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PUC DOCKET NO. 44620

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PUBLIC UTILITY COMMISSION  
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APPLICATION OF SHARYLAND  
UTILITIES L.P. TO REVISE ITS  
TCRF CLASS ALLOCATION  
FACTORS AND REQUEST FOR  
GOOD CAUSE EXCEPTION FROM  
P.U.C. SUBST. R. 25.193(c)

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PUBLIC UTILITY COMMISSION  
OF TEXAS

**ST. LAWRENCE COTTON GROWERS' ASSOCIATION**  
**STATEMENT OF POSITION**

NOW COMES, ST. LAWRENCE COTTON GROWERS' ASSOCIATION ("St. Lawrence"), and files this Statement of Position in the above-referenced proceeding. Order No. 7 set September 10, 2015 as the date for filing Statements of Position for this docket. This Statement is therefore timely filed.

St. Lawrence's positions in this case are:

- **The Commission Has The Power to Grant Relief in this Case**
- **The Commission Should Grant Relief at this Time**
- **The Commission Should Approve All of Sharyland's Request As Opposed to Some Lesser Relief**

St. Lawrence explains its positions below.

**I.**

**THE COMMISSION HAS THE POWER TO GRANT RELIEF IN THIS CASE**

Texas Industrial Energy Consumers ("TIEC") questions whether the Commission has the power to hear this case. The Commission should reject that contention.

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The Commission has the power to "regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction." PURA § 14.001. PURA §35.004 states that the commission "may approve wholesale rates that may be periodically adjusted to ensure timely recovery of transmission investment." Pursuant to that power, the Commission adopted Substantive Rule 25.153, creating Transmission Cost Recovery Factors for distribution utilities. Subsection (c) of that rule specified a formula for the collection of transmission costs and the allocation of those costs among customers. That formula provides:

ALLOC is the class allocator approved by the commission to allocate the transmission revenue requirement among classes in the DSP's last rate case, *unless otherwise ordered by the commission.*<sup>1</sup>

Thus, the Commission has the explicit power to order a different class allocator – the exact relief sought by Sharyland in this case.

Even if the Commission did not have this provision in Rule 25.153, it also has the general ability to grant exception to its rules for good cause. Substantive Rule 25.3(b) provides "The commission may make exceptions to this chapter for good cause." Subsection (a) of that section makes it clear that the Commission can require utilities to act in ways that may differ from the provisions of the rules:

The adoption of this chapter does not preclude the Public Utility Commission of Texas (commission) from altering or amending any sections of this chapter in whole or in part, or from requiring any other or additional services, equipment, facilities, or standards, either upon complaint or upon its own motion or upon application of any person.<sup>2</sup>

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<sup>1</sup> 16 TEX. ADMIN. CODE § 25.193(c) (emphasis added).

<sup>2</sup> 16 TEX. ADMIN. CODE § 25.3(a). *See also*, Procedural Rule 22.5(b) which provides "Notwithstanding any other provision of this chapter, the presiding officer may grant exceptions to any requirement in this chapter or in a commission-prescribed form for good cause."

The Commission should find that it has the power to grant good cause exceptions in cases involving the TCRF. TIEC itself sought a good cause exception in a recent Sharyland TCRF case<sup>3</sup> - a relief that was ultimately incorporated into the Commission's final order in that docket.

Thus, if the Commission finds good cause, it may order Sharyland to use a different cost allocator than the one established in the last rate case.

## II.

### THE COMMISSION SHOULD GRANT RELIEF AT THIS TIME

TIEC argues that the Commission should wait until the next Sharyland rate case to implement changes to the cost allocation formula in Sharyland's TCRF. St. Lawrence urges the Commission to act now.

Sharyland's last rate case for the Cap Rock division – the division in which St. Lawrence members are located – was concluded in early 2014.<sup>4</sup> That case resulted in distribution rates that are 367.2% higher for residential customers than other utilities in Texas and two to three times higher for non-residential customers.<sup>5</sup> The Commission Staff Report in Project No. 44592 also gave an example of an irrigation customer whose rates went from \$0.05 cents per kWh to \$0.16 cents per kWh as a result of the last rate case.<sup>6</sup> Sharyland consumers have flooded the Commission with complaints.

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<sup>3</sup> *Petition of Sharyland Utilities, L. P. for Approval of Transmission Cost Recovery Factor Update*, SOAH Docket No. 473-15-3487, Docket No. 43865, "Texas Industrial Energy Consumers' List of Issues" at 1 (January 14, 2015).

<sup>4</sup> *Application of Sharyland Utilities, L.P. to Establish Retail Delivery Rates, Approve Tariff for Retail Delivery Service, and Adjust Wholesale Transmission Rate*, Docket No. 41474, (Order, January 23, 2014), ("2014 Rate Order").

<sup>5</sup> Staff Report on the Factors and Historical Background Underlying the Rates of Sharyland Utilities at p. 8, Project No. 44592 (September 8 2015). ("Staff Report")/ St. Lawrence would ask that the Commission take judicial notice of the report in Project No. 44592 as it considers the issues in this docket.

<sup>6</sup> *Id.* at p. 14.

