

February 6, 2009

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2009 FEB 6 PM 3:41
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Via Hand Delivery

Texas Commission on Environmental Quality
12100 Park 35 Circle
Building F
Austin, Texas 78753

Re: SOAH Docket No. 582-08-2241
TCEQ Docket No. 2008-0304-UCR

Application of Kendall County Utility Co., Inc. to Change Its Water Rate/Tariff in Kendall County, and

Application of Tapatio Springs Service Co., Inc. to Changes Its Water and Sewer Rates/Tariff in Kendall County

Dear Chief Clerk:

Enclosed please find an original and eight (8) copies of Tapatio Protestants' Motion to Overturn and for Reconsideration in reference to the above matter. Please file-stamp one copy and return it to me with the awaiting courier.

Thank you for your assistance in this matter.

Sincerely,



Alex S. Valdes

ASV/lh

Enclosures

TCEQ APPLICATION NOS. 35933-R, 35934-R, AND 35935-R

2009 FEB 16 PM 3:41

SOAH DOCKET NO. 582-08-2241

CHIEF CLERKS OFFICE

TCEQ DOCKET NO. 2008-0304-UCR

APPLICATION OF KENDALL COUNTY	§	BEFORE THE TEXAS COMMISSION
UTILITY CO., INC TO CHANGE ITS	§	
WATER RATE/TARIFF IN KENDALL	§	
COUNTY, AND	§	
	§	ON
APPLICATION OF TAPATIO SPRINGS	§	
SERVICE CO., INC. TO CHANGE ITS	§	
WATER AND SEWER RATES/TARIFF	§	
IN KENDALL COUNTY	§	ENVIRONMENTAL QUALITY

**TAPATIO PROTESTANTS' MOTION TO OVERTURN
AND FOR RECONSIDERATION**

Comes now Tapatio Springs Homeowners Association and Tapatio Ridge Homeowners Association (collectively, "Tapatio"), who hereby file this motion to overturn the December 29, 2008 decision of the Executive Director ("ED") regarding applications by Kendall County Utility Company and Tapatio Springs Service Co., Inc. (collectively "KCUC") for an increase in retail water and sewer rates and for tariff changes in Kendall County, Texas (the "Applications"):

I. BACKGROUND

On December 28, 2007, KCUC filed the Applications with the Texas Commission on Environmental Quality ("Commission"), which were assigned Application Nos. 35933-R, 35934-R, and 35935-R. The Commission subsequently received a request for a public hearing on the Applications from more than ten percent of KCUC's customers. Following mediation and discovery, the parties to the above-referenced matter, consisting of KCUC, Tapatio, the ED, and the Public Interest Counsel of the Commission, reached a

settlement. KCUC then requested that the case be remanded to the ED. Thereafter, the ALJ dismissed the matter from SOAH's docket and remanded it to the ED.

On December 29, 2008, the ED issued the Order attached hereto as Exhibit A. The tariff attached to the Order and incorporated therein does not accurately reflect the parties' settlement agreement insofar as the tariff provides for rate case expense surcharges of an equal amount per connection to the water and sewer customers of KCUC. Rather, the tariff should have provided for proportionate charges for recovery of the rate case expenses. A copy of the settlement agreement containing the parties' agreement pertaining to recovery of rate case expenses is attached hereto as Exhibit B.

The rate case expense recovery provision is as follows:

The Utility may recover its rate case expenses up to and through September 16, 2008 (bills for rate case expenses received by the Utility as of August 29, 2008, total \$81,547.77), as a surcharge on the first twelve monthly invoices sent by the Utility after the issuance of the TCEQ order adopting the requested rates, as revised in accordance with this Settlement Agreement. Those surcharges will be in equal amounts, and each equivalent dwelling unit as calculated in conformance with the Utility's tariff and the TCEQ's regulations, will be charged its proportionate amount of the total of the rate case expenses.

Following issuance of the ED's Order, the parties submitted a proposed amendment to the Order. A copy of the amendment is attached hereto as Exhibit C. To date, the Order has not been amended.

II. ARGUMENT AGAINST DECISION

The tariff does not accurately reflect the parties' agreement because it does not charge each equivalent dwelling unit a proportionate amount of the total of the rate case expenses. Thus, the tariff should be amended as follows:

First Amendment: On page 2 of the Water Utility Tariff for Kendall County Utility Company, Inc., the rate case expense surcharge was incorrectly presented:

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. until the total amount of \$101.686.75 is collected.

and should be amended to read:

Rate Case Expense Surcharge: Each water and each sewer customer of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. will be charged according to the size of their water meter and/or sewer connection until the total amount of \$101.686.75 is collected.

