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DOCKET NO. 50569

**APPLICATION OF MSEC WASTE
WATER, INC. FOR AUTHORITY TO
CHANGE RATES**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S AMENDED MEMORANDUM

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 10, files this Amended Memorandum. In support thereof, Staff shows the following:

I. BACKGROUND

On March 9, 2020, MSEC Waste Water, Inc. (MSEC WW) filed, as a Class D utility, a Class C rate change application for its sewer customers. MSEC WW holds sewer Certificate of Convenience and Necessity (CCN) No. 20984 with a total of 10 active connections.

On June 10, 2020, Staff filed its Supplemental Recommendation on Administrative Completeness of the Application and Notice, recommending that MSEC WW's application and notice continue to be found deficient and administratively incomplete. On June 11, 2020, the administrative law judge (ALJ) filed Order No. 5, finding the application incomplete and deficient, and directing MSEC WW to amend its application and provide all the information required for a base rate case for a Class B utility, or answer the questions posed by Staff in its supplemental recommendation filed on June 10, 2020. On June 29, 2020, MSEC WW filed its Response to Order No. 5, answering the questions posed by Staff. Based on those responses, Staff filed a discovery request on July 17, 2020. On October 9, 2020, MSEC WW filed its responses to Staff's First Request for Information (RFI).

On October 23, 2020, the ALJ filed Order No. 8,¹ requiring Staff to evaluate the application based only on the administrative completeness of MSEC WW's application as a Class D utility. On November 6, 2020, Staff filed its supplemental recommendation on the application and notice of MSEC WW's application as a Class D utility, identifying certain deficiencies in the application.

¹ Staff notes that Order No. 8 was already filed on September 25, 2020 and that the order filed on October 23, 2020 should have been filed as Order No. 9.

On November 17, 2020, the ALJ filed Order No. 10, finding the application incomplete and deficient, but noting that the forms 1096 and 1099, which Staff requested MSEC WW to provide, had already been submitted by MSEC WW. Order No. 10 required Staff to provide comment on why these submissions are insufficient or amend its memorandum by November 24, 2020. Therefore, this pleading is timely filed.

II. COMMISSION STAFF'S AMENDED MEMORANDUM

On November 6, 2020, Staff filed the memorandum of Leila Guerrero, Stephen Mendoza, and Emily Sears, Rate Regulation Division, recommending that MSEC WW's application and notice be found deficient and administratively incomplete. The memorandum of Ms. Guerrero, Mr. Mendoza, and Ms. Sears provided detailed recommendations regarding what MSEC WW needs to provide in order to cure the deficiencies in the application. These recommendations inadvertently included a request that MSEC WW provide:

- Federal forms 1096 and 1099 for the Applicant supporting any contract labor requested in the cost of service or capitalized (the forms may be issued by an affiliate); and
- If MSEC WW's cost of service includes any affiliated transactions (affiliates as defined in TWC § 13.002 (2)), the utility must list them separately and provide evidence that meets the affiliate transaction requirements in TWC § 13.185(e) and (f). Provide a schedule that includes direct assignment costs, allocated costs, and any other changes between affiliates with a summary by account.²

MSEC WW has already provided the information requested above and does not need to provide it again, and Staff has communicated with MSEC WW regarding the information Staff still requires. An amended memorandum is attached, which provides detailed recommendations regarding what MSEC WW needs to provide in order to cure the deficiencies in the application.

III. CONCLUSION

Staff respectfully requests that MSEC WW be required to provide information in response to Staff's amended memorandum by the November 30, 2020 deadline established in Order No. 10.

² Commission Staff's Supplemental Recommendation on Administrative Completeness of the Application and Notice at Staff Memorandum (Nov. 6, 2020).

Dated: November 24, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

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/s/ Taylor P. Denison

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on November 24, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Taylor P. Denison

Taylor P. Denison

Public Utility Commission of Texas

Memorandum

TO: Taylor Denison, Attorney
Legal Division

FROM: Leila Guerrero, Regulatory Accountant/Auditor
Stephen Mendoza, Senior Rate Analyst
Emily Sears, Financial Analyst
Rate Regulation Division

DATE: November 24, 2020

RE: **Docket No. 50569** - *Application of MSEC Waste Water Inc. for Authority to Change Rates*

On March 9, 2020, MSEC Waste Water, Inc., (MSEC WW) filed an application for authority to change rates for wastewater services provided under certificate of convenience and necessity (CCN) number 20984 in Montgomery County. Order No. 8 required Staff to file a supplemental recommendation on the application and notice of MSEC WW's application as a Class D utility. Therefore, Staff reviewed the application and notices for sufficiency and administrative completeness as a Class D utility. The review addresses the requirements in Texas Water Code (TWC) §§ 13.1871, 13.18715, 13.1872, 16 Texas Administrative Code (TAC) §§ 24.25 through 24.33, and requirements of the Class C Rate/Tariff Change Application Form.

Based on a review of the information in the application, Staff recommends that the application is deficient. Therefore, Staff recommends that the Commission:

1. Deem the rate change application insufficient for filing and administratively incomplete;
2. Suspend the proposed effective date of the rate increase;
3. Order MSEC WW to provide the following as required for Class C Rate/Tariff Change Application Attachments Required for Sufficiency:¹
 - a. Income statement and balance sheet (per books) of the Applicant for the test year; and
 - b. Completed Schedule III-6 – Long-Term Debt / Notes Payable for the test year (page 35 of the application).
4. Require MSEC WW to provide the following:
 - a. A copy of the notice of proposed rate change to all affected customers at least 35 days before the effective date of the rate change. The effective date of the new rates must be the first day of a billing period, and the new rates may not apply to service received before the effective date of the new rates; and,
 - b. A completed affidavit that a copy of the proposed notice was provided to all affected customers.

¹ Class C Rate/Tariff Change Application Form, p. 3.