



Control Number: 46997



Item Number: 7

Addendum StartPage: 0

46997  
DOCKET NO. 45997

RECEIVED

RATEPAYERS' APPEAL OF THE  
DECISION BY BEAR CREEK SPECIAL  
UTILITY DISTRICT TO CHANGE  
RATES

§  
§  
§  
§

2017 MAY 3 AM 10:52  
PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
OF TEXAS CLERK

**RATEPAYERS' OBJECTION TO THE PUBLIC UTILITY COMMISSION STAFF'S  
RECOMMENDATION ON SUFFICIENCY  
FOR DISMISSAL OF RATEPAYERS' PETITION AS UNTIMELY**

COMES NOW CO-REPRESENTATIVES of the RATEPAYERS, DEBORAH G. FATO and CHARLES A. TESKE, JR., representing the 300+ Ratepayers' *Appeal of the Decision of the Bear Creek Special Utility District to Change Rates*, and files this Objection to Commission Staff's Recommendation on Sufficiency (that the filing is insufficient as untimely and cannot be cured) dated April 24, 2017. In support thereof, Ratepayers' Co-Representatives show the following:

**I. TWO WRONGS DON'T MAKE A RIGHT**

*Ratepayers Object to the Commission Staff's Recommendations of Dismissal of Petition as Untimely - Ratepayers Should Not Be Penalized For Relying on Misleading and Erroneous Information Provided by the TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ") and BEAR CREEK SPECIAL UTILITY DISTRICT ("SUD")*

First, Ratepayers relied on the TCEQ currently active website's instructions and guidelines for filing a petition, found at this URL: (Screenshots of website attached as **Exhibit A.**)

[http://www.opuc.texas.gov/Documents/appeal\\_rate\\_change\\_board\\_city\\_county.pdf](http://www.opuc.texas.gov/Documents/appeal_rate_change_board_city_county.pdf)

There is no information provided in this currently active TCEQ website to lead a ratepayer to believe that any entity other than the TCEQ is a proper method of filing a petition to appeal a rate change decision. It was not discovered until after timely filing original Petition documents with the TCEQ, as instructed, that the PUC, not the TCEQ, is now the newly and recently designated recipient.

On March 27, 2017, Co-Representative Deborah Fato received a telephone call from the PUC Representative, Tammy Benter, Director of the Water Utility Regulation Division, to whom the TCEQ had forwarded the original Petition documents received by FedEx on Tuesday March 21, 2017. Ms. Benter stated that the PUC was designated as recipient of ratepayer petitions, and that the TCEQ website information was obsolete and erroneous. She admitted that the PUC had sought to get the TCEQ to remove its website because it caused problems over the past two (2) years since 2015, when the PUC took over for TCEQ as authorities regarding water district issues.

Ms. Benter kindly referred Deborah Fato to the PUC filing instructions, and she and a gentleman Shawn Hazard in PUC's Central Records Division assisted with forwarding the original Petition documents received, making extra copies in this one instance, and verifying electronic filing confirmation accomplished by Deborah Fato on March 27, 2017. It was conveyed to Deborah Fato that because of the Petition's time sensitivity with the 90-day deadline, the first date received by the TCEQ would be honored. (See **Exhibit E** - Email exchange with PUC regarding filing procedures).

It would be a miscarriage of justice to allow the PUC to dismiss this Ratepayers' Petition filed with the TCEQ on March 21, 2017 based on a conflict of erroneous information between the PUC and TCEQ as to petition filing instructions as posted on the internet. Ratepayers complied with all procedures as represented to the public. Ratepayers should not be penalized for being subjected to the mercy of the TCEQ to forward original Petition documents to the PUC in a time-sensitive fashion. And the PUC should not be in a position to benefit from both its and the TCEQ's failure to maintain correct information on its respective websites, to the detriment incurred by the public's reliance on such obsolete and erroneous representations by governmental agencies.

Second, it would be equally unjust to reward the BEAR CREEK SPECIAL UTILITY DISTRICT ("SUD") for its misrepresentations to its ratepayers with regard to the 'Effective Date' of the increased water rates as stated in its two rate increase notice letters of May 2016 and December 2016 by dismissing Ratepayers' appeal as untimely when calculating the 90-day time period from the 'Effective Date', which was ambiguous, at best. The May 2016 Rate Increase Notification letter informed that "Effective **January 2017**, there will be an annual increase based on North Texas Municipal Water District's current rate." (See Petition Exhibit 2 copy of letter on page 7, included herein as Exhibit **B**.) The December 16, 2016 notice letter informed that "The effective date of the rate increase will be on your **January 2017** bill." (See Petition Exhibit 1 copy of letter on page 5 and envelope postmark on page 6, and included herein as Exhibit **C**.) Ratepayers assumed an Effective Date of January 1, 2017 based on the SUD's Notice Letter representations that the rate increase would be in January.

The December 16, 2016 Rate Increase Notification letter was actually in violation of the rule requiring a 30-day notice period to ratepayers of a water rate increase. It provided NO NOTICE WHATSOEVER, being postmarked December 19, 2017 (the date meters were read for the January 2017 billing cycle), and not received by ratepayers, and particularly Co-Representative Ratepayer Deborah Fato, until two days after mailing (vis-à-vis usual Christmas holiday mail delays) on December 21, 2017.