Water meter size	Surcharge Amount
5/8	\$5.91
1	\$14.78
1 1/2	\$29.57
2	\$47.31
3	\$88.70
4	\$118.27

Sewer Connection	Surcharge Amount
Single family residences or business equivalents	\$5.91
Commercial - Tapatio Springs Club	\$35.48
Commercial - Tapatio Springs Hotel	\$43.76
Commercial - Tapatio Springs Offices	\$59.13
Ridge View Condos 33 units	\$65.05

Second Amendment: On page 2 of the Water Utility Tariff for Tapatio Springs Service Company, Inc., the rate case expense surcharge was incorrectly presented:

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. until the total amount of \$101.686.75 is collected.

and should be amended to read:

Rate Case Expense Surcharge: Each water and each sewer customer of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. will be charged according to the size of their water meter and/or sewer connection until the total amount of \$101.686.75 is collected.

Water meter size	Surcharge Amount
5/8	\$5.91
1	\$14.78

1 1/2	\$29.57
2	\$47.31
3	\$88.70
4	\$118.27

Sewer Connection	Surcharge Amount
Single family residences or business equivalents	\$5.91
Commercial - Tapatio Springs Club	\$35.48
Commercial - Tapatio Springs Hotel	\$43.76
Commercial - Tapatio Springs Offices	\$59.13
Ridge View Condos 33 units	\$65.05

Third Amendment: On page 2 of the Sewer Utility Tariff for Tapatio Springs Service Company, Inc., the rate case expense surcharge was incorrectly presented:

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. until the total amount of \$101.686.75 is collected.

and should be amended to read:

Rate Case Expense Surcharge: Each water and each sewer customer of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. will be charged according to the size of their water meter and/or sewer connection until the total amount of \$101.686.75 is collected.

Water meter size	Surcharge Amount
5/8	\$5.91
1	\$14.78
1 1/2	\$29.57
2	\$47.31
3	\$88.70
4	\$118.27

Sewer Connection	Surcharge Amount
Single family residences or business equivalents	\$5.91
Commercial - Tapatio Springs Club	\$35.48
Commercial - Tapatio Springs Hotel	\$43.76
Commercial - Tapatio Springs Offices	\$59.13
Ridge View Condos 33 units	\$65.05

Fourth Amendment: On page 2 of the Sewer Utility Tariff for Kendall County Utility Company, Inc., the rate case expense surcharge was incorrectly presented:

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. until the total amount of \$101,686.75 is collected.

and should be amended to read:

Rate Case Expense Surcharge: Each water and each sewer customer of Kendall County Utility Company, Inc. and Tapatio Springs Service Co., Inc. will be charged according to the size of their water meter and/or sewer connection until the total amount of \$101,686.75 is collected.

Water meter size	Surcharge Amount
5/8	\$5.91
1	\$14.78
1 1/2	\$29.57
2	\$47.31
3	\$88.70
4	\$118.27

Sewer Connection	Surcharge Amount
Single family residences or business equivalents	\$5.91
Commercial - Tapatio Springs Club	\$35.48
Commercial - Tapatio Springs Hotel	\$43.76
Commercial - Tapatio Springs Offices	\$59.13
Ridge View Condos 33 units	\$65.05

The foregoing amendments conform to the parties' settlement agreement insofar as it pertains to rate case expense surcharges. Accordingly, Tapatio requests that the ED's decision pertaining to the Order and tariff be reconsidered, overturned, and issued with the proposed amendments.

PRAYER

The Tapatio Protestants pray that this Motion to Overturn and Reconsider be granted, and that the ED's Order/tariff be amended to accurately reflect the parties' agreement with regard to rate case expenses.

By: 
Alex S. Valdes SBN 24037626
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Austin, Texas 78701
512/370-2800 telephone
512/370-2850 telecopier

Will C. Jones IV SBN 10964570
THE JONES LAW FIRM
1201 Rio Grande, Suite 100
Austin, Texas 78701
512/391-9292 telephone
866/511-5961 telecopier

**ATTORNEYS FOR TAPATIO SPRINGS
HOME OWNERS ASSOCIATION AND
TAPATIO RIDGE HOME OWNERS
ASSOCIATION (TAPATIO
PROTESTANTS)**

CERTIFICATE OF CONFERENCE

By my signature below, I certify that, on February 6, 2009, I conferred with Maria Sanchez, counsel for KCUC, regarding the relief sought by this motion. Ms. Sanchez represented that KCUC is not opposed to requested amendments to the tariff.



Alex S. Valdes

CERTIFICATE OF SERVICE

By my signature below, I certify that a true and correct copy of the foregoing was served on the following parties on February 6, 2009, via First-Class US Mail, unless otherwise noted below:

Via Facsimile and E-Mail
Patrick Lindner
Maria Sanchez
Davidson & Troilo
7550 IH-10 West
Northwest Center, Suite 800
San Antonio, Texas 78229

Christina Mann
Texas Commission on Environmental
Quality
Office of Public Interest Counsel
P.O. Box 13087, MC-103
Austin, Texas 78711-3087

Eric Sherer
Attorney at Law
11124 Wurzbach Road
San Antonio, Texas 78230

Shana Horton, Attorney
Texas Commission on Environmental
Quality
P.O. Box 13087, MC-175
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Michael A. Guevara
311 620 S., Suite 103
Austin, Texas 78734



Alex S. Valdes

CHIEF CLERKS OFFICE

2009 FEB . 6 PM 3:42

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY



SOAH DOCKET NO. 582-08-2241
TCEQ DOCKET NO. 2008-0304-UCR
APPLICATIONS NOS. 35933-R, 35934-R, and 35935-R

APPLICATION OF KENDALL COUNTY § BEFORE THE TEXAS COMMISSION
UTILITY CO., INC., TO CHANGE ITS §
WATER RATE/TARIFF IN KENDALL §
COUNTY, AND APPLICATION OF §
TAPATIO SPRINGS SERVICE CO., INC., § ON
TO CHANGE ITS WATER AND SEWER §
RATES/TARIFFS IN KENDALL COUNTY § ENVIRONMENTAL QUALITY

ORDER

Applications by Kendall County Utility Company, Inc., for an increase in its retail water rates and for tariff changes in Kendall County and by Tapatio Springs Service Co., Inc., for an increase in its retail water and sewer rates and for tariff changes in Kendall County, Texas, (Applications) were presented to the Executive Director (ED) of the Texas Commission on Environmental Quality (Commission) for approval, pursuant to section 5.122 of the Texas Water Code (Code). Kendall County Utility Company, Inc., acquired Tapatio Springs Service Co., Inc., after the applications were filed. Therefore, the applications were consolidated for processing. The utilities will be referred to together in this Order as the "Applicant" and the Order shall apply to Kendall County Utility Company, Inc., Tapatio Springs Service Co., Inc. The Applicant provides water and sewer service in Kendall County, Texas, and is a public utility as defined in section 13.002(23) of the Code.

On December 28, 2007, the Applicant filed the Applications with the Commission, which were assigned Application Nos. 35933-R, 35934-R, and 35935-R. Notice of the rate change with

Exhibit A

a proposed effective date of March 1, 2008, was provided to the customers on December 28, 2007, by the Applicant. The notice of the rate increase complied with the notice requirements of section 13.187 of the Code and Title 30, section 291.22 of the Texas Administrative Code and was sufficient to place affected persons on notice regarding the proposed rate increase. The Commission received requests for a public hearing on the application from more than 10% of the customers.

The Honorable Catherine C. Egan, an administrative law judge (ALJ) of the State Office of Administrative Hearings (SOAH), conducted a preliminary hearing on May 6, 2008, in Austin, Texas. The ALJ took jurisdiction over the case and designated the following parties: the Applicant, the ED; the Public Interest Counsel of the Commission; and protestants Ranger Creek Home Owners Association, Ridge View Condominium Home Owners Association, and Tapatio Springs Home Owners Association and Tapatio Ridge Home Owners Association. Ranger Creek Home Owners Association and Ridge View Condominium Home Owners Association withdrew as parties to the case. The remaining parties entered into settlement negotiations and reached a settlement in the matter. The Applicant asked that the case be remanded to the ED, pursuant to Title 30, section 80.101 of the Texas Administrative Code. Therefore, on October 2, 2008, the ALJ dismissed the matter from SOAH's docket and remanded it to the ED.

The rate structure requested by the Applicant is just and reasonable and adequate to allow the utility to recover its cost of providing water and sewer service, as required by sections 13.182 and 13.183 of the Code. Attached is a tariff reflecting the requested rates.

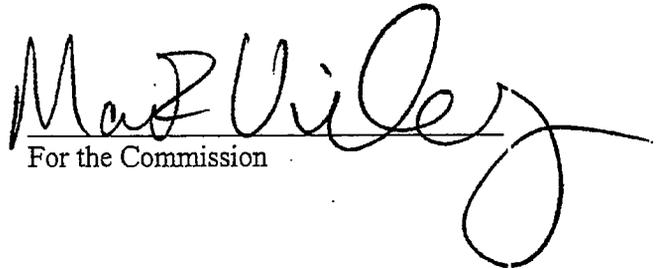
NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. A rate increase for the applicant is approved as listed on the attached rate tariff, effective October 14, 2008.

