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TARIFF CONTROL NO. 45550

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APPLICATION OF DEER CREEK §  
RANCH WATER COMPANY FOR A §  
PASS-THROUGH RATE CHANGE §

PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

### COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Supplemental Recommendation in response to a Notice Setting Deadlines and would show the following:

#### I. BACKGROUND

On January 27, 2016, Deer Creek Ranch Water Company (Deer Creek) filed an application to implement a pass-through rate change for the water fees imposed on the utility by the West Travis County Public Utility Agency.

Deer Creek's request is governed by 16 Tex. Admin. Code § 24.21 (TAC). 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 16, 2016, Staff filed a recommendation on the disposition of the application. On January 17, 2017, Deer Creek filed a response to Staff's recommendation.

On December 29, 2016, a notice was issued establishing a deadline of January 31, 2017 for Staff to file a supplemental recommendation on final disposition of the application. This pleading is therefore timely filed.

#### II. RECOMMENDATION

In Staff's December 16, 2016 Recommendation, Staff recommended the implementation of a revised pass-through formula that more accurately reflects the structure and sources of the costs that Deer Creek passes through to its customers. In its response, Deer Creek indicates that it

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<sup>1</sup> 16 TAC § 24.21(b)(2)(B).

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

does not object to the revised formula to the extent the revisions do not change the effect of the formula.<sup>3</sup>

Additionally, in its response, Deer Creek indicates that Staff did not object to the noticed pass-through rate as calculated by Deer Creek.<sup>4</sup> However, that suggestion is not accurate. Staff's December 16, 2016 Recommendation was Staff's response to Deer Creek's noticed pass-through rate. In that Recommendation, Staff did not recommend that the noticed pass-through rate as calculated by Deer Creek be approved; Staff instead recommended a pass-through gallonage rate of \$2.38, which is lower than the \$2.76 rate Deer Creek originally noticed, as well as a revised monthly fee to be implemented upon final disposition of this application.<sup>5</sup> Staff also recommended that any overcollections produced by the rates noticed in the present application be included in Staff's recommended refunds.<sup>6</sup>

Deer Creek also indicates that Staff does not claim that Deer Creek charged rates inconsistent with its tariff.<sup>7</sup> While Staff's Recommendation did not question Deer Creek's compliance with the numbers printed in its tariff, Staff's Recommendation highlighted that Deer Creek's tariff contained a provision requiring that pass-through charges be true-up and adjusted every 12 months.<sup>8</sup> In the course of performing the true-up calculations as part of this proceeding, Staff discovered that overcollections had resulted, and Staff recommended that the amounts overcollected for 2015 be refunded under the true-up provision, consistent with Deer Creek's tariff. As noted above, Staff has also recommended that the rates noticed in the present application be revised and that Deer Creek be directed to refund any overcollections resulting from it charging the noticed rates.

Deer Creek analogizes the present situation to an instance in which a utility's supplier raises or lowers prices and the utility is unable to adjust its rates in response without applying to change its rates.<sup>9</sup> However, pass-through charges by their very nature are designed so that a utility

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<sup>3</sup> Deer Creek Ranch Water Company, LLC's Response to the Commission Staff's Recommendation at ¶ 6 (Jan. 17, 2017). (Deer Creek Response).

<sup>4</sup> *Id.* at ¶ 7.

<sup>5</sup> Commission Staff's Recommendation at 5 (Dec. 16, 2016). (Staff Recommendation). *See also* Application at 8 (Jan. 27, 2016).

<sup>6</sup> Staff Recommendation at 5.

<sup>7</sup> Deer Creek Response at ¶ 8.

<sup>8</sup> *Application of Deer Creek Ranch Water Company, LLC for a Pass Through Rate Change, Tariff Control* No. 44367, Notice of Approval at 5 (Jun. 5, 2015).

<sup>9</sup> Deer Creek Response at ¶ 9.

can pass the exact amount of the charge through to its customers without earning a return or suffering a loss on that charge. As such, procedures exist to allow a utility to adjust a pass-through charge without changing its rates.<sup>10</sup> It is therefore appropriate for a utility to follow the procedures to revise a pass-through charge on its tariff whenever the underlying service provider changes the amount it charges. Here, Deer Creek did *not* pass the exact amount of the charge through to its customers – Deer Creek overcollected – and the tariff contains a procedure (a true-up) to allow the utility to adjust the pass-through charge without changing the utility's rates. If Deer Creek had undercollected, the tariff would have similarly trued up the pass-through charge so that Deer Creek would not suffer a loss on the charge.

Staff therefore reaffirms its recommendation filed on December 16, 2016, and recommends that the pass-through rates calculated and recommended in that filing be approved and that Deer Creek be directed to refund overcollected amounts as described in Staff's December 16 Recommendation.

### III. CONCLUSION

For the reasons detailed above, Staff respectfully reiterates its December 16, 2016 Recommendation; namely, that the revised rate calculated in the memorandum attached to the December 16 Recommendation be approved, that the tariff attached to the December 16 Recommendation be issued to Deer Creek, and that Deer Creek be directed to refund the over-collection and file an affidavit as detailed in Staff's December 16 Recommendation.

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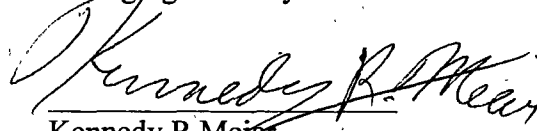
<sup>10</sup> See 16 Tex. Admin. Code § 24.21(b)(2)(A)(vii).

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

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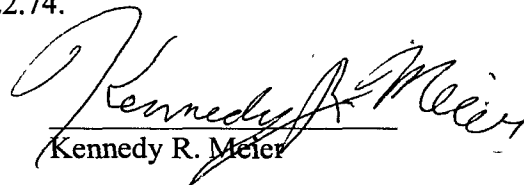


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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 31<sup>st</sup> of January, 2017 in accordance with 16 TAC § 22.74.



Kennedy R. Meier