## II. THE PETITION WAS TIMELY FILED

### Ratepayers' Petition Was Timely Filed on the 90<sup>th</sup> Day Following Actual Receipt of Notice

Ratepayers Notice Letter dated December 16, 2016, postmarked December 19, 2016, was not received by Ratepayer Deborah Fato until two (2) days after mailing, on December 21, 2016. The SUD's Notice letter stated the "Effective Date" of the rate increase would "be on your January 2017 bill". Ratepayers relied upon the SUD's Noticed Effective Date of January 2017 as a base from which to calculate the 90 day period for purposes of filing the Ratepayers' Petition at issue.

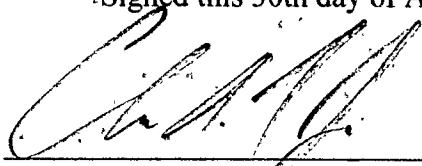
90 days following an 'Effective Date' of January 1, 2017 falls on Saturday, April 1, 2017, counting January 2, 2017 as the first of ninety days.

Deborah Fato actually received the postmarked Notice on December 21, 2016. Counting December 22, 2016 as the first day, then 90 days hence falls on Tuesday, March 21, 2017. This was the day the TCEQ received the Petition documents, which would have been a timely filing based on the instructions per the TCEQ website. *See Exhibit D.*

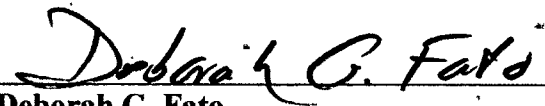
It was impossible to file directly with the PUC as the TCEQ was in possession of original Petition signature pages. Ratepayers were at the mercy of the TCEQ.

Respectfully submitted,

Signed this 30th day of April, 2017 in Lavon, Texas.



**Charles Teske, Jr.**  
In his individual capacity as  
Petition Co-Representative and Ratepayer

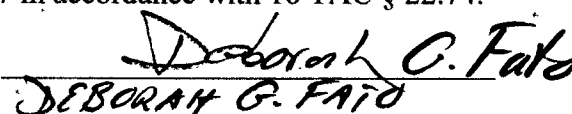


**Deborah G. Fato**  
In her individual capacity as  
Petition Co-Representative and Ratepayer

DOCKET NO. 46997

### CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record as listed in the attached Service List on this the 1<sup>st</sup> day of May, 2017 in accordance with 16 TAC § 22.74.

  
**DEBORAH G. FATO**

## SERVICE LIST

### COUNSEL FOR PUC:

#### **PUBLIC UTILITIES COMMISSION OF TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton, Division Director

Karen S. Hubbard, Managing Attorney

**Ashley Nwonuma**, Attorney

State Bar No. 24096650,

1701 N. Congress Avenue

P.O. Box 13326

Austin, Texas 78711-3326

(512) 936-7163

(512) 936-7268 fax

[ashley.nwonuma@puc.texas.gov](mailto:ashley.nwonuma@puc.texas.gov)

### CO-COUNSEL FOR BEAR CREEK SPECIAL UTILITY DISTRICT:

**JOHN J. CARLTON, ESQ.**

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[john@carltonlawaustin.com](mailto:john@carltonlawaustin.com)

**JAMES W. WILSON, ESQ.**

**GAY, MCCALL, ISAACKS, GORDON & ROBERTS, P.C.**

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Plano, Texas 75074

(972) 424-8501 Tel

(972) 4243-3116 Fax

[jwilson@gmigr.com](mailto:jwilson@gmigr.com)

### RATEPAYER CO-REPRESENTATIVES:

**DEBORAH G. FATO**

1007 Hilltop Drive

Lavon, Texas 75166

(972) 853-2150 home land line

(310) 569-0940 cell

[deb.fato@gmail.com](mailto:deb.fato@gmail.com)

**CHARLES A. TESKE, JR.**

1154 Rolling Meadow

Lavon, Texas 75166

(972) 853-2030 Tel (land line)

(972) 853-2690 fax

[chuck@premierwoodcare.com](mailto:chuck@premierwoodcare.com)

## EXHIBIT A

# APPEALING A RATE CHANGE DECISION

## MADE BY A BOARD OF DIRECTORS, A CITY COUNCIL, OR COUNTY COMMISSIONERS

If your water or sewer utility changes its rates and you wish to contest the decision, the Texas Commission on Environmental Quality (TCEQ) cannot review the retail rates charged by some types of utilities unless you file an appeal in the form of a petition. [Texas Water Code, Section 13.043(b)] Parties to a rate proceeding before the governing body of a municipality may have different appeal rights under Texas Water Code, Section 13.043(a).

The petition must be signed by 10 percent of the affected ratepayers (customers) eligible to appeal. (If there are more than 100,000 eligible ratepayers, the petition is valid if at least 10,000 affected ratepayers sign it.)

You must send the petition to the TCEQ within a specific period of time, as discussed later in this publication.

### Who Can Appeal a Rate Change Decision?

You and your fellow ratepayers may file an appeal if you are served by one of the types of utilities listed below. Also shown is who has original authority to approve or "set" the rates.

Type of Utility	Who Sets the Rates?
Water Supply Corporation (WSC)	Board of Directors of the WSC
Water District or River Authority	Board of Directors of the District or Authority
Private- or Investor-Owned Utility Operating Inside a City	City Council
City-Owned Utility Serving Customers Outside the City	City Council
County within 50 Miles of the U.S.-Mexico Border	County Commissioners

<sup>1</sup>The term "utility," as used in this publication, corresponds with "retail public utility" as defined by the Texas Water Code, §13.002(13).