2. Unless previously provided the applicant, shall provide written notice of the final rate structure approved in this proceeding to all affected customers with the next billing cycle after issuance of this Order.
3. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order and tariff to the parties.
4. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: **DEC 29 2008**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY


For the Commission

**WATER UTILITY TARIFF
FOR**

Kendall County Utility Company, Inc.
(Utility Name)

P.O. Box 1335
(Business Address)

Boerne, Texas 78006
(City, State, Zip Code)

(830) 537-5755
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

11904

This tariff is effective in the following county:

Kendall

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions and public water systems:

Cibolo Oaks, Cibolo Oaks Landing, Green Acres Ranger Creek and Townsend.: (PWS 1300033)
Tapatio Springs, Tapatio Springs Country Club and The Ridge: (PWS 1300025)

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -- RATE SCHEDULE	2
SECTION 2.0 -- SERVICE RULES AND POLICIES	4
SECTION 3.0 -- EXTENSION POLICY	9
SECTION 4.0 -- DROUGHT CONTINGENCY PLAN	11
APPENDIX A -- SAMPLE SERVICE AGREEMENT	
APPENDIX B -- APPLICATION FOR SERVICE	

TEXAS COMM. ON ENVIRONMENTAL QUALITY
35933-R, CCN 11904, OCTOBER 14, 2008
APPROVED TARIFF BY SAI 30

SECTION 1.0 – RATE SCHEDULE (Continued)

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly</u>	<u>Minimum Charge</u>	<u>Gallonge Charge</u>
5/8" or 3/4"		\$28.91 (Includes 0 gallons)	\$4.72 per 1,000 gallons
3/4"		\$28.91	
1"		\$72.28	
1½"		\$144.55	
2"		\$231.28	
3"		\$433.65	
4"		\$578.20	

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order X, Credit Card , Other (specify)
 THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co. Inc. until the total amount of \$101,686.75 is collected.

REGULATORY ASSESSMENT 1.0%
 TCEQ RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL.

Section 1.02 - Miscellaneous Fees

TAP FEE \$400.00
 TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Unique costs) Actual Cost
 FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large meter) Actual Cost
 TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

METER RELOCATION FEE Actual Relocation Cost, Not to Exceed Tap Fee
 THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

METER TEST FEE \$25.00
 THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

RATES LISTED ARE EFFECTIVE ONLY
 IF THIS PAGE HAS TCEQ APPROVAL STAMP

SECTION 1.0 -- RATE SCHEDULE (Continued)

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non payment of bill (Maximum \$25.00)\$25.00
- b) Customer's request that service be disconnected\$35.00

TRANSFER FEE\$35.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL).....\$5.00

TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE.....\$25.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)\$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT 1/6TH OF ESTIMATED ANNUAL BILL

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE:

WHEN AUTHORIZED IN WRITING BY TCEQ AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [30 TAC 291.21(K)(2)]

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

PURCHASED WATER AND/OR DISTRICT FEE PASS THROUGH CLAUSE:

The utility may pass on to each affected customer an increase or decrease in any fixed fee and/or consumption-based fee from the Guadalupe-Blanco River Authority, Cow Creek Groundwater Conservation District and/or other such governmental authority shall be passed through to all customers affected by such fees using the following calculations.

Fixed Charge:

Monthly Minimum Charge + (Annual Fee ÷ Numbers of Customers Affected ÷ 12 months)

Volume Charge:

Monthly Gallonage Charge per 1000 gallons + (Increase or Decrease in Pumpage Fee x 1.15)

Any change in the utility's cost attributable to the Guadalupe-Blanco River Authority, Cow Creek Groundwater Conservation District and/or other such government authority shall go into affect thirty days after notice to all customers subject to TCEQ filings required in 30 TAC 291.21(1).

