



Control Number: 47625



Item Number: 17

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DOCKET NO. 47625

**APPLICATION OF CYPRESSWOOD
HILLS WATER, LLC TO
IMPLEMENT A PASS-THROUGH
CHANGE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

2018 APR -9 PM 2:50
PUBLIC UTILITY COMMISSION
OF TEXAS

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Final Recommendation. In support thereof, Staff shows the following:

I. BACKGROUND

On September 20, 2017, Cypresswood Estates Water System (Cypresswood) filed an application to implement a pass-through rate change in its tariff under Water Certificate of Convenience and Necessity (CCN) No. 12498. On March 19, 2018 Cypresswood filed an amended application seeking to recover past due fees owed to the San Jacinto River Authority (SJRA), including penalties and interest. The rate increase will affect the Cypresswood Estates subdivision.

On January 26, 2018, the Commission remanded this proceeding to the Administrative Law Judge (ALJ). On February 22, 2018, the ALJ issued an Order Adopting Procedural Schedule which required Staff to file a recommendation on Cypresswood's amended application by April 9, 2018. This pleading is therefore timely filed.

II. FINAL RECOMMENDATION

Staff has reviewed Cypresswood's amended pass-through application pursuant to 16 Texas Administrative Code (TAC) § 24.21(b)(2), and, as supported by the attached memorandum of Fred Bednarski of the Water Utility Regulation Division, Staff recommends that the application be approved in part. In addition to interest and penalties, Cypresswood in its amended application requested that approximately \$7,200 in legal fees charged by the San Jacinto River Authority (SJRA) be included in a new surcharge. The inclusion of legal fees for past due payments is atypical for a pass-through, and has not previously been considered one of the types of pass-through costs permitted under 16 TAC § 24.21(b)(2)(C). Staff has calculated a

surcharge of \$33.58 per connection per month that would exclude the cost of legal fees owed to SJRA. However, in light of the extraordinary circumstances surrounding Cypresswood's financial health, Staff and Cypresswood have calculated a surcharge of \$37.43 per connection per month that includes the legal fees owed by Cypresswood to the SJRA. Staff thus recommends that the Commission should approve a surcharge of \$33.58 per connection per month, but notes that including recovery of legal fees would increase the surcharge to \$37.43 per connection per month, as requested in Cypresswood's amended application.

Additionally, Staff recommends approval of the SJRA GRP pumpage fee of \$26.36 per connection per month effective February 1, 2018.

Staff further recommends that the Commission require Cypresswood to provide notice of the SJRA GRP pumpage fee and the surcharge, effective from May 1, 2018 to April 30, 2019. Staff also recommends that Cypresswood be provided a copy of the notice and approved tariff, which reflect Staff's recommended surcharge of \$33.58.¹

III. CONCLUSION

Staff respectfully requests the issuance of an order consistent with the recommendation.

¹ Staff notes that it would need to update the surcharge listed on the tariff and notice if the Commission grants Cypresswood's request in its entirety.

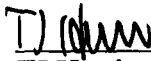
Dated: April 9, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Stephen Mack
Managing Attorney

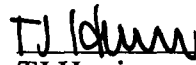


TJ Harris
State Bar No. 24097804
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7216
(512) 936-7268 (facsimile)
TJ.Harris@puc.texas.gov

DOCKET NO. 47625

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on April 9, 2018 in accordance with 16 TAC § 22.74.



TJ Harris

Public Utility Commission of Texas

Memorandum

To: TJ Harris, Attorney
Legal Division

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

From: Fred Bednarski, Financial Examiner
Water Utility Regulation Division

Date: April 09, 2018

Subject: **Tariff Control No. 47625; Application of Cypresswood Estates Water System to Implement a Pass-Through Rate Change in Montgomery County**

On January 31, 2018, Commission Advising and Docket Management (CADM) issued an order requiring the parties in Docket 47625 to determine the total amount due to the SJRA (San Jacinto River Authority), including past-due payments, penalties and any interest owed. The order also stated that when the total amount owed is calculated, an appropriate rate should be proposed to provide for the ongoing fees and recovery of all arrears over a reasonable period of time, taking the burden on Cypresswood's customers into consideration. This memo is intended to comply with the Commission's direction, the CADM order, and to make a Staff recommendation.