<sup>2</sup>Only ratepayers living outside the city are eligible to appeal. The TCEQ does not have jurisdiction to review the rates charged by a city to in-city, retail customers.

### Who Can Sign the Petition?

Each person receiving a separate bill is considered a "ratepayer." However, you can only be considered a single ratepayer regardless of the number of bills you receive. A petition can be signed by either you as the ratepayer, or by your spouse.

### What Should the Petition Say?

Each signature page of the petition should include the following:

1. A statement that the petition is an appeal of the decision that set the new rates. In the case of an investor-owned utility operating within a city, the petition should state that it appeals the decision that the city made on a rate change requested by the utility.

2. A short description of the rate change, noting both the old and the new rates.
3. The effective date of the rate change and the date the ratepayers were notified of the rate change.
4. A statement about why you and your fellow ratepayers are requesting that the TCEQ review the decision setting the rates.
5. The name and address of an individual or organization who is willing to act as the ratepayers' representative.
6. The mailing address and phone number of the utility. In the case of an investor-owned utility operating within a city, the petition should also include the name, mailing address, and phone number of the city.

Each ratepayer signing the petition should write legibly and provide the following information:

1. Name.
2. Telephone number.
3. Street or rural address where the utility service is received (a post office box number is not sufficient).
4. Mailing address (if it differs from the address where service is received).

A sample petition appears on the back of this information sheet. This sample should only be used as a guideline. **The wording underlined on the sample should be revised as needed for your petition.** All of the information noted above should be included in your petition.

### How is the Petition Filed?

Send a copy of the petition to the utility, and send the original and four copies to the TCEQ at:

Water Supply Division, MC-153  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
512-239-4691

No filing fee is required. For most utilities, you must submit the petition within 90 days after the effective date of the rate change.

However, if the petition is appealing the rates approved by a city or county for a utility under its jurisdiction inside the corporate limits of the municipality or a utility owned by an affected county, the petition should be submitted within 90 days of the date on which the city or county made its final decision regarding those rates. A copy of the petition should be sent to the city or county and to the utility at the same time it is filed with the TCEQ. As noted above, the original and four copies of the petition should be sent to the TCEQ.

## What Happens Next?

The TCEQ has 10 working days to review the petition to see if it is complete. If additional information is required, the ratepayers' representative will be contacted. The petition is then either accepted for filing or, if it is incomplete, returned. The ratepayers' representative will be notified if the petition was accepted.

If the petition is accepted for filing, a TCEQ engineer, accountant, and attorney are assigned and the petition is forwarded to the State Office of Administrative Hearings so that a contested case hearing can be scheduled.

As a first step in the contested case hearing process, known as the preliminary hearing, an administrative law judge will name parties to the case and give the parties an opportunity to reach a settlement on the appeal.

If the parties cannot agree to a settlement, the administrative law judge will set a procedural schedule. At the very least, this schedule will include an opportunity for parties to obtain information from each other through a procedure called discovery, and the date or dates for the next phase, called the evidentiary hearing.<sup>3</sup>

If you are a party to the contested case hearing, you are required to respond to requests for information during the discovery period. During the evidentiary hearing, you may call your own witnesses and cross-examine other parties' witnesses, but you do not have to do so.

When the hearing process is completed, the administrative law judge prepares a "Proposal for Decision" to submit to the three TCEQ commissioners. The commissioners make the final decision on the ratepayers' appeal.

Note that the rates you are appealing can be put into effect even though you have filed an appeal or the appeal is pending. If the commissioners set lower rates, refunds may be ordered.

<sup>3</sup> The evidentiary hearing is a legal proceeding subject to the Texas Rules of Civil Procedure, the Texas Rules of Evidence, and the TCEQ Procedural Rules.



**Water Supply Division, MC-153**  
**Texas Commission on Environmental Quality**  
**P.O. Box 13087**  
**Austin, Texas 78711-3087**

The TCEQ is an equal opportunity employer. The agency does not allow discrimination on the basis of race, color, religion, national origin, sex, disability, age, sexual orientation, or veteran status. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting the TCEQ at 512-239-0028, Fax 512-239-4488 or 1-800-RELAY-TX (TDD), or by writing P.O. Box 13087, Austin, TX 78711-3087.

printed on recycled paper

<https://www.facebook.com/tceqandsmithtwofightjenns>

## Sample Petition

(The wording underlined should be revised as needed for your petition.)

### Petition to Appeal Rates Established by the Board of Directors

XYZ Water Supply Corporation

1234 Main Street

Anytown, Texas 99999

The undersigned ratepayers of XYZ Water Supply Corporation hereby appeal the decision of the board of directors of the Corporation affecting the rates charged to them by XYZ Water Supply Corporation. The rate change was effective on September 1, 2000, and affected the rates charged for water utility service, tap fees, late charges, and reconnect fees. On September 5, 2000, the ratepayers were notified by the service provider of this rate increase. The undersigned request that the Texas Commission on Environmental Quality review the decision to determine if the rates established are just and reasonable. The old rates charged by the service provider are \$20.00 minimum bill plus \$1.25 for each additional 1,000 gallons, and the new rates are \$25.00 minimum bill plus \$2.00 for each additional 1,000 gallons. The undersigned designate the XYZ Property Owners Association as their representative on this matter. Correspondence to the ratepayers' representative may be directed to Ms. Jane Doe, President, XYZ Property Owners Association, 1235 Main Street, Anytown, Texas 99999; 512-555-4321.