RATES LISTED ARE EFFECTIVE ONLY

IF THIS PAGE HAS TCEQ APPROVAL STAMP

SECTION 1.0 – RATE SCHEDULE (Continued)

Section 1.01 - Rates

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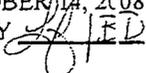
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 THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

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 THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

RATES LISTED ARE EFFECTIVE ONLY
 IF THIS PAGE HAS TCEQ APPROVAL STAMP

TEXAS COMM. ON ENVIRONMENTAL QUALITY
 35934-R, CCN 12122, OCTOBER 14, 2008
 APPROVED TARIFF BY 

SECTION 1.0 -- RATE SCHEDULE (Continued)

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- a) Non payment of bill (Maximum \$25.00)..... \$25.00
- b) Customer's request that service be disconnected \$35.00

TRANSFER FEE \$35.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL)..... \$5.00

TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE..... \$25.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50) \$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT 1/6TH OF ESTIMATED ANNUAL BILL

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WHEN AUTHORIZED IN WRITING BY TCEQ AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [30 TAC 291.21(K);2]

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

PURCHASED WATER AND/OR DISTRICT FEE PASS THROUGH CLAUSE:

The utility may pass on to each affected customer an increase or decrease in any fixed fee and/or consumption-based fee from the Guadalupe-Blanco River Authority, Cow Creek Groundwater Conservation District and/or other such governmental authority shall be passed through to all customers affected by such fees using the following calculations.

Fixed Charge:

Monthly Minimum Charge + (Annual Fee ÷ Numbers of Customers Affected ÷ 12 months)

Volume Charge:

Monthly Gallonage Charge per 1000 gallons + (Increase or Decrease in Pumpage Fee x 1.15)

Any change in the utility's cost attributable to the Guadalupe-Blanco River Authority, Cow Creek Groundwater Conservation District and/or other such government authority shall go into affect thirty days after notice to all customers subject to TCEQ filings required in 30 TAC 291.21(1).

RATES LISTED ARE EFFECTIVE ONLY
IF THIS PAGE HAS TCEQ APPROVAL STAMP

**SEWER UTILITY TARIFF
FOR**

Tapatio Springs Service Company, Inc.
(Utility Name)

P.O. Box 335
(Business Address)

Boerne, Texas 78006
(City, State, Zip Code)

(830) 537-4755
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

20698

This tariff is effective in the following county:

Kendall

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions or systems:

Tapatio Springs: WQ0012404-001

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SECTION 1.0 - RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly</u>	<u>Minimum Charge</u>	<u>Gallonage Charge</u>
5/8" or 3/4"		\$33.00 (Includes 0 gallons)	\$5.01 per 1,000 gallons
3/4"		\$33.00	
1"		\$82.50	
1 1/2"		\$165.00	
2"		\$264.00	
3"		\$495.00	
4"		\$660.00	

Volume charges are determined based on an average consumption for winter period which includes the following months: December, January, & February

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order X, Credit Card , Other (specify)
 THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co. Inc. until the total amount of \$101,686.75 is collected.

REGULATORY ASSESSMENT..... 1.0%
 TCEQ RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL.

Section 1.02 - Miscellaneous Fees

TAP FEE.....\$400.00
 TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL CONNECTION. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Large Connection Tap).....Actual Cost
 TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR TAP SIZE INSTALLED.

RATES LISTED ARE EFFECTIVE ONLY
 IF THIS PAGE HAS TCEQ APPROVAL STAMP

TEXAS COMM. ON ENVIRONMENTAL QUALITY
 35935-R, CCN 20698, OCTOBER 14, 2008
 APPROVED TARIFF BY

SECTION 1.0 - RATE SCHEDULE

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non payment of bill (Maximum \$25.00).....\$25.00
- b) Customer's request that service be disconnected\$35.00

TRANSFER FEE\$35.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL)\$5.00

TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE\$25.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50).....\$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT 1/6TH OF ESTIMATED ANNUAL BILL

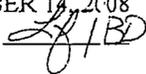
GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE:

WHEN AUTHORIZED IN WRITING BY TCEQ AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [30 TAC 291.21(K)(2)]

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

RATES LISTED ARE EFFECTIVE ONLY
IF THIS PAGE HAS TCEQ APPROVAL STAMP

TEXAS COMM. ON ENVIRONMENTAL QUALITY
35935-R, CCN 20698, OCTOBER 14, 2008
APPROVED TARIFF BY 

**SEWER UTILITY TARIFF
FOR**

Kendall County Utility Company, Inc.
(Utility Name)

P.O. Box 1335
(Business Address)

Boerne, Texas 78006
(City, State, Zip Code)

(830) 537-5755
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

21003

This tariff is effective in the following county:

Kendall

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions or systems:

Tapatio Springs: WQ0012404-001

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -- RATE SCHEDULE.....	2
SECTION 2.0 -- SERVICE RULES AND POLICIES	4
SECTION 3.0 -- EXTENSION POLICY	9
APPENDIX A -- SAMPLE SERVICE AGREEMENT	
APPENDIX B -- APPLICATION FOR SERVICE	

