



Control Number: 49869



Item Number: 9

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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
 FILING CLERK
 OF TEXAS

M J C WATER SUPPLY CORPORATION RESPONSE TO STAFF REQUEST FOR REFERRAL

M J C Water Supply (MJC) files this response to Staff of the Public Utility Commission of Texas (Staff) request to have the subject matter referred to the State Office of Administrative Hearings for a hearing on the merits.

I. MJC OBJECTS TO STAFF'S REQUEST FOR REFERRAL OF DOCKET NO. 49869 AND RENEWS REQUEST TO DISMISS

M J C objects to Staff's request for referral. A hearing is unnecessary because there is no appeal to be decided. Mr. Newman failed to respond to Order No. 1 and file recommendations regarding how to proceed with the petition and proposed procedural schedule by the September 18, 2019 deadline. Order No. 2 established an October 4, 2019 deadline for Timothy Newman to provide proof that notice was provided to MJC Water Supply Corporation. Mr. Newman failed to respond to Order No. 2. On October 7, 2019 MJC respectfully requested the Administrative Law Judge (ALJ) to dismiss this petition, based on the failure of the petitioner to follow Order No. 1 and Order No. 2. As of the time of this filing, the ALJ has not ruled on MJC's October 7, 2019 motion to dismiss.

Mr. Newman has repeatedly told MJC that he has no desire to continue his appeal at the PUC. Mr. Newman has reported that he also called the PUC and requested his appeal to be dropped. On December 17, 2019 Mr. Newman signed a written statement requesting the PUC dismiss his appeal and requested MJC provide a copy to the PUC. A copy of his signed statement of Mr. Newman is attached. MJC once again respectfully request the ALJ to dismiss this petition.

II. A HEARING ON REASONABLENESS IS OVERREACH

Water Code, Title 2, Chapter 13, Section 13.043 (g) provides for very limited jurisdiction of a Water Supply Corporation. Jurisdiction is limited to "...in an appeal brought under this subsection the utility commission shall determine whether the amount paid by the applicant is consistent with the tariff of the water supply or sewer service corporation and is reasonably related to the cost of installing on-site and off-site facilities to provide service to that applicant." Emphasis added.

Additionally “An applicant for service may appeal a decision of the water supply corporation to obtain service “... other than the regular membership or tap fees.”

Staff basis for requesting a referral to the State Office of Administrative Hearings (SOAH) is to “determine the reasonableness of the \$25,950 extension charges.” This request is beyond the limited jurisdiction of the PUC in this matter.

FIRST

The appeal filed by Mr. Newman clearly states that part of the \$25,950 total cost of obtaining service includes a \$50 Membership Fee and a \$850.00 Tap Fee. The PUC has no jurisdiction over these two fees.

SECOND

MJC’s response filed on October 7, 2019 enclosed a copy of MJC’s Tariff and detailed why the distribution water line had to be upgraded to comply with TAC 30 Chapter 290.44 (c).

Tariff Section E – Services Rules and Regulations Section 2, clearly states that water service shall be divided into two classifications (a.) Standard Services where existing distribution facilities are adequate. (b) Non-Standard Services where an upgrade to the distribution system is required.

Section G, 4 (c) of the Tariff, clearly states the Installation for Non-Standard Service shall include any and all construction labor and materials, inspection, administration, legal and engineering fees, as determined by the Corporation under the rules of Section F of this Tariff.

Section F 3 clearly indicates that non-standards service includes road bores, extensions to the distribution system and upgrades to the distribution system.

Jurisdiction of the PUC is limited to a ruling on the amount paid being “consistent with the tariff.” The Tariff is very clear the fees are to be determined by the Corporation (M J C). Evidence in the form of a letter from MJC included with the original complaint clearly establishes the fees for this service has been determined by the Corporation (MJC). After the fees were determined by M J C, the PUC has no authority to rule anything other than: “the amount paid by the applicant is consistent with the tariff.”

THIRD

The Water Code clearly allows the PUC to determine if the amount paid by the applicant is “reasonably related” to the cost of installing facilities to provide service to that applicant. Enclosed with M J C’s original response were copies of paid invoices from S & S Boring for installing water line to service applicant. There has been no reasonable basis presented to question the authenticity of the invoices and what they are for.

The burden of proving something is “reasonably related” should be a low hurdle compared to proving an exact certainty or within a reasonable doubt. M J C believes there is sufficient evident already in the docket to warrant a belief the charges were reasonably related to the fees charged applicant.

FOURTH

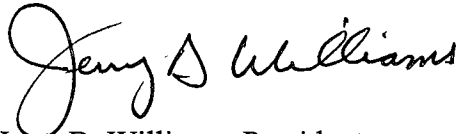
Staff’s request for referral is for the purpose of determining “the reasonableness of the \$25,950” charge the Petitioner was required to pay to obtain service from MJC.

Any attempt by the PUC to determine the “reasonableness of the cost to obtain service” is simply an overreach of the PUC and beyond their jurisdiction. The law allows the PUC to rule if certain charges are “reasonably related” to the cost to provide service to the applicant but there is simply no authority given to determine the “reasonableness.” Reasonably related and determining the reasonableness are simply not the same.

For the above reasons M J C respectfully request the “Referral Request” be denied.

Respectfully Submitted,

M J C WATER SUPPLY CORPORATION

A handwritten signature in black ink that reads "Jerry D. Williams". The signature is written in a cursive style with a large, looped initial "J".

Jerry D. Williams, President

December 20, 2019

DOCKET NO. 49869

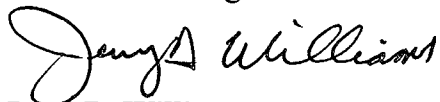
CERTIFICATE OF SERVICE

I certify that a copy of this document, with all attachments will be served on all parties of record on December 30, 2019 and ten copies of all documents will be filed with the Commission's Filing Clerk.

Certified Mail: 7017 0530 0000 0074 1335 Timothy Newman

Certified Mail: 7017 0530 0000 0074 1342 PUC Central Records

Email to PUC Legal Division-Heath D. Armstrong.

A handwritten signature in black ink that reads "Jerry D. Williams". The signature is written in a cursive style with a large, looped initial "J".

Jerry D. Williams

President, M J C Water Supply Corporation

P O Box 95

Pattonville, TX 75468

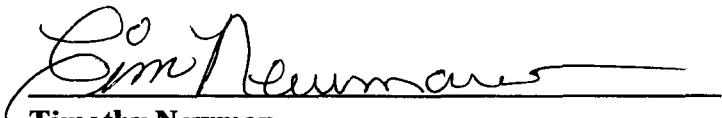
Cell: 903-249-8639

Jerry@lamarelectric.coop

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TIMOTHY NEWMAN'S APPEAL OF	§	PUBLIC UTILITY COMMISSION
THE COST OF OBTAINING SERVICE	§	
FROM MJC WATER SUPPLY	§	OF TEXAS
CORPORATION IN LAMAR COUNTY	§	

Please dismiss my Appeal of the Cost of Obtaining Service from M J C Water Supply Corporation. I am currently receiving water from M J C and do not wish to pursue this matter further. I had assumed the Public Utility Commission would have dropped the matter when I did not respond to any of the letters I received. The amount I paid for the line upgrade was a lot of money but reasonable, given the amount of work and situation.

 12/17/19
Timothy Newman
9993 FM 195
Paris TX 75462

Currently living at:
585 CR 13600
Paris, TX 75462