Name (Please Print) and Signature	Service Address (AND Mailing Address If Different from Service Address)	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

## Who Can Answer Any Other Questions I Have?

For additional information, please contact:

Water Supply Division, MC-153  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
512-239-4691

EX A PG. 2

EXHIBIT U

NOTICE OF RATE INCREASE DATED MAY 2016



**BEAR CREEK SUD**

Telephone 409-284-2101 • P.O. Box 188  
Lubbock, Texas 79400

**RATE INCREASE NOTIFICATION**

Due to the increasing costs of purchasing treated water from the North Texas Municipal Water District, the Board of Directors has approved an increase in Bear Creek SUD water rates. North Texas Municipal Water District has passed on increases totaling 40% since 2013. Bear Creek SUD has not passed along any increase during the past three years to its customers.

When presented with such increases, the Board of Directors is still determined to meet the growing needs of its customers, continue to improve services, and maintain the existing infrastructure of the District's infrastructure. In order to meet these goals, the Board of Directors approved a budget that will meet all the above obligations, fund improvement projects, as well as keep the District financially stable. Therefore, the Board has approved an increase in the water rates as follows:

**Existing Rates:**

\$1,000.00 GALS FOR 0 TO 5,000 Gallons  
\$4,250.00 GALS FOR 5,001 TO 10,000 Gallons  
\$5,000.00 GALS FOR 10,001 TO 15,000 Gallons  
\$6,250.00 GALS FOR 15,001 TO 25,000 Gallons  
\$7,000.00 GALS FOR OVER 25,001 Gallons

**Construction Water Rates: (Fire Hydrant Meter)**

\$5,000.00 Gallons

**New Rates:**

\$5,250.00 GALS FOR 0 TO 5,000 Gallons  
\$6,750.00 GALS FOR 5,001 TO 10,000 Gallons  
\$6,750.00 GALS FOR 10,001 TO 15,000 Gallons  
\$7,500.00 GALS FOR 15,001 TO 25,000 Gallons  
\$7,500.00 GALS FOR OVER 25,000 Gallons

**Construction Water Rates: (Fire Hydrant Meter)**

\$7,500.00 Gallons

The effective date of the rate increase will be on your July 2016 bill. The usage period is May 19, 2016 to June 19, 2016. Effective July 1, 2016, the rate \$600.00 annual will be in effect.

For 1271 - North Texas Municipal Water District - Lubbock, Texas



# EXHIBIT C



## BEAR CREEK SUD

Telephone 1-972-843-2101 • P.O. Box 188  
Lavon, Texas 75166

DECEMBER 16, 2016

### RATE INCREASE NOTIFICATION

Bear Creek Special Utility District (SUD) purchases all treated water from North Texas Municipal Water District. North Texas Municipal Water District notified the SUD in September 2016 that the cost of treated water would increase by 10.1% beginning October 1, 2016.

The rising costs of rates are due to three primary issues according to NTMWD:

- Maintaining aging infrastructure
- Complying with increasing regulatory requirements
- Constructing projects infrastructure to keep up with growing needs

When presented with such increases, the Board of Directors are still determined to meet the growing needs of the customers, continue to improve services, and maintain the existing investment of the infrastructure. As the SUD plans for future needs, the existing systems and infrastructure, some constructed 50 years ago, require maintenance and improvements to sustain reliability, comply with regulations, and ensure public health and safety. In order to meet these goals, the Board of Directors passed a budget that will meet all the above obligations, fund improvement projects, as well as keep the District financially stable. Therefore, the Board has approved an increase in the water rates as follows:

#### Existing Rates:

\$5.25/1,000 GALS FOR 0 TO 5,000 Gallons  
\$5.75/1,000 GALS FOR 5,001 TO 10,000 Gallons  
\$6.75/1,000 GALS FOR 10,001 TO 15,000 Gallons  
\$8.50/1,000 GALS FOR 15,001 TO 25,000 Gallons  
\$9.50/1,000 GALS FOR OVER 25,001 Gallons

#### Construction Water Rates: (Fire Hydrant Meter)

\$7.50/1,000 Gallons

#### New Rates:

\$5.50/1,000 GALS FOR 0 TO 5,000 Gallons  
\$6.10/1,000 GALS FOR 5,001 TO 10,000 Gallons  
\$7.00/1,000 GALS FOR 10,001 TO 15,000 Gallons  
\$8.65/1,000 GALS FOR 15,001 TO 25,000 Gallons  
\$9.75/1,000 GALS FOR OVER 25,001 Gallons

