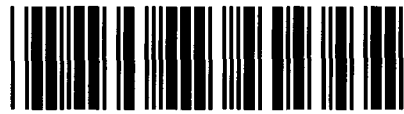




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DOCKET NO. _____

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BEFORE THE

PETITION OF MSEC ENTERPRISES, §
INC. FOR A GOOD CAUSE §
EXCEPTION FROM REQUIREMENT §
TO FILE A STATEMENT OF INTENT §
AND REQUEST FOR APPROVAL OF §
TARIFF §

PUBLIC UTILITY COMMISSION
OF TEXAS

**PETITION FOR GOOD CAUSE EXCEPTION
AND REQUEST FOR APPROVAL OF
TARIFF AMENDMENT**

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ATTACHMENTS

Attachment 1 – Proposed Rate Schedule

Attachment 2 – Letter from Mr. Robertson dated November 27, 2017

Attachment 3 – Letter from Mr. Robertson dated December 6, 2017

Attachment 4 – Letter from Shelley Young dated July 21, 2017

DOCKET NO. _____

PETITION OF MSEC ENTERPRISES, § BEFORE THE
INC. FOR A GOOD CAUSE §
EXCEPTION FROM REQUIREMENT § PUBLIC UTILITY COMMISSION
TO FILE A STATEMENT OF INTENT §
AND REQUEST FOR APPROVAL OF § OF TEXAS
TARIFF §

**PETITION FOR GOOD CAUSE EXCEPTION
AND REQUEST FOR APPROVAL OF TARIFF AMENDMENT**

COMES NOW MSEC Enterprises, Inc. (MSEC) and files this its Petition for a Good Cause Exception from the requirement to file a Statement of Intent and Request for Approval of an amendment to its Tariff to include new meter sizes, for the reasons set forth herein. In support hereof, MSEC shows the following:

I. AUTHORIZED REPRESENTATIVES

The mailing address, telephone number, and email address of MSEC's authorized legal representatives are as follows:

Georgia N. Crump
Ty H. Embrey
Troupe T. Brewer
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800 – Telephone
(512) 472-0532 – Facsimile
gcrump@lglawfirm.com
tembrey@lglawfirm.com
tbrewer@lglawfirm.com

II. BACKGROUND

MSEC is an independently owned Class B water and wastewater utility in Montgomery County, Texas.¹ MSEC holds water Certificate of Convenience and Necessity (CCN) No. 12887, and sewer CCN No. 20984. MSEC provides water utility services in Grimes County and water and sewer utility services in the rapidly growing area of Montgomery County. This

¹ Tex. Water Code § 13.002(4-b) (West Supp. 2017); 16 Tex. Admin. Code (TAC) § 24.3(16).

Petition is related to the MSEC's water tariff. MSEC needs to add larger meters to its tariff to serve larger customers, and it requests approval of its tariff to allow it to do so without having to undertake the time and expense of filing a full statement of intent. Existing customers' rates will not be impacted.

At the time of its creation in 1997, MSEC's water service area was predominantly rural and residential in character. According to the U.S. Census Bureau, in 1990 the population of Montgomery County was 182,201; by 2000, the population of the county reached 293,768, an increase of 61.2%. The population of Montgomery County grew by another 55% between 2000 and 2010. From 2010 to 2016 the county's population grew by another 22%, and the population is now estimated to be over 556,000.² MSEC itself is also growing in order to serve this expanding population, having recently completed amendments to its water and sewer CCN areas, and now provides water utility service to over 5,000 connections through three permitted public water systems.³ It also provides sewer utility service to seven commercial connections.⁴

MSEC's current Commission-approved water utility tariff, originally implemented in 1997, has provisions for meters ranging in size from 5/8" to 3 inches. The need for larger meters

² The U.S. Decennial Census states that the county's population grew 61.2% from 1990 to 2000 (182,201 to 293,768).

³ MSEC's water CCN was most recently amended in 2017, which added 216 acres (*Application of MSEC Enterprises, Inc. to Amend a Water Certificate of Convenience and Necessity in Montgomery County*, Docket No. 46423, Notice of Approval (Sept. 14, 2017)). A pending CCN application will add another 79 acres (*Application of MSEC Enterprises, Inc. to Amend a Water Certificate of Convenience and Necessity in Montgomery County*, Docket No. 47936 (pending)).

⁴ MSEC's sewer CCN was amended twice in 2017: *Application of MSEC Enterprises, Inc. to Amend a Sewer Certificate of Convenience and Necessity in Montgomery County*, Docket No. 46412, Notice of Approval (May 24, 2017), which added 38 acres and 3 existing customers, and *Application of MSEC Enterprises, Inc. to Amend a Certificate of Convenience and Necessity in Montgomery County*, Docket No. 44740, Notice of Approval (Sept. 7, 2017), adding 191 total acres. The CCN area added by the latter amendment included a new wastewater treatment plant and one new commercial connection to be served by that new plant—the new Montgomery Independent School District (MISD) school campus. In that Notice of Approval, the Commission authorized a revision to MSEC's sewer tariff to add rates for two new meter sizes (8 inches and 10 inches) to serve the Lake Creek High School, Oak Hill Junior High School, and the Keenan Elementary School. MSEC provides wastewater service to the MISD campus pursuant to a wastewater service agreement. The Commission's approval of the tariff revision was coupled with a requirement that MSEC true-up the new wastewater rates by filing a rate/tariff change application within 18 months from the date MSEC begins providing retail sewer service using its new system. Docket No. 44740, Notice of Approval at 5.

was not foreseen at the time the tariff was originally written and approved, but because of the reasonably anticipated need for larger meter sizes now, MSEC needs to revise its water tariff to add rates for the larger meters. The proposed Rate Schedule that includes the larger meter sizes is attached to this Petition as Attachment 1.

The Commission's rules require a utility to charge only those rates or charges contained in its approved tariff filed with the Commission.⁵ For utilities under the original jurisdiction of the Commission, a utility's approved tariff may not be changed or amended without Commission approval.⁶ For Class B utilities, such as MSEC, the Commission's rules require detailed filings when the utility seeks to change rates.⁷ The filing must include the Commission's rate filing package and all required schedules, it must be based on a test year, and it must include notice to affected ratepayers.⁸ Certain tariff changes may be administratively approved, without the need for a full rate filing, if they meet the qualifications for "minor tariff changes," as specified by Commission rule.⁹ MSEC is seeking to amend or revise its tariff for the sole purpose of adding new rates for new meter sizes, an action which, under the above-cited rules, appears to require Commission approval but does not meet the qualifications for a minor change.

However, the Commission's rules do contemplate scenarios wherein new tariffs may be implemented without the need for a full rate filing. One example is a utility that obtains an approved tariff for the first time and is required to file a rate change application within 18 months from the date service begins in order to revise its tariff to adjust the rates to a historic test year and to true-up the new tariff rates to the historic test year.¹⁰ Thus, the Commission's rules anticipate a situation where new rates may be approved that are not based on historic test

⁵ 16 TAC § 24.21(a).

⁶ 16 TAC § 24.21(b)(2).

⁷ 16 TAC § 24.22.

⁸ 16 TAC § 24.22(b) and (d).

⁹ 16 TAC § 24.22(b)(2)(A).

¹⁰ 16 TAC § 24.21(b)(1)(C).

year data, and require such rates to be subsequently reviewed to ensure their appropriateness when compared to historic test year data.

III. JURISDICTION

The Commission has jurisdiction over this Petition and Request for Approval under Texas Water Code, Chapter 13. The Commission has the authority to grant good cause exceptions to its rules pursuant to 16 Tex. Admin. Code (TAC) § 24.2(b).

IV. REQUEST FOR GOOD CAUSE EXCEPTION

As noted above, Montgomery County is one of the fastest growing counties in Texas and in the entire country. MSEC's customer base is changing from a predominantly rural and residential base to a more varied mix of uses. The large population growth has led to the need for additional schools and commercial development to support the area's residents. The Montgomery Independent School District has recently built a new multi-school campus in MSEC's service areas—a new elementary school and middle school opened in August 2017, and a new high school will open in August 2018. All three of these new schools are served by MSEC's new wastewater treatment plant; the high school will receive water from MSEC, and the other two schools receive water from Keenan Water Supply Corporation, CCN No. 11409.

