

**IN THE UNITED STATES DISTRICT COURT,
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
(Northern Division)

UNITED STATES OF AMERICA,
And THE STATE OF MISSISSIPPI,

Plaintiffs,

v.

THE CITY OF JACKSON, MISSISSIPPI

Defendant.

Case No. 3:12-cv-790-HTW-
LGI
(Clean Water Act Case)

UNITED STATES OF AMERICA,

Plaintiff, and

MISSISSIPPI POOR PEOPLE’S
CAMPAIGN and THE PEOPLE’S
ADVOCACY INSTITUTE

Intervenor-Plaintiffs,

v.

THE CITY OF JACKSON, MISSISSIPPI,

Defendant.

Case No. 3:22-cv-00686-HTW-
LGI
(Safe Drinking Water Act Case)

**INTERVENORS-PLAINTIFFS MISSISSIPPI POOR PEOPLE’S CAMPAIGN AND THE
PEOPLE’S ADVOCACY INSTITUTE’S OBJECTIONS TO JXN WATER’S FEBRUARY
2025 JACKSON PUBLIC WATER SYSTEM RATE CHANGE PROPOSAL
(IN SAFE WATER DRINKING ACT CASE)**

I. INTRODUCTION AND FACTUAL BACKGROUND

In response to the Court’s March 14, 2025 order, Intervenor-Plaintiffs Mississippi Poor People’s Campaign and the People Advocacy Institute (hereinafter collectively “Intervenor-Plaintiffs”) submit their objections to JXN Water’s February 2025 proposed rate change proposal

for users of the City of Jackson's public water system (the "PWS" or "system"). In support of their objections, Intervenor-Plaintiffs state as follows:

On Wednesday, March 12, 2025, the Court scheduled a status conference for March 14, 2025. *See* Dkt. Text Entry, Mar. 12, 2025. The docket notice did not indicate to Parties, including Intervenor-Plaintiffs, the purpose of the status conference. *See generally id.* Presumably along with all other Parties, Intervenor-Plaintiffs first learned at the start of the March 14, 2025 conference that the purpose of a significant portion of the day's proceeding was to address JXN Water's rate increase proposal, which had been publicly released on February 28, 2025. JXN Water, Fin. Mgmt. Plan (hereinafter the "Proposal"), Feb. 28, 2025, *available at* <https://jxnwater.com/wp-content/uploads/2025/03/JXN-Water-Financial-Management-Plan-Feb-28-2025.pdf>; Tr. of Status Conference, Mar. 14, 2025, 53:16-82:22, *United States v. City of Jackson*, Case No. 312-cv-790.

In the Proposal, JXN Water indicates that it will increase the volumetric rates for system users by 24.7% across all customer tiers in Spring 2025, resulting in an increase of \$8.88 for the average monthly residential bill. Proposal at 4. JXN Water's justifications for the proposed rate increase are that JXN Water's monthly expenses continually exceed revenues; JXN Water has no reserves on which to rely for continued improvements to, and operation of, the System; and that JXN Water will run out of the millions of the funding made available to the City of Jackson over the last few years to address the City's water crisis. *Id.* at 3, 21-22.

During the conference, the Court instructed the Interim Third-Party Manager ("ITPM") Ted Henifin to present on the rate proposal increase for system users. Tr. of Status Conf., Mar. 14, 2025, 53:16, *United States v. City of Jackson*, Case No. 312-cv-790. The slideshow on which the ITPM relied for the presentation had not been previously shared on the Docket with the Parties in this case or with the broader public. *See generally* Dkt. At the conclusion of the three-hour

status conference, where no Party was permitted to ask the ITPM questions about the Proposal, the Court requested that the Parties submit written comments on the rate increase proposal by March 24, 2025, and ordered that the ITPM's slideshow presentation be released. Tr. of Status Conf., Mar. 14, 2025, 81; 83-84.