Cypresswood filed a supplemental application on March 19, 2018 requesting an approved tariff for the SJRA Groundwater Reduction Program (GRP) pumpage fee of \$26.36 per connection per month as a pass-through charge pursuant to 16 TAC § 24.21(b)(2)(A)(iii). Cypresswood's supplemental application also requested approval of a surcharge amount of \$37.43 per connection per month from May 1, 2018 until April 30, 2019 to recover past due SJRA fees pursuant to 16 TAC § 24.21(b)(2)(G)(i). SJRA charged Cypresswood legal fees in addition to penalties and interest for the past due fees. Staff reviewed the calculated pass-through fee and surcharge fees in the supplemental application and has determined that they were calculated correctly.

A summary of the charges reflected in the SJRA billings follow:

Total finance fees	2,507.57
Total late fees	2,580.61
Total legal fees	7,242.56
Noncompliance fee	250.00
Inspection fee	250.00
Allocation fees	2,190.76

<u>Pumpage fees</u>	<u>68,080.58</u>	
SJRA Total charges from November 2016		\$ 83,112.08
Total payments as of February 21, 2018		\$ (12,587.37)
Balance due as of February 21, 2018		\$ 70,524.71

Invoices available for the months prior to November 2016 reflect that finance and late fees were charged by SJRA to Cypresswood at that time. Staff notes that the allocation fees and pumpage fees are typical of SJRA charges to a utility with timely payment history, while the other fees are not typical.

If the Commission decides to approve all SJRA charges, except legal fees, to Cypresswood included in the application, the supplemental calculations are correct. If the Commission decides to exclude SJRA's legal fees from the surcharge, the monthly surcharge would be reduced to \$33.58.

This application is atypical. Staff has not previously recommended penalties, interest, or legal fees be recovered in a pass-through application for past due fees owed by the utility. This is because most utilities do not incur such penalties, interest or legal fees associated with past due fees. Instead, most utilities pay for purchased water when payment is due so as to uphold the utility's obligation to provide continuous and adequate service to its customers. Furthermore, a utility is responsible for reviewing its cost of service to determine when filing a rate case is necessary in order to maintain the utility's financial integrity and to meet its obligations.

Cypresswood has not filed for a rate increase since May 29, 1990 and has not requested a pass-through provision prior to this application. Cypresswood's customers had no control over these decisions. Furthermore, the rules do not allow the customers to request a hearing on a pass-through application. The current tariff reflects flat rates of \$15 for system number one and \$10 for system number two. These rates are extremely low for a water utility with 157 connections and two active wells.

Therefore, Staff recommends approval of the past due surcharge, excluding legal fees, as an extraordinary measure to protect the financial integrity of Cypresswood pursuant to 16 TAC § 24.32.

Staff recommends that the Commission:

1. Approve SJRA GRP pumpage fee of \$26.36 per connection per month effective 2/1/2018.
2. Approve a surcharge fee amount of \$33.58 (excluding legal fees) per connection per month effective May 1, 2018 thru April 30, 2019, or as an alternative approve a surcharge fee amount of \$37.43 (including legal fees) per connection per month effective May 1, 2018 thru April 30, 2019.
3. Require Cypresswood to provide notice to each customers indicating the SJRA GRP pumpage fee \$26.36 per connection per month is effective February 1, 2018, and the

surcharge fee amount of either \$33.58 or \$37.43 per connection per month effective May 1, 2018 thru April 30, 2019.

4. Provide a copy of the attached approved tariff and notice to the Applicant.

NOTICE OF PASS THROUGH RATE PROVISION INCREASE

Cypresswood Estates Water System

Company Name

11498

CCN Number

is instituting a pumpage fee pass thru rate of \$26.36 per month and a surcharge for past due San Jacinto River Authority (SJRA) Groundwater Reduction Plan (GRP) fees of \$37.43 or \$33.58 per month for your subdivision. This tariff change is being implemented to add a pass thru pumpage fee to the utility's approved tariff to recognize the water pumpage fee from SJRA GRP and a surcharge for 12 months for past due SJRA fees owed. This tariff change is being implemented in accordance with the minor tariff changes allowed by 16 Texas Administrative Code §24.21. The cost to you as a result of this change will not exceed the costs charged to your utility.

