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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

**TROPHY CLUB MUNICIPAL UTILITY DISTRICT NO. 1'S
COMMENTS AND PROPOSED PROCEDURAL SCHEDULE**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

In accordance with Order No. 1, Trophy Club Municipal Utility District No. 1 files these comments and proposed procedural schedule and would respectfully show the following:

SUFFICIENCY OF PETITION

On October 8, 2015, retail customers of Trophy Club Municipal Utility District No. 1 (the "District") filed a petition pursuant to Section 13.043(b) of the Texas Water Code entitled "MUD Petition to Appeal Rates Established by the Board of Directors" (the "Petition"). Public Utility Commission ("PUC") Rule 24.41 governs the Petition, and PUC Rule 24.42 sets forth the required contents for petitions for review of rate actions filed pursuant to Texas Water Code §13.043(b).¹ In relevant part, PUC Rule 24.42 requires that a petition for review of rate actions contain the following:

- 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 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;

¹ PUC Subst. Rule 24.41 and 24.42.

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- 4) The basis of the request for review of rates; and
- 5) Any other information the Commission may require.²

PUC Rule §24.42(a)(1) specifically requires that a rate appeal petition brought under Texas Water Code §13.043(b) include the date of the action being appealed. The Petition that was filed in this proceeding fails to specify the date of the action being appealed. As a result, the Petition fails to meet the requisite elements of a rate appeal petition established by PUC rules and is insufficient to trigger PUC jurisdiction. The Petition must be dismissed.

The PUC must first determine whether the Petition is valid before proceeding with the case.

PROCESSING THE PETITION

If the PUC concludes that the Petition is valid and satisfies the requirements found in Texas Water Code, Section 13.043, Subsections (b), (c) and (d), the Petition must be processed as provided in Subsection (e) of that Section,³ which provides for a de novo proceeding in which the PUC fixes rates at the level that those rates should have. However, the PUC is limited to considering only the information that was available to the District at the time it made its decision and evidence of reasonable expenses incurred in the appeal proceedings.⁴ In addition, the PUC must ensure that the rates are just and reasonable, and not unreasonably preferential, prejudicial, or discriminatory.⁵ The PUC must also “use a methodology that preserves the financial integrity of the retail public utility” and recognizes the District’s determination of customer classes.⁶

PROCEDURAL SCHEDULE

If the Commission determines that the Petition is valid and takes jurisdiction, then the District recommends that the following schedule be established for consideration of the Petition:

² PUC Subst. Rule 24.42.

³ Texas Water Code §13.043(e)

⁴ Id. and PUC Subst. Rule 24.41(e)(5).

⁵ Texas Water Code §13.043(j) and PUC Subst. Rule 24.41(i).

⁶ Id.

ACTION	TIME PERIOD
Preliminary Hearing to Establish Parties	December 2015
District to file direct testimony	February 1, 2016
Deadline to file written objections to District direct testimony	February 15, 2016
Petitioners to file direct testimony	March 1, 2016
Deadline to file written objections to Petitioners' direct testimony	March 15, 2016
PUC staff to file direct testimony	March 29, 2016
Deadline to file written objections to PUC staff direct testimony	April 11, 2016
Deadline to propound discovery on direct case	April 11, 2016
Deadline to file written response to objections on direct testimony	April 25, 2016
Deadline to File Motions for Summary Disposition	May 2, 2016
District to file rebuttal testimony	May 16, 2016
Deadline to propound discovery on rebuttal testimony	May 23, 2016
Deadline to conduct all depositions	May 23, 2016
Deadline to file responses to any motions for summary disposition	May 23, 2016
Deadline to file written objections to rebuttal testimony	May 31, 2016
Responses to Objections on rebuttal testimony are due	June 13, 2016
Prehearing Conference	June 16, 2016
Hearing on the merits	June 20-23, 2016

Respectfully submitted,

By: 
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ATTORNEYS FOR TROPHY CLUB
MUNICIPAL UTILITY DISTRICT NO. 1

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 9th day of November, 2015.


John Carlton