



Control Number: 50878



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*Public Utility Commission of Texas*

TO: Stephen Journeay  
Commission Counsel  
  
All Parties of Record

FROM: Isaac Ta *I. T.*  
Administrative Law Judge

RE: **Docket No. 50878**—*Complaint of Randall Collins Against Monarch Utilities I, L.P.*

DATE: February 25, 2021

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 50878**

**COMPLAINT OF RANDALL COLLINS § PUBLIC UTILITY COMMISSION  
AGAINST MONARCH UTILITIES I, §  
L.P. § OF TEXAS**

**PROPOSAL FOR DECISION**

This proposal for decision addresses the complaint of Randall Collins against Monarch Utilities I, L.P. Although factual disputes between the parties still exist, no party requested a hearing and no hearing has been held. The administrative law judge (ALJ) concludes that the pleadings and evidence of record shows that Monarch's water meter accurately records Mr. Collins' daily water usage and Monarch's billing practices comply with the Commission's rules. Accordingly, the proposal for decision recommends that the Commission deny the complaint of Mr. Collins.

**I. FINDINGS OF FACT**

The ALJ makes the following findings of fact.

**Background**

1. Monarch is a Texas limited partnership registered with the Texas secretary of state under filing number 800034797.
2. Monarch owns and operates facilities for providing retail water service in Henderson County under water certificate of convenience and necessity (CCN) number 12983.

**Complaint**

3. Randall "Skip" Collins lives in Henderson County and is a retail water customer of Monarch.
4. Mr. Collins filed the complaint at issue in this docket on May 22, 2020.
5. Mr. Collins's complaint alleges the following: (a) that he was billed the same amount each month for an unspecified period of six months which, he argues, indicates that his water meter does not accurately reflect his actual water usage; (b) that Monarch, as a for-profit entity, cannot provide water service for compensation in Texas; (c) that Monarch's rates are not just or reasonable; (d) that Monarch's water CCN number 12983 only authorizes

service in Montgomery County, but Mr. Collins lives in Henderson County; (e) that Monarch's tariff rates are unfair, unjust, and unreasonable taxes; and (f) that Monarch is committing the criminal offense of extortion against him through its rates.

6. On June 17, 2020, Monarch filed its response to the complaint denying Mr. Collins' allegations and asserting that its meter readings and billings are accurate and consistent with its tariff and Commission rules.

#### **The First Motion for Summary Decision**

7. On August 18, 2020, Commission Staff filed a motion for summary decision (the first motion for summary decision), asserting that all of Mr. Collins' claims should be denied.
8. In Order No. 7 filed on October 19, 2020, the ALJ partially granted the first motion for summary decision by denying Mr. Collins' allegations (b) through (f), specified in Finding of Fact 5, above. However, the ALJ denied the first motion for summary decision as it related to Mr. Collins' allegation (a), specified in Finding of Fact 5, above, for the reason that genuine issues of material fact then existed with respect to Mr. Collins' allegation that his water meter does not accurately reflect his actual water usage, the relevant time period for which Mr. Collins was complaining, and whether Monarch's tariff authorizes its billing practices.
9. On November 16, 2020, Mr. Collins filed a response to Commission Staff's first request for information clarifying that the relevant time period about which he is complaining is May through November 2019.
10. Following issuance of Order No. 7, the only issue remaining in this case is whether, during the relevant six-month period, Mr. Collins was appropriately billed by Monarch.

#### **The Second Motion for Summary Decision**

11. On January 11, 2021, Monarch and Commission Staff filed a joint motion for summary decision.
12. Mr. Collins did not respond to the joint motion for summary decision.
13. In Order No. 12 filed on February 23, 2021, the ALJ denied the January 11, 2021 joint motion for summary decision.

**Opportunity for Hearing**

14. In Order No. 9 filed on December 9, 2020, the ALJ adopted a schedule specifying, among other things, that the deadline for any party to request a hearing was January 11, 2021.
15. No party has requested a hearing in this matter.

**Evidence**

16. On February 12, 2021, Monarch and Commission Staff filed a joint motion to admit evidence.
17. In Order No. 11 filed on February 16, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) Complaint of Randall Collins against Monarch filed on May 22, 2020; (b) Monarch's response to Order No. 1 filed on June 17, 2020; (c) Commission Staff and Monarch's joint initial brief with attachments filed on November 20, 2020; and (d) Commission Staff and Monarch's joint motion for summary decision with exhibits filed on January 11, 2021.

**Remaining Issue****Whether, During the Relevant Six-Month Period, Mr. Collins Was Appropriately Billed by Monarch****i. Monarch's Meter Readings**

18. On June 17, 2020, Monarch filed its response to Order No. 1.
19. Monarch's response included monthly meter readings from July 2016 to May 2020, adjusted downward to the nearest 1,000-gallon increment.
20. On November 20, 2020, Monarch and Commission Staff filed a joint initial brief.
21. Charts tracking Mr. Collins' daily water use from August 23, 2019 to January 23, 2020, were attached to the joint initial brief as attachment A.
22. Charts tracking Mr. Collins' daily water use from May 1 to August 22, 2019, are not available because the automated meter reading technology Monarch uses to generate specific usage charts requires additional steps to permanently save data and is not otherwise stored outside of a limited time window.

