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DOCKET NO. 50721

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

**CRYSTAL CLEAR WATER, INC.'S CORRECTIONS TO
THE REVISED PROPOSED ORDER**

COMES NOW, Crystal Clear Water, Inc. (Crystal Clear), by and through its undersigned attorneys of record, and hereby files these proposed corrections to the Revised Proposed Order distributed by Administrative Law Judge (ALJ) Marx on August 22, 2023. In the cover memorandum, the ALJ set September 5, 2023 as the deadline for the parties to file corrections or exceptions to the Proposed Order. Therefore, these corrections are timely filed. Accordingly, Crystal Clear shows as follows:

I. CORRECTIONS

Crystal Clear generally agrees with the Findings of Fact, Conclusions of Law, and Ordering Paragraphs in the Proposed Order and appreciates the significant efforts in putting this document together. However, Crystal Clear proposes the following corrections to the Proposed Order, with edits noted in underline or strikethroughs, and with a corresponding explanation for such changes:

A. FINDINGS OF FACT

1. Crystal Clear proposes to amend Finding of Fact No. 1 as follows to correct the entity type and remove an extra 5 from the secretary of State's filing number:

1. Crystal Clear is a Texas ~~non~~-for-profit corporation registered with the Texas secretary of State under filing number 1552991400.

2. Crystal Clear proposes to amend Finding of Fact No. 14 to include other filings that Crystal Clear believes should be considered as additional information that supplement the application:

14. On April 15 and 26, May 12, and November 12, 2021, March 7, August 1, September 12 and 15, and November 22, 2022, and January 20, March 1 and 8, and June 30, 2023, Crystal Clear filed additional information to supplement the application.

On March 7, 2022, Crystal Clear filed a Joint Response to Commission Counsel Memorandum responding to the Commissions questions. If this response is regarded as “additional information to supplement the application,” then Crystal Clear believes that the following filings should also be listed in Finding of Fact No. 14:

- Crystal Clear’s Response to Commission Staff’s First Request for Information, filed on April 15, 2021 (Item 190);
- Crystal Clear’s Response to Commission Staff’s Second Request for Information, filed on April 26, 2021 (Item 191);
- Crystal Clear’s First Supplement to Response to Commission Staff’s Second Request for Information, filed on May 12, 2021 (Item 194);
- Crystal Clear’s Response to Commission Staff’s Third Request for Information, filed on May 12 2021 (Item 195);
- Crystal Clear’s Response to the October 21, 2021 Commission Counsel Memorandum and Motion to Admit Evidence, filed on November 12, 2021 (Items 208 and 209)
- Crystal Clear’s Response to Order Remanding to Docket Management and Motion to Admit Additional Evidence, filed on August 1, 2022 (Item 239);
- Crystal Clear’s Supplemental Response, filed on September 12, 2022 (Items 241 and 242);
- Crystal Clear’s Motion to Admit Additional Evidence, filed on September 15, 2022 (Item 244);
- Crystal Clear’s Motion to Admit Additional Evidence, filed on November 22, 2022 (Items 253 and 254);
- Crystal Clear’s Motion to Admit Additional Evidence, filed on January 20, 2023 (Items 258 and 259);
- Crystal Clear’s Motion to Admit Evidence and Dismiss Intervenor, filed on March 1, 2023 (Items 267 and 268);
- Crystal Clear’s Second Joint Motion to Admit Additional Evidence, filed on March 8, 2023 (Item 270); and
- Crystal Clear’s Response to Order No. 29 filed on June 30, 2023 (Item 279).

3. Crystal Clear proposes to amend Finding of Fact No. 25 to eliminate an unnecessary definition, since ALJ is already defined in Finding of Fact No. 10:

25. In Order No. 2 filed on May 18, 2020, the Commission ~~administrative law judge (ALJ)~~ granted the motions to intervene of ratepayers Kim and Arlettia Sharp, Harold Winnett, Justin Witte, Wayne Barnett, Pete Lohmer, Joy Lohmer, Roy Ince, Jr., Glenn Sommons, Thomas Murdoch, Walter Lane, Karla Lowder, Leonard and Janice McCain, Jeff and Kristi Hall, Jasper Fuqua, John Graham, Donald Benda, Billy and Barbara Arnold, Emilie Shipman, Bryan Bronstad, Dale Hulme, Carl Montgomery, Judy Bingaman, James Nawara, Petra Rodriguez, Lance Alsobrook, Tony Hardin, Gerald

Longacre, Troy and Jana Spies, Ben Johnson, Stephen Philipp, Dwayne Jackson, Dennis Poe, and James Greenwade.