The ITPM's slideshow was only filed on the Docket in this matter on the afternoon of Friday, March 21, 2025—one business days before the deadline for Parties' comment submission on the rate increase Proposal and a week after the March 14, 2024 status conference. Thus, March 21, 2025, was the first opportunity that Intervenor-Plaintiffs could access the written presentation for close review. *See* Doc. 168-1. Moreover, after reviewing the slides, Intervenor-Plaintiffs discovered that some information on the slides is indecipherable, *see id.* at 4, 6, while other slides contained information *not* included in the Financial Plan released on February 28, 2025. There are also slides that lack citations, *see id.* at 7, 10, 11, 12, 14, 15; slides that rely on information from nearly 10 months ago from June 2024, *see id.* at 8; and slides that contain information that was never given to Intervenor-Plaintiffs or shared with the broader public to review, *id.* at 9 (citing *JXN Rate Structure Analysis and Revenue Estimation Memo*—February 13, 2025 Stantec).

Upon careful review and consideration of JXN Water's Proposal and slideshow presentation, Intervenor-Plaintiffs—the lone community groups represented in this litigation, who are dedicated to the social, economic, and physical safety of Jacksonians they represent and serve, *see* Doc. 56 at 6-7—raise here three objections to the proposal based on their community-centered, grassroots organizing and mutual aid work across Jackson: **(A)** the financial inability of the System users to afford current water rates and by extension, the proposed rate increases; **(B)** the delayed formal notice of the Proposal and its implementation, lack of consistently available public budgeting information, and consequently, the void of community's voices represented in the Proposal; and **(C)** the absence of a more robust financial accounting for the proposed rate increase

and of an explanation of how the proposed rate increase will ensure the system's sustainability, considering ongoing and new water quality violations and financial deficiencies of the System.

Based on these objections, which are detailed below, Intervenor-Plaintiffs request that JXN Water **immediately withdraw** the Proposal and reconsider it after members of the public have sufficient opportunity to comment on the proposed rate increase via a public notice and comment period or other alternative community engagement process, such as a survey to users process, and after JXN Water addresses Intervenor-Plaintiffs' objections and system users' concerns.

II. INTERVENORS-PLAINTIFFS' OBJECTIONS TO THE PROPOSAL

A. The Proposed Rate Change Will be Devastating for Low-Income System Users.

Intervenor-Plaintiffs are most fundamentally concerned about the financial impact of the rate change proposal—specifically the impact on SNAP and low-income users who already face an uphill financial battle to afford the payment of all their household bills. The Proposal states that JXN Water would impose a 25% increase only to the *volumetric* charge, not to the *fixed* charge, which would amount to a 12% increase on the bill for a *typical* residential customer using 6 CCF. Proposal at 25. The Proposal neglects to explain, however, that SNAP customers would experience a larger percentage increase in their bills, because the SNAP rate only provides a discount on the *fixed* charge. For example, a SNAP user using 6 CCF would see an increase in their bill from \$46 a month to \$55 a month—a 19% increase—because the SNAP discount would only apply to the fixed rate and would not account for the increase to the volumetric rate. *See* Proposal at 16-17.

Furthermore, the proposal fails to explain that the Proposal's proposed volumetric increase will result in the regression of water affordability for *all users* of the system as a whole—not just users within the SNAP tier, as noted above. Indeed, as the below chart shows, based on numbers

provided by JXN Water itself, the rate increase will result in the loss of over half of the savings that would purportedly be achieved with the creation of the SNAP tier. *Compare Proposal, with JXN Water Announces New Water Rates and Fees for 2024*, <https://jxnwater.com/jxn-water-announces-new-water-rates-and-fees-for-2024/>.

User Tier	Old bill before revised 2024 rate structure and SNAP tier	Old bill with 2024 rate structure based on 6 CCF consumption (\$6/CCF)	New Bill with 2025 25% rate increase based on 6 CCF consumption (\$7.50/CCF)	percent change due to increase
Residential	\$66.81	\$76.00	\$84.88	↑12%
SNAP	\$66.81	\$46.00	\$55.00	↑19.6%

Accordingly, while an \$8.88 increase may appear to be a minimal amount of money for an individual household, the increase is significant for households in Jackson, where one-fourth of the population is at or below the federal poverty level—as even JXN Water’s report references, *see* Proposal at 6—and would be even more difficult for users within the SNAP user classification to absorb. And as JXN Water has indicated, users who are unable to timely pay their bill will have their water services disconnected, cutting them off from one of the most vital resources necessary for human health and survival.¹

Furthermore, the Jackson community members whom Intervenors-Plaintiffs represent in this suit and serve more broadly in the community have already been subjected to at least one other rate increase in 2024, which many are already struggling to pay.

The Proposal therefore surfaces key concerns and questions related to the short- and long-term affordability and sustainability of the PWS, a set forth below:

¹ Kristopher White, *JXN Water warns customers of service cuts over unpaid bills*, WJTV (March 6, 2025), <https://www.wjtv.com/news/local-news/jxn-water-warns-customers-of-service-cuts-over-unpaid-bills/>.

- A. Without any limit on rate increases or a rate cap, nothing stops JXN Water from continually raising rates on its users, instead of seeking funding from other resources. Thus, Intervenor-Plaintiffs seek to know **how many more rate increases will JXN Water propose and implement** before even more people are unable to afford their water bills and even more users' water service is disconnected?
- B. **What alternatives to rate increases** is JXN Water seriously considering, given JXN Water's admission that the rate increases will not fully resolve the System's financial challenges and given the lower-than-desired collection rate with which the System has had to contend for years? The passage of recent legislation² shows that steps have been taken to clear the way for JXN Water to seek other sources of funding--whether favorable or not--rather than to implement rate increases to already burdened system users.
- C. The proposal indicates that non-paying accounts will be the focus of increased collection efforts in 2025. What will those **collection efforts** be and what can users do to **resolve the need for collections** if they are unable to afford their bills?
- D. The Proposal indicates that payment plans, as well as a private fund with the Mississippi Community Foundation, are available to users, where they can receive financial assistance to pay their water bills. What are the **requirements for assistance** via the payment plan and for the donor-fund and how do users access those resources?

In short, Intervenor-Plaintiffs remain concerned that the system will continue to remain unaffordable for a substantial number of its users—a system that continues to suffer from operational and funding issues.³ Accordingly, Intervenor-Plaintiffs request that JXN Water address and incorporate into its Proposal the foregoing questions and related concerns.

B. JXN Water Provided Unreasonable Notice of the Proposed Rate Increase, Without Input from Affected System Users Who Continue to Receive Notices

² Anthony Warren, *As funding runs out, a bill signed by Gov. Tate Reeves gives JXN Water a new lifeline*, WLBT (March 21, 2025), <https://www.wlbt.com/2025/03/21/funding-runs-out-bill-signed-by-gov-tate-reeves-gives-jxn-water-new-lifeline/>.

³ Intervenor-Plaintiffs also resubmit their opposition to the proposal's inclusion of a SNAP user classification because the classification requires disclosure of SNAP recipients' names and addresses without the recipients' consent and that therefore poses safety concerns for recipients who may not want their names and addresses more broadly available. The disclosure could also potentially violate federal law and in turn, risk funding for the State's SNAP program. And as a city with a high poverty rate, Jackson has many families who would not qualify for SNAP but are in need of help on their water bills; thus, they would not benefit from the SNAP user classification. Finally, SNAP recipients who live in subsidized housing and thus, do not pay their water bill would not get any benefit from the SNAP user classification yet could suffer from increase rent if their landlord raises rents to compensate to cover additional cost of water rates.

of

Violations.

