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DOCKET NO. 53485

APPLICATION OF GIDEON WATER	§	PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
MONTGOMERY COUNTY	§	

**JOINT MOTION FOR ORDER *NUNC PRO TUNC* OR, ALTERNATIVELY, TO
REOPEN THE RECORD**

I. INTRODUCTION

The Public Utility Commission of Texas (Commission) has the authority to either issue an Order *Nunc Pro Tunc* or grant a motion to reopen the record so that the rates in the water tariff approved for Gideon Water LLC (Gideon Water) are consistent with Gideon Water's application, Commission Staff's (Staff) recommendation on Gideon Water's application, and the Commission's Notice of Approval that effectively rendered a judgment approving Gideon Water's application, including Gideon Water's proposed rates, as originally filed.

II. BACKGROUND

On April 12, 2022, Gideon Water LLC (Gideon Water) filed an application to obtain a water certificate of convenience and necessity (CCN) in Montgomery County.

On July 31, 2023, the administrative law judge (ALJ) filed a Notice of Approval, approving Gideon Water's application and issuing Gideon Water CCN No. 13304. The ALJ also approved a tariff that relevantly 1) states that 10,000 gallons of water is included for all meter sizes and 2) does not include a pass-through provision. On October 25, 2023, Gideon Water filed a request for reconsideration of the tariff that was approved to 1) remove the language stating that 10,000 gallons of water is included for all meter sizes and 2) include language for a pass-through provision. On October 30, 2023, the ALJ denied the request for reconsideration.

Pursuant to Texas Rule of Civil Procedure 316, Gideon Water and Staff (collectively, the Parties) file this motion for an Order *Nunc Pro Tunc* to approve the attached corrected tariff. Alternatively, and based on Commission precedent, the Parties move to reopen the record for the Commission to admit and approve the attached corrected tariff.

III. MOTION FOR ORDER *NUNC PRO TUNC*

The proposed correction to the tariff to remove the erroneous language stating that 10,000 gallons of water is included for all meter sizes 1) accurately reflects the true decision reached by the ALJ and 2) does not involve additional judicial reasoning.¹ Accordingly, the correction should be considered the correction of a clerical error and not a judicial error. Specifically, after a court's plenary power has expired, an Order *Nunc Pro Tunc* can correct clerical errors, which are errors in entering or recording the decision, but not judicial errors, which are errors in the rendering of the of the judgment.² Further, "[t]he salient distinction between 'clerical' and 'judicial' errors lies in the exercise of the judgmental offices of the court....[and] [a] clerical error is one which does not result from judicial reasoning or determination."³ Lastly, an Order *Nunc Pro Tunc* is allowed "where it can be seen by reference to a record what was intended to be entered but which was omitted by inadvertence or mistake, upon satisfactory proof of its rendition *provided that no intervening rights will be prejudiced*."⁴

In this proceeding, the judgment rendered by the ALJ was to approve the application, including Gideon Water's proposed rates. Specifically, the record indicates that 1) Gideon Water included proposed rates in a tariff in its application;⁵ 2) Commission Staff recommended approval of Gideon Water's application, including Gideon Water's proposed rates, and did not recommend any changes to Gideon Water's proposed rates;⁶ and 3) the Commission issued a Notice of

¹ Although Gideon Water's request for consideration sought to include language for a pass-through provision, the provision was not sought in the application or tariff provided by Gideon Water, and Staff's final recommendation did not include comments on a pass-through provision. Further, such a pass-through provision is not relevant unless an applicant also seeks to implement it for a specifically defined pass-through fee, which was not requested here. Thus, the corrected tariff only seeks to remove the language stating that 10,000 gallons of water is included for all meter sizes.

² *Application of 3083 Utility LLC for a Convenience and Necessity in Montgomery County*, Docket No. 54273, Order No. 10 Construing Motion for Order *Nunc Pro Tunc* as Motion for Rehearing (citing to *Escobar v. Escobar*, 711 S.W.2d 230, 231 (Tex. 1986)) (Sept. 19, 2023).

³ *Andrews v. Koch*, 702 S.W.2d 584, 585-586 (Tex. 1986) (citing to *Petroleum Equip. Fin. Corp. v. First Nat. Bank of Fort Worth*, 622 S.W.2d 152 (Tex. App.—Fort Worth 1981, writ ref'd n.r.e.).

⁴ *Railroad Comm'n v. McClain*, 356 S.W.2d 330, 334 (Tex. App.—Austin 1962, no writ) (citing to *Frankfort Ky. Nat. Gas Co. v. City of Frankfort*, 123 S.W.2d 270, 272) (emphasis added).

⁵ Notice of Approval at Findings of Fact Nos. 47-52 (Jul. 31, 2023); *see also* Application at Attachment E (Apr. 12, 2022).

⁶ Notice of Approval at Finding of Fact No. 60; *see also* Commission Staff's Recommendation on Final Disposition at 1 and Memoranda of Jolie Mathis, Infrastructure Division, and Ethan Blanchard, Rate Regulation Division (Mar. 31, 2023).

Approval that did not include any findings of fact regarding any changes recommended by Staff.⁷ In contrast, when Staff recommends changes to the rates proposed by an applicant, Staff's experts explicitly recommend such changes, and the Commission includes findings of fact regarding such changes. For example, in Docket No. 50083, Solar Village Homeowners Association proposed a flat rate of \$60 per customer per month in the tariff included as a supplement to the application,⁸ and Staff's experts analyzed the application and supplemental information and recommended a flat rate of \$80.28 per month per connection.⁹ The subsequent Notice of Approval included findings of fact related to Staff's recommended rate adjustment.¹⁰ Here, neither of Staff's experts made adjustments to Gideon Water's proposed rates in their recommendations and the Notice of Approval does not indicate that any adjustments were recommended by Staff or approved by the ALJ.

Interpreting the Notice of Approval to have approved a tariff with the erroneous language included is without merit. Specifically, in addition to the failure of the Notice of Approval to include any findings related to any Staff adjustment, the erroneous language effectively would prevent Gideon Water from charging future customers the monthly minimum charges, such that a significant under-recovery would occur and thus not allow Gideon Water to recover on its reasonable and necessary operating expenses and potentially hinder its financial integrity. Further, for Gideon Water's future rate application, this scenario would potentially implicate a higher increase in rates than necessary to account for the under-recovery. Therefore, although Staff included the erroneous language on the tariff attached to its final recommendation, and the ALJ attached the same tariff to the Notice of Approval, a thorough review of the record and a reading of the entire Notice of Approval indicates that the Commission's true decision in this proceeding was to approve Gideon Water's originally requested rates.

Separately, even though the erroneous language was included in the tariff attached to Staff's final recommendation, nothing in that tariff nor any language related to Gideon Water's

⁷ Notice of Approval at Findings of Fact Nos. 47-55.

⁸ *Application of Solar Village Homeowners Association to Obtain a Water Certificate of Convenience and Necessity in Kerr County*, Docket No. 50083, Supplemental Application Information at Attachment 4 (Dec. 17, 2019).

⁹ *Id.*, Commission Staff's Final Recommendation at Memorandum of Roshan Pokhrel, Infrastructure Division, and Fred Bednarski, Rate Regulation Division (Jul. 6, 2020) and Notice of Approval at Finding of Fact No. 45 (Oct. 19, 2020).

¹⁰ *Id.*, Notice of Approval at Findings of Fact Nos. 42-45.

proposed rates or Staff's proposed tariff in the joint proposed notice of approval, filed on April 26, 2023,¹¹ requires additional judicial reasoning or determination by the ALJ when considering a tariff for a Notice of Approval.¹² Stated similarly, it is obvious that the ALJ relied on Staff's tariff, albeit incorrect tariff, only to properly record the decision it had reached in rendering judgment to approve Gideon Water's application, which necessarily included Gideon Water's originally proposed rates.¹³ Accordingly, issuing an Order *Nunc Pro Tunc* to correct the erroneous language in the tariff would "harmonize" with the intention of the Notice of Approval to accurately reflect the ALJ's decision to effectively approve Gideon Water's originally proposed rates.¹⁴ Similarly, such an order would only require a correction to a clerical error in the entry of the Notice of Approval and further does not require judicial reasoning to make such a correction.¹⁵

Further, Staff, and more importantly, Gideon Water, are not precluded from contending the error was clerical, even though Staff was the cause of the erroneous language and not the ALJ.¹⁶ As detailed above, because a correction to the tariff would not affect the judgment as rendered and because the ALJ did not rely on the tariff to approve Gideon Water's application, including Gideon Water's originally proposed rates, the fact that Staff caused the error in the tariff does not preclude the error from being clerical. Lastly, because Gideon Water and Staff were the only parties in this proceeding, no intervening rights will be prejudiced by the correction.¹⁷

IV. MOTION TO REOPEN THE RECORD

To the extent the Commission does not issue an Order *Nunc Pro Tunc*, the Parties alternatively move to reopen the record for the Commission to admit and approve the attached corrected tariff. Relevantly, the Commission has previously granted motions to reopen the record to correct errors, where the motions would otherwise be considered untimely. Specifically, in

¹¹ Joint Motion to Admit Evidence and Proposed Notice of Approval (Apr. 26, 2023).

¹² *Gray v. Turner*, 807 S.W.2d 818, 823 (Tex.App.—Amarillo 1991, no pct.).

¹³ *Id.*

¹⁴ *Thomas & Lewin Associates, Inc. v. Tex. Health and Human Service Comm'n*, 2019 WL 2384130 at *5 (Tex.App.—Austin 2019).

¹⁵ *Andrews*, 702 S.W.2d at 586.

¹⁶ *Gray*, 807 S.W.2d at 823 (citing to *Dikeman v. Snell*, 490 S.W.2d 183 (Tex. 1973) and *Seago v. Bell*, 764 S.W.2d 362 (Tex.App.—Beaumont 1989, no writ).

¹⁷ *McClain*, 353 S.W.2d at 334.

Docket No. 51549, the Commission granted an untimely motion to reopen the record, so the Commission could admit, approve, and issue a proposed tariff that was not included in the record or the Notice of Approval.¹⁸ Further, the motion to reopen the record in the docket was based on an error by the parties, who inadvertently did not include the proposed tariff with the joint motion to admit evidence and proposed notice of approval.¹⁹ Also, in Docket No. 52411, the Commission granted an untimely motion to reopen the record, so the parties could provide the correct location of the tract of land and thus the correct amount of acreage that should have been released in the streamlined expedited release proceeding.²⁰ Similarly, an order granting a motion to reopen the record in this proceeding would provide the Parties and the Commission with an appropriate procedural step to cure the error in Gideon Water's tariff.

V. CONCLUSION

For the reasons detailed above, the Parties respectfully request that the Commission issue an Order *Nunc Pro Tunc* or, alternatively, that the Commission grant a motion to reopen the record to admit and approve the correct tariff as proposed in Gideon Water's application.

¹⁸ *Application of Beachview Acres Water Association and Hilco United Services, Inc. dba Hilco H2O for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hill County*, Docket No. 51549, Order No. 13-Recopening Record and Admitting Additional Evidence (Jun. 8, 2022).

¹⁹ *Id.*, Motion to Reopen Record and Admit Tariff as Additional Evidence (Jun. 7, 2022).

²⁰ *Petition of HMI-Oak Grove LLC to Amend Bethesda Water Supply Corporation's Certificate of Convenience and Necessity in Tarrant County by Expedited Release*, Docket No. 52411, Order No. 10 Granting Motion to Reopen Record and Rescinding Order Nos. 4 and 6 and Notice of Approval Making a Determination on Compensation (Oct. 18, 2022).

Dated: March 6, 2024

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 March 6, 2024 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles
Scott Miles



WATER UTILITY TARIFF

Docket Number 53485

Gidcon Water LLC
(Utility Name)

P.O. Box 1230
(Business Address)

Pinehurst, Texas 77362-1230
(City, State, Zip Code)

281-351-4921
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

13304

This tariff is effective in the following county(ies):

Montgomery

This tariff is effective in the following cities or unincorporated towns (if any):

N/A

This tariff is effective in the following subdivisions or systems:

The Preserve

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The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

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APPENDIX A -- DROUGHT CONTINGENCY PLAN

APPENDIX B -- APPLICATION FOR SERVICE

NOTE: Appendix A – Drought Contingency Plan (DCP) is approved by the Texas Commission on Environmental Quality (TCEQ); however the DCP is included as part of your approved tariff pursuant to PUCT rules. If you are establishing a tariff for the first time, please contact the TCEQ to complete and submit a DCP for approval.

SECTION 1.0 -- RATE SCHEDULESection 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonage Charge</u>
5/8"	\$50.00	\$3.50 per 1,000 gallons, 1 st 10,000 gallons
3/4"	\$50.00	\$5.00 per 1,000 gallons, thereafter
1"	\$125.00	
1½"	\$200.00	
2"	\$400.00	
3"	\$750.00	
4"	\$1,500.00	

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash , Check X, Money Order X, Credit Card , Other (specify)

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS. AT THE CUSTOMER'S OPTION, ANY BILLING TRANSACTION OR COMMUNICATION MAY BE PERFORMED ON THE INTERNET. THIS INCLUDES THE UTILITY SENDING PAPERLESS BILLS BY EMAIL.

REGULATORY ASSESSMENT 1.0%

PUCT RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL AND TO REMIT FEE TO THE TCEQ.

SECTION 1.0 -- RATE SCHEDULE (CONTINUED)**Section 1.02 – Miscellaneous Fees**

TAP FEE \$1,200.00

TAP FEE IS BASED ON THE AVERAGE OF THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR STANDARD RESIDENTIAL CONNECTION OF 5/8" METER PLUS UNIQUE COSTS AS PERMITTED BY PUCT RULE AT COST.

TAP FEE (Unique costs) Actual Cost
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

LARGE METER TAP FEE Actual Cost

TAP FEE IS BASED ON THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METERS LARGER THAN STANDARD 5/8" METERS.

RECONNECTION FEE

THE RECONNECT FEE WILL BE CHARGED BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS:

a) Non-payment of bill (Maximum \$25.00) \$25.00

b) Customer's request \$40.00

or other reasons listed under Section 2.0 of this tariff

TRANSFER FEE \$40.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE 10%

A ONE-TIME PENALTY MAY BE MADE ON DELINQUENT BILLS BUT MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE \$35.00

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50) \$50.00

COMMERCIAL AND NON-RESIDENTIAL DEPOSIT 1/6TH ESTIMATED ANNUAL BILL

METER TEST FEE (actual cost of testing the meter up to) \$25.00

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY.

METER RELOCATION FEE Actual Relocation Cost

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS RELOCATION OF AN EXISTING METER.

METER CONVERSION FEE Actual Cost to Convert Meter

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS CHANGE OF SIZE OF AN EXISTING METER OR CHANGE IS REQUIRED BY MATERIAL CHANGE IN CUSTOMERS SERVICE DEMAND.

SEASONAL RECONNECTION FEE:

BASE RATE FOR METER SIZE TIMES NUMBER OF MONTHS OFF THE SYSTEM NOT TO EXCEED SIX MONTHS WHEN LEAVE AND RETURN WITHIN A TWELVE MONTH PERIOD.

SECTION 1.0 -- RATE SCHEDULE (CONTINUED)**Section 1.02 – Miscellaneous Fees (Continued)****LINE EXTENSION AND CONSTRUCTION CHARGES:**

REFER TO SECTION 3.02 POLICY FOR TERMS, CONDITIONS, AND CHARGES.

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE CLAUSE:

WHEN AUTHORIZED IN WRITING BY PUCT AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING [16 TEXAS ADMINISTRATIVE CODE (TAC) § 24.25(b)(2)(G)].

SUPPLEMENTAL EMERGENCY SERVICE FEE

APPLICABLE TO NONRESIDENTIAL WATER SERVICE CUSTOMERS WHO REQUIRE SUPPLEMENTAL SERVICE OVER AND ABOVE THEIR EXISTING WATER SERVICE FROM TIME TO TIME. USAGE IS TO BE DETERMINED BY CUSTOMER. THE MINIMUM DIAMETER FOR SUPPLEMENTAL SERVICE METER SHALL BE 2 INCHES.

MONTHLY SUPPLEMENTAL SERVICE RATE:\$0
PER INCH DIAMETER OF SERVICE CONNECTION METER

METER TAMPERING, DAMAGE OR DIVERSION FEE:

ONE TIME PENALTY PER OCCURRENCE FOR TAMPERING WITH OR DAMAGING A WATER METER OR ANY APPURTENANCE THERETO INCLUDING LOCKS AND METER BOXES OR SERVICE DIVERSION OF ONE HUNDRED DOLLARS (\$100.00).

SECTION 2.0 - SERVICE RULES AND REGULATIONS

The utility will have the most current Public Utility Commission of Texas (PUCT or commission) rules relating to Water and Wastewater Utility regulations, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.01 - Application for Water Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

Section 2.02 - Refusal of Service

The utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the PUCT Rules. In the event that the utility refuses to serve an applicant, the utility will inform the applicant in writing of the basis of its refusal. The utility is also required to inform the applicant that a complaint may be filed with the commission.

Section 2.03 - Fees and Charges & Easements Required Before Service Can Be Connected

(A) Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the utility, the applicant may be required to pay a deposit as provided for in Section 1.02 - Miscellaneous Fees of this tariff. The utility will keep records of the deposit and credit interest in accordance with PUCT Rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the utility or another water or sewer utility which accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

Refund of deposit - If service is not connected, or after disconnection of service, the Utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The Utility may refund the deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent. Deposits from non-residential customers may be held as long as that customer takes service.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)**Section 2.03 - Fees and Charges & Easements Required Before Service Can Be Connected (Continued)****(B) Tap or Reconnect Fees**

A new customer requesting service at a location where service has not previously been provided must pay a tap fee as provided in Section 1. A customer requesting service where service has previously been provided must pay a reconnect fee as provided in Section 1. Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to request for payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall be informed of their right to appeal such costs to the PUCT or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property(ies) is located.

Fees in addition to the regular tap fee may be charged if listed specifically in Section 1 to cover unique costs not normally incurred as permitted by 16 TAC § 24.163(a)(1)(C). For example, a road bore for customers outside a subdivision or residential area could be considered a unique cost.

(C) Easement Requirement

Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the applicant's property, the utility may require the applicant to provide it with a permanent recorded public utility easement on and across the applicant's real property sufficient to provide service to that applicant. Such easement(s) shall not be used for the construction of production, storage, transmission or pressure facilities unless they are needed for adequate service to that applicant.

Section 2.04 - Utility Response to Applications for Service

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap, meter and utility cut-off valve and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Except for good cause where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)Section 2.05 - Customer Responsibility

The customer will be responsible for furnishing and laying the necessary customer service pipe from the meter location to the place of consumption. Customers will not be allowed to use the utility's cutoff valve on the utility's side of the meter. Existing customers may install cutoff valves on their side of the meter and are encouraged to do so. All new customers may be required to install and maintain a cutoff valve on their side of the meter.

No direct connection between a public water supply system and any potential source of contamination or between a public water supply system and a private water source (ex. private well) will be allowed. A customer shall not connect, or allow any other person or party to connect, onto any water lines on his premises.

Section 2.06 - Customer Service Inspections

Applicants for new service connections or facilities which have undergone extensive plumbing modifications are required to furnish the utility a completed customer service inspection certificate. The inspection certificate shall certify that the establishment is in compliance with the Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems, Title 30 TAC § 290.46(j). The utility is not required to perform these inspections for the applicant/customer, but will assist the applicant/customer in locating and obtaining the services of a certified inspector.

Section 2.07 - Back Flow Prevention Devices

No water connection shall be allowed to any residence or establishment where an actual or potential contamination hazard exists unless the public water facilities are protected from contamination by either an approved air gap, backflow prevention assembly, or other approved device. The type of device or backflow prevention assembly required shall be determined by the specific potential hazard identified in 30 TAC § 290.47(f) Appendix F, Assessment of Hazards and Selection of Assemblies of the TCEQ Rules and Regulations for Public Water Systems.

The use of a backflow prevention assembly at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection on internal hazards as outlined and enforced by local plumbing codes. When a customer service inspection certificate indicates that an adequate internal cross-connection control program is in effect, backflow protection at the water service entrance or meter is not required.

At any residence or establishment where it has been determined by a customer service inspection, that there is no actual or potential contamination hazard, as referenced in 30 TAC § 290.47(f) Appendix F, Assessment of Hazards and Selection of Assemblies of the TCEQ Rules and Regulations for Public Water Systems, then a backflow prevention assembly or device is not required. Outside hose bibs do require, at a minimum, the installation and maintenance of a working atmospheric vacuum breaker.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)**Section 2.07 - Back Flow Prevention Devices (continued)**

All backflow prevention assemblies or devices shall be tested upon installation by a TCEQ certified backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a certified backflow prevention assembly tester.

If the utility determines that a backflow prevention assembly or device is required, the utility will provide the customer or applicant with a list of TCEQ certified backflow prevention assembly testers. The customer will be responsible for the cost of installation and testing, if any, of backflow prevention assembly or device. The customer should contact several qualified installers to compare prices before installation. The customer must pay for any required maintenance and annual testing and must furnish a copy of the test results demonstrating that the assembly is functioning properly to the utility within 30 days after the anniversary date of the installation unless a different date is agreed upon.

Section 2.08 - Access to Customer's Premises

The utility will have the right of access to the customer's premises at all reasonable times for the purpose of installing, testing, inspecting or repairing water mains or other equipment used in connection with its provision of water service, or for the purpose of removing its property and disconnecting lines, and for all other purposes necessary to the operation of the utility system including inspecting the customer's plumbing for code, plumbing or tariff violations. The customer shall allow the utility and its personnel access to the customer's property to conduct any water quality tests or inspections required by law. Unless necessary to respond to equipment failure, leak or other condition creating an immediate threat to public health and safety or the continued provision of adequate utility service to others, such entry upon the customer's property shall be during normal business hours and the utility personnel will attempt to notify the customer that they will be working on the customer's property. The customer may require any utility representative, employee, contractor, or agent seeking to make such entry identify themselves, their affiliation with the utility, and the purpose of their entry.

All customers or service applicants shall provide access to meters and utility cutoff valves at all times reasonably necessary to conduct ordinary utility business and after normal business hours as needed to protect and preserve the integrity of the public drinking water supply.

Section 2.09 - Meter Requirements, Readings, and Testing

One meter is required for each residential, commercial, or industrial connection. All water sold by the utility will be billed based on meter measurements. The utility will provide, install, own and maintain meters to measure amounts of water consumed by its customers.