Based in part upon the phenomenal growth in the area, MSEC has a reasonable expectation that it will be requested to provide water utility service to users that require larger meters than are currently identified in its tariff. Large meter users are typically industrial users, large private residential developments with master meters instead of individual meters for each unit, and schools. Fire flow requirements can also dictate the size of water meters and pipe sizes for a development. A large building can require up to 8,000 gallons per minute, depending on the type of construction and the square footage. When requests for these types of services are received, MSEC must be positioned to provide the requested service in the most expeditious manner possible, which will require having water rates in place in its tariff for large size meters. For many reasons, which are detailed in the accompanying documents, the demand for large meters cannot be met by combining multiple smaller meters, thus it is not feasible to simply use

existing tariffed meter sizes in order to provide service equivalent to what would be provided through a larger meter.

The Commission's rules prohibit MSEC from charging rates that are not contained in a Commission-approved tariff. Because MSEC is a Class B water utility, the Commission's rules also provide for a structured process for rate/tariff amendments. The Commission's process is based upon the utility providing information on an historic test-year basis in order to establish the reasonableness of its proposed rates. However, MSEC is seeking to establish tariffed rates in advance of serving customers who would take water service at the proposed rates in order to be positioned to serve those customers when service is required. In many respects, MSEC is in the same position as a new utility seeking to establish rates for the first time in order to serve expected customers, but that currently does not have historic data to support the rates.

In the absence of historic data, MSEC has obtained assistance from experienced professionals to calculate appropriate rates for larger meters to serve expected customers:

1. McClure & Brown Engineering/Surveying, Inc., has provided a letter addressing the issue of whether it would be possible to use several smaller meters in place of a larger meter, i.e., could multiple 2" meters be used when otherwise a 10" meter would be required. By letter dated November 27, 2017, Mr. Jeffery Robertson, P.E., has stated that a single meter is preferable to a manifold of smaller meters because: (i) fewer fittings provide fewer potential sites for leakage or failure; (ii) multiple fittings associated with multiple meters increase the amount of losses of pressure; (iii) a single point of connection reduces possible meter reading errors; and (iv) larger meters are built for high flow rates. Therefore, because of the hydraulics, it would require 24 2-inch meters to equal the maximum flowrate capabilities of a 10-inch meter. Mr. Robertson's letter is attached to this Petition as Attachment 2.
2. McClure & Brown has examined allowable flow rates based on industry standards to determine the appropriate multiplier to be used to calculate rates for meters larger than 3 inches. Using MSEC's approved rates, McClure & Brown has applied the appropriate multipliers and calculated rates for 4-inch, 6-inch, 8-inch, 10-inch, and 12-inch meters for MSEC. The rates calculated by Mr. Robertson, P.E. are shown in his letter dated December 6, 2017, attached hereto as Attachment 3. Rates in the current Commission-approved water tariff were set based on actual prices needed to recoup costs for each meter size on a monthly basis. Thus, the calculated rates for the larger meters are calculated based on the

multiplier for the flow rate of each meter. These are the rates proposed by MSEC for inclusion in its tariff.

3. The multipliers used by Mr. Robertson to calculate appropriate rates for the larger meters have been reviewed by an additional independent engineering firm, and have been found to be appropriate and consistent with the manner in which multipliers were developed for smaller-sized meters as shown on the Commission's rate filing forms. Please refer to the letter dated July 21, 2017, from Shelley Young, P.E., with Water Engineers, Inc., attached hereto as Attachment 4.

MSEC has received a request for a 10-inch meter from MISD for the new high school, as described previously. This new high school will be open to students in August 2018, and water service will be needed in advance of that opening date. In addition, MSEC has received inquiries from developers and landowners regarding MSEC's ability to provide water utility service that will require meters larger than 3 inches. Specifically, a commercial developer has purchased 40 acres with the intention of developing an industrial park and will potentially need one or more 4-inch meters. The MISD is also considering two additional tracts of land within MSEC's service area on which to build another elementary school and another junior high school. Both of these schools will require 6-inch or 8-inch meters to meet fire flow requirements.

