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Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
CLERK

Public Utility Commission of Texas

TO: Kenneth W. Anderson, Jr., Commissioner
Brandy Marty Marquez, Commissioner

All Parties of Record

FROM: Jeffrey J. Huhn *JJH*
Administrative Law Judge

RE: **Open Meeting of June 29, 2017**
Docket No. 46047 – *Mark Groba's Appeal of the Cost of Obtaining Service from Noack Water Supply Corporation in Williamson County*

DATE: June 9, 2017

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Thursday, June 29, 2017, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, June 21, 2017.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 46047

MARK GROBA'S APPEAL OF THE	§	PUBLIC UTILITY COMMISSION
COST OF OBTAINING SERVICE	§	
FROM NOACK WATER SUPPLY	§	OF TEXAS
CORPORATION IN WILLIAMSON	§	
COUNTY	§	

PROPOSED ORDER

This Order addresses the appeal of Mark Groba of the cost of obtaining water service from Noack Water Supply Corporation. Commission Staff moved for dismissal for failure to state a claim upon which relief can be granted, lack of jurisdiction, and mootness. For the reasons discussed in this Order, the appeal is dismissed.

I. Background

On June 8, 2016, Mr. Groba filed a petition appealing the decision of Noack Water Supply Corporation for the cost of obtaining service. In the appeal, Mr. Groba raised several issues. First, Mr. Groba appeals the cost to obtain service quoted by Noack WSC. Second, Mr. Groba complained that he was unable to participate in various livestock watering services that were previously offered by Noack WSC. Third, Mr. Groba complained that a meter that previously existed on his property at the time of purchase was removed by Noack WSC, and Mr. Groba wants the meter reinstalled.¹ On December 1, 2016, Mr. Groba filed a request for a hearing on the removal of his water tap.²

On July 7, 2016, Noack WSC responded to Mr. Groba's appeal and requested the matter be dismissed because the cost to obtain service quoted to Mr. Groba is consistent with the provisions of Noack WSC's tariff.³ Noack stated the meter previously on the property was removed because of inactivity and lack of payment.⁴ With respect to Mr. Groba's request to participate in the livestock watering program, Noack WSC stated that the program was available as a result of the drought which began in 2010 and meters were installed with the understanding

¹ Appeal of the Cost of Obtaining Service from a Water Supply Corporation at 1 (Jun. 8, 2016).

² Hearing Request of Mark Groba at 1 (Dec. 1, 2016).

³ Response of Noack WSC at 1 (Jul. 7, 2016).

⁴ *Id.* At 1-2

meters would be pulled when the drought ceased.⁵ However, since normal rainfall resumed, the program is no longer being offered.⁶

Commission Staff recommended dismissal of Mr. Groba's appeal.⁷ In reviewing the connection fee, Commission Staff stated that Noack WSC is applying the Reserved Service Fee and Capital Recovery Fee to Mr. Groba's request consistent with the terms of its tariff.⁸ Staff also noted that Mr. Groba did not dispute the calculation of this charge.⁹ Commission Staff contends that Mr. Groba's appeal regarding participation in the livestock watering program is moot since Noack WSC is no longer offering this program to its members.¹⁰ Regarding the replacement of the water meter, Staff notes that under its tariff, Noack WSC owns the water supply system up to and including the meter.¹¹

The Commission agrees with Commission Staff that Mr. Groba's appeal should be dismissed. Noack WSC appropriately applied its tariff in responding to Mr. Groba's request for service. Noack WSC owned the water meter and properly removed the meter due to inactivity and lack of payment. Lastly, since Noack WSC no longer offers the livestock watering program to any members, Mr. Groba's request to receive an emergency livestock meter is moot.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

1. On June 8, 2016, Mr. Groba filed a petition to appeal the decision of Noack WSC for the cost of obtaining water service under Texas Water Code § 13.043(g) (TWC).
2. On June 20, 2016, Order No. 1 was issued; requiring Noack WSC to respond and requiring Commission Staff to file comments/recommendation.
3. On July 7, 2016, Noack WSC responded to Order No. 1, disputing the validity of Mr. Groba's appeal and requesting dismissal.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ Commission Staff's Motion to Dismiss (Jan. 25, 2017).

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.*

4. On July 11, 2016, Commission Staff recommended that the petition be declared administratively complete.
5. On July 12, 2016, Order No. 2 was issued, deeming the petition administratively complete and establishing a procedural schedule.
6. On October 26, 2016, Order No. 3 was issued, amending the procedural schedule.
7. On December 1, 2016, Mr. Groba filed a request for a hearing.
8. On January 4, 2017, Order No. 4 was issued, requiring responses to Mr. Groba's hearing request.
9. On January 24, 2017, Noack WSC filed a letter opposing the hearing request.
10. On January 25, 2017, Commission Staff filed a response to the hearing request and a motion to dismiss under 16 Texas Administrative Code § 22.181(d) (TAC) for failure to state a claim upon which relief can be granted, lack of jurisdiction, and mootness.
11. Mr. Groba did not file a response to Commission Staff's motion to dismiss.
12. Noack WSC's quote to Mr. Groba of the cost to obtain water service was consistent with its tariff.
13. Noack WSC's livestock watering program is no longer offered to its members, and was not offered at the time of Mr. Groba's request.
14. Consistent with Noack WSC's tariff, Noack WSC owned the water supply system up to and including the meter the subject of Mr. Groba's appeal.

III. Conclusions of Law

1. The Commission has jurisdiction over Mr. Groba's appeal of the cost of obtaining water service under TWC § 13.043(g).
2. In accordance with 16 TAC § 22.181(c) the facts of this case are uncontested and no hearing is necessary.
3. Noack WSC is entitled to dismissal of this proceeding, having demonstrated that the company did not violate the Commission's rules or its tariff.
4. Noack WSC's quote in response to Mr. Groba's request for service was consistent with its tariff, as required under TWC § 13.043(g).

5. Dismissal of Mr. Groba's appeal of the cost of obtaining service is proper under 16 TAC § 22.181(d)(8).
6. Dismissal of Mr. Groba's appeal regarding the replacement of the water meter is proper under 16 TAC § 22.181(d)(8).
7. Mr. Groba's appeal of the denial of participation in the livestock watering program is moot and dismissal is consistent with 16 TAC § 22.181(d)(2).
8. This docket was processed in accordance with the requirements of PURA and Commission rules.

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. Mr. Groba's appeal is dismissed without prejudice
2. All other motions, requests for entry of specific finds of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the _____ day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER