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Item Number - 1

George J. Wakileh

On behalf of 85 ratepayers residing within the jurisdiction of Grand Lakes MUD No. 2

6819 Rosemont Park Ln, Katy, TX 77494-6590 · george.wakileh@gmail.com

Public Utility Commission of Texas 1701 N. Congress Avenue Austin, Texas 78711-3326

May 6, 2024 ~ by email only ~

Appeal against an illegitimate, unfair Rate Order issued by Grand Lakes Municipal Utility District No. 2 – Fort Bend County, Texas

0. Procedural

This appeal is being sent by email to the Division of Utility Outreach (DUO@puc.texas.gov) at the Public Utility Commission of Texas (PUCT). With any questions or requests for clarification, the PUCT is asked to respond in writing, but electronically. Proceeding in this manner ensures that everything is well documented and available for review by appeals bodies.

The contested Rate Order impacts 682 residences falling within the jurisdiction of Grand Lakes MUD No. 2: 402 residences in Grand Lakes phase 4 and 280 residences in Grand Lakes phase 2. With 85 signatures, the 10% requirement is met $(10\% \times 682 = 68.2)$.

The 90-day deadline is also met because there is <u>no</u> lawful reference date in the instant case. The Rate Order was announced on **February 19, 2024**, but it carried an Effective Date of February 1, 2023. In **late March 2024**, the law firm Schwartz, Page & Harding LLP changed the Rate Order's Effective Date to February 1, 2024, **without** changing the signature page (signed on January 29, 2024 by Gregory Henry, Secretary of the MUD's Board), **without** any notice of the revision, and **without** any notice to the residents. Retroactive amendments are indisputably unlawful, but the instant amendment can be further characterized as an incident of conscious, punishable tampering with an official government document.

When receiving the MUD's response, the PUCT is asked to serve such response on the petitioners for rebuttal. With this, the right to adversarial proceedings is secured.

Refusing to entertain the appeal means that the PUCT turns a blind eye to wrongdoing. In result, the entities complained of will proceed with more improprieties and injustice that further harm the Grand Lakes residents.

A. Introduction

Homeowners within Grand Lakes MUD No. 2 (Katy, Fort Bend County, Texas) are lodging this appeal with the Public Utility Commission of Texas (PUCT) because the Grand Lakes Municipal Utility District No. 2 and the Water Company (Municipal District Services | MDS Water) have been illegally charging rates without a proper Rate Order in place. The huge increase in rates is also contested as unlawful and unjustified.

Grand Lakes MUD No. 2 is a *local government* seated at the address '1300 Post Oak Boulevard, Suite 2400, Houston, Texas 77056', which is the address for the law firm Schwartz, Page & Harding LLP that has controlled the Grand Lakes water districts for many years.

Individuals at the law firm Schwartz, Page & Harding LLP involved in administering the MUD are:

Chris Skinner <cskinner@sphllp.com> | Gordon Cranner <gcranner@sphllp.com> | Melia Berry <mberry@sphllp.com>.

The District's current Board Members are:

Michael Christopher McClusky, President | J. Scot Vann, Vice President | Gregory Henry, Secretary Bradley Allen Baker, Assistant Secretary | William Don Butler, Director.

The water company (Municipal District Services | MDS Water) has the address: 406 W. Grand Pkwy S, Ste 260, Katy, Texas 77494 | (281) 290-6500 | info@mdswater.com.

The water district (MUD) must comply with all provisions of applicable statutes and regulations of the United States, State of Texas, City of Houston Ordinances, and City of Houston Charter implementing such statutes or regulations.

The water company is registered in the state of Texas with Taxpayer Number 32033608277 | SOS File Number 0800862569. The water company must comply with Texas Business Organizations Code, Chapters 12, 21, 101, and other relevant codes.

B. Illegitimate rate order

Announced on the MUD's website on February 19, 2024, Grand Lakes MUD No. 2 issued a new Rate Order that is meant to be effective from February 1, 2024. On advice and guidance by the law firm Schwartz, Page & Harding LLP, the MUD's Board of Directors claims:

Rate Order Change Notice

Feb 19, 2024

Dear Grand Lakes MUD 2 customer,

For several years Grand Lakes MUD 2 has enjoyed a robust revenue source from our **Strategic Partnership Agreement** (SPA) with the City of Houston. This additional revenue allowed us to pay off the districts debt early resulting in the low tax rate that we have today. Additionally, we were able to keep our Water and Sewer rates low.

As a reminder you may have noticed a "credit" on your bill reflecting \$2.00 / 1000 gallons used. This was to help relieve the NFBWA fee that has increased over the years.

Beginning in early 2023 this revenue source has declined by approximately 90% and therefore we are no longer able to subsidize at previous levels. This unfortunate change has compelled the district to evaluate our rates and beginning with your February water bill we will remove the \$2.00 credit we have all enjoyed. We also find it necessary to increase water and sewer rates to allow us to meet our budget going forward.

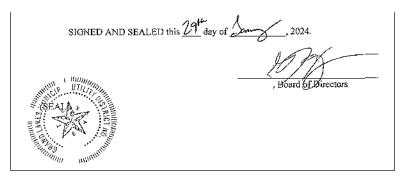
We will continue to have one of, if not the lowest tax rate in the area. As always, your board of directors is committed to providing the highest level of service at the most economical cost to all users.

Thank you for your understanding,

Grand lakes MUD 2 Board of Directors

As detailed in this appeal, the rate increase is <u>not</u> slight; it is rather huge. The said Rate Order is challenged as unjustified, unlawful, and invalid.

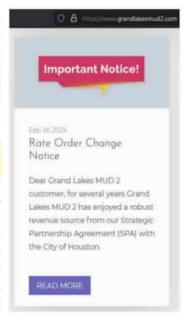
(a) The new Rate Order was signed on January 29, 2024 (see the screenshot below) by Gregory Henry, Secretary of the Board of the Grand Lakes MUD No. 2. The said officer is disqualified because of the contract Grand Lakes Community Association awarded to KPM Management, which the officer owns (see **Section C** below).



(b) The first page of the Rate Order lists the Effective Date as February 1, 2023 (see the screenshot). The Rate Order does not become lawful just because this date is intended to be was used to issue new water bills to residents from February 1, 2024, without bothering to initiate an annulment or rectification.

BE IT ORDERED BY THE BOARD OF DIRECTORS OF GRAND LAKES MUNICIPAL UTILITY DISTRICT NO. 2, THAT THE FOLLOWING RATE ORDER IS HEREBY ADOPTED. Any Rate Order, and amendments thereto, heretofore adopted by the February 1, 2024. Yet, the invalid Rate Order Board of Directors establishing rates for water and sewer service and pertaining to related matters shall be revoked on February 1, 2023) the effective date of this Rate Order (hereafter referred to as "Order"), Date must be February 1, 2024 for this Rate Order to be lawful and valid

(c) The District issued a Rate Order with an erroneous Effective Date of Feb 1, 2023, but announced it on the MUD's website on February 19, 2024 (see the Notice at https://www.grandlakesmud2.com/posts/2024-02-19/rate-order-change-notice)! In the aftermath, it became known that the MUD signed the Rate Order in a Special Meeting held on January 29, 2024, as the Regular Meeting schedule for January 15, 2024 was canceled. The January 15/29 Meeting Agendas do not list the Rate Order as an item to be discussed or voted on (see https://www.grandlakesmud2.com/documents). The Agenda for the Board's Regular Meeting of December 18, 2023 reads in part: "5. Presentation by Best Trash, LLC, the District's solid waste collection and recycling services provider, regarding annual rate increase and consideration of amended Rate Order in connection with same." This, obviously fictitious, reasoning does not agree with that outlined in the February 19, 2024 announcement (see the citation under Section B above). Additionally, the District's 2022/2023 Audit Reports show the Solid Waste Collection and Recycling Services expenditure as \$236,013 in 2022 and \$258,129 in 2023. The 2022 to 2023 increase is \$22,116 or 9.37%. An enormous increase in the monthly water bill for 682 residences is not needed to cover a minor increase in the Solid Waste Collection and Recycling Services expenditure. Lastly, the previous rate order was signed by the Board's Secretary on June 19, 2023. How and why would the MUD decide on a new rate order only seven months later?



(d) While Grand Lakes MUD No. 2 has zero debt outstanding (see the screenshot below from the Texas Bond Review Board), the said Rate Order increases residents' water bills by 2.0 to 3.7 times (see the spreadsheet calculations in Exhibit 1). The increase in the water bill is huge and unjustified. Yet, the MUD did not (i) substantiate how and why the SPA revenue has declined by 90%; (ii) furnish a detailed Water and Wastewater Cost of Service Rate Study proving that the MUD's expenditures necessitate and justify a water/wastewater rate increase; or (iii) engage the residents or ask for their comments.



- (e) In February 2024, the water company (MDS Water | Municipal District Services) issued to all residents seated within the District water bills based on the new Rate Order, even though (i) the said Order is invalid; and (ii) residents' water bills run from some day in January 2024 to 30 days later in February 2024. No prorating was done whatsoever. All water bills were issued as if the invalid Rate Order became effective from January 2024.
- (f) In late March 2024, the law firm Schwartz, Page & Harding LLP amended the rate order—they changed the Effective Date from February 1, 2023 to February 1, 2024, but without changing the signature page (signed on January 29, 2024 by Gregory Henry, Secretary of the Grand Lakes MUD No. 2 Board), without any notice of the revision, and without any notice to the residents. This is unlawful, punishable tampering with an official government document because (i) quality and revision control procedures are not followed; and (ii) no

document can ever be revised in March 2024, changing the Effective Date from Feb. 2023 to Feb. 2024, keeping a signature page with the date January 29, 2024, and <u>without</u> ever documenting the revision, publicizing the revision, or informing residents.

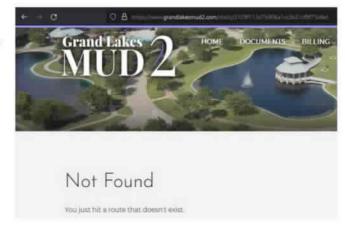
The Rate Order with the Effective Date of February 1, 2023 was at the following link, but has been removed since (see the screenshot below).

https://www.grandlakesmud2.com/static/3109f113d7b906a1cc3b31cf9f75bfed/Rate_Order_12_18_24_bfa1a3dfdf.pdf

The revised Rate Order with the Effective Date changed from February 1, 2023 to February 1, 2024 is put at: https://www.grandlakesmud2.com/static/244a14cd8cb9786eb684b2fd146f9508/

Rate_Order_12_18_2023_revised_a835042e10.PDF

Both Rate Orders (the original and the revised) are unlawful and invalid; they <u>must</u> be nullified.



C. Disqualification of director Gregory Henry, Secretary of the MUD's Board

While serving as Secretary of the Board of Directors of the Grand Lakes Municipal Utility District No. 2, Gregory Henry—who owns KPM Management—was, in 2023, awarded, by the Grand Lakes Community Association (which upkeeps all property under the jurisdiction of Grand Lakes Municipal Utility District No. 4, No. 1, and No. 2), contract in connection with property located in the district and neighboring districts, as Managing Agent of the whole Grand Lakes Community.

The contract could be based on a (business) relationship between Gregory Henry and Richard Powell [President of the Grand Lakes Community Association]. The residents demanded that the Community (Homeowner) Association present a contractor qualification matrix showing all bidders and how KPM Management was selected as the winning bidder. This is the norm in Procurement and Supply Chain. The Community (Homeowner) Association never honored the request, making it clear that something irregular was done. KPM Management's contract was terminated as of January 31, 2024, likely based on this incident. Montage Community Services was awarded the contract from February 1, 2024.

This should be a clear violation of Texas Water Code Section 49.052 'Disqualification of Directors'. By vote of its remaining members, the Grand Lakes MUD No. 2 Board of Directors must remove the said officer/board member. That was <u>not</u> done. The Grand Lakes Community Association and the Grand Lakes MUD No. 2 maintain silence, essentially covering-up irregularities and shielding those involved.

While disqualified, the said officer has on January 29, 2024 signed, on behalf of the Board of Directors of Grand Lakes MUD No. 2, the Rate Order described in **Section B** above.

For serving as Secretary of the Board on the Grand Lakes MUD No. 2, the said officer received, in fees and expenses, \$5,934 / \$7,260 in 2022 / 2023, respectively. Gregory Henry serves also as Assistant Secretary on the Fort Bend County MUD No. 165 (see https://fbcmud165.org/board-and-consultants/).

This incident is representative of indifference, mismanagement, abuse of authority, conflict of interest, and disregard for the fundamentals of democracy, governance, justice, and the rule of law.

D. The rate increase in numbers

As noted before, the new Rate Order increases residents' water bills by 2.0 to 3.7 times (see the spreadsheet calculations in **Exhibit 1**). For convenience, highlighted below are three examples:

- * 5,000 gallons: the residential monthly water bill increases by \$42.50; from \$27.00 to \$69.50.
- * 7,500 gallons: the residential monthly water bill increases by \$46.25; from \$35.50 to \$81.75.
- * 10,000 gallons: the residential monthly water bill increases by \$50.00; from \$44.00 to \$94.00.

With 682 residences falling within the jurisdiction of Grand Lakes MUD No. 2, a \$45 average monthly increase in the residential water bill results in an increased monthly revenue to the District of \$30,690. Annually, this amounts to \$368,280. The question to the MUD is: what is this money needed for?

The District's 2022/2023 Audit Reports show other enormous and unjustified expenditure increases—for example, on security (Sheriff and Constable) and bookkeeping, which residents have already paid for through the Grand Lakes MUD No. 2 annual tax. Residents will not comment further for now, but reserve the right to elaborate should the MUD allege that the rate increase is intended to cover extraordinary expenditures.

