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

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COMPLAINT OF WES ANDERSON, ET.	§	BEFORE THE STATE OFFICE
AL. AGAINST QUADVEST L.P.,	§	OF THE
QUADVEST, INC., RANCH UTILITIES	§	ADMINISTRATIVE HEARINGS
CORP., AND RANCH UTILITIES, L.P.	§	

COMMISSION STAFF'S STATEMENT OF POSITION

Comes now the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files its Statement of Position. In support thereof, Staff would show the following:

I. Background

On October 14, 2016, Wes Anderson, et.al. (collectively, the Complainants) filed a complaint against Quadvest, L.P., Quadvest, Inc., Ranch Utilities Corp., and Ranch Utilities, L.P. (collectively, Quadvest) alleging inaccurate increased water usage and related billing as a result of smart meter installation. All Complainants, except Stephen Jones, were dismissed without prejudice from this proceeding in Order No. 3, issued December 2, 2016.

II. Position of Stephen Jones

Stephen Jones states in his direct testimony that he set up water service with Quadvest in June of 2016, but did not receive notice that Quadvest would be changing out the water meters.¹ After his meter was installed, Mr. Jones alleges that his white clothing that was being washed was ruined due to the iron in the water breaking lose during the meter change.² Mr. Jones argues that his first bill alleging the use of 99,000 gallons was inaccurate, and the later replacement of that meter without notice again stained his clothing.

In the original formal complaint filed on October 14, 2016 and again on June 1, 2017, Mr. Jones asks the Commission to require Quadvest to correct and modify all of the smart meters it installed, refund the overcharged amounts related to the alleged inflated water usage, refund all overcharged pass-through fees, award actual damages, award all reasonable attorney's fees, and

¹ Mr. Jones's Initial Testimony at 2.

² *Id.*

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award punitive damage.³ Mr. Jones acknowledges that the awarding of money damages, attorney fees, and other relief may exceed the jurisdictional requirement of this court.⁴

III. Position of Quadvest

Quadvest confirms that Mr. Jones' meter accuracy was within the proper standards prior to installation.⁵ After the complaint was filed, Quadvest tested Mr. Jones's meter and found it to be outside of the acceptable boundaries by 0.1%.⁶ Quadvest subsequently adjusted Mr. Jones' billings back to the date of meter installation and issued a credit for the amount over 100% accuracy.⁷ Quadvest alleges that the billed amount is consistent with prior usage at the residence and weather patterns.⁸ Quadvest also confirms that it was charging its Commission approved pass-through fee.⁹

IV. Staff Position

Staff will address the issue as set out in the Preliminary Order.

Did Quadvest test Complainant's meter after installation? If so, what was the result?

Quadvest tested Mr. Jones' meter on January 30, 2017 and found that it was reading at 101.6%.¹⁰ Quadvest acknowledged that this was outside of the American Water Works Association (AWWA) accuracy standards of 98.5% - 101.5%.¹¹ If any meter is found to be outside of the accuracy standards established by the AWWA, proper correction of the previous readings for the period of six months immediately preceding the removal of the meter from service for the test shall be rendered.¹² Quadvest replaced the meter and issued a refund for the overcharged amount for the time period when the meter was installed to when it was replaced.¹³ Staff

³ Plaintiff's Complaint at 7 (June 1, 2017).

⁴ *Id.*

⁵ Direct Testimony of Jeffrey Eastman at 2 (Aug. 4, 2017).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Direct Testimony of Jeffrey Eastman at 29, Exhibit H.

¹¹ Direct Testimony of Jeffrey Eastman at 4.

¹² 16 Tex. Admin. Code § 24.89(g) (TAC).

¹³ Direct Testimony of Jeffrey Eastman at 5.

recommends that this corrective action be found to meet the requirements of the Commission Rules.

Is Mr. Jones's meter properly reading his water usage?

