



Control Number: 50459



Item Number: 5

Addendum StartPage: 0

TARIFF CONTROL NO. 50459

APPLICATION OF MSEC
ENTERPRISES, INC. FOR A PASS
THROUGH RATE CHANGE

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PUBLIC UTILITY COMMISSION

OF TEXAS

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PUBLIC UTILITY COMMISSION
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COMMISSION STAFF'S RESPONSE TO ORDER NO. 2

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 2. In support thereof, Staff shows the following:

I. BACKGROUND

On January 17, 2020, MSEC Enterprises, Inc. (MSEC) requested approval of a pass-through rate change related to the water use fee imposed by the Lone Star Groundwater Conservation District. MSEC requests approval to reduce its pass-through fees to MSEC customers from \$0.12 per 1,000 gallons to \$0.09 per 1,000 gallons considering MSEC's line loss factor, effective January 1, 2020. The proposed pass-through rate change affects customers in the Capitol Hills, Crown Oaks, Crown Ranch, Grand Lake Estates, Highland Ranch, Hills of Montgomery, Lake Forest Lodge, Lake Forest Lodge South, Legacy Creek Estates, Lakeview, Oaklawn Estates, Old Kentucky Farms, Montgomery Trace, Ridge Lake Shores, Stillwater Estates, Valleywood Acres, Woodforest, and Woodforest Golf Course subdivisions.

On January 22, 2020 the Commission Administrative Law Judge (ALJ) issued a notice setting February 17, 2020¹ as the deadline for Staff to file a recommendation on the application, to address notice requirements, and to propose a procedural schedule, if necessary. On February 18, 2020, Staff filed its Recommendation on the Application and Notice, recommending that the application be approved and that notice be found sufficient.

On February 26, 2020, the ALJ issued Order No. 2, finding the application administratively insufficient and providing an opportunity to cure. Specifically, the ALJ found that the application submitted by MSEC is administratively insufficient because it failed to include information

¹ Pursuant to 16 Texas Administrative Code (TAC) § 22.4, if the deadline is set on a day the Commission is not open for business, the deadline is extended until the end of the next day on which the Commission is open for business. The Commission was closed on February 17, 2020. Therefore, the deadline was extended to February 18, 2020.

regarding all calculations and assumptions for any true-up of pass-through costs, as required by 16 TAC § 24.25(b)(2)(F)(i)(VI). Order No. 2 established a deadline of March 4, 2020 for either MSEC to submit the missing calculations and assumption for any true-up of pass-through costs, or for Staff to submit a detailed explanation as to why 16 TAC § 24.25(b)(2)(F)(i)(VI) is inapplicable to the application in question. Therefore, this pleading is timely filed.

II. STAFF'S RESPONSE TO ORDER NO. 2

Staff reviewed MSEC's application and notice and recommended that the application be approved and that notice be found sufficient based on the requirements under 16 TAC § 24.25(b)(2)(F). Specifically, Staff found MSEC's application to be administratively complete because it filed a written notice with the Commission that included all of the information required by 16 TAC § 24.25(b)(2)(F)(i). As supported by the attached memorandum of Debi Loockerman of the Commission's Rate Regulation Division, Staff's position is that 16 TAC § 24.25(b)(2)(F)(i)(VI), requiring the applicant to provide all calculations and assumptions for any true-up of pass-through costs, is inapplicable to MSEC's application. Specifically, 16 TAC § 24.25(b)(2)(F)(i)(VI) requires calculations and assumptions for *any* true-up of pass-through costs. Staff interprets this requirement to only apply where a true-up of pass-through costs exists or is required. A true-up is required for a change in a combined pass-through provision, pursuant to 16 TAC § 24.25(b)(2)(D). This section only addresses combined pass-through provisions and is silent with respect to single pass-through provisions. MSEC's application concerns a single pass-through for costs charged by the Lone Star Groundwater Conservation District, and thus Staff's position is that a true-up is not required for the pass-through in question. Therefore, because MSEC is not required to true-up its pass-through cost, and Staff has not identified an issue that would require one, Staff recommends that MSEC not be required to provide related calculations and assumptions under 16 TAC § 24.25(b)(2)(F)(i)(VI).

III. CONCLUSION

Staff respectfully requests the issuance of an order deeming the application and notice sufficient and approving the pass-through rate change.

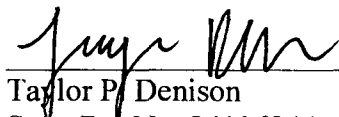
Dated: March 4, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Thomas S. Hunter
Division Director

Heath D. Armstrong
Managing Attorney

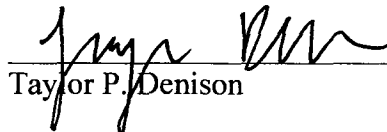


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TARIFF CONTROL NO. 50459

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 4, 2020, in accordance with 16 TAC § 22.74.



Taylor P. Denison

Public Utility Commission of Texas

Memorandum

TO: Taylor Denison, Attorney
Legal Division

FROM: Debi Loockerman
Rate Regulation Division

DATE: March 4, 2020

SUBJECT: **Tariff Control No. 50459;** *Application of MSEC Enterprises, Inc. for a Pass-Through Rate Change*

On January 17, 2020, MSEC Enterprises, Inc. (Applicant), Certificate of Convenience and Necessity No. 12887, filed an application to amend its tariff to reflect the decrease in the water usage fee charged by Lone Star Groundwater Conservation District (LSGCD). The Applicant requests to reduce the pass-through fees by \$0.03, from \$0.12 to \$0.09 per 1,000 gallons of water considering MSEC's line loss factor. The requested effective date of the rate change is January 1, 2020.

In response to Order No. 2, the application includes a request for one pass-through entity, namely LSGCD. The requirement for a true-up of pass-through costs results from 16 TAC § 24.25(b)(2)(D) which typically would apply to a combined pass-through provision. Typically, a true-up is not required for a simple pass-through provision that allows only one governmental entity's charges to be passed through unless there is an issue identified by Staff that would require a true-up to take place. Therefore, Staff continues to recommend that the application be deemed sufficient and approved as recommended in the memo by Leila Guerrero filed with Staff's pleading on February 18, 2020.