Meters will be read at monthly intervals and as nearly as possible on the corresponding day of each monthly meter reading period unless otherwise authorized by the Commission.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)Section 2.09 - Meter Requirements, Readings, and Testing (continued)

Meter tests. The utility will, upon the request of a customer, and, if the customer so desires, in his or her presence or in that of his or her authorized representative, make without charge a test of the accuracy of the customer's meter. If the customer asks to observe the test, the test will be made during the utility's normal working hours at a time convenient to the customer. Whenever possible, the test will be made on the customer's premises, but may, at the utility's discretion, be made at the utility's testing facility. If within a period of two years the customer requests a new test, the utility will make the test, but if the meter is found to be within the accuracy standards established by the American Water Works Association, the utility will charge the customer a fee which reflects the cost to test the meter up to a maximum \$25 for a residential customer. Following the completion of any requested test, the utility will promptly advise the customer of the date of removal of the meter, the date of the test, the result of the test, and who made the test.

Section 2.10 - Billing(A) Regular Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

(B) Late Fees

A late penalty of either \$5.00 or 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

(C) Information on Bill

Each bill will provide all information required by the PUCT Rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

(D) Prorated Bills

If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)Section 2.11- Payments

All payments for utility service shall be delivered or mailed to the utility's business office. If the business office fails to receive payment prior to the time of noticed disconnection for non-payment of a delinquent account, service will be terminated as scheduled. Utility service crews shall not be allowed to collect payments on customer accounts in the field.

Payment of an account by any means that has been dishonored and returned by the payor or payee's bank, shall be deemed to be delinquent. All returned payments must be redeemed with cash or valid money order. If a customer has two returned payments within a twelve month period, the customer shall be required to pay a deposit if one has not already been paid.

Section 2.12 - Service Disconnection(A) With Notice

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the PUCT Rules.

B) Without Notice

Utility service may also be disconnected without notice for reasons as described in the PUCT Rules.

Section 2.13 - Reconnection of Service

Utility personnel must be available during normal business hours to accept payments on the day service is disconnected and the following day unless service was disconnected at the customer's request or due to a hazardous condition.

Service will be reconnected within 36 hours after the past due bill, reconnect fees and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

Section 2.14 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)**Section 2.15 - Quality of Service**

The utility will plan, furnish, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses. Unless otherwise authorized by the TCEQ, the utility will maintain facilities as described in the TCEQ Rules and Regulations for Public Water Systems.

Section 2.16 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the utility's response, the utility must advise the complainant that he has recourse through either the TCEQ or PUCT complaint process, depending on the nature of the complaint. Pending resolution of a complaint, the commission may require continuation or restoration of service.

The utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the commission.

Section 2.17 - Customer Liability

Customer shall be liable for any damage or injury to utility-owned property shown to be caused by the customer.

SECTION 3.0--EXTENSION POLICYSection 3.01 - Standard Extension Requirements

LINE EXTENSION AND CONSTRUCTION CHARGES: NO CONTRIBUTION IN AID OF CONSTRUCTION MAY BE REQUIRED OF ANY CUSTOMER EXCEPT AS PROVIDED FOR IN THIS APPROVED EXTENSION POLICY.

The utility is not required to extend service to any applicant outside of its certified service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with PUCT rules and policies, and upon extension of the utility's certified service area boundaries by the PUCT.

The applicant for service will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

Section 3.02 - Costs Utilities and Service Applicants Shall Bear

Within its certified area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision.

However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Residential customers will be charged the equivalent of the costs of extending service to their property from the nearest transmission or distribution line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Unless an exception is granted by the PUCT, the residential service applicant shall not be required to pay for costs of main extensions greater than 2" in diameter for water distribution and pressure wastewater collection lines and 6" in diameter for gravity wastewater lines.

Exceptions may be granted by the PUCT if:

- adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
- or larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or the residential service applicant is located outside the CCN service area.

SECTION 3.0--EXTENSION POLICY (CONTINUED)**Section 3.02 - Costs Utilities and Service Applicants Shall Bear (continued)**

If an exception is granted by the PUCT, the utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certified area, industrial, and wholesale customers shall be treated as developers. A service applicant requesting a one inch meter for a lawn sprinkler system to service a residential lot is not considered nonstandard service.

