



Control Number: 46069



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SOAH DOCKET NO. 473-17-1434.WS
PUC DOCKET NO. 46069

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APPLICATION OF NITSCH & SON §
UTILITY COMPANY, INC. FOR A §
RATE/TARIFF CHANGE §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

JOINT MOTION TO ADMIT EVIDENCE AND REMAND

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission) representing the public interest and Nitsch & Son Utility Company, Inc. (Nitsch) and files this Joint Motion to Admit Evidence and Remand.

I. Background

On June 16, 2016, Nitsch filed with the Commission an Application for a Water Rate/Tariff Change (Application) for water service under Certificate of Convenience and Necessity No. 11124 and sewer service under Certificate of Convenience and Necessity No. 20446 pursuant to Title 16, Tex. Admin. Code §§ 24.21 and 24.22 (TAC). The Commission Administrative Law Judge deemed the Application administratively complete and suspended the effective date of the rate change until April 18, 2017. Less than ten percent (10%) of Nitsch's ratepayers filed protests to the Application seeking review of the proposed increased water rates. On November 23, 2016, Staff recommended this case be referred to the State Office of Administrative Hearings (SOAH).

On December 16, 2016, the SOAH Administrative Law Judge (ALJ) held a prehearing conference. Nitsch and Staff stated they had begun settlement discussions and requested a three-week abatement. The SOAH ALJ granted the abatement and set the jurisdictional deadline for May 9, 2017.

II. Motion to Admit Evidence

The attached Stipulation resolves all of the issues in this proceeding. The Signatories request that the following be admitted into evidence for the limited purpose of supporting the Stipulation and seeking approval of the Stipulation:

1. Application for a Water Rate/Tariff Change of Nitsch & Son Utility Company, Inc. for water service under Certificate of Convenience and Necessity No. 11124 and sewer service under Certificate of Convenience and Necessity No. 20446 and all attachments thereto, filed June 16, 2016;

2. Commission Order No. 2 Deeming Application Administratively Complete; Establishing Procedural Schedule; and Suspending Effective Date of Surcharge for Rate Case Expenses, filed July 19, 2016;
3. Commission Staff's First Request for Information to Nitsch, filed July 26, 2016;
4. Nitsch's Objections and Responses to Commission Staff's First Request for Information, filed August 15, 2016;
5. Commission Staff's Second Request for Information to Nitsch, filed September 16, 2016;
6. Commission Staff's Third Request for Information to Nitsch, filed September 29, 2016;
7. Nitsch's Responses to Commission Staff's Second Request for Information, filed October 6, 2016;
8. Nitsch's Responses to Commission Staff's Third Request for Information, filed October 19, 2016;
9. Nitsch's First Supplemental Responses to Commission Staff's First Request for Information, filed October 19, 2016;
10. Commission Staff's Fourth Request for Information to Nitsch, filed October 27, 2016;
11. Nitsch's Responses to Commission Staff's Fourth Request for Information, including the corresponding confidential attachments, filed November 15, 2016;
12. SOAH's Order No. 1 setting the prehearing conference, filed on December 6, 2016;
13. SOAH's Order No. 2 memorializing the prehearing conference, filed on December 20, 2016;
14. Nitsch's Second Supplemental Responses to Commission Staff's First Request for Information, filed December 20, 2016;
15. Nitsch's Third Supplemental Responses to Commission Staff's First Request for Information, filed January 12, 2017;
16. Unanimous Stipulation and Settlement Agreement with attachments (Stipulation); and
17. Tariffs.

III. Motion to Remand

As evidenced by the Stipulation, the Signatories have fully and finally resolved all issues in this proceeding, and no hearing is necessary. Therefore, the Signatories request that this docket be remanded to the Commission to allow for review of the Stipulation and approval of the attached Joint Proposed Final Order.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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Respectfully submitted,

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ATTORNEYS FOR NITSCH & SON UTILITY
COMPANY, INC.

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record¹ on April 26, 2017 in accordance with 16 Tex. Admin. Code § 22.74.



Michael Crnich

SOAH DOCKET NO. 73-17-1434.WS
PUC DOCKET NO. 46069

APPLICATION OF NITSCH & SON	§	PUBLIC UTILITY COMMISSION
UTILITY COMPANY, INC. FOR A	§	
RATE/TARIFF CHANGE	§	OF TEXAS

UNANIMOUS STIPULATION AND SETTLEMENT AGREEMENT

This Unanimous Stipulation and Settlement Agreement (Stipulation) is entered into by the parties in this case, Nitsch & Son Utility Company, Inc. (Nitsch) and the Staff (Staff) of the Public Utility Commission of Texas (Commission), through their duly authorized representatives (collectively, Signatories).

I. Background

On June 16, 2016, Nitsch filed with the Commission an Application for a Water Rate/Tariff Change (Application) for water service under Certificate of Convenience and Necessity No. 11124 and sewer service under Certificate of Convenience and Necessity No. 20446 pursuant to Title 16, Tex. Admin. Code §§ 24.21 and 24.22 (TAC). The Commission Administrative Law Judge deemed the Application administratively complete and suspended the effective date of the rate change until April 18, 2017. Less than ten percent (10%) of Nitsch's ratepayers filed protests to the Application seeking review of the proposed increased water rates. On November 23, 2016, Staff recommended this case be referred to the State Office of Administrative Hearings (SOAH).

On December 16, 2016, the SOAH Administrative Law Judge (ALJ) held a prehearing conference. Nitsch and Staff stated they had begun settlement discussions and requested a three-week abatement. The SOAH ALJ granted the abatement and set the jurisdictional deadline for May 9, 2017.

The Signatories believe that a resolution of this proceeding pursuant to the terms stated below is reasonable and in the public interest. The settlement will also conserve the resources of the parties and the Commission.

The Signatories jointly request Commission approval of this Stipulation and entry of orders, findings of fact and conclusions of law. By this Stipulation, the Signatories resolve all issues among them related to Nitsch's application, and agree as follows:

II. Stipulation and Agreement

1. Agreements as to Rate/Tariff Changes

- a. **Retail Water Utility Rates.** The Signatories agree that Nitsch should be allowed to implement the retail water utility rates contained in Section 1.0 of the tariff included as **Attachment A** to this Stipulation according to the schedule contained in Section 1.0, effective for usage in February, 2017.
- b. **Sewer Utility Rates.** The Signatories agree that Nitsch should be allowed to implement the sewer utility rates contained in Section 1.0 of the tariff included as **Attachment A** to this Stipulation according to the schedule contained in Section 1.0, effective for usage in February, 2017.
- c. **Tariff Provisions.** The Signatories agree that Nitsch should be allowed to implement the other tariff provisions included in **Attachment A** to this Stipulation effective for usage in February, 2017. The Signatories agree that **Attachment A** to this Stipulation should be the governing water and sewer utility rates, terms, treatments, and conditions for Nitsch ratepayers of the public water systems and service areas specified in **Attachment A**.