E. The PUCT's review of the rate order

Based on the numerous errors highlighted in this appeal, the rate order must be automatically nullified. Should the PUCT decide, however, to review the rate order's financial aspects, residents would like to note that:

- (a) The said rate order increases the wastewater, water, and NFBWA rates to residential customers tremendously.
- (b) The latest rate order and all previous ones are prone to mishandling—with unjust support from the District, the water company has been collecting illegitimate fees from residents who are away from home. A resident on an international assignment for months, with a locked house and 0 gallons / \$0 in water consumption, continues to receive a monthly bill for the wastewater flat rate (\$10 before and \$20 now). The wastewater flat rate cannot, and must not, apply when a residence is locked and the water consumption is 0 gallons / \$0. In such case, the water bill must amount to \$0. The PUCT must review this matter and order that the water company reimburse impacted residents for previous mishandling of this aspect.
- (c) Residents did not review the impact of the recent rate order on other than residential customers. It is up to the PUCT to decide if the rate order's impact on other customers is to be reviewed.

F. Prayer

- 1. The Grand Lakes MUD No. 2 rate order signed on January 29, 2024 is declared null and void; being illegitimate and unjustified.
- 2. The PUCT orders that the MUD's residents be reimbursed for all water bill increases from February 2024.
- 3. The PUCT orders that the Grand Lakes rate orders are clarified such that the wastewater flat rate does not apply when a residence is locked and the water consumption is 0 gallons / \$0. The PUCT orders that the water company reimburse impacted residents for previous mishandling of this aspect.
- 4. The Grand Lakes MUD No. 2 Board of Directors, the law firm Schwartz, Page & Harding LLP, and the Water Company (MDS Water) be questioned about their involvement in proposing and approving the said rate order.

Sincerely,

George J. Wakileh, Ph.D.

George Wakileh 2024.05.06 16:15:17 -05'00'

on behalf of 85 ratepayers residing within the jurisdiction of Grand Lakes MUD No. 2

Electronic communication is requested and agreed to, to ensure timely, effective handling of the case.

Water rates for residential customers – 2023 and 2024 Grand Lakes Municipal Utility District No. 2 | Grand Lakes Phase II and Phase IV

2023	Min. fee	Min. use	Flat rate	\$/1,000 gal	Usage,	gallons	2024	Base fee	Min. use	Flat rate	\$/1,000 gal	Usage,	gallons
Water	\$0.00	0	N	\$0.50	1	20,000	Water	\$25.00	1	Υ	\$0.00	1	10,000
			Ν	\$1.50	20,001	50,000		\$25.00		N	\$1.00	10,001	20,000
			Ν	\$2.50	50,001	500,000		\$35.00		N	\$2.00	20,001	50,000
								\$95.00		N	\$3.00	50,001	500,000
Wastewtr	\$10.00		Υ	\$10.00		500,000	Wastewtr	\$20.00		Υ	\$20.00		500,000
NFBWA	\$2.90	1	Ν	\$2.90	1	500,000	NFBWA	\$4.90	1	N	\$4.90	1	500,000
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Use, gal		Wastewtr	Total				Use, gal	Water	Wastewtr	Total		'24 / '23	
1,000	\$3.40		\$13.40				1,000	\$29.90		\$49.90		3.72	
2,000	\$6.80		\$16.80				2,000	\$34.80		\$54.80		3.26	
5,000	\$17.00		\$27.00				5,000	\$49.50		\$69.50		2.57	
10,000	\$34.00		\$44.00				10,000	\$74.00		\$94.00		2.14	
15,000	\$51.00		\$61.00				15,000	\$103.50		\$123.50		2.02	
20,000	\$68.00		\$78.00				20,000	\$133.00		\$153.00		1.96	
25,000			\$120.00				25,000	\$167.50		\$187.50		1.56	
30,000							30,000	\$202.00		\$222.00		1.56	
35,000							35,000	\$236.50		\$256.50		1.56	
40,000			\$186.00				40,000	\$271.00		\$291.00		1.56	
45,000	\$198.00						45,000	\$305.50		\$325.50		1.56	
50,000							50,000	\$340.00		\$360.00		1.57	
55,000			\$307.00				55,000	\$379.50		\$399.50		1.30	
60,000			\$334.00				60,000	\$419.00		\$439.00		1.31	
65,000			\$361.00				65,000	\$458.50		\$478.50		1.33	
70,000			\$388.00				70,000	\$498.00		\$518.00		1.34	
75,000			\$415.00				75,000	\$537.50		\$557.50		1.34	
80,000	\$432.00	\$10.00	\$442.00				80,000	\$577.00	\$20.00	\$597.00		1.35	

Signature 3	Name : 1	Address (Katy, TX 27494 ar 77450)	Lanail address (1.1.	Phone
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Seegar Thorus	Sogar That	7411 Alder Sprigs!		832-964-717
ASHOR ROHATGE	ASHINE ROMART	7407, ALDER ARINGIA	-ALRI94 496 Malle	-
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Xian ya	Xiaoyu Min	3903 Rivermoss Ln	SUZY_XIQO YNO NOTWOOL.	(312)927-4798
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