SECTION 1.0 - RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly</u>	<u>Minimum Charge</u>	<u>Gallage Charge</u>
5/8" or 3/4"		\$33.00 (Includes 0 gallons)	\$5.01 per 1,000 gallons
3/4"		\$33.00	
1"		\$82.50	
1 1/2"		\$165.00	
2"		\$264.00	
3"		\$495.00	
4"		\$660.00	

Volume charges are determined based on an average consumption for winter period which includes the following months: December, January, & February

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X, Check X, Money Order X, Credit Card , Other (specify)
THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

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REGULATORY ASSESSMENT 1.0%
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LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

RATES LISTED ARE EFFECTIVE ONLY
IF THIS PAGE HAS TCEQ APPROVAL STAMP

TEXAS COMM. ON ENVIRONMENTAL QUALITY
35935-R, CCN 21003, OCTOBER 14, 2008
APPROVED TARIFF BY *[Signature]* /BD

JOHN W. DAVIDSON
ARTHUR TROILO
TERRY TOPHAM
CHERCE TULL KINZIE
R. GAINES GRIFFIN
RICHARD E. HETTINGER
PATRICK W. LINDNER
IRWIN D. ZUCKER
RICHARD D. O'NEIL
J. MARK CRAUN

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SAN ANTONIO OFFICE
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210/349-8484 • FAX: 210/349-0041

September 26, 2008

Catherine C. Egan, ALJ
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

Re: **SOAH Docket No. 582-08-2241; TCEQ Docket No. 2008-0304-UCR;
Application of Kendall County UtilityCo. Inc. to Change its Water and
Sewer Rates in Kendall County, Texas**

Dear Judge Egan:

Please be advised that Kendall County Utility Company, Inc., the Tapatio Springs Homeowners Association and Tapatio Ride Homeowners Association have reached a settlement agreement. While the Executive Director and the Office of Public Interest Counsel have not signed the agreement, they do not oppose the attached settlement agreement. Kendall County Utility Company, Inc. requests that this matter be remanded to the Executive Director for administrative approval. Thanks for your attention to this matter.

Sincerely,


Maria Sánchez

Enclosure

cc: Service List

EXHIBIT B

SOAH DOCKET NO. 582-08-2241
TCEQ DOCKET NO. 2008-0304-UCR

APPLICATION OF KENDALL COUNTY § BEFORE THE STATE OFFICE
UTILITY CO., INC., TO CHANGE ITS §
WATER RATE/TARIFF IN KENDALL §
COUNTY, AND §
§ OF
APPLICATION OF TAPATIO SPRINGS §
SERVICE CO., INC., TO CHANGE ITS §
WATER AND SEWER RATES/TARIFF §
IN KENDALL COUNTY § ADMINISTRATIVE HEARINGS

SETTLEMENT AGREEMENT

WHEREAS, Kendall County Utility Company, Inc., and Tapatio Springs Service Co., Inc. (which may be collectively referred to herein as the "Utility") and Tapatio Springs Homeowners Association and Tapatio Ridge Homeowners Association (which may be collectively referred to herein as the "Ratepayers") have agreed to terms and wish to resolve the subject rate case; and

WHEREAS, the Utility and the Ratepayers desire to record that agreement and to request that the rate increase and rates requested by the Utility be revised in accordance with this Settlement Agreement and that the Utility, Ratepayers, Executive Director and Public Interest Counsel of the Texas Commission on Environmental Quality (the "TCEQ") do not object to an order remanding this matter to the Executive Director for issuance of an order adopting the requested revisions to the Utility's tariff, as revised in accordance with this Settlement Agreement;

NOW, THEREFORE, the Utility and the Ratepayers set forth the terms of this Settlement Agreement, and subject to those terms and conditions, the Utility agrees to the rates set forth in this Settlement Agreement and Ratepayers agree to dismiss with prejudice the Ratepayers' protest of the rate filing and all other matters between the parties:

1.1. The combined increase for water and sewer will be decreased by \$100,000 from the \$505,000 increase requested by the Utility in its Rate/Tariff Change Application for CCN's Nos. 11904, 12122 and 20698 in Kendall County, Texas, which application was filed on or about December 28, 2007.

1.2. The rates to be charged by the Utility beginning with its next billing cycle after issuance of the TCEQ order approving the requested rates, as revised in accordance with this Settlement Agreement, are shown on Exhibit A; provided, however, if the Executive Director of the TCEQ determines that the rates shown on Exhibit A violate TCEQ rules, then upon notice to that effect from the TCEQ, the Utility and the Ratepayers agree to

negotiate such amendments to Exhibit A as may be necessary to comply with the TCEQ rules and to recover the annual revenue increase as stated in Paragraph 1.1 above.

