



## Filing Receipt

**Received - 2022-09-16 02:39:47 PM**  
**Control Number - 52310**  
**ItemNumber - 50**

**DOCKET NO. 52310**

<b>PETITION OF ROSE HILL SPECIAL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>UTILITY DISTRICT FOR A CEASE</b>	<b>§</b>	
<b>AND DESIST ORDER AGAINST THE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CITY OF TERRELL, TEXAS FOR</b>	<b>§</b>	
<b>UNAUTHORIZED WATER SERVICE</b>	<b>§</b>	

**CITY OF TERRELL'S PROPOSED LIST OF ISSUES**

COMES NOW, the City of Terrell, Texas (City), by and through its attorneys of record, and files this Proposed List of Issues in accordance with the Order Requesting List of Issues, issued in this Docket by the Public Utility Commission of Texas (Commission) Counsel on September 1, 2022.

**I. BACKGROUND**

On July 9, 2021, Rose Hill Special Utility District (Rose Hill SUD) filed with the Commission its Petition for a Cease and Desist Order Against the City of Terrell for Unauthorized Water Service (Petition) in Docket No. 52310 under Texas Water Code (TWC) § 13.252 and 16 Texas Administrative Code (TAC) § 24.255. The Petition alleged that the City is providing retail water service to customers within a 232-acre area in Kaufman County, Texas that lies solely within Roes Hill SUD's Certificate of Convenience and Necessity (CCN) No. 10849. On March 10, 2022, Rose Hill SUD filed its First Amended Petition for Cease and Desist Order Against the City of Terrell (Amended Petition) which further specified 30 customers within this 232-acre area that were receiving service from the City. The City has filed a response to the Petition generally denying the allegations and responded to Rose Hill SUD's First Requests for Information. On June 16, 2022, Rose Hill SUD and the City each filed a Request for Hearing. Commission Counsel issued an Order Requesting List of Issues on September 1, 2022, requiring the parties to file a list

of issues to be addressed in this Docket by September 16, 2022. Thus, this Proposed List of Issues is timely filed.

## **II. ISSUES TO BE ADDRESSED**

The City submits the following list of issues for the State Office of Administrative Hearings Administrative Law Judge to address in this Docket:

1. Does Rose Hill SUD's Petition, as amended, identify the locations where the alleged interference or unlawful provision of service occurred in accordance with 16 TAC § 24.255(a)(4) with respect to the following addresses:
  - a. Magnolia Grove Apartments – 551 Crossroads Parkway, Terrell, TX 75160;
  - b. Film Alley – 750 American Way, Terrell, TX 75160;
  - c. Chipotle – 1396 FM 148, Terrell, TX 75160;
  - d. Panda Express – 1390 FM 148, Terrell TX 75160;
  - e. Taco Bueno – 1380 FM 148, Terrell TX 75160;
  - f. Freddy's Burgers – 1370 FM 148, Terrell TX 75160;
  - g. Raising Cane's – 1360 FM 148, Terrell TX 75160;
  - h. Chick-fil-A – 1300 FM 148, Terrell TX 75160;
  - i. Buc-ee's – 506 I-20, Terrell TX 75160;
  - j. Starbuck's – 1291 FM 148, Terrell TX 75160;
  - k. Dairy Queen – 1281 FM 148, Terrell TX 75160;
  - l. Whataburger – 148 FM 148, Terrell TX 75160;
  - m. Taco Cabana – 1241 FM 148, Terrell TX 75160;
  - n. Petco – 690 American Way, Terrell TX 75160;
  - o. Marshall's – 680 American Way, Terrell TX 75160;