Cypresswood Estates (PWS # 1700301)

Subdivisions /Systems Affected by Pass Through Provision

36515 Cochran Road

Company Address

Waller

City

TX

State

77484

Zip

832-435-2673

Phone #

Current SJRA GRP pumpage fee (September 1, 2017): \$2.64 per 1,000 gallons

Annual Gallons Pumped: 18,811,700 gallons

Annual SJRA GRP total pumpage fee calculation:

(18,811,700 gallons / 1,000) X \$2.64 per 1,000 gallons = \$49,663

Calculation of SJRA GRP pumpage fee amount per connection:

ABR = {BR / N}, Where:

ABR = SJRA GRP pumpage fee per connection, rounded to nearest one cent;

BR = Monthly SJRA GRP pumpage fee total, currently BR = \$ 49,663 / 12 months = \$4,139

N = Number of current active service connections; currently N = 157

ABR = \$ 4,139 / 157 connections

ABR = \$ 26.36 per connection

Calculation of Surcharge for SJRA past due GRP fees:

Surcharge Fee (SF) = {TA / N}, Where:

SF = Surcharge per connection, rounded to nearest one cent;

TA = Total past due SJRA GRP pumpage fees, penalties, and fines total per payment period,

Total past due pumpage fees, fines, and interest as of 02/21/2018 = \$70,524.71 or \$63,272.12,

Payment period is 12 months,

TA = \$70,524.71 or \$63,272 / 12 months = \$5,877 or \$5,273

N = Number of current active service connections; = 157

SF = \$ 5,877 or \$5,273 / 157 connections

SF = \$ 37.43 or \$33.58 per connection

Pass Through Rate Provision For Cypresswood Estates:

This additional pass through fees will be added as a monthly charge for participation in the SJRA GRP

**SJRA GRP pumpage pass thru fee \$ 26.36 per connection per month
(Authorized from February 1, 2018) (Tariff Control No. 47625)**

**Surcharge for Past Due SJRA GRP fees \$33.58 per connection/per month
(Authorized from May 1, 2018 through April 30, 2019) (Tariff Control No. 47625)**



WATER UTILITY TARIFF

Tariff Control No. 47625

Drew T. Spencer dba Cypresswood Estates Water System
(Utility Name)

P.O. Box 2302
(Business Address)

Conroe, TX 77305
(City, State, Zip Code)

(409) 760-3111
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

12498

This tariff is effective in the following counties:

Montgomery

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions or systems:

Cypresswood Estates (PWS #1700301)

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

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APPENDIX A - DROUGHT CONTINGENCY PLAN
APPENDIX B - SAMPLE SERVICE AGREEMENT
APPENDIX C - APPLICATION FOR SERVICE

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Flat Rate</u>
Same for all meter sizes	<u>\$15.00</u>

Additional Fees

San Jacinto River Authority (SJRA) Groundwater Reduction Plan (GRP) Pumpage Fee \$26.36
per connection per month (Authorized from February 1, 2018) (*Docket No. 47625*)

Surcharge for SJRA past due GRP fees \$33.58
per connection per month (Authorized from May 1, 2018, thru April 30, 2019) (*Docket No. 47625*)

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order , Credit Card , Other (specify)
THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT
PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN
FOR CASH PAYMENTS.

REGULATORY ASSESSMENT 1.0%
PUC RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY
BILL AND TO REMIT FEE TO THE TCEQ.

Section 1.02 – Miscellaneous Fees

TAP FEE \$300.00
TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD
RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF
LISTED ON THIS TARIFF.

METER TEST FEE N/A
THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER
REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE
METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

RECONNECTION FEE
THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS
BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION
2.0 OF THIS TARIFF):
a) Nonpayment of bill (Maximum \$25.00) N/A
b) Customer's request that service be disconnected N/A

LATE CHARGE N/A
PUC RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE
MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS
BILLING.

RETURNED CHECK CHARGE N/A
RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50) N/A

Tariff Control No. 47625

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Flat Rate</u>
Same for all meter sizes	<u>\$10.00</u>

Additional Fees

SJRA GRP Pumpage Fee..... \$26.36
per connection per month (Authorized from February 1, 2018) (*Docket No. 47625*)

Surcharge for SJRA past due GRP fees \$33.58
per connection per month (Authorized from May 1, 2018, thru April 30, 2019) (*Docket No. 47625*)

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order , Credit Card , Other (specify)
THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT
PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN
FOR CASH PAYMENTS.

REGULATORY ASSESSMENT 1.0%
PUC RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY
BILL AND TO REMIT FEE TO THE TCEQ.

Section 1.02 – Miscellaneous Fees

TAP FEE.....\$75.00
TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD
RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF
LISTED ON THIS TARIFF.

METER TEST FEEN/A
THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER
REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE
METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

RECONNECTION FEE
THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS
BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION
2.0 OF THIS TARIFF):
a) Nonpayment of bill (Maximum \$25.00).....N/A
b) Customer's request that service be disconnected.....N/A

LATE CHARGE.....N/A
PUC RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE
MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS
BILLING.

RETURNED CHECK CHARGEN/A
RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50).....N/A

Tariff Control No. 47625