(b)(7)(D)

Next, Intervenor-Plaintiffs note that System users only received the formal Proposal when JXN Water publicly released its Financial Management Plan on February 28, 2025, and when the ITPM presented on the proposal in mid-March 2025, with plans to go into effect a few weeks later in Spring 2025. Considering that the ITPM has had access to and control of an unprecedented amount of federal funding to make improvements to the PWS for years, with little public oversight from the City of Jackson or State of Mississippi governments and no oversight, or input from, the community on how to utilize these unprecedented funds, the timing of the formal release and proposed implementation of the Proposal is alarming on a number of fronts.

First, users of the System only have a few short weeks to prepare for the increased payments—payments that many will be unable to afford at rates over which they have, and will continue to have, no control. Indeed, the increased rate is likely particularly unjustifiable to System users who continue to receive notices of ongoing violations of water quality parameters and disinfection byproducts⁴—violations that even JXN Water itself admitted are complex to resolve

⁴ The Seventh Claim for relief is based on exceedances of the Maximum Contaminant Level (MCL) for a group of five haloacetic acids that are a type of chlorine disinfection byproduct (HAA5). HAA5 is a “contaminant” within the meaning of the Safe Drinking Water Act and the MCL for HAA5 is a health-based standard, as HAA5 may cause an increased risk of cancer when ingested long term. The HAA5 violations that are a part of this litigation occurred in 2020 and 2021, were among the concerns that the ITPM was charged with ensuring did not occur again by stabilizing the water system. This March 2025, residents received notices for *new* HAA5 violations that occurred in 2024 and for violations of *another* disinfections byproduct called Total Trihalomethanes (or TTHM). *See* Notices of Violations, March 2025, attached as Exhibit A. The TTHM violation is new and not a part of the original facts that catalyzed this enforcement action. Considering the emerging issues with HAA5 and TTHM, and the continued delay in resolving the water quality parameter violations—violations that the system has received consistently for the last 4 years—the water system still does not meet federal or State standards for health and safety. Accordingly, the ITPM’s rate increase not only requires basic substantiation, but also needs to indicate a clear investment to fixing these emerging health and safety violations that continue to erode the public’s trust in the ITPM’s work. Intervenor-Plaintiffs can provide further explanation for the court on the nature of these violations, how they relate the priority projects, and the health and safety concerns.

and that JXN Water initially told Intervenor-Plaintiffs could not immediately be resolved.⁵ See Emails between Counsel for Non-Party Participant JXN Water & Counsel for Intervenor-Plaintiffs, Feb. 26 to Mar. 13, 2025.⁶ Such violations render people even less likely to trust the system's water and pay their water bills, when the system continues to not *fully* comply with drinking water standards.

Second, given the extreme nature of the reason for this rate increase—the System's depletion of funds by Summer 2025—JXN Water should have notified, and sought input on the proposed rate increase from the Parties in this case, including Intervenor-Plaintiffs, and the public, much earlier. That JXN Water did not sooner take such steps to publicly formally distribute and address the findings of the February 2025 proposal underscores Intervenor-Plaintiffs' ongoing concerns about JXN Water's and the ITPM's competent management of and accounting for financial expenditures and allocations to improve and operate the system, and accountability for the same. It also underscores the need for JXN Water to more regularly share with, and engage system users around, data and other information related to the operation and maintenance of the PWS.

C. JXN Water's Rate Increase Lacks Necessary Financial Documentation and Data to Justify the Proposed Rate Increase.

⁵ The notices that were sent to system users indicated that the violations should be resolved by September 2025. However, in response to Intervenor-Plaintiffs' inquiries about these violations, which Intervenor-Plaintiffs' counsel sent to JXN Water's counsel before these notices were issued, JXN Water's counsel shared:

“[Disinfection byproduct] compliance at the moment is complicated and very challenging with significant trade offs (such as do we reduce storage in our tank system despite water availability, plant maintenance, and fire protection concerns). We also have ongoing and upcoming capital upgrades at the Curtis plant that will affect our flexibility with our tank system and distribution system flushing.....We are doing that and are confident we will get past the current marginally elevated DBP numbers but we can't say right now exactly when that will be.