#### Construction Water Rates: (Fire Hydrant Meter)

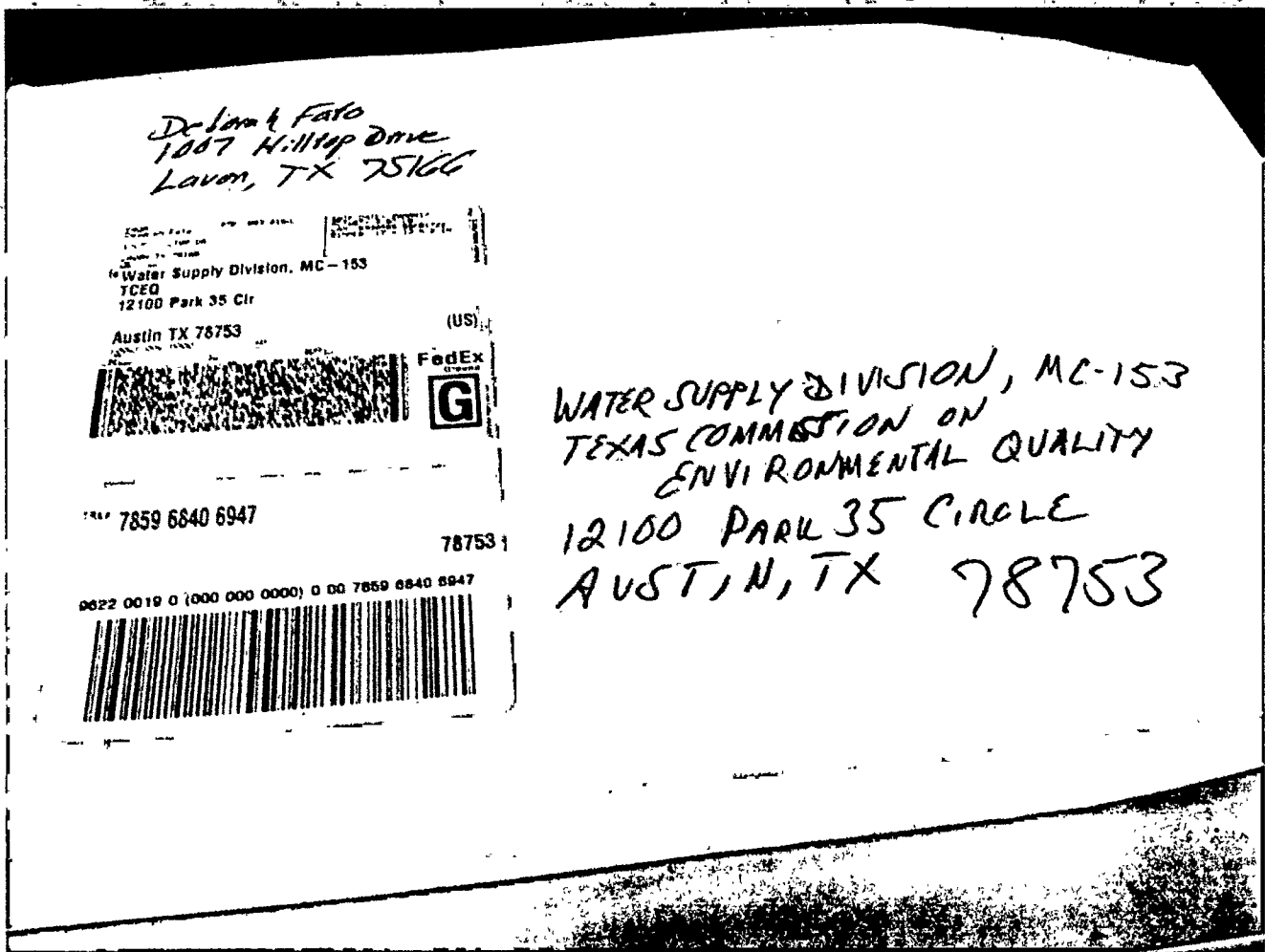
\$9.75/1,000 Gallons

The effective date of the rate increase will be on your January 2017 bill. The usage period is December 19, 2016 to January 19, 2017.

Bear Creek Special Utility District  
P.O. Box 188  
Lavon, TX 75166  
Return Service Requested

Deborah G. Fato  
1007 Hilltop Drive  
Lavon, TX 75166

EXHIBIT D



(FedEx Tracking – Petition received by TCEQ on March 21, 2017)



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FedEx® Tracking

785968406947

Ship date:

Mon 3/20/2017

LAVON, TX US

**Delivered**

Signed for by: JROBERTS

Actual delivery:

Tue 3/21/2017 10:07 am

Austin, TX US

## EXHIBIT *E*

**Fato, Deborah**

**Subject:** FW: [E] Fwd: How to file with the PUC  
**Attachments:** PETITION - ORIGINAL fully executed copy 3-20-2017.pdf; PETITION - Filing Complete - Tracking No QLLOMBWH filed 3-27-2017 - <http://interchange.puc.texas.gov>; LETTER - PUC to Fato - Complaint #CP2017030597 dtd March 28 2017 (recd 3-30-2017).pdf

**From:** Deborah Fato <[deb.fato@gmail.com](mailto:deb.fato@gmail.com)>  
**Date:** Fri, Mar 31, 2017 at 10:05 AM  
**Subject:** Re: How to file with the PUC  
**To:** "Hazard, Shawn" <[Shawn.Hazard@puc.texas.gov](mailto:Shawn.Hazard@puc.texas.gov)>  
**Cc:** Central Records <[CentralRecords@puc.texas.gov](mailto:CentralRecords@puc.texas.gov)>, "Benter, Tammy" <[Tammy.Benter@puc.texas.gov](mailto:Tammy.Benter@puc.texas.gov)>

Ms. Benter and Mr. Hazard,

[THIS IS NOW MOOT since my phone call just now with Shawn Hazard, but sending anyway FYI to back up my voicemails]

I am confused by the letter that I received in yesterday's mail (3-30-2017) from the Customer Protection Division of the Public Utilities Commission of Texas dated March 28, 2017 (copy attached). It issues Complaint #CP2017030597, informs of receipt of my correspondence, and encloses a paper of information on how to appeal a rate change.

I am of the understanding that I accomplished a filing (electronically QLLPMBWH, to follow-up the FedEx original paperwork you received from TCEQ) on March 27th. Shawn Hazard was kind enough to inform in a phone call that he had graciously made the few extra copies to assist with the filing deadline.

