



Filing Receipt

Received - 2022-05-26 04:01:05 PM
Control Number - 53299
ItemNumber - 15

PUC DOCKET NO. 53299

CRYSTAL BLUFF GOAT RANCHES,	§	BEFORE THE PUBLIC UTILITY
LLC'S APPEAL OF THE COST OF	§	
OBTAINING SERVICE FROM	§	COMMISSION OF TEXAS
POSSUM KINGDOM WATER	§	
SUPPLY CORPORATION	§	

**CRYSTAL BLUFF GOAT RANCHES, LLC'S RESPONSES TO COMMISSION STAFF'S
FIRST REQUESTS FOR INFORMATION**

To: Commission Staff, by and through its attorneys of record, Merritt Lander and Bradley Reynolds, Public Utility Commission of Texas, 1701 N. Congress Avenue, Austin, Texas 78711.

COMES NOW, Crystal Bluff Goat Ranches, LLC, and serve the following Responses to Commission Staff's First Request for Information to Possum Kingdom Water Supply Corporation Question Nos. Staff 1-1 through Staff 1-8. Crystal Bluff Goat Ranches, LLC, stipulates that the following responses to Commission Staff's Requests for Information may be treated by all parties as if the answer was given under oath.

Dated: May 26, 2022.

Respectfully submitted,

DORSETT JOHNSON & SWIFT, LLP

By: /s/ C. Justin Broome
JC Johnson
Texas Bar No. 24067412
Email: jcjohnson@dorsettjohnson.com
C. Justin Broome
Texas Bar No. 24117555
Email: jbroome@dorsettjohnson.com
407 Throckmorton Street Suite 500
Fort Worth, Texas 76102
Tel. (817) 900-8202
Fax. (817) 882-8526

**ATTORNEYS FOR CRYSTAL BLUFF GOAT
RANCHES, LLC**

CERTIFICATE OF SERVICE

I certify that on May 26, 2022, a true and correct copy of the foregoing instrument was served on all counsel parties via their counsel of record.

/s/ C. Justin Broome
C. Justin Broome

CRYSTAL BLUFF GOAT RANCHES RESPONSES TO COMMISSION STAFF'S FIRST REQUESTS FOR INFORMATION

Staff 1-1: Please provide a detailed explanation of your issues regarding the cost of obtaining water services from Possum Kingdom WSC. Please describe each issue in a separate paragraph.

Response: After purchasing an 18+ acre tract and platting it into 12 residential lots known as Hummingbird West and applying for water service for the properties, Crystal Bluff Goat Ranches, LLC ("CBGR") was informed by Possum Kingdom Water Supply Corporation ("PKWSC") in a June 6, 2017, email that PKWSC was ready to provide the lots with water. *See* June 6, 2017, email attached hereto as **Exhibit A**. In the email, PKWSC stated that in addition to fees for installing the meters, CBGR would also be responsible for a "contribution in aid of construction" ("CIAC") fee estimated to be \$2,300-\$2,800 per meter. PKWSC stated that the CIAC fee was for an expansion to the existing water treatment plant to increase capacity to accommodate any new development. In the same email, PKWSC acknowledged that their pricing and fees are "confusing." On July 19, 2017, PKWSC sent another email stating that PKWSC had estimated the cost per meter to be \$2,300, and that that "[n]othing beyond the \$2,300 per lot will be billed until the purchaser of the property requires a meter." *See* July 19, 2017, email included in CBGR's appeal packet and attached hereto as **Exhibit B**.

Shortly after these email exchanges, Gary Ray of CBGR met in person with Sue Cathey of PKWSC in which he was told that no CIAC fees were required because no additional construction would be required for CBGR to tap into the existing water line. In other words, PKWSC represented to CBGR that CBGR would only be responsible for the actual cost of the meters themselves and a \$150 engineering fee for installing each meter. Consistent with this arrangement, PKWSC sold CBGR a meter for Lot 7 of Hummingbird West for \$1,850 and a \$150 engineering survey fee in 2017. Later in 2019, PKWSC sold CBGR a meter on Lot 5 for \$2,337 and Lot 3 for \$2,337 plus the \$150 engineering survey fee. CBGR has since sold Lots 5 and 7, and the meters have been transferred to the new owners. The purchaser of Lot 5 also acquired Lot 6 and does not require a meter for Lot 6. Out of the twelve lots platted, three meters have already been purchased and installed, and one lot does not require a meter. As it stands, CBGR only needs eight meters for the remaining lots.