Mr. Jones has only alleged that the July and August 2016 readings are inaccurate¹⁴ and acknowledges that the meter has been reading accurately since September of 2016.¹⁵ Mr. Jones has had the same meter from July 2016 until it was tested and replaced at the end of January 2017 and is contending that the meter, or Quadvest's system, had incorrect readings for two months, then corrected itself without a change of meter. Because there is no indication of a reason for a change in the meter's accuracy from August 2016 to September 2016, the conclusion is that the meter was operating consistently throughout its installed life. Although the meter was later tested to be slightly inaccurate, that would not account for the high spikes in water usage shown in July and August of 2016. Therefore, either Mr. Jones actually used the amount of water billed, or there was a problem elsewhere in the reading system outside of the actual meter itself.

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?

Quadvest has provided the smart meter testing information from Master Meter done prior to installation that shows the meter tested within the AWWA standards for meter accuracy.¹⁶

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)?

Quadvest has already performed a bill adjustment to reflect the meter reading slightly outside of the AWWA acceptable standards. This adjustment is shown in the bill for February 2017.¹⁷

¹⁴ Mr. Jones's Response to Quadvest First RFIs, answer to RFI 1-15 (Aug 28, 2017).

¹⁵ *Id.*

¹⁶ Direct Testimony of Jeffrey Eastman at 18, Exhibit E.

¹⁷ Quadvest's Response to Staff's Third RFIs 19 (Aug. 3, 2017).

What is the Commission-approved pass-through fee under Quadvest's tariff? Is Quadvest correctly billing Mr. Jones for its Commission-approved pass-through fee? 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)?

Mr. Jones alleges that Quadvest is only permitted to charge customers \$1.93 per 1,000 gallons but is charging more than 25% more than the permitted price.¹⁸ Quadvest argues that its pass-through fee at the time was actually set to \$2.60 per 1,000 gallons and Mr. Jones was charged accordingly.

For the time period at issue starting in July of 2017, the pass-through fee of Quadvest was set in Docket 45884 at \$2.60 per 1,000 gallons.¹⁹ The water bills for the service periods in July and August of 2016²⁰ show pass-through charges of \$257.40 for 99,000 gallons in July, and charges of \$111.80 for 43,000 gallons in August. Both of these bills show a pass-through fee actually being charged at \$2.60 per 1,000 gallons. Staff therefore recommends that Quadvest be found to have charged its Commission approved pass-through fee for this time period.

Other Issues

Regarding notice, Quadvest contends that notice was sent to Mr. Jones' residence in May of 2016, before Mr. Jones had established service with Quadvest. There is no statute or Commission Rule that requires notice to have been sent to Mr. Jones regarding the installation of the smart meter. Quadvest is required to notify any customer after any requested meter testing is conducted as to the date and result of the test.²¹ Quadvest filed its results in this docket on March 16, 2017,²² which qualifies as giving proper notice to Mr. Jones.

Mr. Jones requested that the Commission award actual damages, award all reasonable attorney's fees, and award punitive damages. A state agency's powers are limited to only those expressly conferred by the Legislature and those implied powers that are reasonably necessary to carry out the express responsibilities.²³ Mr. Jones has cited to no statute or Commission rule

¹⁸ Direct Testimony of Jeffrey Eastman at 7.

¹⁹ *Application of Quadvest, L.P. to Implement a Pass-Through Rate Change*, Tariff Control No. 45548 (Feb. 24, 2016).

²⁰ Quadvest's Response to Staff's Third RFIs at 25-26.

²¹ 16 TAC 24.89(d)(2).

²² Quadvest's First Supplemental Response to Staff RFI 1-6 (Mar. 16, 2017).

²³ *Texas Mun. Power Agency v. Pub. Util. Comm'n of Texas*, 253 S.W.3d 184, 192 (Tex. 2007)

allowing for the awarding of actual damages, attorney's fees, and punitive damages for this complaint, and awarding them are outside the jurisdiction of the Commission.

III. Conclusion

Staff finds no violation of the Texas Water Code or Commission Rules in Quadvest's actions. While the amount of water used during the months at issue is large in comparison to the usage in other months, there appears to be no reasonable explanation for it other than usage.

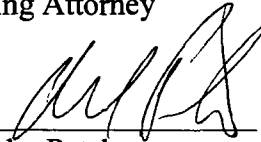
Dated: August 31, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 31, 2017, in accordance with 16 TAC § 22.74.



Alexander Petak