

Control Number: 44236



Item Number: 60

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JERRY D. WALKER  
NO. 2 RED BLUFF  
WICHITA FALLS, TEXAS 76308

August 13, 2015

Filing Clerk  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326

Re: REQUEST TO INTERVENE IN:  
P.U.C. Docket No. 44236, SOAH Docket No. 473-15-4944.WS  
Custom Water Company LLC, CCN 13211

RECEIVED  
2015 AUG 14 AM 11:32  
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To Whom It May Concern:


I request Intervener Status at the Preliminary Hearing dated August 24, 2015 which is in consideration of a water rate increase for the above referenced Case for Custom Water Company, LLC.

As an INTERVENER, I understand the following:

1. I am a party to the case;
2. I am required to respond to all discovery requests from other parties in the case;
3. If I file testimony, I may be cross-examined in the hearing;
4. If I file any documents in the case, I will have to provide a copy of that document to every other party in the case; and
5. I acknowledge that I am bound by the Procedural Rules of the Public Utility Commission of Texas (PUC) and the State Office of Administrative Hearings (SOAH).

The undersigned, as a customer of the Oak Shores Water System, as well as President of Oak Shores Property Owners' Association, has previously filed a protest letter of this rate increase. Attached is a list of items I request to discuss at the Preliminary Hearing on my behalf and also on the behalf of other customers of Oak Shores Water System.

Sincerely,

  
Jerry D. Walker  
No. 2 Red Bluff  
Wichita Falls, Texas 76308

**Customer Address:**

Lot 520 Oak Shores Development  
552 Bay Shore Drive  
Nocona, Texas 76255

Attachments – List of Issues, List of Other OSPOA Protestors

**OTHER OAK SHORE PROPERTY OWNERS' WHO HAVE FILED PROTEST LETTERS:**

1. Johnny Massengale
2. E. D. Clark
3. Michael & Connie Whitney
4. Wanda Bishop
5. Leo (John) Rajewski
6. Michael Warton
7. Rex & Judy Allen
8. Tracy & Cheryl Fincher
9. James R. Nelson
10. Jerry & Charlotte Miller
11. Brad & Glenda Sue Roach
12. Jonathan Eaton
13. Paul & Marilyn Lucas
14. Mike Hilton
15. Anita Lockwood
16. John Massengale
17. Jason & Corissa Miller
18. Pat Rowland
19. Ronnie Bell
20. David & Jackie Schrodel
21. George Moss
22. Lisa D. Kizer
23. Dennis Hudson
24. Brandy Barfield
25. Virgil Hughlett

**RE: List of Issues that Protestors wish to have addressed related to PUC Docket #44236 / SOAH Docket #473-15-4944.WS**

1) Does Custom Water Company LLC (CWC) have legal standing to file a "unified rate" or "consolidated tariff" rate increase under PUC 24.21(m)?

Argument: It is the Protestors' position that CWC owns two distinctly different water systems. One is Montague Water System (MWS) and the other is Oak Shores Water System (OSWS). These two systems are physically located some 20+ miles apart; are not comingled in any sense; and have completely separate water wells, equipment, lines and connections. Furthermore, the water quality of these two systems is as far apart as Earth and Mars. It is our understanding that 24.21(m) reads:

MULTIPLE SYSTEM CONSOLIDATION. Except as otherwise provided in subsection (o) of this section, a utility may consolidate its tariff and rate design for more than one system if:

(1) the systems included in the tariff are substantially similar in terms of facilities, quality of service, and cost of service; and

(2) the tariff provides for rates that promote water conservation for single-family residences and landscape irrigation.

