



## Filing Receipt

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**DOCKET NO. 51787**

<b>COMPLAINT OF NUECES BAY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>TRACTS, LLC AGAINST RINCON</b>	<b>§</b>	
<b>WATER SUPPLY CORPORATION</b>	<b>§</b>	<b>OF TEXAS</b>

**COMMISSION STAFF'S LIST OF ISSUES**

On February 3, 2021, Nueces Bay Tracts, LLC (Nueces Bay) filed a formal complaint against Rincon Water Supply Corporation (Rincon) regarding the extension of water service to a proposed subdivision. This complaint was filed under 16 Texas Administrative Code (TAC) § 22.242. On May 26, 2021, Nueces Bay amended its complaint, stating that Rincon had effectively refused service and violated multiple tariff provisions.

On July 27, 2021, the Commission Counsel filed an Order Requesting Lists of Issues, requiring Nueces Bay and Rincon, and allowing the Staff (Staff) of the Public Utility Commission of Texas (Commission) and any other interested party, to file a list of issues by August 5, 2021. Therefore, this pleading is timely filed.

**I. LIST OF ISSUES TO BE ADDRESSED**

Staff recommends that the Commission address the following issues:

1. Does Nueces Bay's complaint state a claim for which the Commission may grant relief?
2. Does Nueces Bay bear the burden of proof with regard to the reasonableness or unreasonableness of the cost for extending service to Nueces Bay's proposed subdivision?
3. Is Nueces Bay a "developer" under 16 TAC § 24.161?
4. Does the installation of facilities within a subdivision at the request of a developer constitute the provision of "service" as defined in TWC § 13.002(21) and 16 TAC § 24.3(33)?
5. If the installation of facilities within a subdivision at the request of a developer constitutes the provision of "service" as defined in TWC § 13.002(21) and 16 TAC § 24.3(33), is the estimate for the cost of extending service to the area requested by Nueces Bay reasonable?
6. Is Nueces Bay a "customer" as defined in 16 TAC § 24.3(16)?

7. Is Nueces Bay a “ratepayer” as defined in 16 TAC § 24.3(39)?
8. What tariff of Rincon is legally effective in regard to Nueces Bay’s application for service?
9. Is a developer’s request for installation of facilities in the developer’s proposed subdivision a reasonable consumer use of service as considered under 16 TAC § 24.205?
10. Do the requirements of 16 TAC § 24.205 apply to a new subdivision where no service is currently provided and where a developer requesting an extension of service that requires the installation of facilities has failed to comply with the retail public utility’s line-extension policy?
11. Does a retail public utility’s obligation to plan, furnish, operate, or maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity, within its certificated area, so as to provide a continuous and adequate supply of water service for reasonable consumer uses, include the need to install new facilities requested by a developer for the developer’s subdivision?
12. Does Nueces Bay’s application for service comply with the terms of Rincon’s tariff?
13. What is the date of Nueces Bay’s initial application for service?
14. What are the dates of Nueces Bay’s subsequent applications for service?
15. For how many connections did Nueces Bay originally request service? How many connections were subsequently requested, and for how many connections does Nueces Bay now seek service?
16. Does 16 TAC § 24.161(a)(5) apply to a developer?
17. Is Nueces Bay a “service applicant” under 16 TAC § 24.161?
18. Is Nueces Bay a “qualified service applicant” under 16 TAC § 24.161?
19. If the construction of service line extensions or new facilities are required to provide the service requested by Nueces Bay, and such construction cannot be completed within 30 days, did Rincon fail to provide Nueces Bay with a written explanation of the construction required and an expected date of service, as required by 16 TAC § 24.161(a)(5)?
20. Has Nueces Bay complied with Rincon’s tariffs such that Rincon is required to provide any estimates to extend service to Nueces Bay’s proposed subdivision?

21. Does 16 TAC § 24.161(c), which is limited in application to a “utility,” apply to a water supply corporation such as Rincon?
22. If 16 TAC § 24.161(c) applies to Rincon, has Rincon failed to provide Nueces Bay with the cost of extensions and any construction cost options such as sharing of construction costs between Rincon and Nueces Bay?
23. Is the estimated cost of obtaining service provided to Nueces Bay consistent with Rincon’s tariff?
24. Has Nueces Bay met all requirements necessary to comply with Rincon’s tariff regarding requests for service?
25. Has Nueces Bay submitted all requests for approval of its proposed subdivision, to all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities in Nueces Bay’s proposed subdivision?
26. Has Nueces Bay obtained all necessary governmental approvals for its proposed subdivision in from all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities in Nueces Bay’s proposed subdivision?
27. Has Nueces Bay provided Rincon with a final, approved plat of its proposed subdivision?
28. Has Nueces Bay fully paid Rincon any necessary fees described in Rincon’s tariff?
29. If Nueces Bay does not comply with Rincon’s tariff, may Rincon deny Nueces Bay its requested service?
30. If Nueces Bay has not fully paid Rincon any necessary fees described in Rincon’s tariff and/or otherwise failed to comply with Rincon’s tariff and Nueces Bay has not been charged any other fees, should this complaint be dismissed?
31. What fees or other amounts, if any, has Nueces Bay paid to Rincon in relation to Nueces Bay’s request for service?
32. What charges may Rincon appropriately assess under its service extension policy?

33. Is Rincon refusing to serve Nueces Bay for any of the insufficient grounds listed in 16 TAC §24.157(c), specifically §24.157(c)(7)?
34. For a development of a subdivision, can the developer be held responsible for the cost of installing the necessary facilities to provide water service to lots or prospective developments outside that subdivision?
35. If the Commission determines that Rincon has violated an applicable statute or regulation in this case, what penalty should be assessed against Rincon?
36. If the Commission determines that Rincon is in continuing violation of an applicable statute or regulation in this case, with what technical provisions should the Commission order Rincon to comply, and in what time frame?

## **II. LIST OF ISSUES NOT TO BE ADDRESSED**

At this time, Staff has not identified any issues not to be addressed.

## **III. CONCLUSION**

Staff respectfully requests the issuance of a preliminary order including Staff's proposed issues to be addressed.

Dated: August 5, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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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 August 5, 2021, in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Merritt Lander  
Merritt Lander