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PUC DOCKET NO. 46439
SOAH DOCKET NO. 473-17-3320

COMPLAINT OF WES ANDERSON, ET. §
AL: AGAINST QUADVEST L.P.; §
QUADVEST, INC.; RANCH UTILITIES, §
CORP.; AND RANCH UTILITIES, L.P. §

PUBLIC UTILITY COMMISSION

OF TEXAS
FILING CLERK

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PRELIMINARY ORDER

On October 14, 2016, twenty-three individuals filed a complaint against Quadvest, L.P., Quadvest, Inc., Ranch Utilities Corp., and Ranch Utilities, L.P. (collectively referred to as Quadvest) alleging inaccurately-metered water usage and related inaccurate billing after the installation of smart meters. This preliminary order identifies the issues that must be addressed in this proceeding.

The complainants allege that after the installation of the smart meters, the complainants and other Quadvest customers saw their alleged water usage increase by more than 300 percent, despite there being no change in the amount of water actually used by the complainants at their houses.¹ The complaint states that beginning in July of 2016, the complainants' and other customers' alleged water use rose from an average of 7,000 to 20,000 gallons per month to between 50,000 to 100,000 gallons per month.²

Quadvest argues that the complainants' allegations are without merit. It explains that prior to shipment, every meter was tested by the manufacturer and found to be accurate within the standards set by the American Water Works Association (AWA).³ In addition, Quadvest states that after being served with the complaint, it retained an independent third party to perform a sampling of 15% of the advanced meters at issue in this case, and the testing found the meters to be accurate and consistent with AWA standards.⁴ Quadvest also claims that the actual usage for

¹ Plaintiff's Formal Complaint with the PUC at 5 (Jun. 1, 2017).

² *Id.*

³ Quadvest L.P.'s Response to Order No. 1 at 4 (Nov. 7, 2017).

⁴ *Id.*

many of the complainants is consistent with prior usage and weather patterns.⁵ According to Quadvest, many of the residences at issue are large acreage lots with multi-zone irrigation systems.⁶ Quadvest states that in most of the cases, the increased water usage is likely attributable to decreased rainfall in July through mid-August of 2016 and prolonged irrigation periods resulting from that decreased rainfall.⁷ The complainants dispute Quadvest's weather data.⁸ They allege that Quadvest is using inaccurate rainfall averages from Spring, Texas, which is 25 miles from Magnolia, Texas, where the complainants live.⁹

The complainants sought to have the Commission waive jurisdiction and to allow the case to move forward as a class action lawsuit in District Court.¹⁰ Alternatively, the complainants requested that the Commission require Quadvest to correct and modify all of the smart meters it installed, to refund any overcharged amounts related to inflated water usage, and to refund all overcharges and pass-through fees.¹¹

On December 2, 2016, the Commission's administrative law judge dismissed all complainants other than Mr. Stephen Jones from this proceeding for failure to comply with the informal resolution requirements of 16 Texas Administrative Code (TAC) § 22.242(c).¹² The judge also denied the complainants' request that the Commission waive its jurisdiction over this matter.¹³

This case was referred to the State Office of Administrative Hearings on March 28, 2017. The complainants and Quadvest were directed and Commission Staff and other interested persons were allowed to file a list of issues to be addressed in the docket by June 13, 2017. Quadvest and Commission Staff timely filed lists of issues. The complainants did not file a list of issues.

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.*

⁸ Plaintiff's Reply to Quadvest's Response to Order No. 1 at 3 (Nov. 15, 2016).

⁹ *Id.*

¹⁰ Plaintiff's Formal Complaint with the PUC at 8.

¹¹ *Id.*

¹² Order No. 3 Denying Jurisdictional Waiver and Dismissing Certain Complainants at 2 (Dec. 2, 2016).

¹³ *Id.*

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to the State Office of Administrative Hearings (SOAH).¹⁴ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Did Quadvest test Mr. Jones's meter after installation? If so, what was the result?
2. Is Mr. Jones's meter properly reading his water usage?
3. Did the tests performed by the manufacturer establish the accuracy of Mr. Jones's meter prior to installation in accordance with 16 TAC § 24.89(f)? What were the results of any tests conducted by the manufacturer on the smart meter installed at Mr. Jones's residence?
4. If Mr. Jones's meter is not properly reading usage, what is the proper bill adjustment to be made, including any appropriate refund, in accordance with 16 TAC § 24.89(g)?
5. What is the Commission-approved pass-through fee under Quadvest's tariff?
6. Is Quadvest correctly billing Mr. Jones for its Commission-approved pass-through fee?
7. If Quadvest is not correctly billing Mr. Jones for its Commission-approved pass-through fee, what is the proper bill adjustment to be made, including any appropriate refund, in accordance with 16 TAC § 24.87(h)?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ; or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Tex. Gov't Code Ann. § 2003.049(e).

II. Effect of Preliminary Order

This order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her

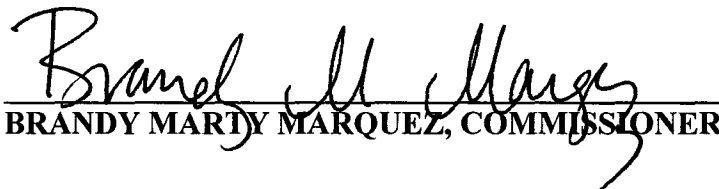
¹⁴ Tex. Gov't Code Ann. § 2003.049(e) (Vernon 2000).

own motion or upon the motion of any party, may deviate from this order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this order may be appealed to the Commission. The Commission will not address whether this order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the 29th day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS


KENNETH W. ANDERSON, JR., COMMISSIONER


BRANDY MARTY MARQUEZ, COMMISSIONER