4. Crystal Clear proposes to amend Finding of Fact No. 28 to correct typographical errors:

28. In Order No. 9 filed on September 17, 2020, the Commission ALJ granted the motions to intervene of ratepayers Gary Fossett, Patrick and Renee ~~Couley~~ Cauley, Glenn Sammons, Leonard and Janice McCain, Joe and Linda Howard, Nicholas P. Kuhn, Jr., Carl Montgomery, Sam Wells, ~~Krist~~ Kristi and Jeffrey Hall, and Troy and Jana Spies.

5. Crystal Clear proposes to delete Finding of Fact No. 65 because it duplicates the information in Finding of Fact No. 69.

6. Crystal Clear proposes to delete Finding of Fact No. 67 because it duplicates the information in Finding of Fact No. 69.

7. Crystal Clear proposes to amend Finding of Fact No. 69 so it reflects Crystal Clear's responses and the Secretary of State records:¹

69. Mr. Payne is the owner and/or director of RP AG, LLC; RP Farm Equipment, LLC; RP AG Equipment, LLC; RP Custom Farming, LLC; Bosque Car Wash, LLC; and RP Kan Farm, LLC. Mr. Payne is the sole owner of RP AG, RP Farm Equipment, and RP AG Equipment. Janice Gacke is a manager of RP AG, RP Farm Equipment, RP AG Equipment, and RP Customer Farming.

Mr. Payne is listed as the director of RP AG, LLC; owner and director of RP Farm Equipment; director of RP AG Equipment; director of RP Custom Farming; owner of Bosque Car Wash; and owner of RP Kan Farm.

8. Crystal Clear proposes to amend Finding of Fact No. 78 regarding the promissory notes to reflect the record and for clarity:

¹ Crystal Clear Water, Inc.'s Response to Order Remanding to Docket Management and Motion to Admit Additional Evidence at 3–5, 13–51(Aug. 1, 2022). (Response to Order Remanding to OPDM).

78. Promissory notes memorializing the loans from Mr. Payne to Crystal Clear were executed in 2005 and 2018 and were replaced by a promissory note executed in 2019 and an amendment to the 2019 promissory note, ~~also~~ executed in ~~2019~~2022. There are limited records prior to 2005; however, Mr. Payne initially lent funds to Crystal Clear in 1997 to finance the design and construction of the Whispering Ridge public water system. Between 1997 and 2005, Mr. Payne has made additional loans to Crystal Clear ~~to finance the acquisition of and repairs to additional water systems for operations and maintenance, costs of engineering, and the acquisition of the Airport public water system.~~ Mr. Payne made subsequent, additional loans to Crystal Clear to finance the purchase of the Lakeline Acres and Glenshores public water systems in 2018.

The amendment to the 2019 promissory note was executed on August 28, 2022.² Between 1997 and 2005, Crystal Clear created the Whispering Ridge public water system (PWS), made improvements to the Whispering Ridge PWS, and acquired the Airport PWS (formerly known as the Aqua Pure PWS).³ Crystal Clear did not acquire the Lakeline Acres and Glenshores PWSs until 2018, as documented in Docket No. 47690.⁴ The statements from Finding of Fact No. 84 should be incorporated into Finding of Fact No. 78 to remove duplicative findings.

9. Crystal Clear proposes to amend Finding of Fact No. 79 to clarify vague language and avoid potential confusion:

79. Appropriately, ~~no~~ no portion of the loans is ~~appropriately~~ characterized as a capital contribution to the corporation because Mr. Payne's returns from Crystal Clear are based on the terms of the loan, not the sale of any equity or dividends.

10. Crystal Clear proposes to amend Finding of Fact No. 83 to include the other water systems acquired by Crystal Clear through financing:

² Crystal Clear's Supplemental Response to Order Remanding to Docket Management, Motion to Admit Additional Evidence, and Motion for Extension of Time (Ex. C) at 24–25 (Sept. 12, 2022). (Supplemental Response).