2. Agreements Regarding Additional Rate Matters

- a. **Surcharge for Rate Case Expenses.** The Signatories agree that Nitsch shall seek to recover and shall collect rate case expenses that it has incurred or will incur in relation to this Docket, SOAH Docket No. 473-17-1434.WS, PUC Docket No. 46069, at \$1.00 per month for 36 months for water ratepayers and \$1.00 per month for 36 months for sewer ratepayers, to be billed commencing with the billing to customers for February, 2017 usage.

3. **Proposed Order.** The Signatories jointly propose the Commission issue a final order in the form attached as **Attachment B**. The Signatories submit the stipulated and agreed-upon Findings of Fact and Conclusions of Law included in the proposed order in **Attachment B** for the Commission's adoption of and inclusion in a final order in this case implementing the terms of this Stipulation.

III. Implementation of Agreement

1. **Obligation to Support this Stipulation.** The Signatories will support this Stipulation before the Commission and will take reasonable steps to support expeditious entry of orders

fully consistent with this Stipulation. This provision shall not preclude any party from taking action that is mandatory and nondiscretionary pursuant to a law enacted after the date of this Stipulation is filed at the Commission

2. Effect of Stipulation.

- a. The Stipulation does not adopt any particular methodology underlying the settlement rates or rate design reflected in the Stipulation.
- b. The failure to litigate any specific issue in this docket does not waive any Signatory's rights to contest that issue in any other current or future proceeding. The failure to litigate an issue cannot be asserted as a defense or estoppel, or any similar argument, by or against any Signatory in any other proceeding.
- c. The terms of this Stipulation may not be used either as an admission or concession of any sort or as evidence in any proceeding except to enforce the terms of this Stipulation. Oral or written statements made during the course of the settlement negotiations may not be used for any purposes other than as necessary to support the entry by the Commission of an order implementing this Stipulation. All oral or written statements made during the course of the settlement negotiations are governed by Tex. R. Civ. Evid. 408.
- d. The Signatories arrived at this Stipulation through extensive negotiation and compromise. This Stipulation reflects a compromise, settlement and accommodation among the Signatories, and the Signatories agree that the terms and conditions herein are interdependent. The Signatories agree that this Stipulation is in the public interest. All actions by the Signatories contemplated or required by this Stipulation are conditioned upon entry by the Commission of a final order fully consistent with this Stipulation. If the Commission does not accept this Stipulation as presented or enters an order inconsistent with any term of this Stipulation, any Signatory shall be released from all commitments and obligations, and shall have the right to seek hearing on all issues, present evidence, and advance any positions it desires, as if it had not been a Signatory.
- e. This Stipulation is binding on each of the Signatories only for the purpose of settling the issues as set forth herein and for no other purposes. It is acknowledged that a Signatory's support of the matters contained in this Stipulation may differ

from the position taken or testimony presented by it in this proceeding or other proceedings. To the extent that there is a difference, a Signatory does not waive its position in any other proceedings. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Stipulation in other proceedings, whether those proceedings present the same or a different set of circumstances, except as may otherwise be explicitly provided in this Stipulation.

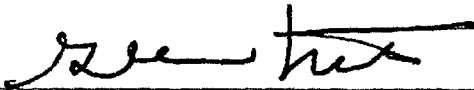
- f. There are no third party beneficiaries of this Stipulation. Although this Stipulation represents a settlement among the Signatories with respect to the issues presented in this docket, this Stipulation is merely a settlement proposal submitted to the Commission, which has the authority to enter an order resolving these issues.
- g. This Stipulation supersedes any prior written or oral agreement in this docket regarding the subject matter of this Stipulation.
- h. The final resolution of this docket does not impose any conditions, obligations or limitations on Nitsch's right to file a rate application and obtain rate relief in accordance with the Texas Water Code except as specifically provided in this Stipulation.
- i. Except to the extent that the Stipulation expressly governs a Signatory's rights and obligations for future periods, this Stipulation shall not be binding or precedential upon a Signatory outside this docket, and Signatories retain their rights to pursue relief to which they may be entitled in other proceedings

3. Execution. The Signatories agree that this Stipulation may be executed in multiple counterparts and filed with facsimile or computer image signatures.

Executed as shown below:


Dated this 25 day of April, 2017.

Nitsch & Son Utility Company, Inc.

By: 
Glenn Nitsch, ~~Owner~~ **President**

Date: 4-15-17

Staff of the Public Utility Commission

By: 
Michael Crnich
Attorney, Public Utility Commission

Date: 4-25-17

ATTACHMENT A



WATER UTILITY TARIFF
Docket Number: 46069

Nitsch & Son Utility Co., Inc.
(Utility Name)

8131 Northline Drive
(Business Address)

Houston, TX 77037
(City, State, Zip Code)

(281) 445-0337
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

11124

This tariff is effective in the following counties:

Harris County

This tariff is effective in the following cities or unincorporated towns (if any):

Houston

This tariff is effective in the following subdivisions:

Bellmar, Bellmar Estates, Bellmar Terrace, Durkee Manor, Assumption Heights, Airline Village, Meadowland: (PWS #1010145)

“The rates set or approved by the City of Houston for the customers entirely within its corporate boundary are not presented in this tariff. Those rates are not under the original jurisdiction of PUC and will have to be obtained from the city or utility.”

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

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APPENDIX B: SAMPLE SERVICE AGREEMENT	

ATTACHMENT A

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonge Charge</u>
5/8" or 5/8"x 3/4"	\$20.00 (Includes 0 gallons)	\$2.00 per 1,000 gallons for all usage
3/4"	\$30.00	same for all meter sizes
1"	\$50.00	*\$1.04 per 1000 gallons GRP fee
1½"	\$100.00	(adjusted per formula)
2"	\$160.00	
3"	\$300.00	
4"	\$500.00	
6"	\$600.00	

*This City of Houston GRP fees rate change effective April 1, 2016, from \$.82 to \$1.04 (contract price is 30%)

RATE CASE EXPENSE SURCHARGE:..... \$1.00 per month for 36 months
(Docket 46069)

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order X, Credit Card , Other (specify)

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

REGULATORY ASSESSMENT..... 1.0%
PUC RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL AND TO REMIT THE FEE TO THE TCEQ.

Section 1.02 - Miscellaneous Fees

TAP FEE..... \$500.00
TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Unique costs)..... Actual Cost
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large meter)..... Actual Cost
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)..... \$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT..... 1/6TH of estimate annual billing

RETURNED CHECK CHARGE..... \$20.00
RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

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SECTION 1.0 -- RATE SCHEDULE (Continued)

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non payment of bill (Maximum \$25.00).....\$25.00
- b) Customer's request that service be disconnected.....\$35.00

TRANSFER FEE.....\$20.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL) 10%

PUC RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

METER TEST FEE\$25.00

THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

METER RELOCATION FEEActual Relocation Cost, Not to Exceed Tap Fee

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

METER CONVERSION FEE Actual Conversion Cost

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS CHANGE OF SIZE OF AN EXISTING METER OR CHANGE IS REQUIRED BY MATERIAL CHANGE IN CUSTOMER'S SERVICE DEMAND.

