

Control Number: 49869



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DOCKET NO. 49869

**TIMOTHY NEWMAN'S APPEAL OF
THE COST OF OBTAINING SERVICE
FROM MJC WATER SUPPLY
CORPORATION IN LAMAR COUNTY** §
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§

**PUBLIC UTILITY COMMISSION
OF TEXAS** RECEIVED
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COMMISSION STAFF'S REQUEST FOR REFERRAL

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Commission Staff's Request for Referral. In support thereof, Staff shows the following:

I. BACKGROUND

On August 19, 2019, Timothy Newman (Petitioner) filed with the Public Utility Commission of Texas an appeal of the cost of obtaining service from MJC Water Supply Corporation (MJC), Certificate of Convenience and Necessity (CCN) No. 10497, pursuant to Texas Water Code (TWC) § 13.043(g) and 16 Texas Administrative Code (TAC) § 24.101(g) (formerly 16 TAC § 24.41(g)). MJC filed a response to petition which included a motion to dismiss the petition based on the failure of the petitioner to abide by certain filing deadlines established by the Administrative Law Judge (ALJ) in Order No. 1 and Order No. 2. As of the time of this filing, the ALJ has not ruled on MJC's motion to dismiss.

On September 20, 2019, Order No. 2 was issued, requiring Staff to issue its final recommendation on the petition or to request a hearing on or before November 15, 2019. On November 15, 2019, Staff filed a Request for Extension, requesting that its deadline to make a final recommendation be extended to December 13, 2019. On November 18, 2019, the ALJ issued Order No. 3 granting Staff's extension request. Therefore, this pleading is timely filed.

II. STAFF'S REQUEST FOR REFERRAL

Staff has reviewed the petition and, based on the attached memorandum from Jolie Mathis, Infrastructure Division, is unable to determine the reasonableness of the \$25,950 charge the Petitioner was required to pay to obtain service from MJC. Therefore, as there is a factual dispute

in this docket with regard to the reasonableness of the cost to obtain service, an evidentiary record needs to be developed. Accordingly, Staff recommends that this docket be referred to the State Office of Administrative Hearings for a hearing on the merits.

III. CONCLUSION

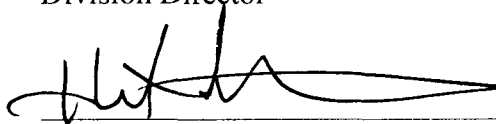
For the reasons stated above, Staff respectfully requests that an order be issued consistent with this request for referral to the State Office of Administrative Hearings.

Dated: December 12, 2019

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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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 December 12, 2019, in accordance with 16 TAC § 22.74.



Heath D. Armstrong

PUC Interoffice Memorandum

To: Heath Armstrong
Legal Division

From: Jolie Mathis
Infrastructure Division

Date: December 12, 2019

Subject: **Docket No. 49869**, *Timothy Newman's Appeal of the Cost of Obtaining Service from MJC Water Supply Corporation in Lamar County.*

On August 19, 2019, Timothy Newman (Petitioner) filed with the Public Utility Commission of Texas (PUCT) an appeal of the cost of obtaining service from MJC Water Supply Corporation (MJC WSC) under Texas Water Code (TWC) § 13.043 and 16 Texas Administrative Code (TAC) § 24.41. The Petitioner is seeking to obtain service at a reasonable cost.

The Petitioner is appealing MJC WSC's decision to charge a total of \$25,950 to obtain water service which includes:

- Membership fee of \$50;
- Tap fee of \$850;
- Extension charges of \$25,000; and
- Deposit of \$50.

Order No. 3 established a revised procedural schedule, stating that Staff needed additional time to evaluate whether the amount Mr. Newman paid to obtain service from MJC WSC was consistent with its tariff and was reasonably related to the cost of installing on-site and off-site facilities to provide service. Based upon Staff's review of the information provided, Staff has confirmed that the Petitioner resides within the Certificate of Convenience and Necessity boundary of MJC WSC and the \$50 membership fee, \$850 tap fee, and the \$50 deposit are consistent with the WSC's tariff. Staff was not able to determine the reasonableness of the \$25,950 extension charges.

Staff therefore recommends the following:

- a) The petition be referred to the State Office of Administrative Hearings (SOAH); and
- b) MJC Water Supply Corporation be ordered to provide notice of the SOAH prehearing conference to the Petitioners, once a date/time has been set.