



## **Filing Receipt**

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**PUC DOCKET NO. 56589**

PETITION BY RESIDENTS OF GRAND § BEFORE THE  
LAKES MUNICIPAL UTILITY DISTRICT §  
NO. 2 APPEALING THE WATER RATES § PUBLIC UTILITY COMMISSION  
ESTABLISHED BY THE DISTRICT'S §  
BOARD OF DIRECTORS § OF TEXAS

**REBUTTAL OF THE MUD'S OBJECTIONS TO RFI NO. 16 AND MOTION TO COMPEL**

**I. Introduction**

(1) This is in reference to the MUD's objections of 7/18/2024 [56589-145] to Request for Information (RFI) No. 16 of 7/4/2024 [56589-99].

(2) The Lloyd Gosselink Rochelle Townsend attorneys pursue a conscious pattern of malice and deception. They persistently and falsely claim that they "made good faith efforts to negotiate with Petitioners prior to filing th[e] Objections." Here is an example of the 'copy-paste' email they send out with every RFI, requesting restructuring the RFI for (i) information relevant to the appealed rates and TWC § 13.043 standard of review; and (ii) narrowed scope.

**From:** Rick Arnett <ramett@lglawfirm.com>  
**To:** Georges J. Wakileh <george.wakileh@gmail.com>  
**Cc:** Jamie Mauldin <jmauldin@lglawfirm.com>  
**Date:** Tue, Jul 16, 2024 at 2:59 PM  
**Subject:** Appellants RFIs 15, 16, 17, and 18

Mr. Wakileh,

Would you be amenable to restructuring Appellants 15-1, 15-2, 15-3, 15-4, 15-5, 15-6, 15-7, 15-10, Appellants RFI 16, and Appellants RFI 17 to request information relevant to the appealed rates and a Texas Water Code § 13.043 standard of review?

Additionally, would you be amenable to restructuring Appellant 18-2 to narrow it in scope?

Thank you for your attention to this matter.

Rick

RICK ARNETT  
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(3) No matter what Petitioners answer, the Lloyd Gosselink Rochelle Townsend attorneys go ahead and file their objections. The intention with this scheme of greed is to charge every minute they can to the contract, which the residents end up paying for—they charge for the futile email they send out, for the email response they get, for filing the objections, for responding to the Motion to Compel, and so on.

## II. Relevance of Each Question in RFI No. 16 “Delegated Authority Outside of Board Meeting”

(4) For easy reference, here are the questions the MUD is objecting to.

- \* RFI 16-1 Officers delegated decision making and spending authority outside of Board meeting.
- \* RFI 16-2 Minutes for the corresponding Board Meeting where the authority was given.
- \* RFI 16-3 Projects and the respective monetary amounts in terms of authority and spending.
- \* RFI 16-4 Laws that entitle the Board to such delegation and such authority.

(5) The MUD objects to the RFI as: “Information irrelevant to the rate appeal is not discoverable. ... GLMUD Board of Directors’ “spending authority,” minutes authorizing this authority, and related projects are irrelevant to this TWC § 13.043 rate appeal. ... Information regarding GLMUD Board of Director spending *authority* has no tendency to support a finding regarding the appealed rates’ just and reasonableness or discriminatory effect. Such information has no nexus with GLMUD’s cost of service,<sup>34</sup> budget,<sup>35</sup> customer characteristics and rate design,<sup>36</sup> or rate case expenses.<sup>37</sup> ... .” We disagree and substantiate our position through reason and indisputable evidence. The MUD’s statements are futile; they lack credibility and reliability.

(6) How can the Directors’ spending authority, minutes authorizing this authority, and actual spending on corresponding projects be irrelevant? Doesn’t this spending impact the MUD’s costs and thus water/wastewater rates? But worse, this spending is being done illegally, where one director alleges to have been authorized to spend an X amount, but his spending decisions are done unilaterally, without reasonable scrutiny, outside of Board Meetings, in the absence of other Board Members, and without a perfected quorum. This is a punishable criminal offense.

(7) Question 16-4 “Which law entitles the Board to such delegation and such authority?” does not seek an admission to a legal conclusion. The directors need to name the law or answer by “we do not know.” Said directors are not young or inexperienced; they know what they are doing. They cannot claim ignorance of the law, of facts, or of logic and common sense. Such individuals sought an office and took the oath office consciously and voluntarily, not accidentally.