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE:

WHEN AUTHORIZED IN WRITING BY PUC AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [16 TAC 24.21(K)(2)]

PURCHASED WATER AND/OR DISTRICT FEE PASS THROUGH CLAUSE:

Changes in fees imposed by any non-affiliated third party water supplier or underground water district having jurisdiction over the Utility shall be passed through as an adjustment to the water gallonage charge according to the following formula:

$A = G/(1-L)$, where

A = adjusted gallonage charge, rounded to the nearest one cent;

G = New rate charged (limited by applicable percentage) by the supplier/district (per 1,000 gallons);

L = system average line loss for preceding 12 months not to exceed 0.15 (15%)

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SECTION 1.0 -- RATE SCHEDULE (Continued)

*City of Houston GRP Fee Per 1000 gallons usage = $(Q \times R \times P) / GS$

Where:

Q = Quantity of groundwater pumped in billing month

R = Current GRP fee from City per 1000 gallons pumped

P = Percent of total required by contract

GS = Total gallons sold in billing period

SECTION 2.0 – SERVICE RULES AND POLICIES

The Utility will have the most current Public Utility Commission of Texas (PUC or Commission) Rules, Chapter 24, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or Commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.01 - Application for Water Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

Section 2.02 - Refusal of Service

The utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the PUC Rules. In the event that the utility refuses to serve an applicant, the utility will inform the applicant in writing of the basis of its refusal. The utility is also required to inform the applicant that a complaint may be filed with the commission.

Section 2.03 - Fees and Charges & Easements Required Before Service Can Be Connected

(A) Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the utility, the applicant may be required to pay a deposit as provided for in Section 1.02 - Miscellaneous Fees of this tariff. The utility will keep records of the deposit and credit interest in accordance with PUC Rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the utility or another water or sewer utility which accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

Refund of Deposit - If service is not connected, or after disconnection of service, the utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The utility may refund the deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

(B) Tap or Reconnect Fees

A new customer requesting service at a location where service has not previously been provided must pay a tap fee as provided in Section 1. A customer requesting service where service has previously been provided must pay a reconnect fee as provided in Section 1. Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to request for payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall be informed of their right to appeal such costs to the PUC or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property(ies) is (are) located.

Fees in addition to the regular tap fee may be charged if listed specifically in Section 1 to cover unique costs not normally incurred as permitted by 16 TAC 24.86(a)(1)(C). For example, a road bore for customers outside a subdivision or residential area could be considered a unique cost.

(C) Easement Requirement

Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the applicant's property, the utility may require the applicant to provide it with a permanent recorded public utility easement on and across the applicant's real property sufficient to provide service to that applicant. Such easement(s) shall not be used for the construction of production, storage, transmission or pressure facilities unless they are needed for adequate service to that applicant.

Section 2.04 - Utility Response to Applications for Service

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap, meter and utility cut-off valve and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Except for good cause where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

Section 2.05 - Customer Responsibility

The customer will be responsible for furnishing and laying the necessary customer service pipe from the meter location to the place of consumption. Customers will not be allowed to use the utility's cutoff valve on the utility's side of the meter. Existing customers may install cutoff valves on their side of the meter and are encouraged to do so. All new customers may be required to install and maintain a cutoff valve on their side of the meter.

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SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

No direct connection between a public water supply system and any potential source of contamination or between a public water supply system and a private water source (ex. private well) will be allowed. A customer shall not connect, or allow any other person or party to connect, onto any water lines on his premises.

Section 2.06 - Customer Service Inspections

Applicants for new service connections or facilities which have undergone extensive plumbing modifications are required to furnish the utility a completed customer service inspection certificate. The inspection certificate shall certify that the establishment is in compliance with the Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems, § 290.46(j). The utility is not required to perform these inspections for the applicant/customer, but will assist the applicant/customer in locating and obtaining the services of a certified inspector.

Section 2.07 - Back Flow Prevention Devices

No water connection shall be allowed to any residence or establishment where an actual or potential contamination hazard exists unless the public water facilities are protected from contamination by either an approved air gap, backflow prevention assembly, or other approved device. The type of device or backflow prevention assembly required shall be determined by the specific potential hazard identified in Title 30 Texas Administrative Code (TAC) §290.47(i) Appendix I, Assessment of Hazards and Selection of Assemblies of the TCEQ Rules and Regulations for Public Water Systems.

The use of a backflow prevention assembly at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection on internal hazards as outlined and enforced by local plumbing codes. When a customer service inspection certificate indicates that an adequate internal cross-connection control program is in effect, backflow protection at the water service entrance or meter is not required.

At any residence or establishment where it has been determined by a customer service inspection, that there is no actual or potential contamination hazard, as referenced in 30 TAC §290.47(i) Appendix I, Assessment of Hazards and Selection of Assemblies of the TCEQ Rules and Regulations for Public Water Systems, then a backflow prevention assembly or device is not required. Outside hose bibs do require, at a minimum, the installation and maintenance of a working atmospheric vacuum breaker.

All backflow prevention assemblies or devices shall be tested upon installation by a TCEQ certified backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a certified backflow prevention assembly tester.

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SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

If the utility determines that a backflow prevention assembly or device is required, the utility will provide the customer or applicant with a list of TCEQ certified backflow prevention assembly testers. The customer will be responsible for the cost of installation and testing, if any, of backflow prevention assembly or device. The customer should contact several qualified installers to compare prices before installation. The customer must pay for any required maintenance and annual testing and must furnish a copy of the test results demonstrating that the assembly is functioning properly to the utility within 30 days after the anniversary date of the installation unless a different date is agreed upon.

Section 2.08 - Access to Customer's Premises

The utility will have the right of access to the customer's premises at all reasonable times for the purpose of installing, testing, inspecting or repairing water mains or other equipment used in connection with its provision of water service, or for the purpose of removing its property and disconnecting lines, and for all other purposes necessary to the operation of the utility system including inspecting the customer's plumbing for code, plumbing or tariff violations. The customer shall allow the utility and its personnel access to the customer's property to conduct any water quality tests or inspections required by law. Unless necessary to respond to equipment failure, leak or other condition creating an immediate threat to public health and safety or the continued provision of adequate utility service to others, such entry upon the customer's property shall be during normal business hours and the utility personnel will attempt to notify the customer that they will be working on the customer's property. The customer may require any utility representative, employee, contractor, or agent seeking to make such entry identify themselves, their affiliation with the utility, and the purpose of their entry.

All customers or service applicants shall provide access to meters and utility cutoff valves at all times reasonably necessary to conduct ordinary utility business and after normal business hours as needed to protect and preserve the integrity of the public drinking water supply.

Section 2.09 - Meter Requirements, Readings, and Testing

One meter is required for each residential, commercial, or industrial connection. All water sold by the utility will be billed based on meter measurements. The utility will provide, install, own and maintain meters to measure amounts of water consumed by its customers.

Meters will be read at monthly intervals and as nearly as possible on the corresponding day of each monthly meter reading period unless otherwise authorized by the Commission.

Meter tests. The utility will, upon the request of a customer, and, if the customer so desires, in his or her presence or in that of his or her authorized representative, make without charge a test of the accuracy of the customer's meter. If the customer asks to observe the test, the test will be made during the utility's normal working hours at a time convenient to the customer. Whenever possible, the test will be made on the customer's premises, but may, at the utility's discretion, be made at the utility's testing facility.

