

T.A.M.E.R.

Texans Against Monopolies Excessive Rates



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TO: NATURAL RESOURCE SUBCOMMITTEE FOR WATER
UTILITIES IN RURAL & UNINCORPORATED AREAS
(SENATOR ROBERT NICHOLS, SENATOR KIRK WATSON,
SENATOR KEVIN ELTIFE, SENATOR ROBERT DEUELL,
SENATOR JOHN WHITMIRE.)

DATE: JULY 28, 2011 10:00 AM

RE: TESTIMONY AGAINST MONARCH 2 STEP RATE INCREASE
(AUGUST 2011 & JULY 2012)

FROM: C.A. COCKRELL, VICE CHAIR, TEXANS AGAINST
MONOPOLIES EXCESSIVE RATES (T.A.M.E.R.), EXECUTIVE
VP, TEXAS NEIGHBORHOODS TOGETHER (TNT),
LEGISLATIVE CHAIR, GREATER LAKE PALESTINE COUNCIL
(GLPC), PRESIDENT, COUNCIL OF VAN ZANDT COUNTY
COMMUNITIES CVZCC.

TESTIMONY:

Mister Chairman, Fellow Committee members, my name is C. A. Cockrell and it is an honor & privilege to appear before you today. Thank each of you for granting me this opportunity. I promise you I will be brief.

Since 2001 I have been part of a group of rural rate payers who have been trying, unsuccessfully I might add, in getting either the Water Code changed to correct a wrong that has existed far too long, or to get the rate making authority for water rates transferred from TCEQ back to the PUC where it previously existed and where it rightly belongs. There is a "special law" problem with Sec. 13.145(b) in that it was adopted in 2003 and there was no way that any utility besides Monarch's predecessor (TECON) could even theoretically have enjoyed the benefits of the law. There is also a potential problem with Monarch's even being the same utility that served customers in only 24 counties in 2001. Monarch, Inc. was created in 2004 by

Southwest Water Corporation (SWWC). Monarch, Inc bought TECON in 2004 and renamed it Monarch Utilities, LP. TECON was the utility that met the 24 county service requirement. Since the 2011 rate filing seeks to merge the old TECON/Monarch Utility with what appears to be 7 other utilities owned by SWWC, it appears to me that the merged utility would no longer be eligible for the exemption of 13.145(b).

I believe rural Texas rate payers to investor-owned utility conglomerates (IOUC) have a real reason to be concerned. Since 2002, rates have increased exorbitantly:

	2002	2011	% Increase	Ann. % Cmpd.
Water	\$26.25	\$53.47	204%	7.37%
Water Volume	\$2.60/M	\$7.00/M	269%	10.40%
Sewer	\$32.00	\$74.79	234%	8.86%

There are approximately 1676 water supply companies operating in Texas. SWWC is ranked # 4 with annual revenue of 50 to 100 million dollars annually. With this ranking and revenue stream, if SWWC needs this rate increase, what does that say about the 1672 other companies operation. There is a reason Monarch's rates are 3 times those of the average Texas city rates: they are more interested in shareholder value than public utility service. They operate as a monopoly in their certificated areas, and the regulator (TCEQ) has not provided the regulatory environment to control them. Sec. 13.084, Texas Water Code, allows cities that participate in utility rate cases to recover from the utility their costs of participation. This Monarch rate increase excludes all the cities it serves leaving only the rural (environs) rate payers to protest and they have no means to recover expert or other legal expenses.

Water rate making authority should be under the direction of the Public Utility Council (PUC). In the absence of leadership by the TCEQ in rate setting, there is no other serious opportunity to control IOUC rate applications other than the PUC. I found it interesting when I went to the TCEQ website and read its Mission and Philosophy Statements and there is no mention of rate making authority. TCEQ has little or no interest in rate making, and legislators should relieve them of this responsibility, which has been poorly implemented. The PUC is familiar with sophisticated rate issues which the TCEQ is not. The PUC is familiar with dealing with the precedence of rate information submission which the TCEQ is not. The PUC is staffed and equipped to handle sophisticated reviews of complex applications which the TCEQ is not. IOUC rate payers have needed the PUC for over a decade-NOW is time to make this change! **The Sunset Commission recommended this transfer of rate making authority to the PUC in their 2010 review of the TCEQ & PUC. Despite massive voter response, this recommendation did not get to the floor for vote in this past legislative session. The**

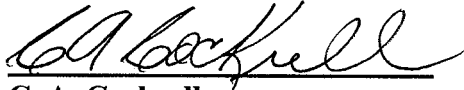
bill was even resurrected for the Special session but once again did not make it to a vote. And, with the tabling of the Sunset Commission Recommendations, real hope appears to be fading. Should I assume because the legislation did not vote to approve the Sunset Commission Recommendations to transfer rate making authority from the Texas Commission on Environmental Quality (TCEQ) to the Public Utility Commission (PUC) that legislators approve of the job the TCEQ is doing? With all due respect, the TCEQ has more than it can handle with environmental issues; rate making has never been a TCEQ priority, and I am sure IOUCs have consistently made the most of this advantage.

There are numerous issues that require discussion and action but for the sake of brevity, I will address only three (3) in this Testimony. I will be happy to address others at any time with any members of this distinguished Committee.

1. **Lifeline rates:** With IOUC rates having more than doubled over the past 9 years and water/sewer rates representing a very high portion of the budgets of those who are economically disadvantaged, some consideration for the minimal use of these senior citizens and struggling families must be considered in rate assessments. Rate payers who negotiated with Monarch for the past decade negotiated lower volume rates for the economically disadvantaged during the last rate case, however Monarch has not continued this or any lifeline rate policy in their rate application dated May 27, 2011. Without legislation addressing this issue, IOUC will force seniors on fixed income and other struggling families to make tough decisions between food, medicine and water service.
2. **Rates should not be implemented until approved:** The original rate setting legislation gave the right to “mom & pop” utilities to increase rates 60 days after notification of an increase. IOUC’s have taken every advantage of this and the TCEQ rules governing rate applications have not kept pace with the IOUC. Since any numerically viable application will be deemed by TCEQ to be administratively complete and an effective date will thereby be set, the IOUC knows that they will be able to collect the higher rates while TCEQ and the rate payer protestor groups attempt to understand inadequately documented applications, abeyance amounts and changes which are “black boxes”, undocumented additions and deletions of systems, and changes in methodology such as group depreciation for which the TCEQ and rate payers are unprepared. This clearly puts the IOUC in the advantaged position and discourages IOUC participation in resolving issues.
3. **Efficiency of Operations:** The last issue I would like to discuss today is efficiency of operation. Accurate documentation of leakage is one of many areas where efficiency could be improved. Efficiency of operations should at least have an established standard. For example, let us assume the floor is 85%. Rates should be reduced below this efficiency level. Rate payers currently pay 100% of utility expenses, yet there are no efficiency measures which require the utility to operate efficiently. There should be a minimum efficiency level established, below which utilities operating below the

established level receive less revenue and the revenue requirement should be reduced 1% for each per cent the utility operates below the established standard.

Thank you for your patience, courtesy, and for allowing me the privilege to address this distinguished Committee.


C. A. Cockrell