³ Response to Order Remanding to OPDM (Ex. E) at 68 (Aug. 1, 2022); Supplemental Response at 2–4.

⁴ *Id.*

83. It was reasonable and prudent for Crystal Clear to obtain the loan from Mr. Payne because the loan funds have been used to acquire new systems, specifically Airport, Lakeline Acres, and Glenshores, and to implement improvements recommended by the Texas Commission on Environmental Quality (TCEQ).
11. Similarly, Crystal Clear proposes to amend Finding of Fact No. 88 to include the other water systems acquired by Crystal Clear through financing:
88. It was reasonable to increase the loan amount to acquire new systems. Specifically, Mr. Payne believed the acquisition of Airport, Lakeline Acres, and Glenshores, and the resulting additional revenue would help fund Crystal Clear's operations.
12. Crystal Clear proposes to amend Finding of Fact No. 91 to correct the execution date of the amendment to the 2019 promissory note:
91. The 6% interest rate, the clause that allows interest to escalate to 18%, and the 20-year term of the loan are reasonable as shown by a comparison to Docket No. 50944 in which the Commission approved a 6.17% cost of debt for a fixed rate term loan for a utility with a similar debt-to-equity capital structure as Crystal Clear. Mr. Payne has never collected on the loan at the higher 18% interest rate and the July 1, 2019 amendment to the 2019 promissory note, executed on August 28, 2022, removes the 18% escalation provision in favor of a late fee.
13. Crystal Clear proposes to amend Finding of Fact No. 94 to incorporate the information regarding comparisons for office and warehouse space and equipment rentals from Findings of Fact Nos. 73 and 74 and for clarity:
94. Payments subject to TWC § 13.185(e) and included in the agreed rates are shown to be reasonable and necessary through a comparison of price quotes submitted for leasing comparable office and warehouse space and equipment. Renting office and warehouse space and equipment is a typical expense for a utility. Neither RP AG nor RP Farm Equipment lease office

and warehouse space or equipment to any other entity, so Crystal Clear is unable to show comparisons to other transactions of RP AG or RP Farm Equipment. Crystal Clear filed quotes for comparable office and warehouse space and equipment rentals showing that Crystal Clear leases from RP AG and RP Farm Equipment for less than the going market rate.

14. Crystal Clear proposes to amend Finding of Fact No. 126.c to correct the execution date of the amendment to the 2019 promissory note:

126. In Order No. 17 filed on September 15, 2022, the Commission ALJ admitted the following evidence into the record: ...

c. an amendment to the 2019 promissory note ~~dated July 1, 2019~~ executed on August 28, 2022, attached as exhibit C to Crystal Clear's supplemental response filed on September 12, 2022;

B. CONCLUSIONS OF LAW

1. Crystal Clear proposes to amend Conclusion of Law No. 138 (page 20 of the Proposed Order) to change the number of the Conclusion of Law and correct a citation:

~~138~~14. The payments made to Crystal Clear's affiliates for office and warehouse leases, office expenses, cell phone expenses, and equipment rentals are reasonable and necessary under TWC ~~13.135(e)~~ § 13.185(e).

2. Crystal Clear proposes to amend Conclusion of Law No. 139 (page 20 of the Proposed Order) to change it to Conclusion of Law No. 15.

3. Crystal Clear proposes to amend Conclusion of Law No. 18 so the language parallels Conclusion of Law No. 138 (now Conclusion of Law No. 14):

18. There were no unreasonable payments to affiliated interests for costs of any services under TWC § 13.185(e).

4. Crystal Clear proposes to amend the remaining Conclusions of Law to correct the numbering after the ALJ adopts the proposed amendments above.

II. CONCLUSION

For these reasons, Crystal Clear respectfully requests that the Administrative Law Judge modify the Proposed Order in line with the corrections presented herein and grant all other and further relief to which it may be entitled.

Respectfully submitted,

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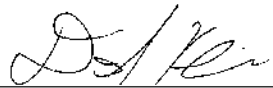
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**ATTORNEYS FOR CRYSTAL CLEAR
WATER, INC.**

CERTIFICATE OF SERVICE

I hereby certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via first class mail or electronic mail on September 5, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50667.



David Klein