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DOCKET NO. 56610

RATEPAYERS' APPEAL OF THE	§	PUBLIC UTILITY COMMISSION
DECISION BY LEROY-TOURS-	§	
GERALD WATER SUPPLY	§	OF TEXAS
CORPORATION TO CHANGE RATES	§	

COMMISSION STAFF'S PROPOSED LIST OF ISSUES

On May 14, 2024, ratepayers (Ratepayers) of Leroy-Tours-Gerald Water Supply Corporation (Leroy-Tours-Gerald WSC) filed an appeal of the decision by Leroy-Tours-Gerald WSC's board of directors to change water rates under Texas Water Code § 13.043(b)(1) and 16 Texas Administrative Code § 24.101(c)(1).

On August 26, 2024, the Office of Policy and Docket Management filed an order requesting lists of issues requiring Ratepayers and Leroy-Tours-Gerald WSC, and allowing the Staff (Staff) of the Public Utility Commission of Texas (Commission) and any other interested party, to file a list of issues by September 16, 2024. Therefore, this pleading is timely filed.

I. PROPOSED LIST OF ISSUES

Staff has identified the following issues to be addressed in this docket:

1. Did the petition appealing the rate change by Leroy-Tours-Gerald WSC follow the requirements of TWC § 13.043(b), (c), and (d); 16 TAC § 24.101(b), (c), and (d); and 16 TAC § 24.103(a) and (b)?
 - a. Was the petition filed within 90 days after the effective date of the rate change pursuant to TWC § 13.043(c) and 16 TAC § 24.101(b)?
 - b. How many ratepayers were affected by such rate change and are eligible to appeal the rate change in accordance with TWC § 13.043(b)(1) and (d) and 16 TAC § 24.101(c)(1) and (d)?
 - c. Did the lesser of 10,000 or 10% of such ratepayers file valid protests to such rate change pursuant to TWC § 13.043(c) and 16 TAC §§ 24.101(b) and 24.103(a) and (b)?
2. Did Leroy-Tours-Gerald WSC provide written notice of the hearing to all affected ratepayers pursuant to 16 TAC § 24.101(c)(6)?
3. Should the Commission establish or approve interim rates to be in effect until a final decision is made pursuant to TWC § 13.043(h) and 16 TAC § 24.101(e)(6) and (h)?

4. Do the retail water rates charged by Leroy-Tours-Gerald WSC fulfill the requirements of TWC § 13.043(j) and 16 TAC § 24.101(i)? In addressing this question, evaluate the following:
 - a. Are the rates just and reasonable?
 - b. Are the rates not unreasonably preferential, prejudicial, or discriminatory?
 - c. Are the rates sufficient, equitable, and consistent in application to each class of customers?
5. If the rates charged by Leroy-Tours-Gerald WSC meet the requirements of TWC § 13.043(j), must this appeal be dismissed?¹

If the rates charged by Leroy-Tours-Gerald WSC do not meet the requirements of TWC § 13.043(j), address the following issues:

6. What information was available to Leroy-Tours-Gerald WSC at the time it made its decision to increase the water utility service rates under TWC § 13.043(e)?
7. Considering only the information available to Leroy-Tours-Gerald WSC at the time of its decision, what are the just and reasonable rates for the district that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory pursuant to TWC § 13.043(e) and (j) and 16 TAC § 24.101(e) and (i)?
 - a. What is the appropriate methodology to determine just and reasonable rates for Leroy-Tours-Gerald WSC?
 - b. What is the revenue requirement that would give Leroy-Tours-Gerald WSC sufficient funds to provide adequate retail water service?
 - c. What is the appropriate allocation of the revenue to customer classes?

¹ See *Tex. Water Comm'n v. City of Fort Worth*, 875 S.W.2d 332, 336 (Tex. App.—Austin 1994). In the *Fort Worth* case, the Austin Court of Appeals found that "the Commission made no finding as to the reasonableness of rates ... which is the initial inquiry under § 13.043(j) defining the scope of agency review." *Id.* at 335. The Court ruled that the scope of appellate review under § 13.043(f) requires an initial determination under § 13.043(j). *Id.* at 336. However, the TWC does not limit the application of subsection (j) to appeals under § 13.043(f). Therefore, the same initial inquiry under subsection (j) must be made in this appeal under § 13.043(b) before the Commission can reset rates; see also *Ratepayers' Appeal of the Decision of Bear Creek Special Utility District to Change Rates*, Docket No. 49351, Order on Rehearing at 9 (Nov. 19, 2021) ("TWC § 13.043(j) and the *City of Fort Worth* decision require the Commission to find that the *rates appealed* under TWC § 13.043 are unreasonably preferential, prejudicial, or discriminatory before setting just and reasonable rates.").

- d. What is the appropriate design of rates for each class to recover Leroy-Tours-Gerald WSC's revenue requirement?
- 8. What are the reasonable expenses incurred by Leroy-Tours-Gerald WSC in this proceeding pursuant to TWC § 13.043(e) and 16 TAC § 24.101(e)(2) and (5)?
 - a. Should the Commission allow recovery of such reasonable expenses?
 - b. If so, what is the appropriate recovery mechanism?
- 9. What is the appropriate effective date of the rates fixed by the Commission in this proceeding pursuant to TWC § 13.043(e) and 16 TAC § 24.101(e)(3)?
- 10. If the Commission establishes rates different than the rates set by Leroy-Tours-Gerald WSC, should the Commission order refunds or allow surcharges to recover lost revenues under TWC § 13.043(e) and 16 TAC § 24.101(e)(4)? If so, what is the appropriate amount and over what time period should the refund or surcharge be in place?

II. ISSUES NOT TO BE ADDRESSED

At this time, Staff has not identified any issues not to be addressed.

III. CONCLUSION

Staff respectfully requests that the issues identified above be included in any Preliminary Order in this proceeding.

Dated: September 16, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 September 16, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Kelsey Daugherty
Kelsey Daugherty