



Control Number: 46436



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**PETITION OF MANAGEMENT &  
TRAINING CORPORATION FOR  
REVIEW OF THE DECISION BY THE  
CITY OF OVERTON TO CHANGE  
RETAIL WATER AND SEWER RATES  
(BILLY MOORE CORRECTIONAL  
CENTER)**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**  
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PUBLIC UTILITY COMMISSION  
FILING CLERK

## **COMMISSION STAFF'S COMMENTS ON ADMINISTRATIVE COMPLETENESS**

Comes now the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files these Comments on Administrative Completeness in response to Order No. 1.

### **I. Background**

On October 12, 2016, Management & Training Corporation ("MTC") filed a petition with the Commission appealing the decision of the City of Overton (the "City") to increase the water and sewer rates for the Billy Moore Correctional Center (the "Prison"). MTC is a private company that has contracted with the state to operate the Prison.

On October 14, 2016, the Commission Administrative Law Judge issued Order No. 1, requiring Staff to file comments on the administrative completeness of the petition by November 14, 2016. Therefore, this pleading is timely filed.

### **II. Staff Comments on Administrative Completeness**

MTC has filed its petition pursuant to Tex. Water Code (TWC) § 13.043(b)(3) and 16 Tex. Admin. Code (TAC) § 24.41(c), which allow ratepayers of a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality, to appeal a decision of the municipality affecting their water or sewer utility rates. A petition appealing a rate change by a municipality requires the signatures of at least 10% of those ratepayers whose rates have changed and who reside outside the corporate limits of the municipality.<sup>1</sup> The City asserts that it provides water and sewer services through a municipally owned utility to a total of 26 active ratepayers that

<sup>1</sup> TWC § 13.043(c); 16 TAC § 24.41(b).

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reside outside the corporate limits of the city.<sup>2</sup> The City therefore argues that MTC, the sole filer of the appeal, has not met the 10% threshold required for filing a proper petition. MTC responded that the Prison is the only ratepayer of the 26 located outside the City's corporate limits whose rates have been changed.<sup>3</sup>

Staff has reviewed the petition, and as detailed in the attached memorandum from Leila Guerrero and Gregory Charles of the Water Utility Regulation Division, Staff recommends that the petition be deemed administratively complete and sufficient for filing. Staff notes that because the Prison is the only ratepayer whose rates were changed by the decision of the City, the Prison represents 100% of the ratepayers whose rates have been changed and who are eligible to appeal as residing outside city corporate limits. Thus, the petition meets the 10% requirement and has been received within 90 days of August 1, 2016, the effective date of the rate change.

### **III. Proposed Procedural Schedule**

The City and MTC are currently discussing possible settlement of this matter. Accordingly, the parties believe that a period of approximately 45 days would be beneficial before a procedural schedule is issued and the matter is potentially referred to the State Office of Administrative Hearings. Staff respectfully requests that it be permitted to file a status update, which would include a proposed procedural schedule if appropriate, in approximately 45 days.

### **III. Conclusion**

Staff respectfully requests entry of an order consistent with the above recommendation.

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<sup>2</sup> City of Overton's Response to Public Utility Commission's Order No. 1 (Oct. 24, 2016).

<sup>3</sup> Management & Training Corporation's Reply to the City of Overton's Sur-Reply to MTC's Amendment to its Original Petition and Reply to the City of Overton's Response to Public Utility Commission's Order No. 1 at 1-2 (Nov. 9, 2016).

Dated: November 14, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 46436  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 14, 2016, in accordance with 16 TAC § 22.74.



Michael Crnich

## PUC Interoffice Memorandum

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**To:** Mike Crnich, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Debi Loockerman, Financial Manager  
Water Utility Regulation

**From:** Leila Guerrero, Regulatory Accountant/Auditor  
Gregory Charles, Staff Engineer  
Water Utility Regulation

**Date:** November 9, 2016

**Subject:** *Docket No. 46436, Petition of Management & Training Corporation for Review of the Decision by the City of Overton to Change Retail Water and Sewer Rates (Billy Moore Correctional Center)*

On October 12, 2016, Management & Training Corporation ("MTC") filed a petition with the Commission appealing the decision of the City of Overton ("City") to increase the water and sewer rates charged to the Billy Moore Correctional Center ("Prison") in Rusk and Smith Counties, Texas. Staff conducted an administrative review of the petition pursuant to Tex. Water Code Ann. § 13.043(b)(3), 13.043(c) and 13.043(d) (TWC), and 16 Tex. Admin. Code §§ 24.8(a), 24.41(b), 24.41(c)(3), and 24.41(d) (TAC).

Based on a review of the filed petition, MTC is a private company that has contracted with the Texas Department of Criminal Justice to operate the Prison, located inside the City. The Prison receives commercial retail water and sewer utility service from the City and is located approximately three miles outside of the City's corporate boundaries. The Prison is the only commercial water and sewer utility customer, residing outside the City's corporate boundaries, with a meter of 6 inches or larger and is the only customer class affected by this petition.

Attached to the petition are copies of an email from the City Manager to the Prison Warden, Mr. David Hudson, regarding the rate increase (Exhibit A); Ordinance No. 2016-05-19B including a copy of the City's schedule of fees effective June 30, 2016, and the new rates effective August 1, 2016 (Exhibit B); and copy of minutes of the special city council meeting called on July 14, 2016 (Exhibit C).

Pursuant to TWC § 13.043(c), which states that: "An appeal under Subsection (b) must be initiated by filing a petition for review with the utility commission and the entity providing service within 90 days after the effective day of the rate change or, if appealing under Subdivision (b)(2) or (5), within 90 days after the date on which the governing body of the municipality or affected county makes a final decision. The petition must be signed by the lesser of 10,000 or 10 percent of those ratepayers whose rates have been changed and who are eligible to appeal under Subsection (b)." The City's rate increase effective August 1, 2016, affects only the Prison because it is the only commercial water and sewer utility customer outside the City limits.

Based on Staff's review, this petition and the attached documentation comply with the requirements pursuant to TWC § 13.043(c) and TAC §§ 24.41(b) and 24.41(c)(3). Staff recommends that the Commission find that this petition is administratively complete and sufficient for filing.