23. Mr. Collins has not established that Monarch inaccurately recorded his actual water usage or inaccurately billed him during the time period about which he is complaining.

**ii. Monarch's Billing Practices**

24. Monarch bills customers for usage on a per 1,000-gallon basis and any gallons over a 1,000-gallon increment are carried forward to the next billing period.<sup>1</sup>
25. Based on Monarch's meter readings and billing practices, Monarch billed Mr. Collins for 4,000 gallons of use for each month from May through November 2019.
26. Mr. Collins has not established that Monarch's billing practices do not comply with the Commission's rules and the terms of its tariff.

**iii. Effective Date of Monarch's Pass-Through Gallonage Charge**

27. The Commission approved Monarch's current tariff in Docket No. 45570.<sup>2</sup>
28. Monarch's approved tariff authorizes the utility to, among other things, charge a water pass-through gallonage charge to recoup fees imposed on it by any non-affiliated third party water supplier or underground water district. The pass-through provision includes the following language:
- To implement [the water pass-through gallonage charge], all notice requirements must be met. The utility may begin to charge the new filed [water pass-through gallonage charge] on the proposed effective date in the notice. Implementation of this [water pass-through gallonage charge] adjustment provision shall be governed by 16 [Texas Administrative Code] § 24.21(h).<sup>3</sup>
29. On February 20, 2019, Monarch filed an application for approval of a \$0.69 per 1,000 gallons water pass-through gallonage charge in Docket No. 49242.<sup>4</sup>

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<sup>1</sup> Monarch provided the following example: a customer using 3,200 gallons in a month would be charged for 3,000 gallons of use and the additional 200 gallons would be carried forward to the following billing period.

<sup>2</sup> *Application of Monarch Utilities I, LP for Authority to Change Rates*, Docket No. 45570, Order (Aug. 21, 2017).

<sup>3</sup> Monarch's Water Utility Tariff at 4, attached as Exhibit B to Monarch's response to Order No. 1 filed on June 17, 2020.

<sup>4</sup> *Application of Monarch Utilities I, L.P. for a Pass Through Gallonage Charge*, Docket No. 49242 (pending).

30. In Docket No. 49242, Monarch's application contained copies of the notice provided to customers about the water pass-through gallonage charge application. That notice specified that the effective date for the water pass-through gallonage charge would be March 1, 2019.
31. Monarch implemented this water pass-through gallonage charge of \$0.69 per 1,000 gallons on the proposed effective date of March 1, 2019.
32. Monarch's application for the water pass-through gallonage charge in Docket No. 49242 remains pending.
33. In Commission Staff's supplemental statement of position in this docket filed on July 1, 2020, Commission Staff recommended finding that Monarch is charging Mr. Collins the correct water and sewer base charges; however, Commission Staff expressed concern that Monarch is charging Mr. Collins the water pass-through gallonage charge even though the pass-through charge had not yet been approved by the Commission in Docket No. 49242.
34. In Docket No. 49732,<sup>5</sup> the Commission filed an order on briefing issues and remanding the proceeding.<sup>6</sup> In that order, the Commission determined that the Commission's order approving Monarch's water tariff in Docket No. 45570 established the effective date for the implementation of Monarch's water pass-through gallonage charge as March 1, 2019, the date stated in the notice provided to customers in Docket No. 49242.

## II. CONCLUSIONS OF LAW

The ALJ makes the following conclusions of law.

1. The Commission has authority over the remaining issue in this matter under Texas Water Code § 13.041.
2. Under 16 Texas Administrative Code (TAC) § 22.242(a), any affected person may complain to the Commission about "any act or thing done or omitted to be done by any person under the jurisdiction of the Commission in violation or claimed violation of any law which the Commission has jurisdiction to administer."

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<sup>5</sup> *Complaint of Paul Hawkins against Monarch Utilities I, LP*, Docket No. 49732, Order (Jan. 29, 2021).

<sup>6</sup> *Id.*, Order on Briefing Issue and Remanding Proceeding (Aug. 19, 2020).

3. Monarch's implementation of its pass-through gallonage charge, effective March 1, 2019, complies with its tariff.
4. Monarch's water meter accurately records Mr. Collins' daily water usage.
5. Under 16 TAC § 24.43(c), volumetric charges must be based on metered usage rounded up or down as appropriate to the nearest 1,000 gallons.
6. Under 16 TAC § 24.165(h) amounts of usage that are rounded down may be carried forward to a customer's subsequent monthly bill.
7. Monarch's billing practices comply with 16 TAC §§ 24.43(c) and 24.165(h).
8. This proposal for decision was issued in accordance with Texas Government Code § 2001.062 and 16 TAC § 22.261(a).

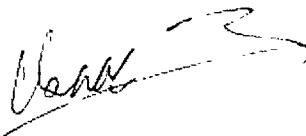
### III. PROPOSED ORDERING PROVISIONS

In light of the above findings of fact and conclusions of law, the ALJ proposes the following ordering paragraphs.

1. The Commission denies Mr. Collins' complaint.
2. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

**Signed at Austin, Texas the 25th day of February 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**