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DOCKET NO. 50878

COMPLAINT OF RANDALL COLLINS §  
AGAINST MONARCH UTILITIES I, §  
L.P. §

PUBLIC UTILITY COMMISSION  
OF TEXAS

### COMMISSION STAFF'S SUPPLEMENTAL STATEMENT OF POSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Supplemental Statement of Position. In support thereof, Staff shows the following:

#### I. BACKGROUND

On May 22, 2020, Randall Collins filed a formal complaint against Monarch Utilities I, L.P. (Monarch), alleging overcharges for water service at his residence. On May 27, 2020, the Administrative Law Judge (ALJ) in this case issued Order No. 1, giving Staff until June 24, 2020 to file a statement of position regarding the complaint and to determine whether Mr. Collins complied with the requirements for informal resolution and consultation with the municipality in which the complainant may live, in accordance with 16 Texas Administrative Code (TAC) § 22.242(c) and (e). On June 24, 2020, Staff filed its statement of position, asking for additional time to determine whether Monarch has charged Mr. Collins in accordance with its tariff. On June 26, 2020, the ALJ issued Order No. 2, granting Staff until July 1, 2020 to file a supplemental statement of position. Thus, this pleading is timely filed.

#### II. COMPLAINT

Mr. Collins complains that he was billed the same amount each month for a period of six months.<sup>1</sup> Mr. Collins asserts that it is inconceivable that he used the same amount of water each month during this six-month period.<sup>2</sup> Mr. Collins argues that Monarch's base rates are unfair and violate the Equal Protection Clause under the Texas Constitution.<sup>3</sup> Mr. Collins further accuses

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<sup>1</sup> Complaint of Randall Collins against Monarch Utilities I, L.P. (Complaint) at 2 (May 22, 2020).

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.* at 4.

Monarch of committing the criminal offense of extortion.<sup>4</sup> Mr. Collins asks that Monarch be ordered to cease charging base rates and that he be appointed an attorney.<sup>5</sup>

### III. MONARCH'S RESPONSE

Monarch responded to the complaint, disputing Mr. Collins' claim that Monarch's monthly bills were incorrect.<sup>6</sup> Monarch asserted that Mr. Collins' monthly meter readings and billings were correct and consistent with Monarch's tariff.<sup>7</sup> Monarch stated that it is authorized to serve Henderson County and Mr. Collins' residence under water CCN 12983 and sewer CCN 20899.<sup>8</sup> Monarch noted that it is a for-profit utility lawfully operating under the statutes and rules of the State of Texas.<sup>9</sup> Monarch stated that it has done everything within the scope of its responsibilities to address Mr. Collins' concerns and asks that the Commission deny Mr. Collins' complaint.<sup>10</sup>

### IV. STAFF'S STATEMENT OF POSITION

Staff has reviewed the water bills Mr. Collins provided in his informal complaint.<sup>11</sup> As detailed in the attached memoranda of Kathryn Eiland, Rate Regulation Division, Staff recommends that Monarch is charging Mr. Collins the correct water and sewer base charges; however, Monarch is also charging Mr. Collins a water pass-through gallonage charge even though that pass-through charge has not yet been approved by the Commission. The effective date of the pass-through gallonage charge is currently being considered by the Commission. Staff's position in this case is dependent on the Commission's decision in two pending dockets, Docket No. 49732, *Formal Complaint of Paul Hawkins Against Monarch Utilities I, L.P.* (Hawkins Complaint) and Docket No. 49242, *Application of Monarch Utilities I, L.P. for a Pass Through Gallonage Charge* (Monarch Pass-Through Application).

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<sup>4</sup> *Id.*, see Tex. Penal Code § 31.02.

<sup>5</sup> *Id.*

<sup>6</sup> Response of Monarch Utilities I, L.P. to Randall Collins' Complaint (Response) at 1 (June 17, 2020).

<sup>7</sup> *Id.* at 1, Exhibit B.

<sup>8</sup> *Id.* at 1-2, Exhibit C.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Complaint No. CP2020010451*, Randall Collins Invoices Confirmed (January 22, 2020).

In the Hawkins Complaint, the Commission requested briefing on whether language contained in Monarch's tariff constitutes Commission authorization for an effective date of a pass-through charge other than the date of approval of that charge under 16 Texas Administrative Code (TAC) § 24.25(h).<sup>12</sup> The parties have filed briefing but the Commission has not yet decided the issue.<sup>13</sup> Furthermore, the Monarch Pass-Through Application has been abated to allow the Commission time to rule on the effective date of the pass-through gallonage charge in the Hawkins Complaint.<sup>14</sup>

Staff's recommendation in this complaint is dependent on the Commission's decisions in the Hawkins Complaint and the Monarch Pass-Through Application. Accordingly, Staff respectfully requests an extension until August 3, 2020 to file a second supplemental statement of position to allow the Commission time to decide the effective date of the pass-through gallonage charge.

## V. CONCLUSION

Staff respectfully requests additional time to file a second supplemental statement of position that takes into consideration the Commission's decisions in the Hawkins Complaint and Monarch Pass-Through Application.

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<sup>12</sup> *Complaint of Paul Hawkins Against Monarch Utilities I, L.P.*, Docket No. 49732, Order Requesting Briefing (March 12, 2020).