(8) The MUD’s Board Members cannot claim ignorance of Texas Government Code § 551.042. Additionally, they are advised by a law firm that charges hundreds of thousands of dollars for its services as the MUD’s Counsel.

### **Texas Government Code § 551.042 INQUIRY MADE AT MEETING**

(a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

...

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

(9) The request to delegate decision-making authority outside of Board meetings was *consciously* made by Michael Christopher McClusky, President of the MUD's Board of Directors, in the MUD's Board Meeting of 3/21/2022 (*see* the corresponding Minutes). Together with Bradley Allen Baker, McClusky ended up as one of two directors given that authority. Isn't this peculiar? What did they do concerning the bogus rate order at issue before the Commission? We documented the wrongdoing in [56589-114] / [56589-115].

(10) Petitioners question the MUD's courage and conscious choices. Petitioners ask the MUD to admit to a fact. The MUD does not need to admit illegality or guilt; just name the law or say "I do not know." The MUD must issue an unqualified admission, admitting without further explanation or objection that: "There is no law that allows such delegation of spending authority outside of Board Meetings;" or "Law/provision X allows delegation of spending authority outside of Board Meetings."

(11) The Board's directors/officers are professionals and businessmen; mature individuals in their fifties and sixties. They **cannot** claim confusion or ignorance after having run for office and taken the oath of office. They cannot be unaware of their legal, moral, ethical, and civic duties, responsibilities, and obligations related to the trust they were given, the office they serve, and the oath they took. They cannot claim to be young and inexperienced. They signed Form 2204 – Oath of Office. What compass governs the decisions taken by such professionals and businessmen?!

### **III. The MUD's reprehensible attitude and conscious, punishable attempts to circumvent discovery**

(12) The MUD refers to *Texas Rules of Civil Procedure* 192.3(a) claiming: "Information irrelevant to the rate appeal is not discoverable. Information is relevant only if it has a tendency to make a fact of consequence more or less probable than it would be without the evidence." It is, however, indisputable that evidence that is intended to inform the case and uncover questionable practices orchestrated by the MUD is relevant and important in any cause before administrative bodies or the courts. The matters advanced in the RFI are important, relevant, and within the scope of the rate appeal.

(13) The MUD's comments exemplify the MUD's reprehensible attitude and conscious, punishable attempts to circumvent discovery. If justice and the rule of law were to be real and meaningful, abusing the law through malicious procedural tactics must not be allowed. Such tactics bear destructive consequences: enormous amounts in legal fees and lengthy processing time are just some.

(14) The RFI aims at documenting a consistent, persistent pattern of disregard for the law, hurting the Grand Lakes MUDs and WCID, draining residents' funds, and inflicting harm on residents. The RFI

requests the MUD to respond to intimately-orchestrated, punishable practices; with several examples confirmed via data, evidence, or the MUD's disclosures.

(15) The details in the case prove enormous persistent, consistent violations – some of which are criminal – with millions of dollars at stake. The MUD's Board of Directors, Attorney (the law firm Schwartz, Page & Harding LLP), and Consultants became fearless and lawless because of the full absence of state agency oversight and because of complex, vague laws on holding the MUDs accountable.

(16) Examination of the instant case by the Public Utility Commission of Texas (Commission) and the State Office of Administrative Hearings (SOAH) is not limited to Texas Water Code § 13.043, ensuring that water/wastewater rates are just, reasonable, sufficient, equitable, consistent, not unreasonably prejudicial, preferential, or discriminatory. In carrying out their functions, the Commission and the SOAH must examine all questions in the case, including—but not limited to—the contested rate order, the MUD's financial situation (costs, revenues, and expenditures), the MUD's governance, handling of official governmental documents, and the MUD's compliance with all relevant statutes. See section IV regarding the Commission's mandate as detailed in 16 Texas Administrative Code, Chapter 22 / Chapter 24 and Chapter 2001 (Administrative Procedure Act | APA) of the Government Code.