On May 11, 2021, PKWSC offered to "grandfather in" two of the meters already purchased by CBGR thereby applying the CIAC fee to ten meters rather than twelve on an "exception basis."¹ This is nothing more than an attempt at backpedaling by PKWSC to collect CIAC fees on meters which

¹ PKWSC has not defined "exception basis" – which is further evidence of the arbitrary nature of its fee assessments.

PKWSC had already sold to CBGR without an executed contract making CBGR responsible for CIAC fees on the two meters.

PKWSC has offered very little information to CBGR to justify its exorbitant CIAC fee increase from \$2,300 to \$13,385.00 per meter in less than four years. Other than a barebones preliminary cost projection prepared by Jordan S. Hibbs on January 12, 2021, PKWSC has offered nothing to show that the existing water treatment facility has reached the limits of its capacity after previous expansions. PKWSC has offered no explanation as to why three meters were sold to CBGR without the requirement of CIAC fees prior to service. In its January 11, 2022, letter, PKWSC states that it withdrawn a “concession” made to CBGR in offering to “grandfather in” two of the existing meters.” PKWSC offered no explanation for the withdrawal of this “concession.” In the same letter, the offer of \$13,385 CIAC fee per meter is left open for 30 days with an ominous warning that there is “no guarantee that future requests would be at this price” – a clear threat to increase the CIAC fee should CBGR decline the offer. Based on these communications, PKWSC’s astronomical increase of the CIAC fee in a short amount of time, and PKWSC’s offers of concessions and later revocations, show that PKWSC’s pricing is not reasonably related to any concrete need to add capacity, but is inconsistent, opaque, arbitrary, and retaliatory.

Furthermore, in its responses to the Commission Staff’s First Requests for Information, PKWSC produced a non-standard service contract entered into on October 9, 2020, with a different developer in which it assessed a CIAC fee of \$3,695 per meter to support an additional 777 meters at a total estimated cost of \$2,871,000. Days later, on October 21, 2020, the parties executed an amendment to the non-standard service contract to reflect an additional six meters. However, by that time, the cost of the 777-meter expansion had increased to \$10,400,145.00. There has been nothing produced by CIAC reflecting the basis for this 350% increase, which was *prior* to the preliminary estimate prepared by Jordan S. Hibbs on January 12, 2021.

Simply put, either PKWSC is currently able to accommodate the eight additional meters required by CBGR, or it is not. If not, PKWSC should offer proof that it currently lacks capacity for the additional meters requested by CBGR, that it must undergo a reasonable expansion to accommodate CGBR’s meters, and that the cost of the necessary expansion is reasonable.

Prepared by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC, with the assistance of counsel.

Sponsored by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC

Staff 1-2 Do you believe that the Possum Kingdom WSC's response to your request for water service is unreasonably preferential, prejudicial, and/or discriminatory? If "yes," please explain how.

Response: Yes. As stated in response to Commission Staff's Request 1-1, the Commission staff as demonstrated a prejudicial bias against CBGR based on their request for more detail to justify PKWSC's CIAC fee increase of nearly 500% less than four years after CBGR's initial request for water service. PKWSC has offered nothing to show that CBGR's request exceeds PKWS's current service capacity. PKWSC's attempts to renege on its prior sale of meters to CBGR for Lots 3, 5, and 7 without charging any CIAC fee, later attempting to appease CBGR by "grandfathering" in two of the meters, and subsequently revoking that offer without stating any explanation whatsoever indicates that PKWSC's actions are not reasonably related to a need to increase capacity and are likely arbitrary, prejudicial, and retaliatory against CBGR.

Prepared by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC, with the assistance of counsel.

Sponsored by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC

Staff 1-3 Please refer to the Appeal of the Cost of Obtaining Service from a Water Supply Corporation (Appeal), filed on March 1, 2022. Specifically, refer to the Possum Kingdom WSC's cost estimate "0.5 MGD WTP Expansion at Existing WTP" (Proposal) document filed as an attachment to the Appeal. Please respond to the following: a. Identify any line items in the Proposal that you believe are unreasonable. Explain why the costs of the identified line items are unreasonable. b. Identify any line items in the Proposal that you believe are preferential. Explain why the costs of the identified line items are preferential. c. Identify any line items in the Proposal that you believe are prejudicial. Explain why the costs of the identified line items are prejudicial. d. Identify any line items in the Proposal that you believe are discriminatory. Explain why the costs of the identified line items are discriminatory.

Response: CBGR currently lacks sufficient information about PKWSC's current capacity, projected necessary additional capacity, or the basis for said projections to form any opinion regarding whether the cost estimate is unreasonable, preferential, prejudicial, or discriminatory. CBGR respectfully requests that the Commission permit CBGR to reserve the right to supplement or amend this response.

Prepared by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC, with the assistance of counsel.

Sponsored by: Gary Ray, Partner,

Crystal Bluff Goat Ranches, LLC

Staff 1-4 Did you request a cost estimate from any entity other than Possum Kingdom WSC? If "yes," provide a copy of the estimate.

Response: No. To the best of CBGR's knowledge, PKWSC is the only supplier of potable water in the area.

Prepared by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC, with the assistance of counsel.

Sponsored by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC

Staff 1-5 Please estimate the amount of water you intend to use on a monthly basis and explain how you arrived at the estimated number.

Response: Assuming CBGR builds on the remaining eight lots and water meters are required, CBGR anticipates that the monthly water usage would likely range from 500 to 1,800 gallons per meter. This number is based on construction plans of residences ranging from 1,300 to 1,500 square feet and Gary Ray of CBGR's observations of his two personal residences.

Prepared by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC, with the assistance of counsel.

Sponsored by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC

Staff 1-6 Please estimate the number of meters in your development and explain how you arrived at the estimated number.

Response: CBGR requires eight additional meters. As explained in CBGR's response to Commission Staff 1-1, CBGR has already purchased three meters for Lots 3, 5, and 7, and the current owner of Lots 5 and 6 does not require a meter for Lot 6. Thus, CBGR's development requires eight additional meters for a total of eleven.

Prepared by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC, with the assistance of counsel.

Sponsored by: Gary Ray, Partner,
Crystal Bluff Goat Ranches, LLC

EXHIBIT A

From: Sue Cathey
To: Gary Ray
Subject: Humming West
Date: Tuesday, June 6, 2017 11:10:44 AM
Attachments: Sue Cathey.vcf
Non-Standard Svc Contract NEW.doc
Ray Will Serve June 2017.PDF
Developer Notice.doc

Gary, attached is the boiler plate of the contract that we need to put in place. I have attached the will serve letter so you can plat the property.

Review the contract and we can get it approved at the June 21st board meeting. The existing water treatment plant will need to be expanded to accommodate any development and right now we are estimating that it will be about \$2,300 to \$2,800 per lot without having to do brick and mortar construction. That is considered "capital in aid of construction". The other fees for meter installation would be billed as meters are required excluding the equity-buy in fee. No monthly fees would be billed until a meter is installed.

Review all of this and let me know. I know this is somewhat confusing.

Sue Cathey

EXHIBIT B

Sue Cathey

From: "Gary Ray" <gary@modcoins.com>
Date: Wednesday, July 19, 2017 3:18 PM
To: "Sue Cathey" <sue@pkwsc.com>
Subject: RE: Non-Standard Agreement

Sue- Timing is everything as we are just getting bids on construction cost on lot 7.. All the property is owned by & the construction is actually being done under Crystal Bluff Goat Ranches, LLC, (CBGR,LLC) which is owned Chris Beeson & Gary Ray. Does PKWSC need a copy of the survey of Hummingbird West? Thanks GR

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is **STRICTLY PROHIBITED**. If you have received this transmission in error, please immediately notify us by reply e-mail, by forwarding this to Gary@modcoins.com or by telephone to (817) 546-1955, and destroy the original transmission and its attachments. Thank you.

From: Sue Cathey [mailto:sue@pkwsc.com]
Sent: Wednesday, July 19, 2017 2:58 PM
To: Gary Ray
Subject: Non-Standard Agreement

Gary, attached the draft of the non-standard agreement for the water to Hummingbird West. The cost is estimated to be \$2,300 per lot, but a firm number will be put in. Nothing beyond the \$2,300 per lot will be billed until the purchaser of the property requires a meter. That person will then pay membership, administration, meter installation and inspection.

Review this and let me know your thoughts on this contract.

Sue Cathey

7/19/2017