



Control Number: 47625



Item Number: 24

Addendum StartPage: 0

APPLICATION OF CYPRESSWOOD  
ESTATES WATER SYSTEM FOR A  
PASS-THROUGH RATE CHANGE

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PUBLIC UTILITY COMMISSION  
OF TEXAS

2018 MAY 11 PM 2:37

FILED  
FILING CLERK

## ORDER

This Order addresses the amended application of Cypresswood Estates Water System for approval of a pass-through rate change to recover fees imposed on the utility by the San Jacinto River Authority (SJRA) for the utility's participation in SJRA's Groundwater Reduction Plan. The Commission approves the amended application, in part.

### I. Background

#### A. The Application

On September 20, 2017, Cypresswood filed an application seeking a pass-through rate of \$26.36 to recover fees charged to it by SJRA.<sup>1</sup> Commission Staff recommended that the pass-through rate be approved, but that Cypresswood be ordered to install meters at each of its connections. After the Commission determined that there were further issues to resolve with regard to Cypresswood's failure to pay SJRA and the arrearages that it owed, the Commission voted to remand the docket to the administrative law judge (ALJ) to order an interim rate in the amount of \$26.36 per connection per month and determine the total amount due to the SJRA, including past-due payments, penalties and interest.<sup>2</sup> The parties were further ordered to disregard the metering issue, and determine a rate that would collect the arrearages owed to SJRA over a period of time that would prevent Cypresswood from accruing further penalties and interest.

#### B. Interim Rate and Amended Application

On January 31, 2018, the ALJ approved an interim pass-through rate \$26.36 per connection per month and the parties were further ordered to determine the total amount due to the SJRA, including past-due payments, penalties, and any interest owed in order for Cypresswood to file an amended application.

<sup>1</sup> Application of Cypresswood Estates Water System for a Pass-Through Rate Change (Sep. 20, 2017).

<sup>2</sup> Order Remanding Proceeding to ALJ (Jan. 26, 2018).

Thereafter, Cypresswood filed an amended application on March 19, 2018, including an invoice of the total amount owed and a proposed rate to provide for the ongoing fees and the recovery of all arrears. In addition to interest and penalties, Cypresswood requested that approximately \$7,200 in legal fees charged by the SJRA be included in a new surcharge.

### **C. Staff recommendation**

On April 9, 2018, Commission Staff recommended that the Commission approve a surcharge of \$33.58 per connection per month, but noted that including recovery of legal fees would increase the surcharge to \$37.43 per connection per month, as requested in Cypresswood's amended application. Commission Staff stated that legal fees being sought by Cypresswood for a pass-through rate had not previously been considered as one of the types of pass-through costs permitted under 16 TAC § 24.21(b)(2)(C).<sup>3</sup> Commission Staff also recommended final approval of the SJRA pass-through rate of \$26.36 per connection per month effective February 1, 2018 and that Cypresswood be required to issue a new notice to customers indicating the pass-through rate and the approved surcharge.

The Commission adopts the following findings of fact and conclusions of law:

## **II. Findings of Fact**

### **Procedural History**

1. On September 20, 2017, Cypresswood filed an application to add a pass-through rate clause to its current tariff to pass-through the utility's cost for the San Jacinto River Authority's Groundwater Reduction Plan.
2. Cypresswood's current tariff that has been in effect since 1991 authorizes a \$15.00 monthly flat rate for System 1 and a \$10.00 monthly flat rate for System 2.
3. The pumpage fee charged by SJRA of \$2.64 per 1,000 gallons, was effective September 1, 2017. Cypresswood proposed to pass through the annual cost, based on historical gallons pumped from the well and the new effective rate, as a flat monthly rate of \$26.36 per connection.

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<sup>3</sup> Commission Staff's Final Recommendation at 1 (April 9, 2018).

4. The applicant holds certificate of convenience and necessity (CCN) No. 12498 and serves 157 unmetered connections.
5. On September 25, 2017, a notice was issued by the Commission ALJ establishing an October 11, 2017 deadline for Commission Staff to file a recommendation on the application and notice, and to propose a procedural schedule.
6. On October 10, 2017, Commission Staff recommended that the application be denied. In the alternative, Commission Staff recommended that Cypresswood recover the SJRA fees from customers as a surcharge for one-year period and that Cypresswood be required to install meters and request a metered rate along with a pass-through provision based on a gallonage charge. Commission Staff's recommendation took into account that Cypresswood's use of a monthly flat rate to recover a gallonage rate cost might result in overrecovery of the gallonage charges billed by SJRA and would provide no incentive to conserve.
7. On December 13, 2017, Cypresswood filed a response to Commission Staff's recommendation stating that Cypresswood is owned by the Estate of Drew Spencer and the Estate is attempting to find a buyer for the system as there are no funds in the estate to make substantial improvements. The fees owed to SJRA are currently past due. Cypresswood stated in its Notice of Appearance of Counsel, Motion for Leave, and Response to Commission Staff's Recommendation that it "commits to including a provision in any sale that requires the installation and meters and implementation of a gallonage charge by August 31, 2018." Cypresswood added that should they not find a buyer within the next 60 days, Cypresswood plans to file for approval to relinquish its CCN.
8. On January 5, 2018, notice by the Commission ALJ was issued docketing the proceeding.
9. On January 5, 2018, the Commission ALJ filed a proposed order.
10. On January 26, 2018, the Commission issued an order remanding the proceeding to the ALJ authorizing the implementation of an interim rate.
11. On January 31, 2018, the Commission ALJ issued an order approving an interim rate and providing further instruction.