Email from Counsel for JXN Water to Counsel for Intervenor-Plaintiffs, Mar. 13, 2025, available upon request to Court and agreement by JXN Water.

⁶ The emails between counsel for Intervenor-Plaintiffs and JXN Water are available for production to the Court, upon request and agreement from JXN Water counsel.

Finally, Intervenor-Plaintiffs raise a third objection: the Proposal lacks adequate publicly available documentation and related data for the Parties and public to understand how JXN Water determined this specific volumetric rate increase and how it will address the financial deficiencies of the System for sustainability.

The ITPM has explained that the increase will cover the system's financial shortfall, but neither the slide presentation nor the Proposal includes any financial statements or other detailed accounting that depicts the projected calculations. And while the Proposal indicates that the rate increase will result in \$22 million, Proposal at 22, Intervenor-Plaintiffs and the public do not know what that revenue will specifically pay for, given the many financial needs of the System—debt, operations, and maintenance, as even the ITPM himself points out.

Relatedly, the proposal fails to itemize and explain the operating and other costs of the System—including the exorbitant amounts of money expended on paid advertisements and other “communications,” among JXN Water's ongoing expenses; prospective grant funding outside of federal monies; and the impact of the Jacobs contract on the operating budget, among other items. Indeed, as Intervenor-Plaintiffs explain above in the Introduction and Background, the ITPM's presentation slides, filed just 1 business day ago, are inconsistent in some places with the Proposal, indecipherable, or missing key data. *See supra* p. 2. JXN Water's silence on these foundational items highlights Intervenor-Plaintiffs' skepticism about the purported need for rate increases—particularly where JXN Water admits that “the 2025 rate adjustments and funding sources in-hand are not projected to fully solve the System's financial challenges.” Proposal at 23. Such concerns are only further heightened by JXN Water's expenditure of significant funds with little accountability for, or transparency around, that spending, based on the ITPM's unjustified ongoing exemptions from the State of Mississippi's open records and competitive procurement laws years after the acute water emergency with the system ceased.

Finally, the proposal fails to explain what will happen to the System's operation and maintenance if the System runs out of funds—for example, will it come to a complete halt, leaving users without water? What is JXN Water's plan to respond? And with the depletion of funds, which of the ITPM's Priority Projects would no longer be prioritized? The absence of these explanations is glaring and worrisome, considering the history of lack of regular access to, and of systemic funding of, clean public water in Jackson—a position in which Intervenor-Plaintiffs and the System users that they represent and serve do not want to find themselves again—and users' history distrust of the system.

In short, to provide the Court with a thorough analysis of the Proposal, Intervenor-Plaintiffs require, *at the least*, access to the documentation on which the ITPM relied to reach the proposed rate increase, and JXN Water must substantiate the need to raise rates to improve public trust in, and in turn to improve the financial sustainability of, the system in the short- and long-term.

III. CONCLUSION

Based on the foregoing Objections, there is a lack of a meaningful explanation for, and guardrails for implementation of, JXN Water's Proposal. Accordingly, based on the above three concerns, Intervenor-Plaintiffs request that JXN Water:

- (A) **immediately withdraw** the proposal implementation of JXN Water's February 28, 2025 proposed rate increase;
- (B) **provide a 30-day in-person and electronic notice and comment period**, or alternative accessible process such as a survey, for system users to respond to the proposal in-person and electronically; and

(C) **reasonably consider, address, and respond to** Intervenor-Plaintiffs' objections raised herein, as well as system users' responses to the proposal raised in the notice and comment period, before implementing any rate change proposal.