1.3 The Utility will refund the actual amount overcollected from each ratepayer, including not only the ratepayers associated with the two homeowners' associations but also all other customers of the Utility. That refund will be made in equal parts, the number of which will not exceed the number of full calendar months that occur between March 1, 2008, and the first billing date that occurs after the issuance of the above-referenced TCEQ order. Those refund credits will begin on the first billing date that occurs after the issuance of the above-referenced TCEQ order and will continue on the consecutive monthly billings until the full refund has been given to ratepayers who paid the overcollected amount.

1.4 The Utility may recover its rate case expenses up to and through September 16, 2008 (bills for rate case expenses received by the Utility as of August 29, 2008, total \$81,547.77), as a surcharge on the first twelve monthly invoices sent by the Utility after the issuance of the TCEQ order adopting the requested rates, as revised in accordance with this Settlement Agreement. Those surcharges will be in equal amounts, and each equivalent dwelling unit as calculated in conformance with the Utility's tariff and the TCEQ's regulations, will be charged its proportionate amount of the total of the rate case expenses.

1.5 The Utility will notify Mr. Bill Weidler, a representative of the committee of members from both Ratepayers that has been supervising this litigation (the "Water Committee"), before sending the first invoice that shows each of the amounts as specified in Paragraphs 4 and 5 above and will show him how the refund and surcharge were calculated and how they will be shown on the bills.

1.6 Subject to the Ratepayers' agreement to pay for one-half of the cost of same, the Utility will have its financial statements audited by a qualified Certified Public Accountant with recent, relevant experience before it requests another rate/tariff increase, which will not be before the earlier of (i) August 1, 2010, or (ii) the date that the pipeline that is needed to bring the reserved Guadalupe-Blanco River Authority surface water to the utility's service area (the "GBRA pipeline") has been completed and is in operation and delivering water to the Utility's CCN's Nos. 11904 and 12122. If the Ratepayers pay for their portion of the audit, those audited financials will be used to support the rate increase request, to the extent consistent with TCEQ rules and practices (for example, TCEQ requires straight line depreciation, and GAAP allows other types of depreciation). The Ratepayers shall pay to the Utility the Ratepayers' one-half of the cost of the audit within thirty (30) days after they receive a written copy of the final, completed audit. If the Utility audits its financial statements before that time, it will give the Ratepayers a copy of the auditor's report before it files its request for a rate increase.

1.7 In addition to submitting this signed Settlement Agreement to the Administrative Law Judge assigned to this case, the Utility and the Ratepayers agree to make any additional filings that may be necessary to implement this Settlement Agreement,

including, but not limited to, revised pages to the tariff for TCEQ approval. Except as stated in paragraph 1.2 above and Exhibit A, which sets forth the monthly base rate and gallonage charge, all other requested changes to the Utility's tariffs are accepted by the Ratepayers.

MISCELLANEOUS

2.1 Execution. This Agreement may be executed in any number of counterparts, each of which will serve as an original and will constitute one and the same instrument. The signatory represents that he or she is duly elected and authorized to execute this Agreement in the capacity recited herein.

2.2 Costs and Expenses. Except as otherwise expressly provided herein, the parties will be responsible for their own costs and expenses incurred in connection with this Agreement.

2.3 Governing Law. This Agreement will be governed by the Constitution and laws of the State of Texas, except as to matters exclusively controlled by the Constitution and Statutes of the United States of America.

2.4 Successors and Assigns. This Settlement Agreement shall be binding upon the successors and assigns of the Utility and the two Ratepayers.

2.5 Amendments. This Agreement may be amended or modified only by written agreement executed by the duly authorized representatives of both the Utility and the Ratepayers.

2.6 Cooperation. Each party agrees to execute and deliver all such other and further instruments and to undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

2.7 Venue. Except as specifically precluded by Texas statute, all obligations of the Parties are performable in Kendall County, Texas, and the parties agree that the exclusive venue for any action arising hereunder will be in Kendall County, Texas.

2.8 Exhibits. All exhibits referenced in this Agreement are hereby incorporated in this Agreement for all purposes as if the same were set forth in full in the body of this Agreement.

2.9 Entire Agreement. This Agreement, including the attached exhibits, contains the entire agreement between the parties with respect to subject rate/tariff increase and supersedes all previous communications, representations, or agreements, either verbal or written, between the parties with respect to such matters.

