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

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§

PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMMISSION STAFF'S REQUEST FOR RULING ON THE CITY OF MALAKOFF'S  
PENDING MOTION TO DISMISS**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Request for Ruling on the City of Malakoff's Pending Motion to Dismiss. In support thereof, Staff shows the following:

**I. BACKGROUND**

On March 16, 2017, ratepayers in the City of Star Harbor (Ratepayers) filed a petition appealing the decision of the City of Malakoff (Malakoff) to increase wastewater rates effective January 1, 2017.

On April 17, 2017, Malakoff filed a Response to the Petition and Motion to Dismiss. On June 8, 2017, Staff filed a response to Malakoff's Motion to Dismiss, in which Staff concurred with dismissing the petition. On June 13, 2017, the Administrative Law Judge (ALJ), issued Order No. 5, which found the petition insufficient for filing, and requested that the Ratepayers amend its petition to cure the noted deficiencies and file a response to Malakoff's Motion to Dismiss. To date, the Ratepayers have not cured the noted deficiencies nor have they filed a response to Malakoff's Motion to Dismiss. On August 18, 2017, Malakoff filed a supplement to its Motion to Dismiss, requesting that an order dismissing the petition be issued.

**II. MOTION TO DISMISS**

Staff respectfully requests that the ALJ grant Malakoff's pending Motion to Dismiss. Staff reiterates that the Ratepayers have no standing in this case to file an appeal. Under Texas Water Code (TWC) § 13.043(b), only ratepayers of a utility have standing to appeal the utility's

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rates. The Ratepayers are not customers of Malakoff directly; they are ratepayers of the City of Star Harbor, and the City of Star Harbor (Star Harbor) pays the rates directly to the Malakoff.<sup>1</sup> Any relief to which the Ratepayers are entitled would be available from Star Harbor, not Malakoff.

Therefore, Staff respectfully requests that the ALJ dismiss this appeal pursuant to 16 TAC § 22.181(d)(8) for failure to state a claim for which relief can be granted.

### **III. CONCLUSION**

For the reasons stated above, Staff respectfully requests the entry of an order dismissing the Ratepayers' appeal.

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<sup>1</sup> Ratepayers' Response to Staff's First RFI at 34.

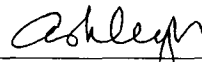
**DATED:** September 21, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

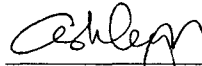


Ashley Nwonuma  
State Bar No. 24096650  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7163  
(512) 936-7268 (facsimile)  
ashley.nwonuma@puc.texas.gov

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 21<sup>st</sup> of September, 2017, in accordance with. 16 TAC § 22.74.



Ashley Nwonuma