Respectfully submitted, this 24th day of March 2025

/s/ Joshua Tom

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Counsel for Intervenor-Plaintiffs

Exhibit A

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

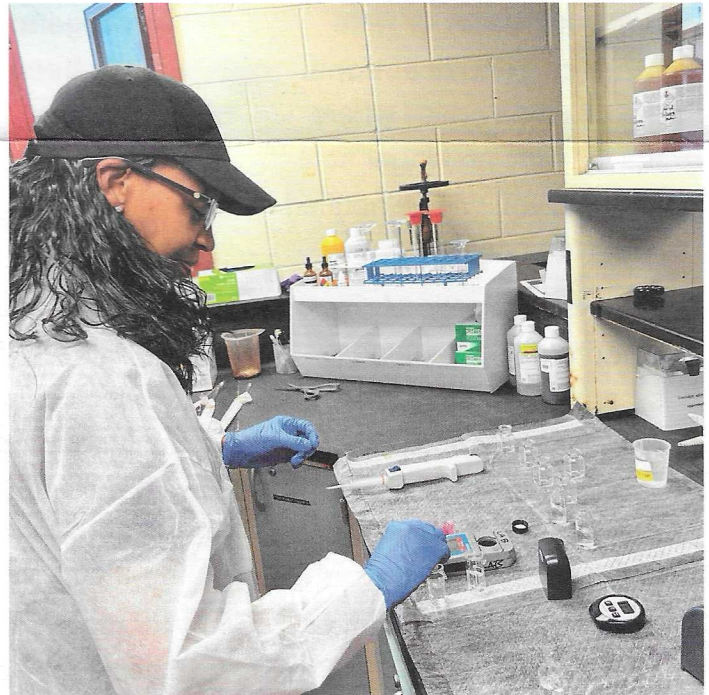
MS0250008 CITY OF JACKSON

Total Trihalomethanes (TTHM) and Haloacetic Acid (HAA5) Maximum Contaminant Levels (MCL) Exceeded

Our water system recently violated a drinking water standard. Although this incident was not an emergency, as our customers, you have a right to know what happened and what we did (are doing) to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Testing results from 1st Quarter 2025 show that our system exceeded the standard, or maximum contaminant level (MCL), for Disinfection Byproducts (DBP). The standard for TTHM is 80 µg/L*. The standard for HAA5 is 60 µg/L*. It is determined by averaging all the samples collected at each sampling location for the past 12 months. The level of TTHM averaged at five of our system's locations for 1st Quarter 2025 ranged from 82 to 93 µg/L. The level of HAA5 averaged at two of our system's locations for 1st Quarter 2025 ranged from 61 to 64 µg/L.

* µg/L: Micrograms per liter or Parts per billion
– one microgram per liter corresponds to one minute in 2,000 years, or a single penny in \$10,000,000.



JXN water

NOTICE OF VIOLATION



WHAT SHOULD I DO?

- **There is nothing you need to do. You do not need to boil your water or take other corrective actions.** If a situation arises where the water is no longer safe to drink, you will be notified within 24 hours.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.



WHAT DOES THIS MEAN?

- **This is not an emergency. If it had been an emergency, you would have been notified within 24 hours.**
- TTHMs are four volatile organic chemicals and HAA5s are five haloacetic acid compounds. Both TTHMs and HAA5s form when disinfectants react with natural organic matter in the water. People who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer. People who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.



For more information, call (601) 500-5200 or visit JXNwater.com.



WHAT IS BEING DONE?

- **We are evaluating corrective actions** to our treatment facilities to stabilize the distribution system. These corrective actions will continue to be evaluated until a steady downward trend of DBP formation is achieved.
- **We have increased water quality monitoring** at the treatment facilities and in the distribution system.
- **Water system staff are optimizing treatment processes** at the plants to decrease the potential for DBP formation while also working to implement a proactive flushing protocol which will help reduce water age throughout the distribution system. We anticipate resolving the problem by the end of September 2025.

This notice is being sent to you by the CITY OF JACKSON MS0250008
Date distributed: 03/03/2024