

April 23, 2010

2010 APR 23 AM 10:10

CHIEF CLERKS OFFICE

The Honorable Rebecca S. Smith
Administrative Law Judge
State Office of Administrative Hearing
300 w. 5th St. Ste. 502
Austin, Texas 78711-3025

Re: Application of North San Saba Water Supply Corporation to Change its Water Rates Under Certificate of Convenience and Necessity No. 11227 in San Saba County; SOAH Docket No. 582-09-0660; TCEQ Docket No. 2008-1481-UCR

Dear Judge Smith,

I have reviewed the exceptions to your Proposal for Decision (PFD) for the above referenced matter as were filed by Darrel Spinks, counsel for North San Saba Water Supply Corporation (NSSWSC). I will not reply to the first exception since most of the information provided does not fall within the representative time frame determined by the Texas Commission on Environmental Quality (TCEQ) and all are aimed only at showing that NSSWSC cannot afford to refund the unjust financial gains.

Mr. Spinks' second exception deals with the use of credits to the ratepayer's monthly bills to refund the excess gains. Mr. Spinks first objected to the use of monthly credits in his written objections to Heidi Graham's prefiled testimony. Under cover of a letter dated December 15, 2009, Ms. Murray responded in part with "it is the longstanding practice of the Commission to handle refunds through a credit." I think it is safe to say that all state agencies make use of standard practices and procedures to ensure consistency of task and decision. Consistency reduces the chance of a successful challenge. Mr. Spinks then moves on with an attempt to establish a practice to be used by the Commission when refunding gains from a denied rate increase. I believe such action is best left to the Commission. As for the Commission's authority, I see no reason to question it's authority to order refunds in the form of a credit.

The ratepayers complied with the TCEQ's requirements for appealing a rate increase and even obtained twice the required number of member signatures. NSSWSC did not provide any rate calculations that might have been done prior to the effective date of the rate increase. Furthermore, NSSWSC did not even attempt to provide such calculations in prefiled testimony or at the evidentiary hearing. The ratepayers met their requirements but NSSWSC did not come even close to meeting their burden of proof requirement.

I would like to point out that I have lodged a complaint with Sheriff Allen Brown of San Saba County concerning an Executive Session called by NSSWSC for April 5th, 2010. During this meeting, the Board agreed to have Mr. Spinks file objections to your PFD. I am alleging that this action violated the Open Meetings Act. If it is determined that the alleged violation did occur, any decision made by the Board is voidable.

Finally, I am in agreement with your PFD and specifically, that the ratepayers are entitled to a refund in the form of a credit as you recommended.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles C. Terry".

Charles C. Terry, Protestant
505 Park Blvd
Austin, TX 78751

cc: Mailing list

Mailing List
North San Saba Water Supply Corporation
SOAH Docket No. 582-09-0660
TCEQ Docket No. 2008-1481-UCR

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North San Saba Water Supply Corporation
SOAH Docket No. 582-09-0660
TCEQ Docket No. 2008-1481-UCR

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2010, a true and correct copy of the foregoing document was delivered by hand or by deposit in U. S. Mail, First Class, to all to the persons on the attached mailing list.


Charles C. Terry, Protestant

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COMMISSION
ON ENVIRONMENTAL
QUALITY
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