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SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

If within a period of two years the customer requests a new test, the utility will make the test, but if the meter is found to be within the accuracy standards established by the American Water Works Association, the utility will charge the customer a fee which reflects the cost to test the meter up to a maximum \$25 for a residential customer. Following the completion of any requested test, the utility will promptly advise the customer of the date of removal of the meter, the date of the test, the result of the test, and who made the test.

Section 2.10 – Billing

(A) Regular Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

(B) Late Fees

A late penalty of either \$5.00 or 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

(C) Information on Bill

Each bill will provide all information required by the PUC Rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

(D) Prorated Bills

If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

Section 2.11 - Payments

All payments for utility service shall be delivered or mailed to the utility's business office. If the business office fails to receive payment prior to the time of noticed disconnection for non-payment of a delinquent account, service will be terminated as scheduled. Utility service crews shall not be allowed to collect payments on customer accounts in the field.

Payment of an account by any means that has been dishonored and returned by the payor or payee's bank, shall be deemed to be delinquent. All returned payments must be redeemed with cash or valid money order.

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SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

If a customer has two returned payments within a twelve month period, the customer shall be required to pay a deposit if one has not already been paid.

Section 2.12 - Service Disconnection

(A) With Notice

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the PUC Rules.

B) Without Notice

Utility service may also be disconnected without notice for reasons as described in the PUC Rules.

Section 2.13 - Reconnection of Service

Utility personnel must be available during normal business hours to accept payments on the day service is disconnected and the following day unless service was disconnected at the customer's request or due to a hazardous condition.

Service will be reconnected within 36 hours after the past due bill, reconnect fees and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

Section 2.14 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

Section 2.15 - Quality of Service

The utility will plan, furnish, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses. Unless otherwise authorized by the PUC or TCEQ, the utility will maintain facilities as described in the TCEQ Rules and Regulations for Public Water Systems.

Section 2.16 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the utility's response, the utility must advise the complainant that he has recourse through either the PUC complaint process, depending on the nature of the complaint. Pending resolution of a complaint, the commission may require continuation or restoration of service.

The utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the Commission.

Section 2.17 - Customer Liability

Customer shall be liable for any damage or injury to utility-owned property shown to be caused by the customer.

SECTION 3.0 – EXTENSION POLICY

Section 3.01 – Standard Extension Requirements

Line Extension and Construction Charges: No Contribution in Aid of Construction may be required of any customer except as provided for in this approved extension policy.

The utility is not required to extend service to any applicant outside of its certified service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with PUC rules and policies, and upon extension of the utility's certified service area boundaries by the PUC.

The applicant for service will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

The utility is not required to extend service to any applicant outside of its certificated service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with PUC rules and policies, and upon extension of the utility's certificated service area boundaries by the PUC.

Section 3.02 - Costs Utilities and Service Applicants Shall Bear

Within its certified area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision.

However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Residential customers will be charged the equivalent of the costs of extending service to their property from the nearest transmission or distribution line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Unless an exception is granted by the PUC, the residential service applicant shall not be required to pay for costs of main extensions greater than 2" in diameter for water distribution and pressure wastewater collection lines and 6" in diameter for gravity wastewater lines.

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SECTION 3.0 – EXTENSION POLICY (Continued)

Exceptions may be granted by the PUC if:

- adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
- or larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or the residential service applicant is located outside the CCN service area.

If an exception is granted by the PUC, the utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certified area, industrial, and wholesale customers shall be treated as developers. A service applicant requesting a one inch meter for a lawn sprinkler system to service a residential lot is not considered nonstandard service.

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection beyond 200 feet and throughout his property including the cost of all necessary transmission facilities.

The utility will bear the full cost of any over-sizing of water mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional production, storage, or treatment facilities. Contributions in aid of construction may not be required of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

Section 3.03 - Contributions in Aid of Construction

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with TCEQ minimum design criteria for facilities used in the production, transmission, pumping, or treatment of water or TCEQ minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

SECTION 3.0 – EXTENSION POLICY (Continued)

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction for the actual costs of any additional facilities required to maintain compliance with the TCEQ minimum design criteria for water production, treatment, pumping, storage and transmission.

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 16 TAC 24.86(d). When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge for facilities which must be committed to such extension compliant with the TCEQ minimum design criteria. As provided by 16 TAC 24.85(e)(3), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

- under a contract and only in accordance with the terms of the contract; or
- if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utilities approved tariff after a rate change application has been filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the commission or executive director.
- For purposes of this section, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

Section 3.04 - Appealing Connection Costs

The imposition of additional extension costs or charges as provided by Sections 3.0 - Extension Policy of this tariff shall be subject to appeal as provided in this tariff, PUC rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall be informed of the right to appeal such costs to the PUC or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is (are) located.

Section 3.05 - Applying for Service

The utility will provide a written service application form to the applicant for each request for service received by the utility's business offices. A separate application shall be required for each potential service location if more than one service connection is desired by any individual applicant.

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SECTION 3.0 – EXTENSION POLICY (Continued)

Service application forms will be available at the utility's business office during normal weekday business hours. Service applications will be sent by prepaid first class United States mail to the address provided by the applicant upon request. Completed applications should be returned by hand delivery in case there are questions which might delay fulfilling the service request. Completed service applications may be submitted by mail if hand delivery is not possible.

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. A diagram, map, plat, or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the meter is to be installed, along the applicant's property line may also be required with the tap request. The actual point of connection and meter installation must be readily accessible to utility personnel for inspection, servicing, and meter reading while being reasonably secure from damage by vehicles and mowers. If the utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the utility's nearest service main with adequate capacity to service the applicant's full potential service demand. Beyond the initial 200 feet, the customer shall bear only the equivalent cost of extending from the nearest main. If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the utility. If no agreement on location can be made, the applicant may refer the matter to the PUC for resolution.

Section 3.06 - Qualified Service Applicant

A "qualified service applicant" is an applicant who has: (1) met all of the utility's requirements for service contained in this tariff, PUC rules and/or PUC order, (2) has made payment or made arrangement for payment of tap fees, (3) has provided all easements and rights-of-way required to provide service to the requested location, (4) delivered an executed customer service inspection certificate to the utility, if applicable, and (5) has executed a customer service application for each location to which service is being requested.

The utility shall serve each qualified service applicant within its certified service area as soon as practical after receiving a completed service application. All service requests will be fulfilled within the time limits prescribed by PUC rules once the applicant has met all conditions precedent to achieving "qualified service applicant" status. If a service request cannot be fulfilled within the required period, the applicant shall be notified in writing of the delay, its cause and the anticipated date that service will be available. The PUC service dates shall not become applicable until the service applicant has met all conditions precedent to becoming a qualified service applicant as defined by PUC rules.

Section 3.07 - Developer Requirements

As a condition of service to a new subdivision, the utility shall require a developer (as defined by PUC rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property.

