



## **Filing Receipt**

**Filing Date - 2024-05-16 02:11:24 PM**

**Control Number - 55783**

**Item Number - 21**

**DOCKET NO. 55783**

<b>STACIE SMITH’S APPEAL OF THE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>COST OF OBTAINING SERVICE</b>	<b>§</b>	
<b>FROM LIBERTY CITY WATER</b>	<b>§</b>	<b>OF TEXAS</b>
<b>SUPPLY CORPORATION</b>	<b>§</b>	

**ORDER NO. 5  
DENYING MOTION TO DISMISS, AND REQUIRING  
PROPOSED PROCEDURAL SCHEDULE**

This Order addresses Commission Staff’s response to Order No. 4 and motion to dismiss filed on April 8, 2024. Commission Staff moved to dismiss this proceeding, under 16 Texas Administrative Code § 22.181(d)(8), for failure to state a claim for which relief can be granted, because the fees included in Stacie Smith’s quote are solely regular membership or tap fees. Ms. Smith did not respond to the motion to dismiss.

On October 30, 2023, Ms. Smith filed an appeal of the cost of obtaining service from Liberty City Water Supply Corporation. She included a copy of the service agreement, which required that she pay \$4,003, but the \$4,003 fee in the agreement was not broken out.

On January 11 and 24, 2024, Liberty City WSC provided a response and supplemental response to Ms. Smith’s petition. It included a copy of its tariff and stated she was charged fees that all new service applicants were required to pay: G.5, customer service inspection fee; G.9, equity buy-in fee; G. 13, installation fee; G.16, membership fee; and G.31, transfer fee or activation fee. Liberty City WSC’s tariff describes the equity buy-in fee as a fee that is “in addition to the membership fee.”<sup>1</sup> Further, Liberty City WSC’s tariff breaks out the installation fee, which includes tap fee, as one part of the installation fee.<sup>2</sup>

In its responses to Commission Staff’s first request for information filed on February 20, 2024, Liberty City WSC provided a breakdown of the \$4,003 fee, which included a customer service inspection fee of \$35, an equity buy-in fee of \$2,708, an installation fee (which they describe as the tap fee) of \$1,020, a membership fee of \$200, and a transfer fee or activation fee

---

<sup>1</sup> Liberty City Water Supply Corporation’s Response to Stacie Smith’s Petition at attachment F (Jan. 11, 2024).

<sup>2</sup> *Id.*

of \$40.<sup>3</sup> On April 1, 2024, Liberty City WSC provided a supplement to its responses to Commission Staff's first request for information, which included the affidavit of Craig Sherwood, general manager of Liberty City WSC. Mr. Sherwood attested that the membership and tap fees that Ms. Smith paid to obtain service are regular membership and tap fees. It does not attest that all fees she was charged were membership and tap fees.

Under Texas Water Code § 13.043(g),

an applicant for service from an affected county or a water supply or sewer service corporation may appeal to the utility commission a decision of the county or water supply or sewer service corporation relating to any fee or amount to be paid to obtain service, *other than the regular membership or tap fees* or a groundwater conservation district or other governmental fee.<sup>4</sup>

The administrative law judge (ALJ) denies Commission Staff's motion to dismiss. While Liberty City WSC's response and discovery establish that Ms. Smith was charged the regular membership and tap fees, it also shows she was charged other fees. Therefore, Ms. Smith has stated a claim for which relief may be granted.

By May 30, 2024, Commission Staff must file a procedural schedule for the further processing of this docket. The procedural schedule must include a deadline for requests for a hearing.

**Signed at Austin, Texas on the 16th day of May 2024.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



---

**CHRISTINA DENMARK**  
**ADMINISTRATIVE LAW JUDGE**

Q:\CADM\Docket Management\Water\Rate Appeals\55xxx\55783-5 deny MTD\_req pro sch.docx

---

<sup>3</sup> Response to Commission Staff's First Request for Information at response to Staff 1-1 (Feb. 20, 2024).

<sup>4</sup> Emphasis added.