V. REQUEST FOR APPROVAL OF TARIFF AMENDMENT

In order to be prepared to provide the requested service, and to meet its obligations as the holder of the CCN for the service area, MSEC needs to update its tariff and include provisions that will allow it to install the appropriate-sized meter and to charge rates that are reasonably calculated to recover its costs. MSEC is seeking Commission approval of the proposed new rates in this filing.

There is no historic test year data that can be provided in support of these proposed rates. There are currently no customers receiving service from the larger meters, and the usual review of data to determine whether requested rates are appropriate cannot be performed. Instead, MSEC requests that it be allowed to amend or revise its tariff to place into effect the proposed new rates that are reasonably calculated in accordance with AWWA methodology and supported by the expertise of two professional engineers. As noted above, this request is akin to the

establishment of rates for a new utility, a process that also has no historic data for support of the rates, but rather is based upon reasonable calculations and estimates of what the appropriate charges should be.

WHEREFORE, PREMISES CONSIDERED, MSEC prays that the Commission (1) grant a good cause exception to its rules requiring MSEC to file a rate case in order to add larger meters and new rates for the larger meters, (2) approve the revised tariff page attached to this pleading (Attachment 1), and (3) grant MSEC such other relief to which it may be 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)

gcrump@lglawfirm.com

tembrey@lglawfirm.com



GEORGIA N. CRUMP

State Bar No. 05185500

TY H. EMBREY

State Bar No. 24025346

ATTORNEYS FOR MSEC ENTERPRISES, INC.

SECTION 1.0 -- RATE SCHEDULE

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonage Charge</u>
5/8" or 3/4"	\$33.00 (Includes 0 gallons all meters)	\$3.25 per 1000 gallons, 1 st 10,000 gallons
1"	\$56.00	\$3.45 per 1000 gallons, next 10,000 gallons
1½"	\$200.00	\$3.75 per 1000 gallons over 20,000 gallons
2"	\$320.00	
3"	\$375.00	
4"	\$660.00	
6"	\$1,540.00	
8"	\$2,640.00	
10"	\$4,180.00	
12"	\$6,820.00	

Lone Star Groundwater Conservation District (GCD) *\$0.12 per 1000 gallons
(Tariff Control No. 47757)

San Jacinto River Authority (SJRA) *\$2.93 per 1000 gallons
*(The pass through rates are adjusted for line loss)(Tariff Control No. 47465)

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

Cash Check 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 REMIT THE FEE TO THE TCEQ.

TAP FEE \$1,200
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.

TAP FEE (Unique Costs) Actual Cost
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large Meter) Actual Cost
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

METER RELOCATION FEE Actual Relocation Cost, Not to Exceed Tap Fee
THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.



McCLURE & BROWNE ENGINEERING/SURVEYING, INC.

1008 Woodcrest Dr. Suite 103 College Station, Tx 77845 (979) 693 3639

Engineer Reg. No. F 456
Survey Reg. No. 101033-00

November 27, 2017

MSEC Enterprises
P.O. Box 970
Navasota, Texas 77868

Re.: MSEC Water Metering
MBESI No. 10260008

Per your request, McClure & Browne has looked into the possibility of metering large flow rates of water with a single large meter in lieu of a manifold of smaller meters.

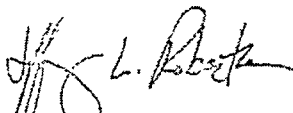
The metering of water as it leaves the Montgomery Trace Water System should be done in the most efficient manner possible to ensure accurate reading and reduced maintenance in the long term. In my opinion, a single meter is superior to a manifold of smaller meters for the following reasons:

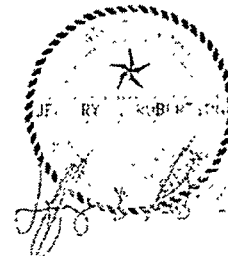
- A single meter will have fewer fittings as compared to a manifold and therefore fewer places for potential leaks or failures in the future.
- A single meter will have reduced minor losses effecting the system pressure. Each time water goes through a fitting, a small reduction in pressure is experienced. It is best to limit the number of fittings to reduce the amount of minor losses.
- A single meter provides a single point of connection and monitoring to the system and reduces any possible meter reading errors.
- Larger meters are built for high flow rates. Smaller meters in a manifold are not intended to be used for high flows.

