



Control Number: 46955



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CITY OF STAR HARBOR §
RATEPAYERS' APPEAL OF THE §
DECISION BY THE CITY OF §
MALAKOFF TO CHANGE RATES §

PUBLIC UTILITY COMMISSION

OF TEXAS

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**COMMISSION STAFF'S MOTION FOR RECONSIDERATION OF ORDER NO. 4
AND AMENDED RECOMMENDATION OF DEFICIENCY/COMPLETENESS**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files Staff's Motion for Reconsideration of Order No.4 and Amended Recommendation on Deficiency/Completeness. In support thereof, Staff shows the following:

I. BACKGROUND

On March 16, 2017, ratepayers in the City of Star Harbor (Star Harbor) filed a petition appealing the decision of the City of Malakoff (Malakoff) to increase wastewater rates effective January 1, 2017. On May 31, 2017, Staff filed a recommendation on sufficiency, and Order No. 4 was issued June 5, 2017 deeming the application complete and sufficient.

II. MOTION FOR RECONSIDERATION

Staff requests a reconsideration of Order No. 4 pursuant to 16 Tex. Admin. Code § 22.124(b)(1) (TAC). Upon conducting an additional review of Star Harbor's application, Staff found errors in the original recommendation which recommended the application be found complete and sufficient. Star Harbor's application does not meet the requirements of 16 TAC §24.42(a)(1) as more completely described in the memorandum of Leila Guerrero of the Commission's Water Utility Regulation Division, which is a part of this motion. Although Order No. 4 relied on Staff's initial recommendation, the order finding the application complete and sufficient can materially affect this proceeding in allowing the docket to be processed without meeting the requirements of 16 TAC §24.42(a)(1).

III. CONCLUSION

For the reasons stated above, Staff respectfully requests the entry of an order consistent with the above request.

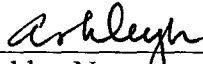
DATED: June 7, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney




Ashley Nwonuma
State Bar No. 24096650
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7163
(512) 936-7268 (facsimile)
ashley.nwonuma@puc.texas.gov

DOCKET NO. 46955

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 7th of June, 2017, in accordance with 16 TAC § 22.74.



Ashley Nwonuma

Public Utility Commission of Texas

Interoffice Memorandum

TO: Ashley Nwonuma, Attorney
Legal Division

THRU: Tammy Benter, Director
Debi Loockerman, Financial Manager
Water Utility Regulation Division

FROM: Leila Guerrero, Regulatory Accountant/Auditor
Water Utility Regulation Division

DATE: June 7, 2017

SUBJECT: **Docket No. 46955, Ratepayers' Appeal of the Decision by the City of Malakoff to Change Rates**

On March 16, 2017, the Public Utility Commission of Texas (Commission) received a petition pursuant to Texas Water Code § 13.043(b) (TWC) from the outside city limit ratepayers of the City of Malakoff ("Malakoff") to appeal the wastewater rates established by Malakoff. The outside city limit rates were established by the Malakoff City Ordinance No. 436, which was approved by the Malakoff City Council on August 1, 2016. While the Ordinance passed on August 1, 2016, the new rate structure was effective January 1, 2017.

Pursuant to TWC 13.043(b): *Ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water, drainage, or sewer rates to the utility commission:*

.....

(3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality

Based on Staff's review of the petition, it appears that the ratepayers who signed the petition do not receive service from Malakoff. Instead, they receive service from the City of Star Harbor ("Star Harbor"). Further review of the documentation show that Star Harbor is a wholesale customer of Malakoff. In addition, Malakoff does not have agreements with the residential ratepayers and does not issue monthly invoices to them. Star Harbor is responsible for maintaining the collection lines between Star Harbor's residential ratepayers to the point of delivery of raw sewage to Malakoff, as well as the meters for the Star Harbor's residential ratepayers. Star Harbor bills the residential ratepayers for the wastewater utility service.

Consequently, pursuant to 16 Tex. Admin. Code §24.42. *Contents of Petition Seeking Review of Rates Pursuant to the Texas Water Code, §13.043(b).*

(a) Petitions for review of rate actions filed pursuant to the TWC, §13.043(b), shall contain the original petition for review with the required signatures. Each signature page of a petition should contain in legible form the following information for each signatory ratepayer:

(1) a clear and concise statement that the petition is an appeal of a specific rate action of the water or sewer service supplier in question as well as a concise description and date of that rate action;

The petition did not comply with TAC §24.42(a)(1). Each page of the petition should contain the ratepayers' names, signatures, and other information and a brief statement of the intent of the petition. Only the first page of the petition contains this information and the subsequent pages do not.

Based on the information above, Staff recommends the petition is administratively invalid and insufficient for filing.