Docket No. 46069

APPENDIX A – DROUGHT CONTINGENCY PLAN

“This page incorporates by reference the utility’s Drought Contingency Plan, as approved and periodically amended by the Texas Commission on Environmental Quality.”

APPENDIX B -- SAMPLE SERVICE AGREEMENT
From TCEQ Rules, 30 TAC Chapter 290.47(b), Appendix B
SERVICE AGREEMENT

I. **PURPOSE.** The Nitsch & Son Utility Co., Inc. is responsible for protecting the drinking water supply from contamination or pollution which could result from improper private water distribution system construction or configuration. The purpose of this service agreement is to notify each customer of the restrictions which are in place to provide this protection. The utility enforces these restrictions to ensure the public health and welfare. Each customer must sign this agreement before the Nitsch & Son Utility Co., Inc. will begin service. In addition, when service to an existing connection has been suspended or terminated, the sewer system will not re-establish service unless it has a signed copy of this agreement.

II. **RESTRICTIONS.** The following unacceptable practices are prohibited by State regulations.

- A. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
- B. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
- C. No connection which allows water to be returned to the public drinking water supply is permitted.
- D. No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
- E. No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

III. **SERVICE AGREEMENT.** The following are the terms of the service agreement between the NAME OF SEWER SYSTEM (the Sewer System) and NAME OF CUSTOMER (the Customer).

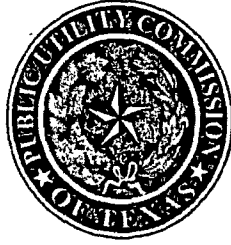
- A. The Sewer System will maintain a copy of this agreement as long as the Customer and/or the premises are connected to the Sewer System.
- B. The Customer shall allow his property to be inspected for possible cross-connections and other potential contamination hazards. These inspections shall be conducted by the Sewer System or its designated agent prior to initiating new water service; when there is reason to believe that cross-connections or other potential contamination hazards exist; or after any major changes to the private water distribution facilities. The inspections shall be conducted during the Sewer System's normal business hours.
- C. The Sewer System shall notify the Customer in writing of any cross-connection or other potential contamination hazard which has been identified during the initial inspection or the periodic reinspection.
- D. The Customer shall immediately remove or adequately isolate any potential cross-connections or other potential contamination hazards on his premises.

The Customer shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Sewer System. Copies of all testing and maintenance records shall be provided to the Sewer System.

IV. **ENFORCEMENT.** If the Customer fails to comply with the terms of the Service Agreement, the Sewer System shall, at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Customer.

Customer's Signature

Date



SEWER UTILITY TARIFF
Docket Number: 46069

Nitsch & Son Utility Co., Inc.
(Utility Name)

8131 Northline Drive
(Business Address)

Houston, TX 77037
(City, State, Zip Code)

(281) 445-0337
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

20446

This tariff is effective in the following county:

Harris

This tariff is effective in the following cities or unincorporated towns (if any):

Houston

This tariff is effective in the following subdivisions and wastewater plants:

Bellmar, Bellmar Estates, Bellmar Terrace, Durkee Manor, Assumption Heights, Airline Village, Meadowland: WQ0010419001

“The rates set or approved by the City of Houston for the customers entirely within its corporate boundary are not presented in this tariff. Those rates are not under the original jurisdiction of PUC and will have to be obtained from the city or utility.”

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

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APPENDIX A -- SAMPLE SERVICE AGREEMENT.....	13

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallage Charge</u>
5/8" or 5/8"x 3/4"	\$27.50 (Includes 0 gallons)	\$3.95 per 1,000 gallons for all usage
3/4"	\$27.50	
1"	\$27.50	
1½"	\$27.50	
2"	\$27.50	
3"	\$27.50	
4"	\$27.50	
6"	\$27.50	

Residential charges based on average monthly water usage for months November, December, and January. Commercial charges based on actual monthly water usage.

RATE CASE EXPENSE SURCHARGE:\$1.00 per month for 36 months
(Docket 46069)

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order X, Credit Card , Other (specify)

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS. AT THE CUSTOMER'S OPTION, ANY BILLING TRANSACTION OR COMMUNICATION MAY BE PERFORMED ON THE INTERNET. THIS INCLUDES THE UTILITY SENDING PAPERLESS BILLS BY EMAIL.

REGULATORY ASSESSMENT1.0%
PUBLIC UTILITY COMMISSION (PUC) RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL AND TO REMIT FEE TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ).

Section 1.02 – Miscellaneous Fees

TAP FEE\$750.00
TAP FEE IS BASED ON THE AVERAGE OF THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR STANDARD RESIDENTIAL CONNECTION OF 5/8" METER PLUS UNIQUE COSTS AS PERMITTED BY PUC RULE AT COST.

COMMERCIAL TAP FEEActual Cost
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR CONNECTIONS OTHER THAN RESIDENTIAL

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non-payment of bill (Maximum \$25.00).....\$25.00
 - b) Customer's request that service be disconnected\$200.00
- or other reasons listed under Section 2.0 of this tariff

SECTION 1.0 -- RATE SCHEDULE (Continued)

TRANSFER FEE \$20.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE 10%

COMMISSION RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE..... \$20.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50) \$50.00

COMMERCIAL AND NON-RESIDENTIAL DEPOSIT..... 1/6TH EST. ANNUAL BILL

SERVICE RELOCATION FEE..... Actual cost to relocate the service connection

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS RELOCATION OF AN EXISTING SEWER CONNECTION.

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE CLAUSE:

WHEN AUTHORIZED IN WRITING BY THE COMMISSION AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [16 TAC 24.21(k)(2)]

SECTION 2.0 - SERVICE RULES AND REGULATIONS

The Utility will have the most current Public Utility Commission of Texas (PUC or Commission) Rules, Chapter 24, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or Commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.01 - Application for Sewer Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

Section 2.02 – Refusal of Service

The Utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the commission rules. In the event that the Utility refuses to serve an applicant, the Utility will inform the applicant in writing of the basis of its refusal. The Utility is also required to inform the applicant that a complaint may be filed with the Commission.

Section 2.03 – Fees and Charges and Easements Required Before Service Can Be Connected

(A) Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the Utility, the applicant may be required to pay a deposit as provided for in Section 1.02 – Miscellaneous Fees of this tariff. The Utility will keep records of the deposit and credit interest in accordance with Commission rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the Utility or another water or sewer utility that accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the Utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

Refund of deposit - If service is not connected, or after disconnection of service, the Utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The Utility may refund the deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (Continued)

(B) Tap or Reconnect Fees

A new customer requesting service at a location where service has not previously been provided must pay a tap fee as provided in Section 1. A customer requesting service where service has previously been provided must pay a reconnect fee as provided in Section 1. Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to request for payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall be informed of their right to appeal such costs to the commission or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property (ies) is located.

Fees in addition to the regular tap fee may be charged to cover unique costs not normally incurred as permitted by 16 TAC 24.86(a)(1)(C) if they are listed on this approved tariff. For example, a road bore for customers outside a subdivision or residential area could be considered a unique cost.

