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APPLICATION OF THOMPSON §  
 HEIGHTS DEVELOPMENT §  
 COMPANY FOR A PASS THROUGH §  
 RATE ADJUSTMENT §

2015 JAN 5 10:18 AM  
 PUBLIC UTILITY COMMISSION  
 OF TEXAS  
 CLERK

## COMMISSION STAFF'S RESPONSE TO NOTICE SETTING DEADLINE FOR STAFF'S RECOMMENDATION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Notice Setting Deadline for Staff's Recommendation, and would show the following:

### I. BACKGROUND

On December 3, 2014, Thompson Heights Development Company (THDC or Applicant) filed an application pursuant to P.U.C. SUBST. R. 24.21(h) for approval of pass through water charges to reflect increases in purchased water rates assessed by the City of Denison, affecting Thompson Heights subdivision in Grayson County, Texas. The review of a proposed revision of a utility's billings to its customers to allow the recovery of additional costs under the utility's approved pass through provision is an informal proceeding.<sup>1</sup> Only Staff, or the utility, may request a hearing on the proposed revision.<sup>2</sup>

On December 8, 2014, the administrative law judge (ALJ) set January 5, 2014, as the deadline for Staff to file a recommendation on THDC's application, sufficiency of notice and propose a procedural schedule. Therefore, Staff's response is timely filed.

### II. ADMINISTRATIVE COMPLETENESS OF THE APPLICATION AND NOTICE

P.U.C. SUBST. R. 24.21(h)(4) provides the actions a utility must take prior to the beginning of the billing period in which the requested revision takes effect, which includes written notice to the Commission and mailed notice to the utility's customers. P.U.C. SUBST. R. 24.21(h)(5) requires that notice to the Commission include a copy of the notice sent to

<sup>1</sup> P.U.C. SUBST. R. 24.21(h)(3).

<sup>2</sup> *Id.*

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customers, proof that the cost of purchased water has changed by the stated amount, and the calculations and assumptions used to determine the new rates.

Additionally, P.U.C. SUBST. R. 24.21(h)(4)(B) provides the requirements for notice to the utility's customers. Specifically, the Rule provides that the utility shall:

[M]ail notice to the utility's customers. Notice may be in the form of a billing insert and must contain the effective date of the change, the present calculation of customer billings, the new calculation of customer billings, and the change in charges to the utility for purchased water or sewage treatment or water use fees. The notice must include the following language: "This tariff change is being implemented in accordance with the utility's approved (purchased water) (purchased sewer) (water use fee) adjustment clause to recognize (increases) (decreases) in the (water use fee) (cost of purchased) (water) (sewage treatment). The cost of these charges to customers will not exceed the (increased) (decreased) cost of (the water use fee) (purchased) (water) (sewage treatment)."

Staff has reviewed THDC's application and notice and, based on the attached memorandum of Mary Lupo of the Commission's Water Utilities Division, has determined that the notice contains material deficiencies. Specifically, THDC's notice does not meet the requirements of P.U.C. SUBST. R. 24.21(h)(4). The current monthly minimum charge noted in the notice and application, and used in the present calculation of the customers' billings (\$25.87), does not match the monthly minimum charge in the current approved tariff (\$25.00). Additionally, the notice does not include the language required under the Rule. Finally, THDC should update the notice to replace all references to the Texas Commission on Environmental Quality (TCEQ), and instead reflect the current regulatory authority, the Public Utility Commission of Texas.

Therefore, Staff recommends that THDC's application and notice be found administratively incomplete. Staff recommends that THDC be required to submit within 30 days a revised proposed notice that complies with P.U.C. SUBST. R. 24.21(h)(4)(B) for the Commission's review and approval prior to the notice being mailed. The revised notice should include:

- a. The effective date of the change;
- b. The present calculation of the customers billing. *The applicant will need to use the current tariff monthly minimum charge of \$25.00 and not \$25.87 as shown in the calculations they used on the TCEQ form and the letter to customers;*



- c. The new calculation of customer billings;
- d. The change in charges to the utility for the purchased water fees;
- e. The following language: "This tariff change is being implemented in accordance with the utility's approved purchased water adjustment clause to recognize increases in the cost of purchased water. The cost of these charges to customers will not exceed the increased cost of the purchased water."
- f. References to the Public Utility Commission of Texas in place of the TCEQ.