If the class allocations are updated as requested by Sharyland, customers will get a slight relief in their bills. Sharyland estimates that residential bills could go down between \$1.56 a month for residential consumers using 500 kWh to \$9.35 for a residence using 3000 kWh a month.<sup>7</sup> Secondary customers under 10 kW could see rate reductions in the \$0.83 to \$13.32 range, while customers greater than 10kW could see reductions in the \$5.09 to \$15.28 range.<sup>8</sup>

This docket is therefore unlikely to result in truly material decreases for any customer. However, it is the *only* hope for any kind of rate reduction this year. Sharyland is not required to file another rate case until July of 2016.<sup>9</sup> Assuming that such a case takes about a year, the earliest customers might see relief would be in July of 2017. It is also possible for the Commission to launch an investigation into Sharyland's rates in advance of July of 2016, but the Staff Report warns that there is a real possibility of a rate *ncrease* as a result of such a proceeding.<sup>10</sup>

There is another potential docket that could have a material impact on Sharyland's rates. As the Commission is aware, an affiliate of Hunt Consolidated, Inc., along with other investors and creditors ("the Investor Group"), is proposing to take over the Oncor assets of Energy Future Holding, Inc.<sup>11</sup> Hunter Hunt is chairman and chief executive officer of Sharyland Utilities, L.P. and is also CEO of Hunt Consolidated Energy, LLC, and co-CEO of its holding company, Hunt Consolidated, Inc.<sup>12</sup> Thus, Sharyland could have some kind of familial relationship with Oncor in

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<sup>7</sup> Exhibit JWD-3, attached to the direct testimony of James W. Daniel.

<sup>8</sup> *Id.*

<sup>9</sup> 2014 Rate Order at 7.

<sup>10</sup> Staff Report at 5 and 29.

<sup>11</sup> See Memorandum filed by Commissioner Anderson filed on August 20, 2015 in Project No. 42750, *Matters Pertaining to or Arising Out of the Chapter 11 Bankruptcy of Energy Future Holdings.*

<sup>12</sup> <http://www.sharyland.com/leadership/>

the future. The change in control at Oncor will need to be approved by this Commission. It would be possible for the Investor Group to consolidate Sharyland's utility operations into Oncor and offer one set of rates to all customers. Such a move would be a boon for some customers but could have adverse impacts on others. In any event, there is not yet a schedule for any filing by the Investor Group, nor any details regarding such a filing's impact on Sharyland ratepayers. Thus, the only hope for a reduction in Sharyland's rates at any time in the near future comes from Sharyland's proposal to change its allocation factors for its transmission rates in this docket. St. Lawrence asks that this Commission take this opportunity to adjust those rates now.

### III.

#### **THE COMMISSION SHOULD APPROVE ALL OF SHARYLAND'S REQUEST AS OPPOSED TO SOME LESSER RELIEF**

TIEC and the Commission Staff have presented alternative adjustments to the Commission in which only a portion of Sharyland's proposed change in allocation factors would be implemented. This Commission should reject those provisions and order 100% of the change proposed by Sharyland.

Sharyland's costs have changed because of significant growth in the Primary customer class. The members of that class are imposing more costs on Sharyland than the current rates reflect. Thus, the class allocation needs to be adjusted to reflect rates. Mr. Pollock testified in the last Sharyland rate case:

Cost-based rates will send the proper price signals to customers. The other reasons for adhering to cost-of-service principles are equity, engineering efficiency (cost-minimization), stability, and conservation.<sup>13</sup>

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<sup>13</sup> Direct Testimony and Exhibits of Jeffrey Pollock in Docket No. 41474 at page 34, lines 14 -16.

TIEC strongly advocated for cost-based rates in Docket No. 41474. As a result, the Stipulation entered into by the parties requires Sharyland to “propose and support” rates “for each customer class that recover each customer class' allocated cost of service” in the next rate case.<sup>14</sup>

Other parties also agreed:

The Signatories to the Stipulation agree that they will not oppose setting rates that recover each customer class' allocated cost of service,<sup>6</sup> though all Signatories retain all rights to contest any portion of the cost of service study filed by Sharyland in the 2016 Rate Case.<sup>15</sup>

Footnote 6 of that Stipulation provided: “St. Lawrence supports approval of the Stipulation by the Commission, but does not take a position concerning this clause.”<sup>16</sup>

In other words, TIEC supported setting rates at “unity” in the last rate case and will support the same “unity” standard in the rate case to come. TIEC will be supported by Sharyland and all of the other Signatories (except possibly St. Lawrence) in that effort. TIEC should not be allowed to support cost-based allocations in the past and cost-based allocations in the future, but not bear cost-based allocations in the present case. The Commission should adopt 100% of Sharyland’s proposed revision to its cost allocation formula in this case.

#### IV.

#### CONCLUSION

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<sup>14</sup> “Unopposed Stipulation and Agreement,” Docket No. 41474 at 4.

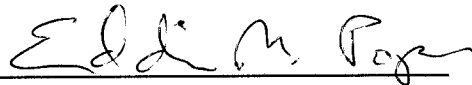
<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

St. Lawrence thanks the Commission for taking the time to hear this case in person. St. Lawrence supports all of the Commission's efforts to bring Sharyland's rates into line with the other utilities in the ERCOT region and provide relief for ratepayers – especially irrigation customers - in the region.

Respectfully submitted,

**EDDIE POPE, ATTORNEY**

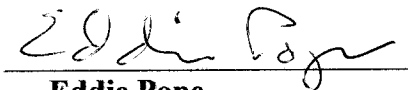
By:   
**Eddie M. Pope**  
**State Bar No. 16135500**

**ATTORNEY FOR INTERVENOR  
ST. LAWRENCE COTTON  
GROWERS' ASSOCIATION**

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**CERTIFICATE OF SERVICE**

I certify that a true copy of the St. Lawrence Statement of Position has been served upon all parties of record by facsimile, electronic mail and/or first class mail on this 10th day of September, 2015.

  
**Eddie Pope**