2.10 Time of the Essence. Time is of the essence in all matters related to this Agreement.

2.11 Release. Each of the Utility and the Ratepayers, for itself and its respective subsidiaries, parent company/entity, personal representatives, shareholders, directors, officers, partners, affiliates, administrators, successors, agents, attorneys, assigns of each of them, their heirs, beneficiaries, assigns, representative, agents and descendants, hereby forever release and discharge the others, individually, and in all capacities, and their respective heirs, personal representatives, executors, affiliates, officers, directors, partners, administrators, successors, agents, attorneys, and assigns of and from any and all liabilities, claims, and causes of action in any way related to the subject application to change the rate/tariff.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be signed by their duly authorized officers, and it is effective as of 17 September 2008.

KENDALL COUNTY UTILITY COMPANY

By: 
John J. Parker, President

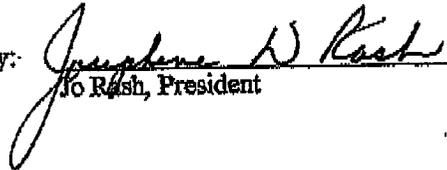
TAPATIO SPRINGS SERVICE CO., INC.

By: 
John J. Parker, President

TAPATIO SPRINGS HOMEOWNERS ASSOCIATION

By: 
Bill Weidler, President

TAPATIO RIDGE HOMEOWNERS ASSOCIATION

By: 
Jo Rash, President

We have reviewed this Settlement Agreement under the applicable legal authorities controlling water and sewer rates and state that we have no

EXHIBIT A

Water Rates - Settlement

Monthly base rate including 0 gallons

Meter Size:

5/8" x 3/4"	\$	28.91
3/4"	\$	28.91
1"	\$	72.28
1 1/2"	\$	144.55
2"	\$	231.28
3"	\$	433.65
4"	\$	578.20

Gallonage Charge:

\$ 4.72 per 1000 gallons for all usage

WATER REVENUE PROOF:	
Settlement Volume Charge	\$ 4.72
Annual Volume	101,043,000
Settlement Volume Revenue	\$ 476,923
Settlement Charge per Equiv Meter	\$ 28.91
# Equivalent Meters	1,087
Total Annual Base Revenues	\$ 377,102
Settlement Volume Revenues	\$ 476,923
Settlement Base Revenues	\$ 377,102
Settlement Total Water Rate Rev.	\$ 854,025
Water Rate Rev Proposed In Appl	\$ 904,029
Less: Settlement Revenues	(854,025)
Reduction in Water Revenues	\$ 50,004

EXHIBIT A

Sewer Rates - Settlement

Monthly base rate including 0 gallons

Meter Size:

5/8" x 3/4"	\$	33.00
3/4"	\$	33.00
1"	\$	82.50
1 1/2"	\$	165.00
2"	\$	264.00
3"	\$	495.00
4"	\$	660.00

Gallage Charge:

\$ 5.01 per 1000 gallons for all usage

SEWER REVENUE PROOF:	
Settlement Volume Charge	\$ 5.01
Annual Volume	11,901,000
Settlement Volume Revenue	\$ 59,624
Settlement Charge per Equiv Meter	\$ 33.00
# Equivalent Meters	346
Total Annual Base Revenues	\$ 136,818
Settlement Volume Revenues	\$ 59,624
Settlement Base Revenues	\$ 136,818
Settlement Total Sewer Rate Rev.	\$ 196,442
Water Rate Rev Proposed in Appl	\$ 246,411
Less: Settlement Revenues	\$ (196,442)
Reduction in Sewer Revenues	\$ 49,969

PAGE 2 OF 2

Currently

Rate Case Expense Surcharge: \$8.37 per month per connection will be charged to each water and sewer customers of Kendall County Utility Company, Inc. and Tapatio Springs Service Co. Inc. until the total amount of \$101,686.75 is collected.

Proposed

of each 1/1m 3/14

Rate Case Expense Surcharge: Each water and sewer customer of Kendall County Utility Company, Inc. and Tapatio Springs Service Co. Inc. will be charged according to the size of their water meter or sewer connection until the total amount of \$101,686.75 is collected.

of and 1/1m 3/14

Water meter size	Surcharge Amount
5/8	\$5.91
1	\$14.78
1 1/2	\$29.57
2	\$47.31
3	\$88.70
4	\$118.27

Sewer Connection	Surcharge Amount
Single family residences or business equivalents	\$5.91
Commercial - Tapatio Springs Club	\$35.48
Commercial - Tapatio Springs Hotel	\$43.76
Commercial - Tapatio Springs Offices	\$59.13
Ridge View Condos 33 units	\$65.05

Shana L. Horton 1/27/09
Maria Sanchez 1/27/09
Nu Quisto 1/27/09
Vic Mankute (OPIC) 1/27/09