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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 TO CITY OF ROCKPORT RESPONSE TO ORDER NO. 11 REGARDING CITY'S REFUNDS

1. The City of Rockport's contempt for this court, the Public Utility Commission of Texas and the petitioners continues unabated. The city was directed by Order No. 11 to provide the information described in Kathryn Eiland's memorandum; however, the city did not provide any of the information needed to determine if refunds were correctly calculated, e.g., meter size, fixed charge, number of gallons used and gallonage charged.
2. The City of Rockport has engaged in a pattern of unnecessary delays throughout these proceedings. The city was originally ordered on January 17th via Order 3 to "demonstrate that the billing for out-of-city customers has been corrected and CORRECT [emphasis added] refunds have been issued." The city's February 15th response provided a declaration on the overall refund amount without any supporting evidence. The city refiled the same declaration on March 5th and didn't submit evidence to support their declaration until July 26th (after completely ignoring the June 14th deadline in Order No. 6). Unfortunately, their evidence was incomplete, riddled with errors and lacked the data needed to determine if the refunds were correctly calculated. If the city had completed some basic due diligence, e.g., verifying whether the spreadsheet totals matched what the city stated it refunded, the Commission staff, Administrative Law Judge and the petitioners wouldn't have wasted hours analyzing bad data.
3. The City of Rockport's latest submission, in the form of Exhibits A through C, is substantially the same as what was submitted on July 26th. Given this, it would appear the city made a frivolous argument for a 4.5-month extension on August 16th.
4. My limited analysis of Exhibits A through C shows:
 - a) The exhibits are provided in PDF instead of XLS format, which prevents any type of meaningful, in-depth analysis without a significant effort to parse the data into a more useful format.
 - b) The exhibits have a giant "CONFIDENTIAL" stamp that makes reading the numbers difficult. Simpler and less obtrusive ways should be used to mark future exhibits.
 - c) The exhibits are a document dump. The in-city accounts (57% of the customer base) have no bearing on this review; however, the city included the confidential in-city account data in the exhibits (3,809 overall pages) thereby more than doubling the number of pages to be reviewed.

Even with purported limited reporting abilities, the city could have parsed the database to provide only the relevant out-of-city ratepayer data through the use of CLASS codes with "FLC" for Fulton ratepayers and "OCL" for the remaining Out of City ratepayers. Because they didn't and there is no differentiation

in the exhibits at the line item level between in-city and out-of-city accounts, it is **impossible to use the exhibits for their intended purpose** of reviewing the out-of-city refunds.

d) The city could have separately shown the water and wastewater refunds as requested by Ms. Eiland if the city had run the reports by REVENUE CODE (100 for Water and 300 for Sewer) instead of "REVENUE CODE: All" as shown in the exhibit header. This approach would have also removed the irrelevant gas-only accounts from the dataset.

e) The exhibits show the city has **consistently overstated the amount they refunded** out-of-city ratepayers. In their latest pleading the city stated:

"In the City's Response to Order No. 3 and Renewed Motion to Dismiss, filed as Interchange Document No. 14 on February 15, 2024, the City stated that it had refunded \$103,873.85 for water service and \$23,576.54 for sewer service. Exhibits A-C confirm such refunds. For example, if you add the water and credit amounts displayed on Exhibit A, page 1249, Exhibit B, page 1268, and Exhibit C, page 1286, the total equals the \$103,873.85 for water service (\$36,457.94+35,675.92+31,739.99) and \$23,576.54 for sewer service (\$7,870.20+8,349.33+7,357.01)."

As you can see in the table below, you can only get to the city's numbers if you include the Inside City Limit accounts CLASS code. The city pulled their data from the "Revenue Code Totals by Zone" page when they should have pulled it from the "Revenue Code Totals By Class" page in the same report.

		Revenue Code Totals by Class				
Exhibit	Revenue Code	FCL (Fulton)	OCL (Out of City)	Subtotal	ICL (In City)	Total
A	100 - WATER	8,046.33	28,411.61	36,457.94	-	36,457.94
B	100 - WATER	7,429.11	28,246.81	35,675.92	-	35,675.92
C	100 - WATER	6,603.38	25,136.61	31,739.99	-	31,739.99
		22,078.82	81,795.03	103,873.85	-	103,873.85
A	300- SEWER	281.34	7,268.06	7,549.40	320.80	7,870.20
B	300- SEWER	266.68	7,759.80	8,026.48	322.85	8,349.33
C	300- SEWER	244.62	6,841.79	7,086.41	270.60	7,357.01
		792.64	21,869.65	22,662.29	914.25	23,576.54
	TOTAL	22,871.46	103,664.68	126,536.14	914.25	127,450.39

f) The exhibits match the overall amount the city stated it refunded, unlike the city's July 26th submission. Though this is a critical step forward, it doesn't address whether refunds were correctly calculated (see "h" below).

g) The exhibits correct omissions in the prior dataset, which resolve the potential refund issues I identified in para. 2 of my August 5th analysis.

h) The exhibits DO NOT address the issues I identified in para. 3 of my August 5th analysis, i.e., the data needed to verify whether the refunds were correctly calculated was not provided. My analysis also stated "I found issues with two of 15 refunds (13.3%)." I do not know if this was due to an error on my

part or on the part of the city; however, my information was available to the City of Rockport and should have been addressed in their latest response.

5. In the eight months since the original deadline, the city has overstated the amount of the refunds they provided to out-of-city ratepayers and they have yet to provide the data needed to show the refunds were calculated correctly. The city's position has been that they can't provide the info, yet it seemed like they could when they stated on July 15th "the City is looking at alternatives to a Tyler Tech report, such as re-running all out of City customer bills for the relevant time period" and on August 16th "the City will need to perform PUC Staff's request by hand, account by account, month by month."

ADDITIONAL BACKGROUND

I apologize in advance for wasting the court's time on this "additional background" section; however, I have reached my limit with the City of Rockport's complaints, excuses and finger pointing.

The city seems incapable of accepting blame for their mistakes. Case in point is the city not owning up to providing an incomplete and error-filled XLS in their prior submission. Instead of either an acknowledgement of the mistake or an explanation, we instead get "the City has received the attached information from Tyler Tech and replaces the City's submission of July 26, 2024."

I don't buy the city's August 16th statement that "to date, the City has not received a single complaint by an account holder that his/her refund was not made." First and foremost, a customer would need to know they were due a refund and what the correct refund amount would be. Many customers had no idea they received a refund due to the convoluted process explained in our May 13th filing. If the city had used plain language in the bills notifying out-of-city ratepayers of a pending refund, I am certain the city would have received a lot more calls than they did, and based on social media posts, there is no question that at least some people contacted the city about the refund process.

The city has complained in EVERY SINGLE PLEADING they've filed since May 14th about having to expend resources to answer fundamentally simple facts: meter size and usage by billing period for each account. **Did the city show any such concern for the hundreds of man hours and thousands of dollars expended by the petitioners** who mailed over 2,000 letters and knocked on hundreds of doors to get signatures? Absolutely not. Citizens spoke up at the August 6, 22, 30 and September 5, 2023, city council meetings, quoted state law and called out the city for lacking a rate study. We made it clear the city's actions weren't legal; however, the city didn't care because they didn't believe the petition drive would be successful. Once the city realized we had the number of signatures needed, the city repealed the rate increase and agreed to do a rate study (never mind their story to the contrary). Links to the YouTube videos for the citizens' comments are on <https://www.RockportWater.com/History>.

Speaking of the rate study, Dan Jackson, from Wildan, presented the Water and Wastewater Rate Study during the August 13, 2024, city council meeting and recommended the city set a premium of 20% for the out-of-city ratepayers, which is **drastically lower than the 38% premium the city has charged for many years** and the 50% premium the city would have charged this past year if not for the successful petition. Even though 20% was recommended, the city's out-of-city water rates that went into effect in October 2024 are 27.9% higher than in-city rates and will continue to be 24.2% higher beginning in October 2025 before settling in at 20% higher in October 2026. The "justification" is you get an approximately 20% premium when looking at the typical usage for a combined water (higher premium)

and wastewater (lower premium) account. The problem with this approach is out-of-city accounts are primarily water only (4,488 accounts) with very few receiving wastewater service (864 accounts). Why are water ratepayers with septic systems being asked to subsidize ratepayers getting city sewer? The rate study and presentation are available at <https://www.RockportWater.com/History>.

I will also note that Wildan presented their findings during an executive session of the July 24th city council workshop **despite the topic not being on the agenda** (ref: <https://www.rockporttx.gov/AgendaCenter/ViewFile/Agenda/07242024-982>). Despite a Public Information Act request for a copy of the rate study, the city manager used semantics to deny the city had the information. The request was modified for a copy of the "presentation" (instead of the "study") on July 25th. The city refused to provide the presentation and instead referred the request to the Attorney General on August 12th for a ruling. The city waited until after the presentation was provided in open forum to withdraw their request to the AG and on August 23rd provided a copy of what was presented in executive session. I guess we have yet to learn the extent of the games the city is willing to play to limit active citizenship and advocacy.

SUMMARY

1. The petitioners dispute the city's contention they provided refunds in the amount of \$23,576.54 for wastewater service to the out-of-city ratepayers. The petitioners do acknowledge the exhibits total to \$103,873.85 for water service refunds.
2. The petitioners do question whether these refund amounts are correct given a) **the city failed once again** to provide meter size and usage data to allow independent verification of the refund amounts, and b) it is clear from the limited sample of bills reviewed that some refunds may not have been correctly calculated.
3. The petitioners ask that the City of Rockport be held accountable for their inaction and blatant contempt. We are not lawyers and are not knowledgeable on the laws regarding sanctions and contempt; however, some action to deter their ongoing conduct would seem appropriate, e.g., a penalty for wasting the court's time; reimbursing the petitioners' for inconvenience, harassment and out-of-pocket expenses incurred; and/or making the city set this year's water rate to the 20% justified by the consultant instead of the 27.9% implemented.

October 18, 2024

Respectfully submitted,

/s/ Patrick R. Kane
Petitioner
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