I have left voicemail messages for both of you this morning.

It is my understanding that we, the 300+ Ratepayers, had effectuated a filing of our Petition to appeal the Bear Creek SUD's recent water rate increase.

If this is not the case, please advise.

Deborah Fato

On Mon, Mar 27, 2017 at 3:36 PM, Hazard, Shawn <[Shawn.Hazard@puc.texas.gov](mailto:Shawn.Hazard@puc.texas.gov)> wrote:

Ms. Fato, we have received your tracking number. Filings like this one require the original and 9 copies to be filed with them. In order to assist you with the pending deadline, we have made the copies for the filing this time. If you have future filings with the PUC, please make sure to check our "Filings Procedures" page here to confirm the correct number of copies: <http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>

If you have any further questions, please don't hesitate to contact us.

PUC Central Records

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**From:** Deborah Fato [mailto:[deb.fato@gmail.com](mailto:deb.fato@gmail.com)]  
**Sent:** Monday, March 27, 2017 3:26 PM  
**To:** Central Records <[CentralRecords@puc.texas.gov](mailto:CentralRecords@puc.texas.gov)>  
**Cc:** Benter, Tammy <[Tammy.Benter@puc.texas.gov](mailto:Tammy.Benter@puc.texas.gov)>; Hazard, Shawn <[Shawn.Hazard@puc.texas.gov](mailto:Shawn.Hazard@puc.texas.gov)>  
**Subject:** Fwd: How to file with the PUC

---

TO: Public Utilities Commission. Central Records

When I filed my PETITION electronically on Monday, March 27, 2017, I was issued Tracking Number QLLOBWH.

Attached is a .pdf print page of the filing confirmation.

Once I get a confirming email from the PUC I will forward that as well.

Thank you Tammy Benter and Shawn Hazard for your time on the telephone assisting me with questions.

Please let me know if I need to do anything else to officially file the Original plus 4 copies of my Petition that inadvertently went to the TCEQ by FedEx on Monday March 20th.

Deborah

Deborah Fato  
PETITION Co-Representative  
1007 Hilltop Drive  
Lubbock TX 79416  
(972) 853-2150 home land line  
(310) 569-0940 cell  
[deb.fato@gmail.com](mailto:deb.fato@gmail.com)

----- Forwarded message -----

From: Benter, Tammy <[Tammy.Benter@puc.texas.gov](mailto:Tammy.Benter@puc.texas.gov)>  
Date: Mon, Mar 27, 2017 at 10:42 AM  
Subject: RE: How to file with the PUC  
To: Deborah Fato <[deb.fato@gmail.com](mailto:deb.fato@gmail.com)>

Deborah,

Please talk to Shawn Hazard. He can help you with any filing questions you may have.

Thanks,  
Tammy Benter

---

From: Deborah Fato (<mailto:deb.fato@gmail.com>)  
Sent: Monday, March 27, 2017 10:17 AM  
To: Benter, Tammy <[Tammy.Benter@puc.texas.gov](mailto:Tammy.Benter@puc.texas.gov)>  
Subject: Re: How to file with the PUC

Thank you Tammy.

I will get right on it.

I do have questions. Is there a particular person I could ask for at Central Records who you gave the original plus 4 copies to?

Deborah

Deborah Fato  
PETITION Co-Representative  
1007 Hilltop Drive  
Lubbock TX 79416  
(972) 853-2150 home land line

(310) 569-0940 cell  
[deb.fato@gmail.com](mailto:deb.fato@gmail.com)

On Mon, Mar 27, 2017 at 10:01 AM, Benter, Tammy <[Tammy.Benter@puc.texas.gov](mailto:Tammy.Benter@puc.texas.gov)> wrote:

Deborah,

Attached is the link from the Public Utility Commission of Texas that explains how to properly file with the PUC. I am giving the copies you mailed to PUC's Central Records so they will have them in their possession. If you have any questions about filing, please contact Central Records by phone at (512) 936-7180.

<http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>

Thanks,

Tammy Benter, Director  
Water Utility Regulation Division  
Public Utility Commission of Texas  
Tel: [\(512\) 936-7165](tel:(512)936-7165)  
Fax: [\(512\) 936-7361](tel:(512)936-7361)  
Email: [Tammy.Benter@puc.texas.gov](mailto:Tammy.Benter@puc.texas.gov)

# Interchange Filer

## Filing Submitted

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✓ Filing Complete

### Next Steps:

You have completed the electronic portion of your filing, however, in order for the PUC to be able to process your filing, you must submit this tracking number with your paper copies. You may print and include this page or the confirmation email you received. For any questions about the number of copies, please see the following page: <http://www.puc.texas.gov/industry/filings/FilingProceed.aspx> (<http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>).

Central Records: (512) 936-7180

Tracking Number: QLLOMBWH

Filing Submitted on 3/27/2017 3:08:19 PM

Control Number A new control number was requested.

<http://interchange.puc.texas.gov/filer/complete/>

3/27/2017

Filing Party Deborah Fato PETITIONER

---

Filing Type MISCELLANEOUS

Description PETITION TO OPPOSE WATER RATE INCREASE by Ratepayers of the Bear Creek Special Utility District

Documents PETITION# - ORIGINAL fully executed copy 3-10-17

Addendum No  
Included

Submitted Deborah Fato  
By 10074 Knap Drive  
Lubbock, TX 79416  
(806) 852-2150  
deb.fato@gmail.com (mailto:deb.fato@gmail.com)

An email confirmation has been sent to deb.fato@gmail.com. Please check your spam/junk folders.

