



Filing Receipt

Filing Date - 2023-07-21 02:31:47 PM

Control Number - 50721

Item Number - 280

DOCKET NO. 50721

APPLICATION OF CRYSTAL CLEAR	§	PUBLIC UTILITY COMMISSION
WATER, INC. FOR AUTHORITY TO	§	
CHANGE RATES	§	OF TEXAS

**SUPPLEMENTAL RECOMMENDATION ON CRYSTAL CLEAR'S
RESPONSE TO ORDER NO. 29**

I. INTRODUCTION

On April 8, 2020, Crystal Clear Water, Inc. (Crystal Clear) filed a Class C Rate Change Application with the Public Utility Commission of Texas (Commission), for service provided in Bosque County under Certificate of Convenience and Necessity (CCN) No. 12997.

On June 5, 2023, the administrative law judge (ALJ) filed Order No. 29, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to provide supplemental recommendations on Crystal Clear's responses to Order No. 29 by July 21, 2023. Therefore, this pleading is timely filed.

II. SUPPLEMENTAL RECOMMENDATION

Staff has reviewed Crystal Clear's application, supplemental filings, and Response to Order No. 29 filed on June 30, 2023 and recommends that Crystal Clear has addressed the three remaining concerns the ALJ described in Order No. 29.

First, the ALJ asked whether Crystal Clear has provided general costs and expenses paid to affiliates, as the ALJ was unable to locate costs or expenses specifically paid to affiliates during the test year. Staff contends that Crystal Clear has provided affiliate costs and expenses. Specifically, in their response to Staff's Request for Information (RFI) No. 2-12, Crystal Clear attached copies of its electric, water, sewer, sanitation, gas, office rent, office phone, internet, and cell phone expenses it shares with affiliates during the test year.¹ Crystal Clear also provided a copy of a written lease it executed to memorialize the rent expense it described in its response to Staff's RFI No. 2-12² and a break-down of affiliate costs and expenses and how they are allocated

¹ See Crystal Clear Water, Inc.'s Response to Commission Staff's Second Request for Information at 126–189 (Apr. 26, 2021).

² Crystal Clear Water Inc.'s Motion to Admit Evidence and Dismiss Intervenor at Exhibit C (Mar. 1, 2023).

in its response to the order remanding the case to docket management.³ Finally, as Crystal Clear explains, the only transaction Crystal Clear incurred with affiliate RP Farm Equipment, LLC during the test year was an excavator/backhoe rental, and Crystal Clear provided an invoice for said rental in its application.⁴ Staff therefore concludes that Crystal Clear has provided the costs and expenses that Crystal Clear paid its affiliates during the test year.

The ALJ next stated that it was unable to locate a specific answer to the Commissioner's question 3(j) that asks whether it was reasonable for the utility to continue taking out loans from Mr. Payne, especially since no payments were made on the loan for 10 years, interest on the loan accumulated during those 10 years, and payments were made inconsistently. The ALJ notes that Staff also did not provide an analysis of Crystal Clear's response to this question. Staff did not provide an analysis, because Staff contends that it does not have the authority to analyze the reasonableness of the utility taking out loans from Mr. Payne to the exclusion of another lender. Staff contends that this is a business decision and that Staff's role is simply to ensure, per ratemaking principles, that the agreed-upon rates only include loans that were used to fund the assets in the rate base along with a reasonable cost of debt. As Staff concluded in its statement of position, Staff confirms that the terms of the settlement agreement comply with PUC statutes and rules and are based on the principles of ratemaking.

Finally, the ALJ states that Crystal Clear may not have adequately addressed the Commissioner's concerns regarding notice and that it was unclear whether customers received notice reflecting the updated rates and fees due to settlement negotiations or as a result of this proceeding. Staff agrees with Crystal Clear that the Commissioner's concerns regarding notice have been addressed and believes that Crystal Clear provided notice as a result of this proceeding. As Crystal Clear explains, notice of the application was originally mailed in August 19, 2020,⁵ and the ALJ subsequently found that notice sufficient.⁶ In that notice, Crystal Clear informed

³ See Crystal Clear Water, Inc.'s Response to Order Remanding to Docket Management and Motion to Admit Additional Evidence at 3, 5–6 (Aug. 1, 2022) (Crystal Clear's Response).

⁴ Application of Crystal Clear Water, Inc. for Authority to Charge Rates at Water Tap Backhoe Rental Attachment (Apr. 8, 2020).

⁵ Crystal Clear Water, Inc. Revised Water Rate Increase with Attachments. Docket 50721 at Notice Attachments (Aug. 19, 2020) (Notice Attachments).

⁶ Order No. 8 – Finding Application and Notice Sufficient, Suspending Effective Date, and Establishing Procedural Schedule (Sep. 4, 2020).

ratepayers about the proposed new rates, including gallonage charges, and new fees.⁷ Since all proposed rates and fees were included in this original notice, Staff contends that this notice was sufficient to address the Commissioner's concerns. Nevertheless, Staff believes customers also received notice of the proposed new fees subsequent to this original notice. Parties, including intervening ratepayers, participated in settlement negotiations in 2021 during which lower rates were agreed on. As a result of the negotiations, parties also agreed to interim rates, which the ALJ adopted on August 30, 2021.⁸ Notably, the original fees proposed in the application did not change and were carried over in the interim rates. In its order, the SOAH ALJ also required that Crystal Clear provide notice of the adopted interim rates (and fees) to its customers in compliance with 16 Texas Administrative Code § 24.37(j).⁹ Although Crystal Clear did not provide an affidavit or other proof indicating that it provided notice as it asserts in its response to Order No. 29, Crystal Clear points out that its customers have been paying the interim rates and fees approved by the SOAH ALJ since August of 2021.¹⁰ Therefore, Staff contends that customers have been informed about the proposed tariff fees as a result of this proceeding and that Crystal Clear has adequately addressed the Commissioner's concerns regarding notice.

III. CONCLUSION

Based on the foregoing discussion, Staff respectfully requests the entry of an order approving Crystal Clear's rate change application.

⁷ See Notice Attachments.

⁸ SOAH Order No. 4 – Adopting Interim Rates (Aug. 30, 2021).

⁹ *Id.*

¹⁰ See Crystal Clear's Response at 4.

Date: July 21, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

John Harrison
Senior Managing Attorney

/s/ Ian Groetsch
Ian Groetsch
State Bar No. 24078599
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7465
(512) 936-7268 (facsimile)
ian.groetsch@puc.texas.gov

DOCKET NO. 50721

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 July 21, 2023 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch