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Filing Date - 2023-12-01 02:54:20 PM

Control Number - 54666

Item Number - 16

PUC DOCKET NO. 54666

EVELYN DANGERFIELD'S APPEAL	§	PUBLIC UTILITY COMMISSION
OF THE COST OF OBTAINING	§	
SERVICE FROM HIGH POINT	§	OF TEXAS
SPECIAL UTILITY DISTRICT	§	

**HIGH POINT SPECIAL UTILITY DISTRICT'S
RESPONSE TO ORDER NO. 9**

High Point Special Utility District (High Point SUD) files this response to Order No. 9 and respectfully shows the following:

I. BACKGROUND

On February 17, 2023, Evelyn Dangerfield (Dangerfield) filed with the Public Utility Commission of Texas (Commission) an appeal of the cost of obtaining service from High Point SUD under Texas Water Code (TWC) § 13.043(g) and 16 Texas Administrative Code (TAC) § 24.101(g).

Since at least March 17, 2023, Commission Staff has opined that Dangerfield's appeal is a billing dispute that should be handled as a formal complaint under 16 TAC § 22.242, rather than an appeal of the cost of obtaining service under TWC § 13.043(g) and 16 TAC § 24.101(g). On March 17, 2023, Commission Staff and High Point SUD each urged the administrative law judge (ALJ) to dismiss Dangerfield's appeal without prejudice so she could resubmit it as a compliant under 16 TAC § 22.242.

On May 31st, June 20th, and July 20th of 2023, the prior administrative law judge (ALJ) presiding over this case issued orders *requiring* comment from Dangerfield about restyling of this docket to proceed as a formal complaint rather than an appeal of the cost of obtaining service. Dangerfield never responded to those orders.

On August 28, 2023, the prior ALJ issued Order No. 7 setting a deadline for Dangerfield to "clarify whether she requests that docket proceed as a formal complaint" and stating she may

respond to Commission Staff's motion to dismiss filed on March 17, 2023. Dangerfield has not responded to Order No. 7.

On November 2, 2023, Commission Staff re-urged its motion to dismiss this case without prejudice under 16 TAC § 22.181(d)(6) for failure to prosecute.

On November 9, 2023, the current ALJ issued Order No. 9 restyling this docket as a formal complaint to proceed under 16 TAC § 22.242, denying Commission Staff's motion to dismiss, and requiring High Point SUD to file a response to the complaint by December 1, 2023, that addresses the following: (i) the Commission's jurisdiction over this proceeding; (ii) allegations raised in the complaint; (iii) applicable statutes, rules, orders, and tariff provisions; (iv) copies of any rates or tariffs that are the subject of this complaint; and (v) any other matters relevant to the complaint. Therefore, this pleading is timely filed.

II. JURISDICTION

High Point SUD does not challenge or dispute the Commission's jurisdiction over the subject matter of this proceeding.

III. ALLEGATIONS RAISED IN THE COMPLAINT

Dangerfield makes the following two complaints related to initiating water service to 15399 Armstrong Road, Terrell, Texas:

(a) That with no prior notice High Point SUD charged a \$240.00 deposit that it holds until the customer's final bill is settled. *See the attached Exhibit "A"*. More particularly, Dangerfield complains that High Point SUD will not accept a letter of credit or refund the deposit after a certain number of timely payments like electric service providers do.

(b) That with no prior notice High Point SUD charged a \$50.00 customer service inspection fee prior to initiating service. *See the attached Exhibit "B"*.

IV. APPLICABLE STATUTES, RULES, ORDERS, AND TARIFF PROVISIONS

TWC § 65.205(5) authorizes special utility districts to adopt and enforce reasonable rules to "provide and regulate a safe and adequate freshwater distribution system," which includes rules to protect High Point SUD's fiscal viability such as requiring and keeping deposits to apply to unpaid or final bills.

(a) Section G1.3(a) of High Point's Rate Order requires service applicants to pay a deposit that will be held by High Point SUD, without interest, until settlement of the customer's final bill. *See the attached Exhibit "C"*. There is no statute in the TWC requiring retail public utilities to accept letters of credit or to refund deposits after a certain number of timely payments.

(b) Section B.8 requires High Point SUD to perform a customer service inspection of private water distribution facilities for the purpose of providing, denying or terminating water service. *See the attached Exhibit "D"*. High Point SUD is responsible for protecting the integrity of its water system so the customer service inspection is performed to detect the existence of cross-connections or other potential contaminant hazards.

V. CONCLUSION

For the reasons stated above, High Point SUD requests that the complaint be dismissed for lack of merit.

Dated: March 17, 2023

Respectfully submitted,

JAMES W. WILSON & ASSOCIATES, PLLC
103 W. Main Street
Allen, Texas 75013
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/s/ James W. Wilson

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**ATTORNEYS FOR HIGH POINT SPECIAL
UTILITY DISTRICT**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on the following parties of record by e-mail on December 1, 2023, in accordance with the Second Order Suspending Rules issued in Project No. 50664.

Bradley Reynolds
Brad.Reynolds@puc.texas.gov
Attorney - Public Utility Commission Legal
Division
1701 N. Congress
P.O. Box 13326
Austin, Texas 78711-3326

Evelyn Dangerfield
laydered1@gmail.com
P.O. Box 497712
Garland, Tx 75049

COMPLAINANT

ATTORNEY FOR THE COMMISSION

/s/ James W. Wilson

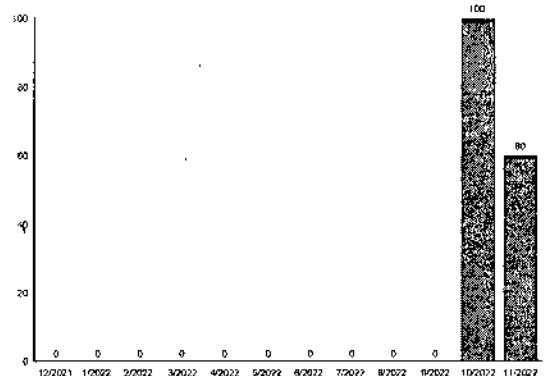
James W. Wilson

HIGH POINT SPECIAL UTILITY DISTRICT
16986 VALLEY VIEW ROAD
FORNEY, TX 75126

EXHIBIT "A"

EVELYN DANGERFIELD
PO BOX 497712
GARLAND, TX 750449

Your Last 13 Billing Periods WATER Usage



ACCOUNT #		LOCATION #		SERVICE ADDRESS		SERVICE DATES	
104856		08-1306		15399 ARMSTRONG ROAD, TERRELL TX		11/16/2022 - 12/15/2022	
POSTED DATE	DESCRIPTION	CURRENT	PREVIOUS	USAGE	READING DATES	DAYS	AMOUNT
11/30/2022	Balance Forward: 11/23/2022						315.83
11/30/2022	Payment E-Check						-75.83
12/13/2022	Payment E-Check						-240.00
12/13/2022	WATER Deposit						240.00
12/13/2022	Water Reverse Payment						75.71
12/13/2022	Water Tax Reverse Payment						0.12
12/16/2022	Payment Check						-75.83
12/16/2022	Payment Check						-240.00
12/19/2022	WATER	114,930	114,870	60	11/16/2022-12/15/2022	29	33.30
12/19/2022	TCEQ FEE						0.17
12/19/2022	CAREFLITE						1.00
PAYMENT LATE AFTER		AFTER DUE DATE PAY		PAY ON TIME AND SAVE		PAY THIS AMOUNT	
1/10/2023		54.47		20.00		34.47	

Please Return This Stub With Payment

- ***WISHING YOU AND YOUR FAMILY A MERRY CHRISTMAS AND A
HAPPY NEW YEAR! -High Point SUD*** Office hours 9 am - 4:30 pm. To make
a phone payment, call 888-523-5312.

16983 VALLEY VIEW
FORNEY, TX 75126

Account 104856
Location 08-1306
Customer: EVELYN DANGERFIELD
Service At. 15399 ARMSTRONG ROAD, TERRELL TX

Amount Due Now: **34.47**
Late After. 1/10/2023
After Due Date: **54.47**

EVELYN DANGERFIELD
PO BOX 497712
GARLAND, TX 750449

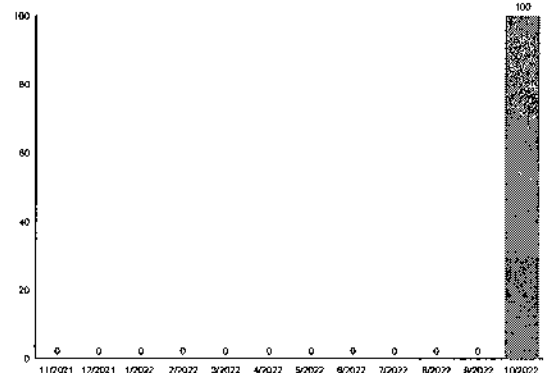
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HIGH POINT SPECIAL UTILITY DISTRICT
16986 VALLEY VIEW ROAD
FORNEY, TX 75126

EXHIBIT "B"

