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DOCKET NO. 55942

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

COMMISSION STAFF'S MOTION TO RECONSIDER AND MOTION TO ABATE

On December 4, 2023, certain ratepayers (Ratepayers) outside of the City of Rockport (Rockport) filed a petition appealing Rockport's water and wastewater rates under Texas Water Code § 13.043(b)(3) and 16 Texas Administrative Code (TAC) § 24.101(c)(3).

On July 16, 2024, the administrative law judge (ALJ) filed Order No. 8, canceling the deadline for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to comment on the sufficiency of Rockport's refunds to customers. According to 16 TAC § 22.123(b)(2), a motion for reconsideration of an interim order shall be filed within five working days of the issuance of the interim order. Order No. 8 was filed July 16, 2024. Five working days after July 16, 2024 is July 23, 2024. Therefore, this pleading is timely filed.

I. MOTION TO RECONSIDER

Staff respectfully requests the ALJ to reconsider Order No. 8 and order Rockport to provide the number of affected ratepayers and the calculation of each refund amount in native format, as Staff previously requested, and allow Staff to make a recommendation on said proof. Specifically, on March 5, 2024, Rockport provided an overview of the refunds made to affected ratepayers, indicating that, in total, affected ratepayers were refunded \$103,873.85 for water service and \$23,576.54 for wastewater service.¹ But Rockport did not provide information on the number of affected ratepayers and how those refunds were distributed to each affected ratepayer. Accordingly, Staff requested that Rockport be ordered to provide the number of affected ratepayers and the calculation for the refund per customer in native format.² Staff relevantly requested the proof of refund in this manner, because Staff is otherwise unable to verify the amount refunded per customer with solely the total amount refunded.

¹ Response of City of Rockport Pursuant to Order No. 4 at 1 (Mar. 5, 2024).

² Commission Staff's Recommendation on Sufficiency of the City of Rockport's Refunds at 1 and attached memorandum (Apr. 15, 2024).

On April 18, May 22, and June 15, 2024, the ALJ filed Order Nos. 5, 6, and 7, requiring Rockport to provide such proof.³ In Order No. 5, the ALJ gave the Ratepayers a deadline to request a withdrawal of the petition but stated that, in the absence of such a request, the ALJ will establish further deadlines, or schedule this matter for a hearing, to continue the necessary processing.⁴ Further, in Order No. 7, the ALJ stated that, if Rockport failed to file a timely response to Order No. 7, the ALJ will schedule a prehearing conference in preparation for a hearing on the merits.⁵

On May 13, 2024, the Ratepayers filed a response to Order No. 5, agreeing with Staff that Rockport should be required to demonstrate proof of refunds at the customer level, indicating a lack of transparency in the refund process.⁶ Ratepayers state that refunds were made to customers' accounts without the generation of a formal bill delivered either electronically or in the mail.⁷ On July 15, 2024, Rockport filed a response to Order No. 7, requesting a continuance to file the required proof, because its third-party billing software is unable to generate a report in the manner requested by Staff, and that it would take approximately six weeks for Rockport to generate a report with the required proof.⁸ Staff thus requests that the ALJ give Rockport the time and opportunity to generate the report with the required proof as Rockport indicated it could. Staff could thereafter verify and provide a recommendation on whether each affected ratepayer was appropriately refunded.

Ultimately, because the Ratepayers have not withdrawn the petition and instead suggested that the current proof of the refund is not transparent, in line with Staff's recommendation, and because Rockport has stated it can provide the required proof, Staff requests that the ALJ maintain its previous orders and require Rockport to provide proof of the refunds in the manner requested by Staff. Accordingly, Staff requests that the ALJ reconsider Order No. 8, order Rockport to file proof in the manner requested by Staff and allow Staff to make a recommendation on said proof.

³ See Order No. 5 Requiring Petitioner Response and Setting Deadline (Apr. 18, 2024) (Order No. 5), Order No. 6 Requiring Responses, Setting Deadlines, Entering Protective Order, and Restyling Docket (May 22, 2024), and Order No. 7 Requiring Responses and Re-Setting Deadlines (Jun. 15, 2024) (Order No. 7).

⁴ Order No. 5

⁵ Order No. 7.

⁶ Petitioners' Response to Order No. 5 (May 13, 2024).

⁷ *Id.*

⁸ Response of City of Rockport Pursuant to Order No. 7 and Motion for Continuance at 2 (Jul. 15, 2024).

II. MOTION TO ABATE

In light of Staff's recommendation above, Staff respectfully requests that the ALJ abate the proceeding while Rockport prepares the required proof and that Staff be given a deadline to comment on the sufficiency of the refund once Rockport has provided the required proof.

III. CONCLUSION

For the reasons detailed above, Staff recommends that the ALJ reconsider Order No. 8, that this proceeding be abated while Rockport is ordered to provide the required proof of refunds, and that Staff be given an opportunity to make its recommendation on such proof. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: July 22, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

Ian Groetsch
Managing Attorney

/s/ Rowan Pruitt
Rowan Pruitt
State Bar No. 24137425
Scott Miles
State Bar No. 24098103
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)
Rowan.Pruitt@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on July 22, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Rowan Pruitt
Rowan Pruitt