

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

February 2, 2010

Les Trobman, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

VIA FACSIMILE(512)239-5533

Re: SOAH Docket No. 582-08-1023; TCEQ Docket No. 2007-1867-UCR; In Re: Application for a Water Rate/Tariff Change of Texas Landing Utilities, Certificate of Convenience and Necessity No. 11997 in Polk County, Application No. 35838-R and Conveyance and Necessity No. 20569 in Polk County, Application No. 35840-R

Dear Mr. Trobman:

I have read the exceptions to the proposal for decision (PFD) and proposed order, which are pending before the Texas Commission on Environmental Quality. Having reviewed the exceptions submitted by the applicant Texas Landing Utilities (TLU), the protestant Texas Landing Property Owners' Association (TLPOA), the Executive Director (ED), and the Office of Public Interest Counsel, and the replies to the exceptions submitted by TLU, TLPOA, and the ED, I do not wish to make any substantive changes to the PFD or proposed order.

Based on the ED's and TLU's exceptions to the proposed order, I am making the following changes, however, to findings of fact nos. 28 and 46 and conclusion of law no. 15:

- FOF 28. TLU's consolidated water rate schedule tariff will promote water conservation by including a gallonage charge of ~~\$2.42~~ \$2.36 for each additional 1,000 gallons above the minimum which requires ratepayers to pay more as their consumption increases.
- FOF 46. Using the rate of return of 9.48%, TLU's return on its total invested capital of ~~\$162,933~~ \$162,935 for water is \$15,446.
- COL 15. The rates and gallonage charges set forth in Finding of Fact No. ~~52~~ 53 are just and reasonable; are not unreasonably preferential, prejudicial, or discriminatory; and are sufficient, equitable and consistent in application in accordance with TEX. WATER CODE ANN. § 13.182.

Sincerely,

Katherine L. Smith
Katherine L. Smith
Administrative Law Judge

CHIEF CLERKS OFFICE
 20 FEB -2 PM 1:21
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

KLS/Ls
cc: Mailing List

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
300 West 15th Street Suite 502
Austin, Texas 78701
Phone: (512) 475-4993
Fax: (512) 475-4994

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)
STYLE/CASE: TEXAS LANDING UTILITIES
SOAH DOCKET NUMBER: 582-08-1023
REFERRING AGENCY CASE: 2007-1867-UCR

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 FEB -2 PM 1:22
CHIEF CLERKS OFFICE

STATE OFFICE OF ADMINISTRATIVE
HEARINGS

ADMINISTRATIVE LAW JUDGE
ALJ KATHERINE L. SMITH

REPRESENTATIVE / ADDRESS

PARTIES

DOCKET CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OFFICE OF THE CHIEF CLERK
PO BOX 13087
AUSTIN, TX 78711
(512) 239-3300 (PH)
(512) 239-3311 (FAX)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

LES TROBMAN
GENERAL COUNSEL
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
MC-101 P.O. BOX 13087
AUSTIN, TX 78711-3087

(512) 239-5533 (FAX)

TCEQ EXECUTIVE DIRECTOR

RON OLSON
STAFF ATTORNEY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
ENVIRONMENTAL LAW DIVISION
P.O. BOX 13087, MC-173
AUSTIN, TX 78711-3087
(512) 239-0608 (PH)
(512) 239-0606 (FAX)
rolson@tceq.state.tx.us

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

BILL BRYAN
235 BRANDING IRON
LIVINGSTON, TX 77351
(936) 321-6758 (PH)

TEXAS LANDING PROPERTY OWNERS ASSOCIATION

ELI MARTINEZ
PUBLIC INTEREST COUNSEL
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
12100 PARK 35 CIRCLE, MC-103, BUILDING F
AUSTIN, TX 78753
(512) 239-6363 (PH)
(512) 239-6377 (FAX)
elmartin@tccq.state.tx.us

OFFICE OF PUBLIC INTEREST COUNSEL

DAVID VEINOTTE
174 BUFFALO CT
LIVINGSTON, TX 77351
(936) 566-5566 (PH)

TEXAS LANDING PROPERTY OWNERS ASSOCIATION

JOHN STACEY
154 BUFFALO CT.
LIVINGSTON, TX 77351
(936) 566-5994 (PH)

TEXAS LANDING PROPERTY OWNERS ASSOCIATION

GEOFFREY P KIRSHBAUM
ATTORNEY AT LAW
THE TERRILL FIRM, P.C.
810 WEST 10TH STREET
AUSTIN, TX 78701
(512) 474-9100 (PH)
(512) 474-9888 (FAX)

TEXAS LANDING UTILITIES

MICHAEL DEITCH
LAW OFFICES OF MICHAEL DEITCH
800 RIO GRANDE
AUSTIN, TX 78701
(512) 474-1554 (PH)
(512) 474-1579 (FAX)

TEXAS LANDING PROPERTY OWNERS ASSOCIATION

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 FEB -2 PM 1:22
CHIEF CLERKS OFFICE

xc: Docket Clerk, State Office of Administrative Hearings