<sup>13</sup> *Id.*, Commission Staff's Brief on Effective Date Issues (March 26, 2020); Brief of Monarch Utilities I, L.P. (March 26, 2020); Reply Brief of Monarch Utilities I, L.P. (April 3, 2020); Comments of Paul Hawkins (April 6, 2020).

<sup>14</sup> *Application of Monarch Utilities I, L.P. for a Pass Through Gallonage Charge*, Docket No. 49242, Order No. 7 Abating Proceeding (April 14, 2020).

Dated: July 1, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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/s/ Megan Chalifoux

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**DOCKET NO. 50878**

**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 1, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Megan Chalifoux

Megan Chalifoux

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Megan Chalifoux, Attorney  
Legal Division

**FROM:** Kathryn Eiland, Financial Analyst  
Rate Regulation Division

**DATE:** July 1, 2020

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

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On May 22, 2020, Randall Collins (Mr. Collins or Complainant) filed a formal complaint against Monarch Utilities I, L.P. (Monarch). Mr. Collins expressed concern that he was billed the same amount of \$167.51 for six consecutive months for water service, and therefore believes that his water meter is not being read.

Staff conducted a review of Mr. Collins' complaint and Monarch's response to Order No. 1. Although Mr. Collins did not identify the six-month period he was billed \$167.51 in his formal complaint, Staff identified that the periods were from June through November 2019 via his informal complaint.<sup>1</sup> The informal complaint also included Mr. Collins' bills from March 2019 through December 2019. Monarch provided the meter reading history for Mr. Collins address from July 2016 through May 2020 in this docket. These records match the usage shown on the bills for the time periods in question of 4,000 gallons per month. Mr. Collins did not provide documentation that reflected a different reading for the periods in question, therefore, Staff relied on the usage provided by Monarch as being correct.

Staff confirmed that Mr. Collins' invoices showed that he was billed for a 5/8" meter size. According to Monarch's water tariff,<sup>2</sup> the minimum monthly charge and gallonage charge are as follows:

Water base charge: \$49.30

Gallonage charge: \$7.47 per 1,000 gallons from 0 to 2,000 gallons  
\$9.20 per 1,000 gallons from 2,001 to 10,000 gallons  
\$10.43 per 1,000 gallons from 10,001 to 20,000 gallons  
\$11.11 per 1,000 from 20,001 and thereafter

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<sup>1</sup> *Complaint No. CP2020010451, Randall Collins Invoices Confirmed (January 22, 2020).*

<sup>2</sup> *Application of SWWC Utilities, Inc. DBA Southwest Utility Company and Monarch Utilities I L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County, Docket No. 49103, Corrected Notice of Approval (April 2, 2020).*

According to Monarch's sewer tariff,<sup>3</sup> the minimum monthly charge and gallonage charge are as follows:

Sewer base charge: \$75.26

Gallonage charge: \$2.64 per 1,000 gallons

Additionally, Staff confirmed that Mr. Collins' invoices also show that he was billed a pass-through gallonage fee. Monarch filed an application to implement a pass-through fee on February 20, 2019 in Tariff Control No. 49242; however, that proceeding is abated to allow the Commission time to rule on a related matter in Docket No. 49732, which is a formal complaint based on an informal complaint filed at the Commission. The conclusion of that informal complaint was determined on July 15, 2019. The conclusion contained the following statement, which addressed implementing the pass-through change prior to approval by the Commission:

Based on the investigation CPD has determined that Monarch Utilities I LP has not acted consistently with Substantive Rule §24.25 (b) (2)-Minor Tariff Changes.<sup>4</sup>

However, Monarch's response to Order No. 1 in Docket No. 49732, page 3, states,

The tariff allows Monarch to pass through charges, subject to an annual true-up adjustment and contingent on all notice requirements (PUC Substantive Rule 24.25(b)(2)(F)) being met. Specifically, the tariff states "The utility may begin to charge the new filed WPC on the proposed effective date of the notice." Monarch filed with the Commission an application for a passthrough gallonage charge on February 20, 2019 (Docket No. 49242). Included in the application was a notice mailed to customers in compliance with PUC Substantive Rule 24.25, which is also included in this filing as Exhibit C.<sup>5</sup>

Based upon review of the information submitted, Staff has determined:

1. Mr. Collins was correctly billed water and sewer base charges and gallonage charges based on Monarch's water and sewer tariffs and the reading they recorded on the meter; and
2. Mr. Collins was incorrectly billed a pass-through charge that has not been approved by the Commission based on 16 TAC § 24.25(b)(2) However, Monarch has a Commission-approved tariff that allows Monarch to charge the new WPC on the proposed effective date of the notice. Therefore, without a Commission ruling or legal opinion in Docket No. 49242, Staff is unable to opine on whether the approved tariff overrides the rule.

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<sup>3</sup> *Application of Monarch Utilities I, LP for a Minor Tariff Change for New Federal Tax Change Credit Rider*, Docket No. 48329, Water and Sewer Tariffs in Accordance to PUC's Final Order (February 25, 2019).

<sup>4</sup> *Complaint of Paul Hawkins against Monarch Utilities I, L.P.*, Docket No. 49732, Response to Order No. 1, August 6, 2019 at 2-3.

<sup>5</sup> *Id.*, Staff's Notice of Filing Informal Complaint Documents at 69 of 94, May 21, 2020.