Start a New filing (/filer/controlnumber/?length=5)

**EXHIBIT**

Gmail - PUC Filing submission confirmation.

Page 1 of 2



Deborah Fato <deb.fato@gmail.com>

**PUC Filing submission confirmation.**

2 messages

noreply@puc.texas.gov <noreply@puc.texas.gov>  
To: deb.fato@gmail.com

Mon, Mar 27, 2017 at 3:08 PM

**Filing Complete**

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After you receive this email, you will receive a tracking number. To process your filing, you must submit this tracking number with your paper copies. You may print and include this page in your submission. If you have any questions about the number of copies, please see the following page: <http://www.puc.texas.gov/industry/filings/filingProceed.aspx>.

Central Records: (512) 936-7180

Tracking Number: QLL0MBWH

Filing Submitted on	3/27/2017 3:08:19 PM
Control number	A new control number was requested.
Filing Type	MISCELLANEOUS
Description	PETITION TO UNDOPE SERVICE RATE INFLUENCE by Naturopaths or similar entities
Documents	PETITION - ORIGINAL fully executed copy 3-20-2017.pdf
Attachments Included	no
Submitted By	Deborah Fato 1007 Wilkes Drive Lubbock, TX 79416 9728532150 deb.fato@gmail.com

Deborah Fato <deb.fato@gmail.com>

Mon, Mar 27, 2017 at 3:27 PM

To: centralrecords@puc.texas.gov

CC: "Denier, Tammy" <Tammy.Denier@puc.texas.gov> Shawn Hazard <shawn.hazard@puc.texas.gov>

Re: "Filing Complete" email

Deborah Fato

----- Forwarded message -----

From: <noreply@puc.texas.gov>

Date: Mon, Mar 27, 2017 at 3:08 PM

Subject: PUC Filing submission confirmation.

To: deb.fato@gmail.com



## Filing Complete

### Next Steps:

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Central Records: (512) 936-7180

Tracking Number: QLLOMBWH

Filing Submitted on	3/27/2017 3:08:19 PM
Control Number	A new control number was suggested.
Filing Party	Deborah Fato PETITIONER
Filing Type	MISCELLANEOUS
Description	PETITION TO OPPOSE WATER RATE INCREASE by Ratepayers of the Bear Creek Special Utility District
Documents	PETITION - ORIGINAL fully executed copy 3-20-2017.pdf
Addendum Included	No
Submitted By	Deborah Fato 1007 Hilltop Drive Levon, TX 75166 9720532150 deb.fato@gmail.com

**Donna L. Nelson**  
Chairman

**Kenneth W. Anderson, Jr.**  
Commissioner

**Brandy Marty Marquez**  
Commissioner

**Brian H. Lloyd**  
Executive Director



**Greg Abbott**  
Governor

## ***Public Utility Commission of Texas***

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3/28/2017

Ms Deborah Fato  
1007 Hilltop Dr  
Lavon TX 75166

RE: Complaint # CP2017030597

Dear Ms Fato:

The Customer Protection Division (CPD) of the Public Utility Commission of Texas received your correspondence protesting the rate increase by Bear Creek Special Utility District. Enclosed, you will find information on how to appeal a rate change made by the board of directors of your water district.

Your correspondence is important and appreciated. Thank you for taking the time to write the Commission and for participating in the regulatory process. If you should have further questions, please contact the Water Utility Division at 512-936-7405.

Sincerely,

Customer Protection Division  
Public Utility Commission of Texas



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1701 N. Congress Avenue PO Box 13326 Austin, TX 78711 512/936-7000 Fax: 512/936-7003 web site: [www.puc.texas.gov](http://www.puc.texas.gov)

# Utili-Facts

## Appealing a Rate Change Decision Made by a Board of Directors, A City Council, or County Commissioners

If your water or sewer utility<sup>1</sup> changes its rates and you wish to contest the decision, the Public Utility of Texas (PUCT) cannot review the retail rates charged by some types of utilities unless



you file an appeal in the form of a petition. (Texas Water Code (TWC), Section 13.043(b)). Parties to a rate proceeding before the governing body of a municipality may have different appeal rights under TWC, Section 13.043(a).

The petition must be signed by 10 percent of the affected ratepayers (customers) eligible to appeal. (If there are more than 100,000 eligible ratepayers, the petition is valid if at least 10,000 affected ratepayers sign it.)

You must send the petition to the PUCT within a specific period of time, as discussed later in this publication.

### Who Can Appeal a Rate Change Decision?

You and your fellow ratepayers may file an appeal if you are served by one of the types of utilities listed below. Also shown is who has original authority to approve or "set" the rates.

Type of Utility	Who sets the rates?
Water Supply Corporation (WSC)	Board of Directors of the WSC
Water District or River Authority	Board of Directors of the District or Authority
Private or Investor-Owned Utility Operating Inside a City	City Council
City-Owned Utility Serving Customers Outside the City	City Council
County within 50 Miles of the U.S.-Mexico Border Who Sets the Rates?	County Commissioners

### Who Can Sign the Petition?

Each person receiving a separate bill is considered a "ratepayer." However, you can only be considered a single ratepayer regardless of the number of bills you receive. A petition can be signed by

<sup>1</sup> The term "utility," as used in this publication, corresponds with "retail public utility" as defined by the Texas Water Code, §13.002(19).