12. On February 15, 2018, Commission Staff filed a proposed procedural schedule setting a deadline for the applicant to file an amended application.
13. On February 22, 2018, the Commission ALJ issued an order adopting a procedural schedule.

#### **The Amended Application**

14. On March 19, 2018, Cypresswood filed an amended application seeking to recover past fees owed to the SJRA, including penalties and interest. In addition to late fee and finance fee penalties, a non-compliance fee, and an inspection fee, Cypresswood requested that approximately \$7,200 in legal fees charged by the SJRA be included in a new surcharge. Cypresswood proposed a surcharge of \$37.43.
15. On April 9, 2018, Commission Staff recommended approval of a \$33.58 per connection per month surcharge, excluding legal fees, as an extraordinary measure to protect the financial integrity of the utility.

#### **Informal Disposition**

16. The only parties to this application are Commission Staff and Cypresswood.
17. No party requested a hearing.

### **III. Conclusions of Law**

1. Cypresswood is a retail public utility as defined in Texas Water Code § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.003(59).
2. The Commission has jurisdiction over the amended application under TWC § 13.041(a).
3. This docket was processed in accordance with the requirements of the Texas Administrative Procedure Act, the TWC and Commission rules.
4. Both the pass-through rate, collecting the current SJRA charges, and the surcharge, collecting the arrearages, are just and reasonable as required by TWC § 13.182.
5. The rates provided for in this order and any rates that Cypresswood currently charges fix Cypresswood's revenue at a level that provides a reasonable opportunity to earn a

reasonable return on invested capital, and preserves the financial integrity of Cypresswood as required by TWC § 13.183(a).

6. Cypresswood may recover the costs charged by SJRA under 16 TAC § 24.21(b)(2)(C) through (F).
7. Cypresswood may surcharge past-due costs under 16 TAC § 24.21(b)(2)(G).

#### **IV. Ordering Paragraphs**

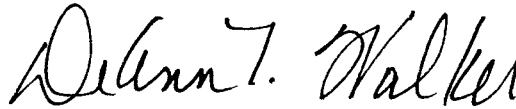
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the amended application, in part.
2. Cypresswood shall implement a \$37.43 per connection per month surcharge, effective June 1, 2018 through May 31, 2019, to recover all arrearages owed by Cypresswood to SJRA, including legal fees.
3. The Commission denies the recovery of the legal fees in a pass-through rate.
4. The SJRA pass-through rate of \$26.36 per connection per month, which was approved on January 31, 2018 to collect fees charged by SJRA to Cypresswood on a going forward basis, is granted final approval.
5. Cypresswood shall issue a new notice to customers indicating the approved water pumpage fee and surcharge for past due SJRA fees.
6. Cypresswood must provide notice to all customers for the final pass-through rate of \$26.36 and the \$37.43 surcharge to be sent no later than May 24, 2018. The notice for both rates shall include an effective date of June 1, 2018, and the surcharge shall be authorized until May 31, 2019.
7. In all instances, the \$26.36 pass-through rate shall be called the "San Jacinto River Authority (SJRA) pass-through rate."
8. In all instances, the \$37.43 surcharge shall be called the "San Jacinto River Authority (SJRA) surcharge."
9. The tariff sheets attached to this Order are approved.

10. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 11<sup>th</sup> day of May 2018.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**DEANN T. WALKER, CHAIRMAN**



**ARTHUR C. D'ANDREA, COMMISSIONER**

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## **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):

SECTION 1.0 -- RATE SCHEDULE.....	2
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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) Pass-through rate..... \$26.36  
per connection per month (Authorized from February 1, 2018) (*Tariff Control No. 47625*)

San Jacinto River Authority (SJRA) Surcharge..... \$37.43  
per connection per month (Authorized from June 1, 2018, thru May 31, 2019) (*Tariff Control 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

San Jacinto River Authority (SJRA) Pass-through rate..... \$26.36  
per connection per month (Authorized from February 1, 2018) (*Tariff Control No. 47625*)

San Jacinto River Authority (SJRA) Surcharge..... \$37.43  
per connection per month (Authorized from June 1, 2018, thru May 31, 2019) (*Tariff Control 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 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  
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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**

