



Control Number: 45231



Item Number: 4

Addendum StartPage: 0

**DOCKET NO. 45231**

**RATEPAYERS' APPEAL OF THE  
DECISION BY TROPHY CLUB  
MUNICIPAL UTILITY DISTRICT  
NO. 1 TO CHANGE RATES**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

FILED 10/14/15 PM 1:27

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 1  
RECOMMENDING PETITION ADMINISTRATIVELY COMPLETE AND  
REFERRAL TO SOAH**

Comes now the staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 1. In support thereof, Staff would show the following:

**I. BACKGROUND**

On October 9, 2015, residents of the Trophy Club Municipal Utility District No. 1 (Ratepayers) filed a petition appealing the decision of the board of directors of Trophy Club Municipal Utility District No. 1 (District) affecting the rates charged for water, sewer, base, and volumetric, which were effective on September 1, 2015.

On October 14, 2015, the Administrative Law Judge (ALJ) issued Order No. 1, which requires Staff to file comments on the administrative completeness of the petition. Order No. 1 also requires Staff and the District to file comments regarding how this petition should be processed and propose a procedural schedule. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed Ratepayers' original petition filed October 9, 2015 and recommends that it be deemed administratively complete under the requirements of 16 TAC § 24.42. Specifically, this rule requires the following:

(a) Petitions for review of rate actions filed pursuant to the TWC, §13.043(b), shall contain the original petition for review with the required signatures. Each signature page of a petition should contain in legible form the following information for each signatory ratepayer:

(1) a clear and concise statement that the petition is an appeal of a specific rate action of the water or sewer service supplier in question as well as a concise description and date of that rate action;

- (2) the name, telephone number, and street or rural route address (post office box numbers are not sufficient) of each signatory ratepayer. The petition shall list the address of the location where service is received if it differs from the residential address of the signatory ratepayer;
- (3) the effective date of the decision being appealed;
- (4) the basis of the request for review of rates; and
- (5) any other information the commission may require.

(b) A petition must be received from a total of 10,000 or 10% of the ratepayers whose rates have been changed and who are eligible to appeal, whichever is less.

Staff has reviewed the petition and finds that it contains the information required by 16 TAC § 24.42(a)(1)-(5).

Under the requirement of 16 TAC § 24.42(b), protests must be received from a total of 10% of the eligible ratepayers. In this case, the District has 3,014 service connections, according to records available from the Texas Commission on Environmental Quality. Thus, the petition must at least have 302 signatures to warrant a referral to hearing;<sup>1</sup> here, the petition met this requirement by including 429 legible signatures.

Finally, TWC § 13.043(a) requires:

An appeal under this subsection must be initiated within 90 days after the date of notice of the final decision by the governing body . . . by filing a petition for review with the utility commission and by serving copies on all parties to the original rate proceeding.

In this case, the Ratepayers initiated an appeal on October 9, 2015, which is 77 days after they received notice on July 24, 2015 of the rate change.<sup>2</sup> Thus, Ratepayers have timely filed the appeal.

These recommendations are further discussed in the attached Staff memorandum of Andrew Novak, Financial Analyst in the Water Utilities Division.

### **III. PROCESSING AND PROCEDURAL SCHEDULE**

Considering the merits of the petition, Staff recommends that there exist outstanding questions of law and fact that require further development of the record. As such, Staff requests that this proceeding be referred to the State Office of Administrative Hearings (SOAH) so that an evidentiary record may be developed.

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<sup>1</sup> 10% of 3,014 is 301.4, which rounds up to 302.

<sup>2</sup> Petition at 1 (Oct. 9, 2015)

Because Staff recommends that this proceeding be referred to SOAH, Staff will not recommend a procedural schedule at this time.

#### **IV. CONCLUSION**

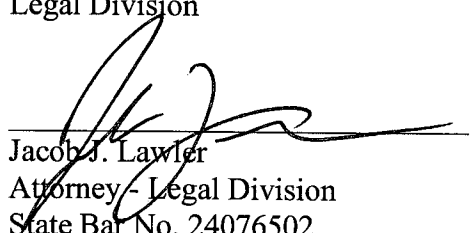
For the reasons discussed above, Staff recommends that this proceeding be referred to SOAH to develop an evidentiary record.

**Dated: November 9, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

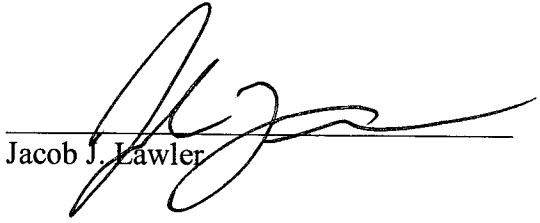
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#### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 9, 2015 in accordance with 16 TAC § 22.74.



Jacob J. Lawler

**Public Utility Commission of Texas**

Memorandum

**TO:** Jacob Lawler, Attorney  
Legal Division

**THRU:** Tammy Benter, Director  
Debi Loockerman, Rates Team Lead  
Water Utilities Division

**FROM:** Andrew Novak, Financial Analyst  
Water Utilities Division

**DATE:** October 22, 2015

**SUBJECT:** **Docket No. 45231, Ratepayers' Appeal of the Decision by Trophy Club  
Municipal Utility District No. 1 to Change Rates**

On October 9, 2015, residents of the Trophy Club Municipal Utility District No. 1 (District) filed a petition appealing the decision of the board of directors of the District affecting the rates charged for water and sewer charges. The new rate was effective on September 1, 2015. The petition designated Mr. William C. Rose as the ratepayers' designated representative on this matter. The District is created under Article XVI, Section 59, of the Texas Constitution that provides water or sewer service to household users.

The original petition contains 429 signatures. Each signature page contained a clear and concise statement that the petition is an appeal of a decision made by the District which affects the water rate charged to customers. The ratepayers were notified, by mail, of the rate change on July 24, 2015; and the rate went into effect September 1, 2015. The name, telephone number, and street address of each signatory ratepayer was provided in the petition.

The District has 3,014 service connections, according to records available from the Texas Commission on Environmental Quality (TCEQ). In order for a review to be initiated under Texas Water Code Ann. § 13.043(b)(4) (TWC), protests must be received from a total of 10% of the affected ratepayers. The petition must at least have 302 signatures to warrant a referral to hearing; the petition included 429 legible signatures.

Review up to this point is limited to the sufficiency of the petition with regard to 16 Tex. Admin. Code § 24.42 (TAC), and is not a determination as to whether or not specific elements included in the petition, or the resulting rates, are just and reasonable.

Staff recommends that the commission find that petition meets the requirements in TWC § 13.043(b)(4) and 16 TAC § 24.42 and that the petition is administratively complete. Staff further recommends that Docket No. 45231 be referred to the State Office of Administrative Hearings so that a hearing may be scheduled.