<sup>2</sup> Only ratepayers living outside the city are eligible to appeal. The PUCT does not have jurisdiction to review the rates charged by a city to in-city, retail customers.

either you as the ratepayer, or by your spouse.

### What Should the Petition Say?

Each signature page of the petition should include the following:

1. A statement that the petition is an appeal of the decision that set the new rates. In the case of an investor-owned utility (IOU) operating within a city, the petition should state that it appeals the decision that the city made on a rate change requested by the utility.
2. A short description of the rate change, noting both the old and the new rates.
3. The effective date of the rate change and the date the ratepayers were notified of the rate change.
4. A statement about why you and your fellow ratepayers are requesting that the PUCT review the decision setting the rates.
5. The name and address of an individual or organization that is willing to act as the ratepayers' representative.
6. The mailing address and phone number of the utility. In the case of an IOU operating within a city, the petition should also include the name, mailing address, and phone number of the city.

Each ratepayer signing the petition should write legibly and provide the following information:

- Name,
- Telephone number,
- Street or rural address where the utility service is received (a post office box is not sufficient), and
- Mailing address (if it differs from the address where service is received).

A sample petition appears on the back of this information sheet. This sample should only be used as a guideline. The wording underlined on the sample should be revised as needed for your petition. All the information noted above should be included in your petition.

### How Is the Petition Filed?

Send a copy of the petition to the utility, and file seven copies of the petition, including the original with the PUCT at:



QUESTIONS:  
Call: 512-926-7406

Write:  
Public Utility Commission  
Water Utility Division  
1701 N. Congress Ave.  
P.O. Box 13326  
Austin, TX 78711-3326

(continued on back)

(continued from front)

Public Utility Commission of Texas

Central Records

Attn: Filing Clerk

1701 N. Congress Avenue

P.O. Box 13326

Austin, TX 78711-3326

No filing fee is required. For most utilities, you must submit the petition within 90 days after the effective date of the rate change.

However, if the petition is appealing the rates approved by a city or county for a utility under its jurisdiction (inside the corporate limits of the municipality or a utility owned by an affected county), the petition should be submitted within 90 days of the date on which the city or county made its final decision regarding these rates. A copy of the petition should be sent to the city or county and to the utility at the same time it is filed with the PUCT. As noted above, seven copies of the petition, including the original should be filed with the PUCT.

#### What Happens Next?

The PUCT must review the petition to see if it is complete. If additional information is required, the ratepayers' representative will be contacted. The petition is then either accepted for filing or, if it is incomplete, returned. The ratepayers' representative will be notified if the petition was accepted.

If the petition is accepted for filing, a PUCT engineer, accountant, and attorney are assigned and the petition is forwarded to the State Office of Administrative Hearings (SOAH) so that a contested case hearing can be scheduled. SOAH will assign an administrative law judge (ALJ) to hear the case.

As a first step in the contested case hearing process, known as the prehearing conference, an ALJ will name parties to the case and give the parties an opportunity to reach a settlement on the appeal.

If the parties cannot agree to a settlement, the

administrative law judge will set a procedural schedule. At the very least, this schedule will include an opportunity for parties to obtain information from each other through a procedure called discovery, and the date(s) for the next phase, called the evidentiary hearing. The evidentiary hearing is a legal proceeding subject to the Texas Rules of Civil Procedure, the Texas Rules of Evidence, and the PUCT Procedural Rules.

If you are a party to the contested case hearing, you are required to respond to requests for information during the discovery period. During the evidentiary hearing, you may call your own witnesses and cross-examine other parties' witnesses, but you do not have to do so.

When the hearing process is completed, the ALJ prepares a "Proposal for Decision" to submit to the three PUCT Commissioners. The Commissioners make the final decision on the ratepayers' appeal.

Note that the rates you are appealing can be put into effect by your utility even though you have filed an appeal or the appeal is pending. If the Commissioners set lower rates, refunds may be ordered.

#### Who Can Answer Any Other Questions I Have?

For additional information, please contact:

Public Utility Commission of Texas Water Utility Division,  
1701 N Congress Avenue, P.O. Box 13326, Austin, Texas  
78711-3326 Phone: (512) 936-7405.

#### Sample Petition

(The wording underlined should be revised as needed for your petition.)

#### Petition to Appeal Rates Established by the Board of Directors XYZ Water Supply Corporation 124 Main Street Anytown, Texas 99999

The undersigned ratepayers of XYZ Water Supply Corporation hereby appeal the decision of the board of directors of the Corporation affecting the rates charged to them by XYZ Water Supply Corporation. The rate change was effective on September 1, 2000 and affected the rates charged for water, utility service, tap fees, late charges, and reconnection fees. On September 5, 2000, the ratepayers were notified by the service provider of this rate increase. The undersigned request that the Public Utility Commission of Texas review the decision to determine if the rates established are just and reasonable. The old rates charged by the service provider are \$20.00 minimum bill plus \$1.25 for each additional 1,000 gallons and the new rate are \$25.00 minimum bill plus \$2.00 for each additional 1,000 gallons. The undersigned designate the XYZ Property Owners Association as their representative on this matter. Correspondence to the ratepayers' representative may be directed to Ms. Jane Doe, President, XYZ Property Owners Association, 1235 Main Street, Anytown, Texas 9999, 512-555-1234.

Name (Please Print) and Signature	Service Address (and Mailing Address if Different from Service Address)	Phone Number

Ex F pg. 5