

DOCKET NO. _____

RULEMAKING PETITION OF QUADVEST, INC., AQUA TEXAS, INC., SOUTHERN WATER COMPANY, SOUTHWEST WATER COMPANY, AND BRADBERRY WATER SUPPLY	§ § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
--	-----------------------	--

ORIGINAL PETITION FOR RULEMAKING

COME NOW, Quadvest, Inc., Aqua Texas, Inc., Southern Water Company, SouthWest Water Company, and Bradberry Water Supply (Petitioners) on behalf of themselves and similarly situated investor-owned utilities (IOUs) and file their rulemaking petition with the Texas Commission on Environmental Quality (TCEQ) seeking to amend 30 TAC §291.84(a)(1).

1. Petitioners

Each of the petitioners is a retail public utility and/or the parent of a retail public utility subject to the jurisdiction of the TCEQ pursuant to Texas Water Code Chapter 13. Each utility has independent standing to bring this petition.

2. Legal Authority

This petition is brought pursuant to Texas Water Code §§ 5.103 and 13.003 and Texas Government Code § 2001.021.

3. Current Rule

30 TAC §291.84(a)(1) currently states:

If a residential service applicant does not establish credit to the satisfaction of the utility, the residential service applicant may be required to pay a deposit that does not exceed \$50 for water service and \$50 for sewer service.

4. Proposed Rule

If a residential service applicant does not establish credit to the satisfaction of the utility, the residential service applicant may be required to pay a deposit that does not exceed ~~\$50~~ \$100 for water service and ~~\$50~~ \$100 for sewer service. If the utility elects to require a deposit in excess of \$50 for water or \$50 for sewer, the utility must give the customer the option of paying that portion of the deposit over \$50 in not more than three (3) deferred monthly payments in conjunction with the customer's normal water or sewer service bill.

5. Reason for Rule Change

The \$50 ceiling in the current customer deposit rules was set by the Public Utility Commission of Texas in the late 1970s. At that time the average base monthly water bill ranged between \$15 and \$20 per month and the average base monthly sewer bill ranged between \$18 and \$24. The PUC's service discontinuance rules assured utilities that a delinquent customer could be disconnected before he/she became two months in arrears on their bill.

Today the average base monthly water bill ranges between \$25 and \$35 per month and the average base monthly sewer bill ranged between \$30 and \$45. The standard TCEQ termination rules have not changed since the 1970's so it is likely that a delinquent customer could not be disconnected before he/she became two months in arrears on their bill. Now, under Water Code §13.137(b), if an IOU (the only utility type affected) receives a waiver from the local office rule, the customer is guaranteed to be

into his/her second billing month before their regular monthly service bill become due. Another ten days must be added for a delinquent notice to be mailed and received. Finally, the termination day must be adjusted to avoid Fridays and weekends when the payment office may not be open to receive payments. Rare is the chance for a utility to terminate non-paying customers before that delinquent account reaches \$100.

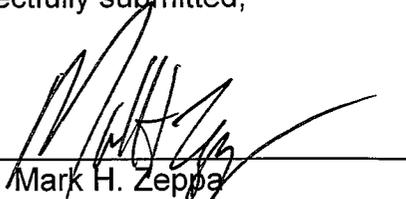
This situation is exacerbated by the TCEQ's ratemaking practice of disallowing bad debt expense as a component of most utilities' costs of service. According to TCEQ Utilities & Districts Section Manager Doug Holcomb, this practice arose because a utility could always disconnect a customer before the deposit was exceeded under the state's "liberal" termination policy. This policy no longer matches legal or factual reality.

6. Prayer

For the reasons stated above, the Petitioners request the TCEQ to initiate a rulemaking proceeding and amend 30 TAC §291.84(a)(1) to raise the ceiling on residential customer deposits from \$50 to \$100.

Respectfully submitted,

By: _____


Mark H. Zeppa
State Bar No. 22260100
Law Offices of Mark H. Zeppa, PC
4833 Spicewood Springs Road #202
Austin, Texas 78759-8435
(512) 346-4011, Fax (512) 346-6847

ATTORNEY FOR PETITIONERS

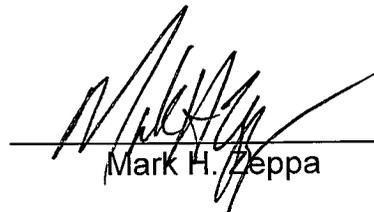
CERTIFICATE OF SERVICE

I, Mark Zeppa, attorney for the petitioners, certify that an original and 11 copies of the foregoing pleading was served on the TCEQ Chief Clerk on ~~December 30, 2008~~.
Courtesy copies were served on: Jan 13, 2009

Doug Holcomb, PE, Manager
Utilities & Districts Section
Texas Commission on Environmental Quality
P O Box 13087, MC 153
Austin, Texas 78711-3087

Todd Galiga, Sr. Attorney
Environmental Law Division
Texas Commission on Environmental Quality
P O Box 13087, MC 173
Austin, Texas 78711-3087

Blas Coy, Jr., Public Interest Counsel
Texas Commission on Environmental Quality
P O Box 13087, MC 103
Austin, Texas 78711-3087



Mark H. Zeppa