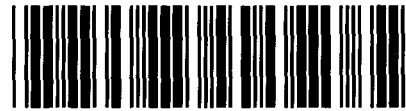




Control Number: 46955



Item Number: 23

Addendum StartPage: 0

RECEIVED

DOCKET NO. 46955

2018 JAN -3 PM 2:49

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

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**CITY OF MALAKOFF'S REPLY IN SUPPORT OF COMMISSION STAFF'S SECOND
REQUEST FOR RULING**

The City of Malakoff ("Malakoff") files this Reply ("Reply") in Support of Commission Staff's Second Request for Ruling ("Request"), filed on or around December 29, 2017.

I. BACKGROUND

On March 16, 2017, a petition ("Petition") was filed by alleged retail wastewater ratepayers of the City of Star Harbor ("Petitioners"), appealing the wholesale wastewater rates charged by Malakoff to the City of Star Harbor. To be clear, the protested rates are not rates charged by Malakoff to the Petitioners. On April 17, 2017, Malakoff filed its Response to the Petition and Motion to Dismiss, requesting in part that the Petition be dismissed because the Petitioners do not have standing to challenge the rates that Malakoff charges the City of Star Harbor. On or around December 29, 2017, Commission Staff filed its Second Request for Ruling in this matter. Malakoff concurs with the Commission Staff's summary of events in this matter, as outlined in that Request for Ruling.

II. REPLY

Malakoff supports Commission Staff's Second Request for Ruling and it respectfully re-urges that the Administrative Law Judge ("ALJ") grant the pending Motion to Dismiss. Malakoff renews and reasserts its prior arguments regarding standing and untimeliness in its Motion to Dismiss and other supplemental filings in this matter, and it incorporates those arguments herein. Over 200 days have passed since the ALJ ordered the Star Harbor ratepayers

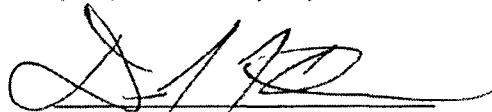
to amend their petition to cure the deficiencies noted by Staff and to file a response to Malakoff's Motion to Dismiss. To date, however, the ratepayers have neither cured the noted deficiencies nor filed a response to Malakoff's Motion to Dismiss. Commission Rule 16 Texas Administrative Code ("TAC") § 22.181(c)(3) affords the Petitioners 20 days to respond, and the above-mentioned passage of time, in conjunction with the unchallenged, valid arguments in Malakoff's Motion, as supplemented (which have been repeatedly supported by Commission Staff), makes the Motion ripe for dismissal in accordance with 16 TAC § 22.181(f).

III. CONCLUSION/PRAYER

For the reasons stated in its Motion to Dismiss and its other supplemental filings in this matter, the City of Malakoff respectfully requests that the Public Utility Commission issue an order dismissing the City of Star Harbor ratepayers' Petition with prejudice. The City of Malakoff further requests any and all other relief to which it is justly entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)



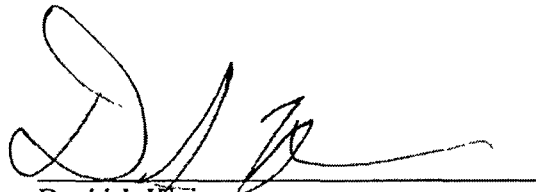
DAVID J. KLEIN
State Bar No. 24041257

MARIS M. CHAMBERS
State Bar No. 24101607

ATTORNEYS FOR THE CITY OF MALAKOFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 3rd day of January 2018 to the parties of record.



David J. Klein