(C) Easement Requirement

Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the applicant's property, the utility may require the applicant to provide it with a permanent recorded public utility easement on and across the applicant's real property sufficient to provide service to that applicant. Such easement(s) shall not be used for the construction of production, storage, transmission or pressure facilities unless they are needed for adequate service to that applicant.

Section 2.04 - Utility Response to Applications for Service

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap and utility cut-off and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Except for good cause where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

Section 2.05 - Customer Responsibility

The customer will be responsible for furnishing and laying the necessary customer service pipe from the tap location to the place of consumption. Customers will not be allowed to use the utility's cutoff.

Section 2.06 Access to Customer's Premises

All customers or service applicants shall provide access to utility cutoffs at all times reasonably necessary to conduct ordinary utility business and after normal business hours as needed to protect and preserve the integrity of the public drinking water supply.

Docket No. 46069

SECTION 2.0 - SERVICE RULES AND REGULATIONS (Continued)

Section 2.07 - Back Flow Prevention Devices

No water connection shall be made to any establishment where an actual or potential contamination or system hazard exists without an approved air gap or mechanical backflow prevention assembly. The air gap or backflow prevention assembly shall be installed in accordance with the American Water Works Association (AWWA) standards C510, C511 and AWWA Manual M14 or the University Of Southern California Manual Of Cross-Connection Control, current edition. The backflow assembly installation by a licensed plumber shall occur at the customer's expense.

The back flow assembly shall be tested upon installation by a recognized prevention assembly tester and certified to be operating within specifications. Back flow prevention assemblies which are installed to provide protection against high health hazards must be tested and certified to be operating within specifications at least annually by a recognized back flow prevention device tester. The maintenance and testing of the back flow assembly shall occur at the customer's expense.

Section 2.10 - Billing

(A) Regular Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

(B) Late Fees

A late penalty of 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

(C) Information on Bill

Each bill will provide all information required by the commission rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

(D) Prorated Bills

If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (Continued)

Section 2.11 - Payments

All payments for utility service shall be delivered or mailed to the utility's business office. If the business office fails to receive payment prior to the time of noticed disconnection for non-payment of a delinquent account, service will be terminated as scheduled. Utility service crews shall not be allowed to collect payments on customer accounts in the field.

Payment of an account by any means that has been dishonored and returned by the payor or payee's bank shall be deemed to be delinquent. All returned payments must be redeemed with cash or valid money order. If a customer has two returned payments within a twelve month period, the customer shall be required to pay a deposit if one has not already been paid.

Section 2.12 - Service Disconnection

(A) With Notice

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the Commission Rules.

(B) Without Notice

Utility service may also be disconnected without notice for reasons as described in the commission rules.

Section 2.13 - Reconnection of Service

Utility personnel must be available during normal business hours to accept payments on the day service is disconnected and the following day unless service was disconnected at the customer's request or due to a hazardous condition.

Service will be reconnected within 24 hours after the past due bill, reconnect fees and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (Continued)

Section 2.14 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the Commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

Section 2.15 - Quality of Service

The Utility will plan, furnish, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses. Unless otherwise authorized by the Commission, the Utility will maintain facilities as described in the TCEQ Rules and Regulations for Public Water Systems.

Section 2.16 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the Utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the Utility's response, the Utility must advise the complainant that he has recourse through the PUC complaint process. Pending resolution of a complaint, the Commission may require continuation or restoration of service.

The Utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the Commission.

Section 2.17 - Customer Liability

Customer shall be liable for any damage or injury to utility-owned property shown to be caused by the customer.

SECTION 3.0 - EXTENSION POLICY

Section 3.01 - Standard Extension Requirements

Line Extension and Construction Charges. No contribution in aid of construction may be required of any customer except as provided for in this approved extension policy.

The utility is not required to extend service to any applicant outside of its certified service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with Commission rules and policies, and upon extension of the utility's certified service area boundaries by the Commission.

The applicant for service will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

Section 3.02 - Costs Utilities and Service Applicants Shall Bear

Within its certified area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision.

However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Residential customers will be charged the equivalent of the costs of extending service to their property from the nearest collection line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Unless an exception is granted by the PUC, the residential service applicant shall not be required to pay for costs of main extensions greater than 6" in diameter for gravity wastewater lines.

SECTION 3.0 - EXTENSION POLICY (Continued)

Exceptions may be granted by the PUC if:

- adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
- or larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or the residential service applicant is located outside the CCN service area.

If an exception is granted, the utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certified area, industrial, and wholesale customers shall be treated as developers.

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection beyond 200 feet and throughout his property including the cost of all necessary transmission facilities.

The utility will bear the full cost of any over-sizing of sewer mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional treatment facilities. Contributions in aid of construction of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

Section 3.03 - Contributions in Aid of Construction

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with the TCEQ minimum design criteria for facilities used in the production, collection, transmission, pumping, or treatment of sewage or the TCEQ minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction for the actual costs of any additional facilities required to maintain compliance with the TCEQ minimum design criteria for water production, treatment, pumping, storage and transmission.

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SECTION 3.0 - EXTENSION POLICY (Continued)

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 16 TAC 24.86(d). When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge for facilities which must be committed to such extension compliant with the TCEQ minimum design criteria. As provided by 16 TAC 24.85(e)(3), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

- Under a contract and only in accordance with the terms of the contract; or
- if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utilities approved tariff after a rate change application has been filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the commission or executive director.
- For purposes of this section, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

Section 3.04 - Appealing Connection Costs

The imposition of additional extension costs or charges as provided by Sections 3.0 - Extension Policy of this tariff shall be subject to appeal as provided in this tariff, commission rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall be informed of the right to appeal such costs to the commission or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is located.

Section 3.05 - Applying for Service

The utility will provide a written service application form to the applicant for each request for service received by the utility's business offices. A separate application shall be required for each potential service location if more than one service connection is desired by any individual applicant. Service application forms will be available at the utility's business office during normal weekday business hours. Service applications will be sent by prepaid first class United States mail to the address provided by the applicant upon request. Completed applications should be returned by hand delivery in case there are questions which might delay fulfilling the service request. Completed service applications may be submitted by mail if hand delivery is not possible.

SECTION 3.0 - EXTENSION POLICY (Continued)

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. A diagram, map, plat, or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the meter is to be installed, along the applicant's property line may also be required with the tap request. The actual point of connection and meter installation must be readily accessible to utility personnel for inspection, servicing, and meter reading while being reasonably secure from damage by vehicles and mowers. If the utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the utility's nearest service main with adequate capacity to service the applicant's full potential service demand. Beyond the initial 200 feet, the customer shall bear only the equivalent cost of extending from the nearest main. If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the utility. If no agreement on location can be made, the applicant may refer the matter to the commission for resolution.

Section 3.06 - Qualified Service Applicant

A "qualified service applicant" is an applicant who has: (1) met all of the utility's requirements for service contained in this tariff, commission rules and/or order, (2) has made payment or made arrangement for payment of tap fees, (3) has provided all easements and rights-of-way required to provide service to the requested location, (4) delivered an executed customer service inspection certificate to the Utility, if applicable, and (5) has executed a customer service application for each location to which service is being requested.

