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PUC PROJECT NO. 52405

**REVIEW OF CERTAIN WATER
CUSTOMER PROTECTION RULES**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

TEXAS ASSOCIATION OF WATER COMPANIES, INC.’S INITIAL COMMENTS

These initial comments are filed by the Texas Association of Water Companies, Inc. (TAWC), a Texas nonprofit corporation established by Texas investor-owned water and sewer utilities to be the Texas chapter of the National Association of Water Companies (NAWC). TAWC hereby respectfully submits the following initial comments on the Commission’s proposed new 16 Texas Administrative Code (TAC) §24.173, relating to Late Fees and Disconnections for Nonpayment During an Extreme Weather Emergency and §24.364, relating to Civil Penalties for Late Fees and Disconnections for Nonpayment During an Extreme Weather Emergency as published in the Texas Register on May 6, 2022 (“Proposed Rules”).¹

I. GENERAL COMMENTS

TAWC understands these rules to be primarily intended as legislative implementation for Texas Water Code (TWC) §§ 13.151 and 13.414. However, TAWC has a few section specific comments for the Commission to consider that it hopes will be helpful to that process. TAWC also believes that a workshop should be held to better educate regulated retail public utilities about this rule proposal.

II. SECTION SPECIFIC COMMENTS

§ 24.173 Late Fees and Disconnections for Nonpayment During an Extreme Weather Emergency

(a) Applicability.

TAWC requests that the phrase “affiliate of such a retail public utility” be removed from this subsection. TWC § 13.151 only states that it applies to a “retail public utility that is required to possess a certificate of convenience and necessity or a district or affected county that furnishes

¹ 47 Tex. Reg. 2646-2648 (May 6, 2022); *see also* Proposal for Publication (April 22, 2022).

retail water or sewer utility service.”² In the case of investor-owned utilities, the CCN holder is the entity responsible for “retail water or sewer utility service” and its affiliates should not be responsible for implementing the new requirements set forth in proposed 16 TAC § 24.173.

(b) Definitions.

(1) Extreme weather emergency

TAWC requests that the Commission clarify who will decide when an “extreme weather emergency” is or has taken place as defined in the proposed rule. Will the utility be required to determine that on its own or will the Commission or another State of Texas authority determine that fact? If the latter, how will Texas retail public utilities be notified? TAWC’s members would prefer not to be charged with making a determination of what constitutes an “extreme weather emergency” in a particular area.

(c) Prohibited Actions.

For proposed 16 TAC § 24.173(c)(1), TAWC seeks clarification of the phrase “imposing a late fee.” The phrase could mean assessing a late fee to a customer’s account on a particular date or it could mean issuing a bill on a particular date that has a late fee included on it. This clarification could make a difference in terms of compliance.

For proposed 16 TAC § 24.173(c)(2), TAWC seeks clarification about whether a retail public utility would be allowed to disconnect a customer who was sent a disconnect notice before the “extreme weather emergency,” but is not yet disconnected when the extreme weather emergency occurs. While service may have continued during the emergency event, disconnection would not necessarily be “related to . . . service during” the event. This should be clarified.

(d) Payment Schedule.

The published rule proposal specifically seeks input on the following: “Should the entities described in proposed paragraph § 24.173(a) be required to provide notice to customers of their right to request a payment schedule upon the occurrence of an extreme weather

² TWC § 13.151(b).

emergency? If so, how and when should the covered entities notify customers of this right?” TAWC submits that retail public utilities should not be required to provide a special customer notice about the availability of payment schedules as described.

There are other public outreach mechanisms available that could convey the same information described such as individual covered entity websites or the Commission’s web site. Requiring a special customer notice could be costly (particularly if a special mailed notice is required) and would create potential liability for covered entities that TAWC members would prefer not to have. As Winter Storm Uri taught us, providers have enough operation issues to deal with when an extreme weather event occurs such that it would be preferable not to have one more, particularly in light of the stiff penalties set forth in proposed rule 16 TAC § 24.364. TAWC requests that the Commission not adopt a requirement for covered entities to notify customers of the rights addressed by this rule, but the Commission should encourage public outreach through various methods determined to be appropriate by each covered entity.

§ 24.364 Civil Penalties for Late Fees and Disconnections for Nonpayment During an Extreme Weather Emergency

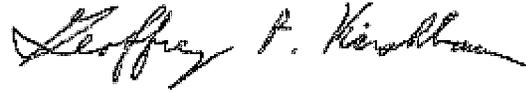
(b) Classification System.

TAWC seeks clarification as to whether the stated maximum amounts for Class A, B, and C violations are to be assessed “per day” for each “violation” towards each individual customer or “per day” on a per utility basis when a utility generally violates the rule in some manner. TAWC requests that the rule be clarified as the latter. Otherwise, this rule could unnecessarily bankrupt water and sewer utilities given the latitude in assessing penalties established by proposed 16 TAC § 24.364(b)(4). TAWC appreciates the importance of this issue, but that outcome would be unreasonable.

III. CONCLUSION

TAWC respectfully requests the Commission consider these initial comments in developing its new rules for this project and hold a workshop. This will serve to improve the Commission’s final rules when adopted and ensure regulated retail public utilities fully understand what they require.

Respectfully submitted,



By: _____

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**ATTORNEYS FOR TEXAS ASSOCIATION OF
WATER COMPANIES, INC.**

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 May 19, 2022, in accordance with the Orders Suspending Rules issued in Project No. 50664.



Geoffrey P. Kirshbaum