EVELYN DANGERFIELD
PO BOX 497712
GARLAND, TX 750449

Your Last 13 Billing Periods WATER Usage



ACCOUNT #		LOCATION #		SERVICE ADDRESS		SERVICE DATES	
104856		08-1306		15399 ARMSTRONG ROAD, TERRELL TX		10/24/2022 - 11/16/2022	
POSTED DATE	DESCRIPTION	CURRENT	PREVIOUS	USAGE	READING DATES	DAYS	AMOUNT
10/24/2022	Balance Forward, 10/23/2022						0.00
11/17/2022	Customer Service Inspection (CUSTOMER SERVICE INSPECTION)						50.00
11/17/2022	WATER	114,870	114,770	100	10/24/2022-11/16/2022	23	24.71
11/17/2022	TCEQ FEE						0.12
11/17/2022	CAREFLITE						1.00
PAYMENT LATE AFTER		AFTER DUE DATE PAY		PAY ON TIME AND SAVE		PAY THIS AMOUNT	
12/10/2022		75.83		0.00		75.83	

Please Return This Stub With Payment

- Have a safe and Happy Thanksgiving! Office hours are 9 am - 4:30 pm
PHONE PAYMENTS 888-523-5312

16983 VALLEY VIEW
FORNEY, TX 75126

Account: 104856
Location: 08-1306
Customer: EVELYN DANGERFIELD
Service At: 15399 ARMSTRONG ROAD, TERRELL TX

EVELYN DANGERFIELD
PO BOX 497712
GARLAND, TX 750449

Amount Due Now: 75.83
Late After: 12/10/2022
After Due Date: 75.83

If this symbol (^) is next to your reading, it is an estimated read

HIGH POINT SPECIAL UTILITY DISTRICT

16983 Valley View
Forney, Texas 75126
Tel: (972) 564-3801
Fax: (972) 552-3602
www.highpointsud.com

RATE ORDER

CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 10841

KAUFMAN COUNTY AND ROCKWALL COUNTY, TEXAS

Adopted on September 20, 2018

Amended September 24, 2020

Amended March 16, 2023

ARTICLE G1
RATES AND SERVICE FEES

(Amended March 16, 2023, Ord. 2023-003)

1. **Classes of Users.** All users of the District's water services shall be grouped into the following classes:

(a) Residential users or customers. Persons located within the District's service area who receive District service to a single-family residential unit for domestic purposes only.

(b) Commercial users or customers. Persons located within the District's service area who receive District service to a commercial, industrial or other nonresidential establishment, or who receive District service for commercial, industrial, recreational or other non-domestic purposes. An apartment building or mobile home park may be considered by the District to be a single commercial facility to be served by a master-meter.

(c) Outside users or customers. Persons located outside the District's certificated service area who receive District service.

All classes of users may be grouped into sub-classes according to the size of the meter installed at the property receiving service. Water charges will be assessed in such a manner that each class of users generally pays its share of debt service and operation and maintenance expenses for water service. Outside customers may be assessed additional charges for service to reflect the additional costs associated with serving outside customers or the risk that such customers may have other options for receiving service and may elect to discontinue being District customers. The District may create additional classes of users in the future at its discretion.

2. **Service Investigation Fee.** The District shall conduct a service investigation for each service application submitted to the District. An initial determination shall be made by the District, without charge, as to whether the request is for standard or non-standard service. An investigation shall then be conducted by the District and the results reported under the following terms:

(a) Standard Service Requests. All standard service requests shall be investigated without charge and all applicable costs for providing service shall be quoted in writing to the applicant within ten (10) working days of the date the service application is received by the District.

(b) Non-standard Service Requests. All non-standard service requests shall be subject to a Service Investigation Fee in the amount specified in Article G2 unless the General Manager determines it proper to charge a Service Investigation Fee appropriate to the project and of sufficient amount to cover all administrative, legal and engineering costs

associated with an investigation of the District's ability to provide service to the applicant's project, which may include:

- (1) providing cost estimates of the project;
- (2) presenting detailed plans and specifications as per final plat;
- (3) advertising and accepting bids for the project;
- (4) preparing a Non-standard Service Contract between the District and applicant; and
- (5) providing other services as required by the District for such investigation.

A Non-standard Service Contract shall be presented to the applicant for review and execution within a suitable amount of time as determined by the complexity of the project. [See Section F.6].

3. **Deposits.**

(a) Initial Payment and Amount. At the time an application for service is approved, the applicant shall pay a deposit to be held by the District, without interest, until settlement of the customer's final bill. The deposit may be used to offset delinquent charges or unpaid bills.

(1) *Standard Service.* The deposit amount for standard or residential water service is stated in Article G2.

(2) *Non-standard Service.* The deposit amount for commercial and other non-standard service customers, including Master Metered Accounts, is stated in Article G2.

(3) *Higher Risk Customer.* A customer whose service has been discontinued more than twice in a 12 month period for nonpayment of bills must reestablish the customer's deposit in the amount specified in Article G2 to cover the increased risk of a final unpaid bill.

(4) *Renter/Tenant.* The deposit amount for standard or residential water service to a renter or tenant is stated in Article G2.

(b) Reestablishment of Deposit. Every service applicant who has previously been a customer of the District and whose service has been discontinued for nonpayment of bills, meter tampering, bypassing of meter or failure to comply with applicable state regulations or regulations of the District shall be required, before service is resumed, to pay all amounts

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RATE ORDER

CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 10841

KAUFMAN COUNTY AND ROCKWALL COUNTY, TEXAS

Adopted on September 20, 2018

Amended September 24, 2020

Amended March 16, 2023

ARTICLE B

STATEMENTS

1. **Organization.** The District was formed by converting the High Point Water Supply Corporation to the High Point Special Utility District under the authority of Article XVI, Section 59, of the Texas Constitution, and Chapters 49 and 65 of the Texas Water Code. The District operates pursuant to Texas law and the regulations and authority of the Texas Commission on Environmental Quality and the Public Utility Commission. The District exists for the purpose of furnishing potable water utility service for domestic use. The District is managed by a Board of Directors whose members are elected by qualified voters residing within the political boundaries of the District.

2. **Non-discrimination Policy.** Service is made available to all qualified applicants that comply with the provisions of this Rate Order regardless of race, creed, color, national origin, sex, disability or marital status.

3. **Policy and Rule Application.** These policies, rules and regulations set forth in this Rate Order apply to all service provided by the District. Failure on the part of a customer or applicant to observe these policies, rules and regulations gives the District the authority to deny or discontinue service.

4. **Fire Protection.** The District's water system provides potable water primarily for domestic consumption and will provide additional capacity to meet reasonable local demand characteristics. However, it is District policy to design and construct the water system with sufficient capacity to provide fire-flows and, following the construction of such facilities, the District will use its best efforts to maintain and operate the water system in accordance with applicable fire-flow standards. All hydrants and flush valves are primarily for the operation and maintenance of the water system and may be used for refill or firefighting only by authorized fire departments. The District reserves the right to remove any hydrant due to improper use or detriment to its water system, as determined by the District, at any time and without notice.

5. **Damage Liability.** Pursuant to state law, the District is not liable for damages caused by service interruptions due to waterline breaks or equipment failure, tampering by third persons or customers of the District, system failures, system maintenance or repairs, or other events beyond the District's control. Nothing in this Rate Order shall be construed as a waiver of immunity by the District or its elected or appointed officials.

6. **Public Information Disclosure.** District records shall be kept at the District's office located at 3516 FM 499, Greenville, Texas 75401. All information collected, assembled or maintained by or for the District shall be disclosed to the public in accordance with the Texas Public Information Act. ***The name, address, and telephone number of all District customers is***

confidential and will not be released to the public except upon the written request of a customer.

However, such confidentiality does not prohibit the District from disclosing a customer's name, address, and telephone number to an official or employee of the state or a political subdivision of the state acting in an official capacity or to an employee of the District acting in connection with the employee's duties. A reasonable charge pursuant to the Texas Public Information Act may be assessed to any person requesting copies of District records.

7. **Notice of Change in Rates.** The District will give written notice of a change to monthly water rates by publication, mail or hand delivery to all affected customers at least 30 days prior to the effective date of the new rate. The notice shall state the old rates, the new rates, the effective date of the new rates, the date of Board approval, and the name and telephone number of the District representative designated to address inquiries about the rate change. Failure of the District to give the notice shall not invalidate the changed rate or any change based on the changed rate.

8. **Customer Service Inspections.** A customer service inspection is an examination of private water distribution facilities for the purpose of providing, denying or terminating water service. The District requires a customer service inspection certificate to be completed prior to providing continuous water service to new construction and for all new customers as part of the activation of standard and some non-standard service. The District may also require customer service inspections of existing service connections when the District has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction or addition to private water distribution facilities. Under the foregoing conditions, the inspection is limited to the identification and prevention of cross connections, potential contaminant hazards and illegal lead materials. [30 TAC § 290.46(j)]. A customer service inspection is not a plumbing inspection as defined and regulated by the Texas State Board of Plumbing Examiners.

9. **Submetering Responsibility.** Submetering and non-submetering by Master Metered Accounts may be allowed in the District's water distribution system provided the Master Metered Account customer registers with the Texas Commission on Environmental Quality (TCEQ) and complies with its rules on submetering at Title 30, Chapter 291, Subchapter H of the Texas Administrative Code. The District has no jurisdiction over or responsibility to tenants receiving water under a Master Metered Account, and such tenants are not considered customers of the District. Any interruption or impairment of water service to the tenants is the responsibility of the Master Metered Account customer. Any complaints regarding submetering should be directed to the TCEQ. From time to time, the District may check on the master metered account customer to:

- (a) verify that the master metered account customer is registered with the TCEQ in compliance with the Texas Water Code, Chapter 13, Subchapter M;
- (b) verify that the master metered account customer charges tenants no more than the total amount of charges billed (if the aggregate bill is greater than the District's charge,