The utility shall serve each qualified service applicant within its certified service area as soon as practical after receiving a completed service application. All service requests will be fulfilled within the time limits prescribed by commission rules once the applicant has met all conditions precedent to achieving "qualified service applicant" status. If a service request cannot be fulfilled within the required period, the applicant shall be notified in writing of the delay, its cause and the anticipated date that service will be available. The Commission service dates shall not become applicable until the service applicant has met all conditions precedent to becoming a qualified service applicant as defined by Commission rules.

Section 3.07 - Developer Requirements

As a condition of service to a new subdivision, the utility shall require a developer (as defined by PUC rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property.

APPENDIX A -- SAMPLE SERVICE AGREEMENT
From TCEQ Rules, 30 TAC Chapter 290.47(b), Appendix B
SERVICE AGREEMENT

- I. **PURPOSE.** The Nitsch & Son Utility Co., Inc. is responsible for protecting the drinking water supply from contamination or pollution which could result from improper private water distribution system construction or configuration. The purpose of this service agreement is to notify each customer of the restrictions which are in place to provide this protection. The utility enforces these restrictions to ensure the public health and welfare. Each customer must sign this agreement before the Nitsch & Son Utility Co., Inc. will begin service. In addition, when service to an existing connection has been suspended or terminated, the sewer system will not re-establish service unless it has a signed copy of this agreement.
- II. **RESTRICTIONS.** The following unacceptable practices are prohibited by State regulations.
- A. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
 - B. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
 - C. No connection which allows water to be returned to the public drinking water supply is permitted.
 - D. No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
 - E. No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection which provides water for human use.
- III. **SERVICE AGREEMENT.** The following are the terms of the service agreement between the NAME OF SEWER SYSTEM (the Sewer System) and NAME OF CUSTOMER (the Customer).
- A. The Sewer System will maintain a copy of this agreement as long as the Customer and/or the premises are connected to the Sewer System.
 - B. The Customer shall allow his property to be inspected for possible cross-connections and other potential contamination hazards. These inspections shall be conducted by the Sewer System or its designated agent prior to initiating new water service; when there is reason to believe that cross-connections or other potential contamination hazards exist; or after any major changes to the private water distribution facilities. The inspections shall be conducted during the Sewer System's normal business hours.
 - C. The Sewer System shall notify the Customer in writing of any cross-connection or other potential contamination hazard which has been identified during the initial inspection or the periodic reinspection.
 - D. The Customer shall immediately remove or adequately isolate any potential cross-connections or other potential contamination hazards on his premises.

The Customer shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Sewer System. Copies of all testing and maintenance records shall be provided to the Sewer System.

- IV. **ENFORCEMENT.** If the Customer fails to comply with the terms of the Service Agreement, the Sewer System shall, at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Customer.

Customer's Signature

Date

ATTACHMENT B

SOAH DOCKET NO. 473-17-1434.WS
PUC DOCKET NO. 46069

APPLICATION OF NITSCH & SON § PUBLIC UTILITY COMMISSION
UTILITY COMPANY, INC. FOR A §
RATE/TARIFF CHANGE § OF TEXAS

PROPOSED FINAL ORDER

This Order addresses the application (Application) of Nitsch & Son Utility Company, Inc. (Nitsch or Applicant) for an increase in water rates. The parties, Nitsch and Staff (Staff) of the Public Utility Commission (Commission), entered into a Unanimous Stipulation and Settlement Agreement (Stipulation) that resolves all issues in this proceeding. Nitsch's Application is approved solely to the extent consistent with the Stipulation.

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

I. Findings of Fact

Procedural History

1. On June 16, 2016, Nitsch, a Class B utility, filed an Application for a Water Rate/Tariff Change for water service under Certificate of Convenience and Necessity No. 11124 and sewer service under Certificate of Convenience and Necessity No. 20446 pursuant to TEX. WATER CODE (TWC) § 13.187. In the Application, Nitsch requested overall annual revenue increases of \$66,854 for water service and \$64,040 for sewer service.
2. With its Application, Nitsch filed an affidavit attesting that it delivered notice to affected ratepayers on or about June 16, 2016 pursuant to 16 Texas Administrative Code (TAC) §24.25.
3. On June 21, 2016, the Commission Administrative Law Judge (ALJ) issued Order No. 1 requiring comments on administrative completeness and addressing other procedural matters. Order No. 1 set a deadline of July 15, 2016 for Staff to make a determination regarding the administrative completeness of the application and notice, pursuant to 16 Texas Administrative Code (TAC) §24.8(a), and requiring that Nitsch and Commission Staff propose a procedural schedule.
4. On July 15, 2016, Commission Staff filed its response to Order No. 1 in which Commission Staff recommended the Application be found administratively complete and accepted for filing with the effective dates of Nitsch's proposed surcharge suspended until the earlier of April 18, 2017, the issuance of an order setting an interim surcharge, or the issuance of a final order.

ATTACHMENT B

5. On July 19, 2016, the Commission ALJ issued Order No. 2 finding the Application administratively complete, setting October 25, 2016 as the deadline for ratepayers and any affected municipality to protest the proposed rates, and setting a November 23, 2016 deadline for Commission Staff to request a hearing. Order No. 2 also suspended the surcharge for rate case expenses until April 18, 2017 or the issuance of a final order, whichever occurs first.
6. On July 26, 2016, Commission Staff filed its First Request for Information to Nitsch requesting responses from Nitsch within 20 days.
7. On August 15, 2016, Nitsch filed its Objections and Responses to Commission Staff's First Request for Information providing its responses as requested by Commission Staff.
8. On September 16, 2016, Commission Staff filed its Second Request for Information to Nitsch requesting responses from Nitsch within 20 days.
9. On September 29, 2016, Commission Staff filed its Third Request for Information to Nitsch requesting responses from Nitsch within 20 days.
10. On October 6, 2016, Nitsch filed its Responses to Commission Staff's Second Request for Information providing its responses as requested by Commission Staff.
11. On October 19, 2016, Nitsch filed its Responses to Commission Staff's Third Request for Information providing its responses as requested by Commission Staff.
12. On October 19, 2016, Nitsch filed its First Supplemental Responses to Commission Staff's First Request for Information, which provided additional supporting documentation for the rate case surcharge expenses.
13. The Commission did not receive protest requests from ten percent (10%) of ratepayers. The applicable time period for ten percent (10%) of the ratepayers to request a hearing expired on October 25, 2016.
14. On October 27, 2016, Commission Staff filed its Fourth Request for Information to Nitsch requesting responses from Nitsch within 20 days.
15. On November 15, 2016, Nitsch filed its Responses to Commission Staff's Fourth Request for Information providing its responses as requested by Commission Staff, which also included confidential filings as requested by Commission Staff.
16. On November 23, 2016, Commission Staff filed its Request for a Hearing.
17. On November 30, 2016, the Commission filed an Order of Referral of the docket to the State Office of Administrative Hearings (SOAH), requesting the assignment of an ALJ to conduct a

hearing and issue a proposal for decision if necessary. The Order of Referral set a December 20, 2016 deadline for Nitsch and Commission Staff to file a list of issues to be addressed in the docket and for the Commission to consider and possibly adopt a preliminary order in the January 12, 2017 open meeting.

