



## **Filing Receipt**

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PUC DOCKET NO. 55942

PETITION BY RATEPAYERS	§	PUBLIC UTILITY COMMISSION
APPEALING THE WATER AND	§	
WASTEWATER RATES	§	OF TEXAS
ESTABLISHED BY THE CITY OF	§	
ROCKPORT	§	

RESPONSE OF PETITIONERS PURSUANT TO ORDER NO. 1 AND CITY OF ROCKPORT'S MOTION TO DISMISS

On December 20, 2023, the Petitioners filed Ordinance Nos. 1920 and 1921 that were approved, passed, and adopted by the City of Rockport on December 13, 2023, repealing the water and wastewater rate increases and indicating that refunds shall be made by the City to affected ratepayers on the next applicable water bills or in any other manner adequate in law as determined by the City Manager.

On December 22, 2023, given the above action, the Petitioners concurred with the Public Utility Commission of Texas request for an extension to file comments on how this proceeding should be processed (subsequently filed on December 27, 2023).

On December 29, 2023, the City filed a Motion to Dismiss.

The Petitioners are opposed to the City's Motion to Dismiss for the following reasons:

- 1) The Petitioners' last utility bill, which was issued nine days after the city repealed the rate increase, retained the higher water and wastewater rates, and
- 2) The Petitioners did not receive their refunds on the next applicable water bill.

It is easy for the City to state they will repeal the water and wastewater rates; however, the proof will be in the actual actions taken by the City, which have yet to be demonstrated. The Petitioners support a Motion to Abate, which will allow the Public Utility Commission of Texas to verify the City has in fact repealed the water and wastewater rates and refunded the excess charges the City has collected for the last three months and counting.

The Petitioners' also wish to address the statements made by the City in their Motion to Dismiss. The City has asserted the Petitioners "failed to submit its "Petition" to the City within 90 days of the effective date of the rate change." This statement is incorrect and is based entirely on the City not being copied on the Petitioners' "Cover Letter for Petition" that was addressed from the Petitioners to the Public Utility Commission of Texas. This cover letter contained personal contact information that the Petitioners did not wish to disclose to the City and to the world via the PUC's Interchange.

The City acknowledged that it received a 235 page petition packet, and these signed pages represent the petition packet in its entirety as required by 16 TAC § 24.101(b). The petition was submitted on December 4, 2023, well in advance of the December 14, 2023, deadline.

The City has also asserted "there is no verification by ratepayers that any or all or some of the signatories are persons eligible to appeal the City's rates." Each petition page clearly states "The undersigned ratepayers of the City of Rockport..." so there should be no confusion that some (most) of the signatories are persons eligible to appeal the City's rates. It would be an impossible task for the

Petitioners to verify all of the signatories are persons eligible to appeal the City's rates for reasons stated below.

To facilitate contacting impacted ratepayers and to verify petition signatures, the Petitioners did request on August 31, 2023, "a list of all out of city limits water and or sewer customers of the city of Rockport." On September 13, 2023, the City provided a list of 2,736 accounts. The Petitioners challenged the listing as incomplete on September 20, 2023, providing three ratepayers as examples of accounts missing from the report and were told by the City on September 28, 2023, "there were 2834 names excluded from the list because of Confidentiality requests."

On November 13, 2023, two months after the City's provided what was supposed to be a "complete" list, the City sent a list of 795 additional accounts stating the "Town of Fulton accounts were inadvertently left off the previous list." The City's mistake meant the Petitioners weren't able to contact these Fulton ratepayers to afford them an opportunity to participate in the petition process.

In summary with respect to the City's assertion that "there is no verification by ratepayers that any or all or some of the signatories are persons eligible to appeal the City's rates," it is clear the City knows it would be impossible for the Petitioners' to verify "all" of the signatories given the City withheld approximately one-third to one-half of the account names.

What the Petitioners' will assert is 898 signatures were submitted, most of which we know to be valid given the partial listing provided by the City, some of which we know to be invalid (e.g., duplicate signatures and both the ratepayer and spouse signing), and even with these invalid signatures excluded we have far more than the 10% of the 4,614 ratepayers whose rates have been changed and who are eligible to appeal as required by 16 TAC § 24.101(b). The Petitioners did not believe it was our task to cross out invalid signatures; however, we are willing to flag potentially invalid signatures if so ordered.

The Petitioners are ratepayers, not lawyers. If we have made administrative mistakes in our filing, it was inadvertent and incidental to the overall intent of our appeal. Our mistakes would also pale in comparison to the City's mistakes and their bad faith efforts, e.g., initially withholding the number of impacted ratepayers, providing incomplete lists of ratepayers even when challenged, delaying every information request until the last legal minute to respond, failing to provide timely legal notice of the rate increase, attempting to invalidate the petition by repealing and reapproving the rate increase with minor changes (fortunately not approved by city council) and most egregiously, pulling a 50% out-of-city rate surcharge out of thin air instead of conducting a rate study to set the out-of-city rate.

The Petitioners respectively request a Motion to Abate until the City has in fact repealed the water and wastewater rates (as evidenced in our utility bills) and refunded the excess charges.

Date: January 10, 2024

Respectfully submitted,

/s/ Patrick R. Kane  
Petitioner  
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