(17) The RFI is reasonable, fair, justified, and genuinely meant to uncover facts that are relevant and crucial for thoroughly informing the case. Discovery is crucial for securing justice and a sound, fair, trustworthy ruling in the case. By objecting to reasonable RFIs, the MUD circumvents discovery through conscious malice; hinders the proper administration of evidence and justice; and renders the Commission's appellate jurisdiction unusable.

(18) The MUD cannot act as a judge in its own case; ultimately resisting discovery, deciding that all matters brought before the Commission are irrelevant, and running loose without accountability. A respondent / defendant cannot decide what evidence should be sought and how it should be administered. Attempting to silence a petitioner / plaintiff by limiting, and objecting to, evidence, is an attempt to silence justice. In such case, the whole complaint process to the Commission becomes of no value.

(19) Petitioners are victims of fraud. Petitioners have a legal, moral, ethical, and civic obligation to highlight each and every irregularity, impropriety, wrongdoing, or questionable practice; all in the interest of the proper administration of justice. It is no secret that the MUD's attorneys are doing everything possible to hinder a thorough examination of the case; essentially letting the MUD, its Board of Directors, its Attorney, and its Consultants run away without accountability. That, we have an obligation to combat

and prevent. Impunity is a worse crime than the crime itself. Human Rights Watch says: “Today’s impunity is tomorrow’s crime.”

#### **IV. The PUC and SOAH: The Legal Authority to Discharge Their Functions**

(20) Before the Commission, proceedings under the Texas Water Code and Texas Government Code are automatically governed by 16 Texas Administrative Code, Chapter 22 / Chapter 24. See Rule 22.1(b)(2) and Rule 24.1(a). The Commission has jurisdiction to ensure that the MUD is compliant with TCEQ’s and other agencies’ rules and requirements; to examine violations; and to impose fines and penalties.

\* Rule 22.1(b)(2) Commission proceedings under Texas Water Code and Texas Government Code.

\* Rule 24.1(a) A comprehensive regulatory system under TWC, Chapter 13, to establish the rights and responsibilities of both the MUD and consumer; and govern the procedure and proceedings before the commission.

\* Rule 24.539 Fines and penalties collected under TWC, Chapter 13, from a retail public utility.

(21) Chapter 2001 of the Government Code is the Administrative Procedure that guides the Commission through its day-to-day work. Additionally, below is some text from 16 TAC, Chapter 22 and Chapter 24, detailing the Commission’s jurisdiction in discharging its functions.

#### **16 Texas Administrative Code**

##### **§ 22.1 Purpose and Scope**

(b)(2) This chapter shall govern proceedings under the Texas Utilities Code, Texas Water Code, ..., Texas Government Code, or any other statute granting the ... Commission ... authority to conduct proceedings.

**§ 22.246(b)(5) Administrative Penalties | Violation**--Any activity or conduct prohibited by the Public Utility Regulatory Act (PURA), the Texas Water Code (TWC), commission rule, or commission order.

##### **§ 24.1 Purpose and Scope of this Chapter**

(a) This chapter is intended to establish a comprehensive regulatory system under Texas Water Code chapter 13 to ensure that rates, operations, and services are just and reasonable to the consumer and the retail public utilities, and to establish the rights and responsibilities of both the retail public utility and consumer. ... This chapter shall also govern the procedure for the institution, conduct and determination of all water and sewer rate causes and proceedings before the commission. These sections shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the commission or the substantive rights of any person.

(c) It is the responsibility of each retail public utility to ensure that it remains in compliance with all applicable rules and requirements, including those imposed by TCEQ or other agencies. ...

##### **§ 24.359 Fines and Penalties**

(a) Fines and penalties collected under TWC, Chapter 13, from a retail public utility that is not a public utility in other than criminal proceedings shall be paid to the commission and deposited in the general revenue fund.

#### **V. PRAYER**

(22) Against the preceding background, the Commission renders an order compelling the MUD to respond to RFI No. 16 in its entirety. Barring sound discovery, the complaint (rate appeal) process to the Commission becomes unreliable, unusable, fictitious.

Katy, Texas on the 19th day of July 2024.

Respectfully submitted,

**on behalf of Grand Lakes MUD No. 2 ratepayers**



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**PUC DOCKET NO. 56589**

**CERTIFICATE OF SERVICE**

I certify that the filing of this pleading is notified to all parties of record via e-mail on July 19, 2024.



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George J. Wakileh, Ph.D.