18. On December 6, 2016, the SOAH ALJ issued Order No. 1 providing notice of a prehearing conference set for December 16, 2016.
19. A prehearing conference was held at SOAH on December 16, 2016, in which Nitsch and Staff stated they had begun settlement discussions and requested a three-week abatement.
20. In SOAH Order No. 2 filed on December 20, 2016, the SOAH ALJ granted the abatement and suspended the effective date of Nitsch's proposed rate change to May 9, 2017. A January 6, 2017 deadline was set for Commission Staff to file a status report, a stipulation and proposed order, or a proposed procedural schedule with a hearing date.
21. On December 20, 2016, Nitsch filed its Second Supplemental Responses to Commission Staff's First Request for Information, which provided additional supporting documentation for the rate case surcharge expenses.
22. On December 20, 2016, Commission Staff filed its List of Issues in response to the Order of Referral.
23. On January 12, 2017, Nitsch filed its Third Supplemental Responses to Commission Staff's First Request for Information, which provided additional supporting documentation for the rate case surcharge expenses.
24. The Commission filed a Preliminary Order on January 12, 2017.
25. The docket remained in abatement with the latest abatement period expiring on April 14, 2017.
26. On April ____, 2017, Nitsch and Commission Staff filed a joint motion to admit evidence and remand proceeding to the Commission, with attachments consisting of the stipulation, agreed proposed tariff, and proposed final order.
27. On April ____, 2017, the SOAH ALJ issued Order No. ____, which dismissed the SOAH docket, returned the matter to the Commission, and admitted the following evidence into the record in support of the settlement:
 - a. Application for a Water Rate/Tariff Change of Nitsch & Son Utility Company, Inc. for water service under Certificate of Convenience and Necessity No. 11124 and sewer service

- under Certificate of Convenience and Necessity No. 20446 and all attachments thereto, filed June 16, 2016;
- b. Commission Order No. 2 Deeming Application Administratively Complete; Establishing Procedural Schedule; and Suspending Effective Date of Surcharge for Rate Case Expenses, filed July 19, 2016;
 - c. Commission Staff's First Request for Information to Nitsch, filed July 26, 2016;
 - d. Nitsch's Objections and Responses to Commission Staff's First Request for Information, filed August 15, 2016;
 - e. Commission Staff's Second Request for Information to Nitsch, filed September 16, 2016;
 - f. Commission Staff's Third Request for Information to Nitsch, filed September 29, 2016;
 - g. Nitsch's Responses to Commission Staff's Second Request for Information, filed October 6, 2016;
 - h. Nitsch's Responses to Commission Staff's Third Request for Information, filed October 19, 2016;
 - i. Nitsch's First Supplemental Responses to Commission Staff's First Request for Information, filed October 19, 2016;
 - j. Commission Staff's Fourth Request for Information to Nitsch, filed October 27, 2016;
 - k. Nitsch's Responses to Commission Staff's Fourth Request for Information, including the corresponding confidential attachments, filed November 15, 2016;
 - l. SOAH's Order No. 1 setting the prehearing conference, filed on December 6, 2016;
 - m. SOAH's Order No. 2 memorializing the prehearing conference, filed on December 20, 2016;
 - n. Nitsch's Second Supplemental Responses to Commission Staff's First Request for Information, filed December 20, 2016;
 - o. Nitsch's Third Supplemental Responses to Commission Staff's First Request for Information, filed January 12, 2017;
 - p. Unanimous Stipulation and Settlement Agreement with attachments (Stipulation); and
 - q. Tariffs.

Description of the Stipulation

28. The signatories stipulated that Nitsch should be allowed to implement the retail water and sewer utility rates contained in Section 1.0 of the agreed proposed tariffs included in Attachment A to the Stipulation effective beginning with February, 2017 usage.
29. The signatories stipulated that Nitsch should be allowed to implement retail water and sewer utility rates effective according to the schedule contained in Section 1.0 of the proposed tariffs included in Attachment A to the Stipulation.
30. The signatories stipulated that Nitsch should be allowed to implement the other tariff provisions included in the agreed proposed tariffs in Attachment A to the Stipulation effective beginning with February, 2017 usage.
31. The signatories stipulated that the proposed tariffs included with the Stipulation as Attachment A should be the governing water and sewer utility rates, terms, treatments, and conditions for Nitsch ratepayers of the public water systems and service areas specified in the tariffs.
32. The signatories stipulated that Nitsch shall seek to recover and shall collect rate case expenses incurred or that it will incur in relation to this Application at the surcharge rate of \$1.00 per month for 36 months for water ratepayers and \$1.00 per month for 36 months for sewer ratepayers beginning with the invoice including February, 2017 usage.
33. The signatories stipulated that Nitsch shall not be required to issue refunds or credits for rates collected between the effective date and the approval of this order.

Consistency of the Stipulation with the Texas Water Code and Commission Requirements

34. Considered in light of Nitsch's Application, responses to discovery requests, and information exchanged through confidential privileged settlement negotiations, the Stipulation is the result of compromise from each party, and these efforts, as well as the overall result of the Stipulation, support the reasonableness and benefits of the terms of the Stipulation.
35. The rates, terms, and conditions of the tariffs resulting from the stipulation are just and reasonable and consistent with the public interest when the benefits of avoiding an expensive contested case hearing are considered.

II. Conclusions of Law

1. Nitsch is a public utility as defined in TWC § 13.002(23).
2. The Commission has jurisdiction over Nitsch's Application for a rate increase pursuant to TWC §§ 13.041, 13.181, and 13.187 and 16 TAC Chapter 24, Subchapter B.

3. This docket was processed in accordance with the requirements of the Texas Water Code, Texas Administrative Procedure Act, and Commission rules.
4. Proper notice of the Application was given by Nitsch as required by TWC § 13.187 and 16 TAC § 24.22.
5. This docket contains no remaining contested issues of fact or law.
6. The Stipulation, taken as a whole, is a just and reasonable resolution of all issues it addresses, results in just and reasonable rates, terms and conditions, is consistent with the relevant provisions of TWC, Chapter 13, is consistent with the public interest, and should be approved.
7. The rates agreed to in the Stipulation are just and reasonable, comply with the ratemaking provisions in TWC, Chapter 13, and are not unreasonably discriminatory, preferential, or prejudicial.

III. Ordering Paragraphs

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

1. Nitsch's Application seeking authority to (a) change its rates and tariff, and (b) for other related relief is approved consistent with the above Findings of Fact and Conclusions of Law and the Stipulation.
2. Nitsch's rates, terms, and conditions consistent with the Stipulation are approved.
3. Nitsch's tariff submitted with the Stipulation as Attachment A and provided with this Order is approved.
4. Nitsch's surcharge for rate case expenses as included in the Stipulation is approved.
5. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the Stipulation. Entry of this Order shall not be regarded as binding, holding or precedential as to the appropriateness of any principle or methodology underlying the Stipulation.
6. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the _____ day of _____, 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER