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

ORDER NO. 7
DENYING PLEA TO THE JURISDICTION AND MOTION TO DISMISS

This Order addresses Possum Kingdom Water Supply Corporation’s May 16, 2022 plea to the jurisdiction and motion to dismiss under 16 Texas Administrative Code (TAC) § 22.181(d)(1). Possum Kingdom asserts that the Commission lacks jurisdiction over Crystal Bluff’s appeal of the cost of obtaining service from Possum Kingdom because Crystal Bluff filed its appeal after the 90-day deadline for appeal established by Texas Water Code (TWC) § 13.043(g) and 16 TAC § 24.101(g). On June 20, 2022, Crystal Bluff filed its response to Possum Kingdom’s plea to the jurisdiction and motion to dismiss.

On May 11, 2021, Possum Kingdom mailed Crystal Bluff a non-standard contract for water service to Crystal Bluff’s development, which consists of 12 lots. In the letter, Possum Kingdom stated that Crystal Bluff must pay capital in aid of construction to obtain or reserve water to the development. Possum Kingdom also stated that two lot owners have paid for meters to be installed who did not pay capital in aid of construction but would be considered “grandfathered” and Possum Kingdom would only require capital in aid of construction for ten meters at a cost of \$13,385.00 per meter. On September 21 and 29, 2021, and January 6, 2022, Possum Kingdom and Crystal Bluff exchanged correspondence regarding the May 11, 2021 capital in aid of construction amount.

On January 11, 2022, Possum Kingdom mailed a letter to Crystal Bluff stating, “The board made a concession in the May, 2021 letter to Mr. Ray for a payment of ten (10) water capacities. No response was received; thus, *this offer was withdrawn*. . . . The cost is \$13,385.00 per meter or \$160,620.00 for this development. Previous contracts have been prepared and presented, and once Mr. Ray understands the financial requirement, *a new contract will be prepared*.”¹

¹ Possum Kingdom Water Supply Corporation’s Plea to the Jurisdiction, Motion to Dismiss, and Response to Appeal at 233–34.

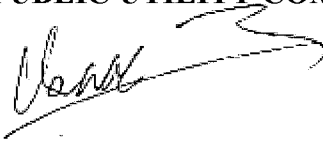
Under TWC § 13.043(g) and 16 TAC § 24.101(g), an appeal for the cost of obtaining service must be filed within 90 days after written notice of the amount to be paid to obtain service is provided to the applicant. Possum Kingdom argues that written notice of the cost to obtain service was provided to the Crystal Bluff on May 11, 2021, meaning that Crystal Bluff's deadline to appeal the cost of obtaining service was August 9, 2021. Possum Kingdom asserts that because Crystal Bluff did not appeal the cost of obtaining service until March 1, 2022, the Commission lacks jurisdiction to hear the appeal and the matter should be dismissed under 16 TAC § 22.181(d)(1).

The administrative law judge (ALJ) disagrees with Possum Kingdom's interpretation of the facts. The January 11, 2022 letter contains material differences from the May 11, 2021 letter. Additionally, the January 11, 2022 explicitly states that the May 11, 2021 offer was withdrawn, which makes the January 11, 2022 letter its own distinct offer. Accordingly, the ALJ finds that Crystal Bluff received a written notice of the cost to obtain service on January 11, 2022, which makes the 90-day deadline imposed by TWC § 13.043(g) and 16 TAC § 24.101(g) April 11, 2022. As such, Crystal Bluff's March 1, 2022 appeal was timely filed.

The ALJ denies Possum Kingdom's plea to the jurisdiction and motion to dismiss. The deadlines established in Order No. 6 remain in effect.

Signed at Austin, Texas the 27th day of June 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



**ISAAC TA
ADMINISTRATIVE LAW JUDGE**