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection beyond 200 feet and throughout his property including the cost of all necessary transmission facilities.

The utility will bear the full cost of any over-sizing of water mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional production, storage, or treatment facilities. Contributions in aid of construction may not be required of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

Section 3.03 - Contributions in Aid of Construction

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with TCEQ minimum design criteria for facilities used in the production, transmission, pumping, or treatment of water or TCEQ minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction for the actual costs of any additional facilities required to maintain compliance with the TCEQ minimum design criteria for water production, treatment, pumping, storage and transmission.

SECTION 3.0--EXTENSION POLICY (CONTINUED)**Section 3.03 - Contributions in Aid of Construction (continued)**

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 16 TAC § 24.163(d). When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge for facilities which must be committed to such extension compliant with the TCEQ minimum design criteria. As provided by 16 TAC § 24.163(d)(4), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

- Under a contract and only in accordance with the terms of the contract; or
- if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utilities approved tariff after a rate change application has been filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the commission or executive director.

for purposes of this section, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

Section 3.04 - Appealing Connection Costs

The imposition of additional extension costs or charges as provided by Sections 3.0 - Extension Policy of this tariff shall be subject to appeal as provided in this tariff, PUCT rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall be informed of the right to appeal such costs to the PUCT or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is located.

Section 3.05 - Applying for Service

The utility will provide a written service application form to the applicant for each request for service received by the utility's business offices. A separate application shall be required for each potential service location if more than one service connection is desired by any individual applicant. Service application forms will be available at the utility's business office during normal weekday business hours. Service applications will be sent by prepaid first class United States mail to the address provided by the applicant upon request. Completed applications should be returned by hand delivery in case there are questions which might delay fulfilling the service request. Completed service applications may be submitted by mail if hand delivery is not possible.

SECTION 3.0--EXTENSION POLICY (CONTINUED)**Section 3.05 - Applying for Service (continued)**

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. A diagram, map, plat, or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the meter is to be installed, along the applicant's property line may also be required with the tap request. The actual point of connection and meter installation must be readily accessible to utility personnel for inspection, servicing, and meter reading while being reasonably secure from damage by vehicles and mowers. If the utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the utility's nearest service main with adequate capacity to service the applicant's full potential service demand. Beyond the initial 200 feet, the customer shall bear only the equivalent cost of extending from the nearest main. If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the utility. If no agreement on location can be made, the applicant may refer the matter to the PUCT for resolution.

Section 3.06 - Qualified Service Applicant

A "qualified service applicant" is an applicant who has: (1) met all of the utility's requirements for service contained in this tariff, PUCT rules and/or PUCT order, (2) has made payment or made arrangement for payment of tap fees, (3) has provided all easements and rights-of-way required to provide service to the requested location, (4) delivered an executed customer service inspection certificate to the utility, if applicable, and (5) has executed a customer service application for each location to which service is being requested.

The utility shall serve each qualified service applicant within its certified service area as soon as practical after receiving a completed service application. All service requests will be fulfilled within the time limits prescribed by PUCT rules once the applicant has met all conditions precedent to achieving "qualified service applicant" status. If a service request cannot be fulfilled within the required period, the applicant shall be notified in writing of the delay, its cause and the anticipated date that service will be available. The PUCT service dates shall not become applicable until the service applicant has met all conditions precedent to becoming a qualified service applicant as defined by PUCT rules.

Section 3.07 - Developer Requirements

As a condition of service to a new subdivision, the utility shall require a developer (as defined by PUCT rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property.

APPENDIX A - DROUGHT CONTINGENCY PLAN

(This page incorporates by reference the utility's Drought Contingency Plan, as approved and periodically amended by the Texas Commission on Environmental Quality.)

APPENDIX B -- APPLICATION FOR SERVICE
(Utility Must Attach Blank Copy)