A specific example is the 10" M.I.S.D. water meter located at the new high school site that was sized to handle the fire flow requirements for the facility along with the peak domestic demand for the site. According to the 3rd Edition of the AWWA Manual of Water Supply Practices M22, a 10" turbine meter can handle a maximum flow of 3,800 gpm and while a 2" displacement meter can handle a maximum rate of 160 gpm. 24 - 2" meters would be needed to equal the maximum flowrate capabilities of a 10" meter. The size of manifold, number fittings, potential for leaks, and increased minor losses in the system make the single 10" meter a superior selection as compared to 24-2" meters.

If you have any questions or need any additional information regarding this matter, please do not hesitate to contact me.

Sincerely,


Jeffrey L. Robertson, P.E.





McCLURE & BROWNE ENGINEERING/SURVEYING, INC.

1008 Weedenuck Dr. Suite 103 College Station Tx 77845 (979) 693-3800

Engineer Reg No F 458
Survey Reg No 101033 00

December 6, 2017

MSEC Enterprises
P.O. Box 970
Navasota, Texas 77868

Re.: MSEC Water Metering Rates
MBESI No. 10260008

McClure & Browne has looked into the allowable flow rates accepted with the industry for various sizes of water meters. Information has been gathered from the American Water Works Association (AWWA) to determine the correct flow rates for each size. The following is a summary of the findings:

To determine the standard maximum flow rates for each meter size, the 3rd Edition of the AWWA Manual of Water Supply Practices M22 – Sizing Water Service Lines and Meters, was utilized along with manufacturer data of actual maximum meter flow rates.

Meter Size	Meter Type	Meter Flow Rates		Calculated Rate
		Maximum Flow Rate (gpm)	Multiplier	
5/8"	Positive Displacement	20	1	\$22
3/4"	Positive Displacement	30	1.5	\$33*
1"	Positive Displacement	50	2.5	\$55
1.5"	Positive Displacement	100	5	\$110
2"	Positive Displacement	160	8	\$176
3"	Turbine	350	17.5	\$385
4"	Turbine	650	32.5	\$715
6"	Turbine	1,400	70	\$1,540
8"	Turbine	2,400	120	\$2,640
10"	Turbine	3,800	190	\$4,180
12"	Turbine	6,200	310	\$6,820

*Per the Current Montgomery Trace Water Tariff, 5/8" and 3/4" meters are charged at the same rate. For the purposes of these calculations, it has been assumed that the 5/8" meter will be the base meter and used for the purpose of the multipliers.

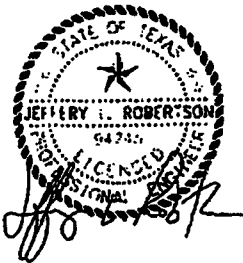
December 6, 2017
Page 2

Rates in the current Water Tariff have been set based on actual prices needed to recoup costs of the owner for each meter size on a monthly basis. Calculations for the larger meters (4" - 12") not currently included in the Water Tariff are calculated based on the multiplier for the flow rate of each meter.

If you have any questions or need any additional information regarding this matter, please do not hesitate to contact me.

Sincerely,


Jeffery L. Robertson, P.E.



 **WATERENGINEERS, INC.**
WATER & WASTEWATER TREATMENT CONSULTANTS
17230 HUFFMEISTER ROAD, SUITE A~CYPRESS, TEXAS 77429-1643
TEL: 281-373-0500 FAX: 281-373-1113

Overnight by UPS

July 21, 2017

Mr. Troy Morris
Senior Vice President of Water and Wastewater
MSEC Enterprises, Inc.
P.O. Box 970
Navasota, Texas 77868-0970

Re: Water Utility Tariff
Water CCN No. 12887

Dear Mr. Morris:

We have reviewed your proposed changes to your water utility tariff to add 4", 6", 8", 10" and 12" meter base rates. The multipliers used to arrive at the base rates for the larger meters are consistent with ratios of flows between a 5/8" meter and the larger size meters and consistent with the way multipliers were developed for smaller sized meters as shown on PUC forms. We concur that the rates at which you have arrived are appropriate.

Please feel free to contact if you have any questions.

Sincerely,
WATERENGINEERS, INC.

Shelley Young, P.E.