



Control Number: 49225



Item Number: 15

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**DOCKET NO. 49225**

**PETITION BY OUTSIDE CITY  
RATEPAYERS APPEALING THE  
WATER RATES ESTABLISHED BY  
THE CITY OF CELINA**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**COMMISSION STAFF'S RESPONSE TO ORDER NO. 3 RECOMMENDING  
PETITION ADMINISTRATIVELY COMPLETE AND REFERRAL TO SOAH**

**COMES NOW** the Commission Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this response to Order No. 3. In support therefore, Staff would show the following:

**I. BACKGROUND**

On February 14, 2019, outside city ratepayers of the City of Celina (Ratepayers) filed a petition appealing the decision of the City of Celina (City) to increase rates for water and wastewater services, effective January 1, 2019. Ratepayers filed an amended petition on March 15, 2019. Additionally, on April 5, 2019, City filed a Notice of Corrected Effective Date. The Ratepayers filed Petitioners' Response to City's Notice of Corrected Effective Date on April 12, 2019.

On March 14, 2019, the Administrative Law Judge (ALJ) issued Order No. 3, which requires Staff and the City to file comments regarding how this petition should be processed and propose a procedural schedule by April 16, 2019. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed Ratepayers' original petition filed February 14, 2019 as well as their amended petition filed on March 15, 2019 and recommends that it be deemed administratively complete under the requirements of 16 TAC § 24.103. Specifically, this rule requires the following:

(a) Petitions for review of rate actions filed pursuant to the TWC, §13.043(b), shall contain the original petition for review with the required signatures. Each signature page of a petition should contain in legible form the following information for each signatory ratepayer:

- (1) a clear and concise statement that the petition is an appeal of a specific rate action of the water or sewer service supplier in question as well as a concise description and date of that rate action;
  - (2) the name, telephone number, and street or rural route address (post office box numbers are not sufficient) of each signatory ratepayer. The petition shall list the address of the location where service is received if it differs from the residential address of the signatory ratepayer;
  - (3) the effective date of the decision being appealed;
  - (4) the basis of the request for review of rates; and
  - (5) any other information the commission may require.
- (b) A petition must be received from a total of 10,000 or 10% of the ratepayers whose rates have been changed and who are eligible to appeal, whichever is less.

Staff has reviewed the petition and finds that it contains the information required by 16 TAC § 24.103(a)(1)-(5).

Under the requirement of 16 TAC § 24.103(b), protests must be received from a total of 10% of the eligible ratepayers. In this case, Staff has determined that the Ratepayers have met the requirement of 16 TAC § 24.103(b) and the petition included signatures from ten percent of the eligible ratepayers. Additionally, City has acknowledged that the Ratepayers have met the ten percent threshold of 145 connections.<sup>1</sup>

Finally, Texas Water Code (TWC) § 13.043(c) requires:

An appeal under Subsection (b) must be initiated by filing a petition for review with the utility commission and the entity providing service within 90 days after the effective day of the rate change. . . .

On April 5, 2019, the City filed a Notice of Corrected Effective Date.<sup>2</sup> In the Notice of Corrected Effective Date, City acknowledged that it made errors in Rate Ordinance #2018-66.<sup>3</sup> Specifically, in its Notice of Corrected Effective Date, the City stated that the rates attached to Ordinance 2018-66 were in error because the columns were each off by a year.<sup>4</sup> However, the City

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<sup>1</sup> City of Celina's Responses to Commission Staff's First Request for Information at 4 (Mar. 18, 2019).

<sup>2</sup> Notice of Corrected Effective Date (Apr. 5, 2019).

<sup>3</sup> *Id.* at 1.

<sup>4</sup> *Id.*

also stated that there were no errors published rate schedules or notice it provided to its customers for the rates passed under Ordinance 2018-66.<sup>5</sup> The City stated that it passed Ordinance #2019-8 in an effort to adopt the needed corrections to Ordinance 2018-66.<sup>6</sup> According to the City, the new effective date for the corrected rates under Ordinance 2018-08 is March 19, 2019.<sup>7</sup>

In this case, Ordinance 2019-08 was passed in an effort to adopt corrections to Ordinance 2019-08. Also, there were no errors in the notices or published rate schedules provided to Ratepayers after the passing of Ordinance 2018-66 and the Ratepayers initiated there appeal based on those notices. Therefore, under TWC § 13.043(c) the Ratepayers timely initiated an appeal on February 14, 2019, which is 44 days after January 1, 2019, the effective date of the rate change in Ordinance 2018-66.

These recommendations are further discussed in the attached Staff memorandum of Fred Bednarski III, Financial Analyst in the Water Utilities Division.

### **III. PROCESSING AND PROCEDURAL SCHEDULE**

Considering the merits of the petition, Staff recommends that there exists outstanding questions of law and fact that require further development of the record. As such, Staff requests that this proceeding be referred to the State Office of Administrative Hearings (SOAH) so that an evidentiary record may be developed.

Because Staff recommends that this proceeding be referred to SOAH, Staff will not recommend a procedural schedule at this time.

### **IV. CONCLUSION**

For the reasons discussed above, Staff recommends that this proceeding be referred to SOAH to develop an evidentiary record.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.*

Dated: April 16, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

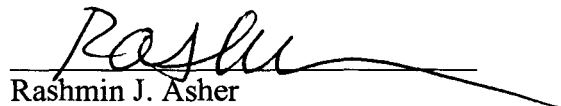
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on April 16, 2019, in accordance with 16 TAC § 22.74.



Rashmin J. Asher

## PUC Interoffice Memorandum

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**To:** Rashmin Asher, Attorney  
Legal Division

**Through:** Debi Loockerman, Manager  
Heidi Graham, Manager  
Water Utility Regulation

**From:** Fred Bednarski III, Financial Examiner  
Roshan Pokhrel, Engineering Specialist  
Water Utility Regulation

**Date:** April 16, 2019

**Subject:** **Docket No. 49225:** *Petition by Outside City Ratepayers Appealing the Water Rates Established by the City of Celina*

On February 14, 2019, certain ratepayers (Petitioners) of the City of Celina (City) filed, under Texas Water Code (TWC) § 13.043(b)(3), an appeal of the City's rates approved by the Celina City Council on November 13, 2018, pursuant to city ordinance number 2018-66, effective on January 1, 2019.

Staff reviewed the petition and determined the petition contains the following information required by 16 Texas Administrative Code § 24.103:

- (1) A clear and concise statement that the petition is an appeal of a specific rate action of the City as well as a concise description and date of the rate action;
- (2) the name, telephone number, and street or rural route address of each signatory ratepayer and the location of service if it differs from the residential address of the signatory ratepayer;
- (3) the effective date of the City's decision being appealed; and,
- (4) the basis of the request for review of the rates under TWC § 13.043(b)(3).

Staff additionally determined the number of petitioners exceeds ten percent of the outside city limit customer amount of 145.

On April 5, 2019, the City filed Notice of Corrected Effective Date in the docket citing to errors in the City's Ordinance 2018-66 rate schedule. This filing indicates the City passed Ordinance 2019-8 to cure errors with Ordinance 2018-66. The Notice of Corrected Effective Date filing also indicates that the City intends to provide individual notice to each effected customer pursuant to TWC § 13.043(i).

Staff recommends the petition be deemed administratively complete and sufficient since the petition meets the requirements in 16 TAC § 24.103 and Ordinance 2019-8 was passed to correct errors to Ordinance 2018-66.