE			
5007E08A	A AUTHORITY PERSONNEL	13,000	9,358	13,000
5007E08B	B. STAFF CONSULTANTS	400	-	400
5007E09	9 POWER, WATER & SANITATION	36,000	24,761	37,000
	10 SPECIAL SERVICES			
5007E10A	A. USGS STREAM GAGING	6,300	4,700	6,200
5007E10B	B ENVIRONMENTAL SERVICES	622,226	419,161	697,428
5007E10C	C RESOURCE MGT. & PROJ DEV	205,487	148,694	208,043
5007E11	11 AGO SERVICE EXPENSE	1,247,800	870,759	1,246,859
5007E12	12 MEMBERSHIPS, DUES, SCHOOLS, ETC	7,000	3,406	7,000
5007E13	13 BUILDING USE FEE	-	-	-
	TOTAL E	\$ 2,950,369	\$ 2,060,062	\$ 3,072,404

CAPITAL OUTLAY

Y. BUILDINGS, STRUCTURES & IMPROVEMENTS				
5007Y01	1. BUILDINGS	\$ -	\$ -	\$ -
	2 SPILLWAY			
	A GATES			
5007Y2A1	1. ENGINEERING	200,000	69,933	0
5007Y2A2	2 CONSTRUCTION, REPAIR, IMPROVEMENT	2,300,000	1,025,406	0
Z. EQUIPMENT				
	TOTAL CAPITAL OUTLAY	2,500,000	1,095,339	-
	TOTAL ACCOUNT VII	\$ 6,292,993	\$ 3,720,461	\$ 4,091,356

***SUBJECT TO ADJUSTMENT FOR WATER SOLD BY SRA

	<u>FY 2014</u> ✓		<u>FY 2015</u> ✓	
SRA	46 176	1,644,762	46 176	1,069,333
DALLAS	130 176	<u>4,648,231</u>	130 176	<u>3,022,023</u>
		<u>\$6,292,993</u>		<u>\$4,091,356</u>

— DWM

LAKE TAWAKONI AND LAKE FORK

WATER RATE SCHEDULE

Adopted by the Board of Directors to be effective January 1, 2015

The following rate applies to untreated, raw water supplied from
Lake Fork and Lake Tawakoni

Water used for Municipal, Industrial, or Irrigation Purposes

- I. IN-BASIN SALES – A rate of \$ 0.116/ 1000 gallons (or as may be periodically adjusted under the terms of the Contract dealing with Rate Adjustment) for all water committed under this Agreement.
- II. OUT OF BASIN SALES¹ – IN BASIN SALES rate plus an additional rate of \$ 0.166/ 1000 gallons (or as may be periodically adjusted under the terms of the Contract dealing with Rate Adjustment) for all water committed under this Agreement.
- III. All water sold under this WATER RATE SCHEDULE shall be on a Take or Pay Basis.
- IV. Any calendar-year diversion of water in excess of the Maximum Annual Quantity for which an Agreement has been signed shall be charged a rate of 2.5 times the rate as set under this WATER RATE SCHEDULE.

* *The above rate applies to all entities that have signed contracts referencing this WATER RATE SCHEDULE.*

¹ The OUT OF BASIN SALES additional rate is waived for municipalities in the Neches River Basin and for municipalities with city limits partially inside or within one mile of the Sabine River Basin in areas authorized by the applicable water right for interbasin transfer.



SABINE RIVER AUTHORITY OF TEXAS

LAKE FORK PROJECT
353 PVT RD 5183
QUITMAN, TX 75783

RECEIVED
12-3-14

DALLAS WATER UTILITIES
1500 MARILLA ST RM 2 AS
DALLAS, TX 75201

CUSTOMER NO. LFI00222

INVOICE NUMBER 236689

ATTN: ERIK ANDERSEN

(PLEASE INDICATE ANY CHANGE OF ADDRESS)

BILLING DATE 12/1/14 DUE DATE 12/31/14

PAYMENT PERIOD 11/2/14 THROUGH 12/1/14

COMPENSATION PAYMENT ON 131,860 AC/FT PER YEAR OF LAKE FORK WATER PER \$2,009,768.00

SECTION 6.02 OF THE LAKE FORK WATER SUPPLY CONTRACT & CONVEYANCE AT THE

BOARD ADOPTED RATE OF \$0.5613 PER 1,000 GALLONS (\$24,117,216 ANNUALLY
BILLED IN 12 EQUAL PAYMENTS)

LATE PAYMENT PENALTY

TOTAL \$2,009,768.00

PLEASE MAKE CHECK PAYABLE TO SRA OF TEXAS

*TO AVOID A 1% PER MONTH LATE PENALTY, PAYMENT MUST BE RECEIVED WITHIN 30 DAYS OF DUE DATE.

COMPUTER FURNISHING, INC. (409) 688-0001

Sabine River Authority

Fiscal Year	SRA Expenditure Obligation (Fiscal Year Actual)	Payments Received by SRA (SRA's DWU Budgeted Share)	Year End Settleup Amount	Payments/FY Recorded by DWU (in \$1,000s)
2014	\$3,599,884.42	\$4,648,230.98	\$1,048,346.56	\$3,332,000.00
2013	\$3,889,491.51	\$4,480,842.97	\$591,351.46	\$3,752,000.00
2012	\$2,721,233.34	\$3,340,312.00	\$619,078.66	\$2,911,000.00
2011	\$2,635,134.28	\$2,813,809.00	\$178,674.72	\$2,900,000.00
2010	\$2,613,807.45	\$2,710,500.01	\$96,692.56	\$2,710,000.00
2009	<u>\$2,872,104.04</u>	<u>\$2,930,682.04</u>	<u>\$58,578.00</u>	<u>\$2,892,000.00</u>
Total	\$18,331,655.04	\$20,924,377.00	\$2,592,721.96	\$18,497,000.00
Average	\$3,055,275.84	\$3,487,396.17	\$432,120.33	\$3,082,833.33