Staff recommends dismissal of the application if the deficiencies remain uncured after this time period. Due to the discrepancy between the assumptions (monthly minimum charge) used by the applicant and the applicant's tariff, Staff further recommends that THDC provide the last three bills it received from the City of Denison which support its current pass through rate, and that THDC submit their calculation and assumptions used to determine its new proposed rates.

### **III. PROCEDURAL SCHEDULE**

Due to the deficiencies identified above, Staff recommends that THDC be given until February 4, 2015 to correct the deficiencies and submit to the Commission, for review and approval prior to mailing, a revised proposed notice. Therefore, Staff proposes the following procedural schedule:

| <b>Event</b>   | <b>Date</b>  |
|--|--|
| Deadline for Applicant to submit a revised proposed notice to cure deficiencies identified by Staff                                      | February 4, 2015   |
| Deadline for Staff to file a supplemental recommendation on sufficiency of the application and notice, and propose a procedural schedule | Within 15 working days of THDC's filing of the revised proposed notice |

### **IV. CONCLUSION**

Staff respectfully requests that the ALJ issue an order finding the application administratively incomplete, and suspending the effective date of the rate adjustment until after proper notice is given. In order to complete its administrative review of the application, Staff requests THDC be ordered to submit to the Commission a revised notice to customers by February 4, 2015. Staff will then complete its administrative review and issue a supplemental

recommendation on the sufficiency of the application and notice, as well as a proposed procedural schedule. Finally, Staff respectfully requests that THDC be ordered to submit the last three bills it received from the City of Denison which support its current pass through rate, and that THDC submit their calculation and assumptions used to determine its new proposed rates.

**Dated: January 5, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director-Legal Division

Stephen Mack  
Managing Attorney-Legal Division



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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 January 5, 2015, in accordance with P.U.C. Procedural Rule 22.74.





Marie H. Reyna

## PUC Interoffice Memorandum

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**To:** Marie Reyna  
Legal Division

**Thru:**  Tammy Benter, Director  
Water Utilities Division

 **From:** Mary Lupo, Utility Rates Analyst/Auditor  
Water Utilities Division

**Date:** January 5, 2015

**Subject:** Tariff Control No. 43883; Application of Thompson Heights Development Company for a Pass through Rate Adjustment

Thompson Heights Development Company (Applicant), Certificate of Convenience and Necessity (CCN) No. 10934, has filed an application for approval of a water pass through rate adjustment to reflect an increase in purchased water rates assessed by the City of Denison in Grayson County, Texas. This application was filed under the criteria in the Texas Water Code, Chapter 13, and P.U.C. SUBST. R 24.21(h).

Based upon my review of the information in the application, I discovered the following deficiencies:

1. The Applicant's notice does not meet the requirements of P.U.C. Subst. R. 24.21(h)(4).

Therefore, Staff recommends the following:

1. Advise the applicant to submit a proposed notice to customers that complies with P.U.C. SUBST. R. 24.21(h)(4)(B). The proposed notice should include:
  - a. The effective date of the change;
  - b. The present calculation of the customers billing. *The applicant will need to use the current tariff monthly minimum charge of \$25.00 and not \$25.87 as shown in the calculations they used on the TCEQ form and the letter to customers;*
  - c. The new calculation of customer billings;
  - d. The change in charges to the utility for the purchased water fees;
  - e. The following language: "This tariff change is being implemented in accordance with the utility's approved purchased water adjustment clause to recognize increases in the cost of purchased water. The cost of these charges to customers will not exceed the increased cost of the purchased water."
2. The applicant should update the notice to replace all references to the Texas Commission on Environmental Quality (TCEQ), and instead reflect the current regulatory authority, the Public Utility Commission of Texas.
3. Advise the applicant to provide the last three bills that they received from the City of Denison which supports their current pass through rate.



4. Advise the applicant to submit their calculation and assumptions used to determine their new proposed rates because the assumptions provided do not match the Applicant's tariff.

Based on the deficiencies outlined above, I recommend that the application be deemed insufficient for filing at this time, and the effective date of the rate adjustment be suspended until after proper notice is given. I further recommend that the applicant be required to submit a revised proposed notice curing the above deficiencies within 30 days of the date of the order, for the Commission's review, prior to the notice being mailed. If the deficiencies remain uncured after this time period, then I recommend dismissal of the application.