- p. Burkes Outlet – 750 American Way, Terrell TX 75160;
  - q. Rack Room Shoes – 650 American Way, Terrell TX 75160;
  - r. Ross – 634 American Way, Terrell TX 75160;
  - s. T-Mobile – 610 American Way, Terrell TX 75160;
  - t. James Avery – 608 American Way, Terrell TX 75160;
  - u. Mint Dentistry – 606 American Way, Terrell TX 75160;
  - v. Sports Clips Haircuts of Terrell – 604 American Way, Terrell TX 75160;
  - w. Verizon – 602 American Way, Terrell TX 75160;
  - x. America’s Best Eyeglasses – 616 American Way, Terrell TX 75160;
  - y. Luxe Nail Spa – 614 American Way, Terrell TX 75160;
  - z. Menchie’s Frozen Yogurt – 612 American Way, Terrell TX 75160;
  - aa. Chiangmai Thai Kitchen – 632 American Way, Terrell TX 75160;
  - bb. Texas Orthodontics – 628 American Way, Terrell TX 75160;
  - cc. AT&T – 626 American Way A-4, Terrell TX 75160; and
  - dd. MOD Pizza – 64 American Way, Terrell TX 75160?
2. Does Rose Hill SUD’s Petition, as amended, describe the alleged interference or unlawful provision of service in accordance with 16 TAC § 24.255(a)(3) with respect to the addresses listed in Issue No. 1?
  3. Does Rose Hill SUD’s Petition, as amended, provide copies of any information or documentation which would support the alleged service to the addresses listed in Issue No. 1 in accordance with 16 TAC § 24.255(a)(5)?
  4. Is the City unlawfully providing water service to any addresses listed in Issue No. 1, above?

5. For each address in Issue No. 1, above, where the City is unlawfully providing service, if any, when did Rose Hill SUD become aware of the City's alleged unlawful provision of service?
6. For each address in Issue No. 1, above, where the City is unlawfully providing service, if any, is Rose Hill SUD's Petition, as amended, timely filed under 16 TAC § 24.255(b)?
7. Does Rose Hill SUD's Petition, as amended, identify the locations where the alleged interference or unlawful provision of service occurred in accordance with 16 TAC § 24.255(a)(4) with respect to the portion of the 232-acre area alleged in Rose Hill SUD's Petition, as amended that does not include the addresses listed in Issue No. 1, above (the "Remaining Area")?
8. Does Rose Hill SUD's Petition, as amended, describe the alleged interference or unlawful provision of service with respect to each alleged location within the Remaining Area in accordance with 16 TAC § 24.255(a)(3)?
9. Does Rose Hill SUD's Petition, as amended, provide copies of any information or documentation which would support the alleged service to each alleged location within the Remaining Area in accordance with 16 TAC § 24.255(a)(5)?
10. Is the City unlawfully providing water service to any alleged location within the Remaining Area?
11. With respect to each alleged location within the Remaining Area where the City is unlawfully providing service, if any, when did Rose Hill SUD become aware of the City's alleged unlawful provision of service?

12. With respect to each alleged location within the Remaining Area where the City is unlawfully providing service, if any, is Rose Hill SUD's Petition, as amended, timely filed under 16 TAC § 24.255(b)?

The City reserves the right to amend this proposed list of issues.

### **III. ISSUES NOT TO BE ADDRESSED**

The City contends that the only issues to be addressed in this Docket are the issues listed in Section II above.

### **IV. THRESHOLD LEGAL AND POLICY ISSUES**

The City does not request any threshold legal or policy issues to be briefed for purposes of a preliminary order.

### **V. CONCLUSION AND PRAYER**

WHEREFORE, PREMISES CONSIDERED, the City respectfully requests that the Commission adopt its proposed list of issues only and grant any further relief to which the City may be justly entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &  
TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)



---

DAVID J. KLEIN  
State Bar No. 24041257  
[dklein@lglawfirm.com](mailto:dklein@lglawfirm.com)

DANIELLE LAM  
State Bar No. 24121709  
[dlam@lglawfirm.com](mailto:dlam@lglawfirm.com)

**ATTORNEYS FOR THE CITY OF TERRELL**

**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 September 16, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.



---

David J. Klein