Protestors would argue vehemently that the "QUALITY OF SERVICE" between MWS and OSWS is as far from substantially similar as night and day. Eddie Fenoglio, owner of CWC, has admitted to Protestors that the water quality of OSWS is very hard (it contains three times the amount of iron content as allowed by TCEQ standards) and that the lines are full of polyphosphate that has settled into the tanks, all of the water lines, connections, and customer plumbing lines. This, in itself, causes the water to be reddish-brown in color; causes washed clothes to be turned to reddish-brown, and permanently stains all sinks, bath tubs, toilets, etc that come into contact with this water. This creates a substantial hardship on all rate payers who rely upon this water service. OSPOA President Jerry Walker met with Fenoglio and his own civil engineer, Kerry Maroney, on 7-14-15 at the Offices of CWC in Montague in an informal attempt to solve the problems associated with the OSWS. Maroney asked Fenoglio why he had not drained or "flushed" the lines to rid the system of this build-up of polyphosphate in the lines. Fenoglio stated he did not have the flush-valve capacity to create enough water pressure to properly clean the lines of the polyphosphate. Fenoglio was asked why he did not drill other wells to replace the "hard water" coming from the previously purchased OSWS. Fenoglio responded that he did not think it would produce any better water than what was presently being used. Fenoglio was asked why he could not tie into another water system within the immediate area in order to improve water quality. Fenoglio responded that it would be cost prohibitive to tie into Nocona Hills (known to have excellent water). Fenoglio stated that OSWS customers would not be able to afford the cost of such improvements. Fenoglio made this statement as if the OSWS customers would be responsible for paying for these improvements themselves thru rate increases. Fenoglio did not include MWS customers into this equation. Over the last several years, Fenoglio has completely re-worked the MWS on the backs of OSWS customers who are being charged 172% of what previous rates were in 2012.

2) There is a question as to whether CWC prepares books and records in a manner that reasonably allocates operating income and expenses between the numerous properties owned by Eddie Fenoglio and/or supports the rate increase requested that is being questioned herein?

a) Eddie Fenoglio owns and operates at least three different water systems; provides services for numerous other water systems; owns and operates numerous rental properties; and is a farmer/rancher. Fenoglio appears to charge the full cost of his pick-up, various equipment, the cost of his full-time office manager, and various other overhead type expenses against the operational cost of Custom Water Services LLC. This appears to be improper as to allocation. Some of these expenses also appear to be personal expenses as well.

b) The books as presented reflect:

Staff 1-2

10% rate of return calculation worksheet - page 10

1) Item F No major deficiencies in the most recent PWC inspection

Good faith effort to solve any current problems

Income stmt indicates he paid a "Fine 23607354" in the amount of \$4,956.

2) Item G Well maintained, up to date books & records

Consistent and timely in meeting reporting requirements

Exhibit fiscal responsibility with respect to rate filings including completeness

Staff 1-13

How is Custom Water Company LLC treated for federal income tax purposes?

It indicates contract labor as being paid to Eddie Fenoglio - I believe it is a sole proprietorship!!

Staff 1-8

Income Statement includes a "Fine" "Loan Payments"

Payroll Tax of \$12,998.29 on Total Wages of \$37404.6

Utility expense indicates 5 wells (I think he lives on Veretto Rd personal)

He included a P/L for Carrington Associates Inc indicating No income and \$3,738.55 of expenses

Staff 1-7

Balance Sheet questions Total checking/Savings (\$34,554.76)

Cash Receipts Betsy and Eddie (\$14,177.26) & (\$45,288.82) respectfully

**Undeposited Funds \$98,897.89 - What is this?**

Notes payable to Eddie; is there a document?

Equity indicates Net Income (\$5,811.75) but doesn't agree with Income Statement

Staff 1-10

Stmt made in response to commission "There are several pieces of property which are listed under the Custom Water name but are not in use by the water company"

Staff 1-1 No calculation or supporting documentation of Equity \$39,773.

Staff 1-16 Rate case expense of \$18,000. ?

Staff 1-7 Balance Sheets - No Trucks, Machinery or Equipment

Staff 1-8 P&L thru 8/2014 Loan payments 2013 GMC (Ed's Truck) principal \$6,280.14

Payroll Tax \$19,178.46 on Total Salaries of \$62,698.85 ?

P&L thru September 1, 2014 indicates purchase of "equipment" and "Loan Payments" as expense

Telephone expense 1/3 for 12 months = \$8,933.31 100% then is \$26,800 or \$2,233./month?

Vet Expense \$639.04 ?