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PETITION BY RESIDENTS OF GRAND LAKES MUNICIPAL UTILITY DISTRICT NO. 2 APPEALING THE WATER RATES ESTABLISHED BY THE DISTRICT'S BOARD OF DIRECTORS § § § § § §

2023 DEC 18 PM 2:57 PUBLIC UTILITY COMMISSION PUBLIC UTILITY DISTRICTS OF TEXAS

ORDER

This Order addresses the petition of George Wakileh, on behalf of himself and certain ratepayers, appealing the retail water rates of Grand Lakes Municipal Utility District (MUD) No. 2. Grand Lakes MUD No. 2 filed a motion to dismiss the petition for lack of jurisdiction. The Commission administrative law judge (ALJ) filed a proposal for decision recommending the Commission dismiss the petition with prejudice for lack of jurisdiction. The Commission adopts the proposal for decision, including findings of fact and conclusions of law. to the extent provided in this Order.

The Commission modifies findings of fact 4 and 6 to remove details not necessary to the Commission's decision and adds new finding of fact 6A for completeness in describing Grand Lakes MUD No. 2's rate orders. The Commission also modifies conclusion of law 6 for completeness. Lastly, the Commission makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, citations, and readability.

I. Findings of Fact

The Commission adopts the following findings of fact.

- 1. The residents are individual household users who reside in Katy, Texas and receive water service from Grand Lakes MUD No. 2.
2. Grand Lakes MUD No. 2 is a municipal utility district located in Katy, Texas that provides water or sewer service to household users.
3. On December 18, 2023, the board of directors of Grand Lakes MUD No. 2 passed a rate order adopting a new set of water and sewer rates applicable to its customers, including the residents.
4. The rate order stated that the new rates would become effective February 1, 2023.

5. Grand Lakes MUD No. 2 commenced assessing the new rates on February 1, 2024.
6. On or about February 26, 2024, legal counsel for Grand Lakes MUD No. 2 revised the rate order to state that the new rates would become effective February 1, 2024.
- 6A. Two versions of the rate order have been filed in this proceeding: one with a listed effective date of February 1, 2023 and one with a listed effective date of February 1, 2024.
7. On May 7, 2024, the residents filed an appeal of the new rates adopted by the rate order.
8. The residents' appeal was not initiated within 90 days after the effective date of the new rates adopted by the rate order.
9. On June 4, 2024, Grand Lakes MUD No. 2 filed a motion to dismiss the appeal for lack of jurisdiction, under 16 Texas Administrative Law (TAC) § 22.181(d)(1).
10. On June 5, 2024, the residents responded to Grand Lakes MUD No. 2's motion to dismiss, asserting that the December 18, 2023 rate order is unlawful and should be nullified as it has been subject to repeated tampering because quality and revision control procedures were not followed and retroactive amendments are unlawful, and that the residents did not receive notice of the rate order in an alleged violation of the Texas Open Meetings Act.
11. On June 28, 2024, Commission Staff expressed its support of Grand Lakes MUD No. 2's motion to dismiss.
12. No hearing was held on the motions to dismiss.

## **II. Conclusions of Law**

The Commission adopts the following conclusions of law.

1. The Commission has authority over this matter under Texas Water Code (TWC) §§ 13.043(b)(4) and (c).
2. Grand Lakes MUD No. 2 is a municipal utility district created under Article XVI, Section 59 of the Texas Constitution that provides water service to household users.
3. An appeal under TWC § 13.043(b) and (c) must be initiated within 90 days after the effective day of the rate change.

4. Under TWC § 13.043(b)(4), ratepayers may appeal the decision of a district created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution that provides water service to household users.
5. Under 16 TAC § 22.181(d)(1), the ALJ may recommend to the Commission that it dismiss a proceeding for lack of jurisdiction.
6. Under 16 TAC § 22.181(c), this proceeding may be dismissed without a hearing because the facts necessary to support the dismissal are uncontested or are established as a matter of law.
7. Under 16 TAC § 22.181(f)(2), dismissal of a case for reasons other than those specified in 16 TAC § 22.181(g)(1) or (2) requires preparation of a proposal for decision.
8. A proposal for decision was issued in accordance with Texas Government Code § 2001.062 and 16 TAC § 22.261(a).
9. The residents failed to initiate their appeal within 90 days after the effective date of the rate change, as required by TWC § 13.043(c) and 16 TAC § 24.101(b), warranting dismissal of this proceeding under 16 TAC § 22.181(d)(1) for lack of jurisdiction.

### **III. Ordering Paragraph**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

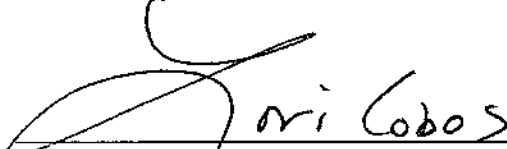
1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.
2. The Commission dismisses the residents' appeal, with prejudice, due to a lack of jurisdiction.
3. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 15<sup>th</sup> day of August 2024.

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**THOMAS J. GLEESON, CHAIRMAN**



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**LORI COBOS, COMMISSIONER**



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**JIMMY GLOTFELTY, COMMISSIONER**



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**KATHLEEN JACKSON, COMMISSIONER**



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**COURTNEY R. HJALTMAN, COMMISSIONER**