

Control Number: 42862



Item Number: 60

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014.

January 21, 2009

42862

RECEIVED

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
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2014 SEP 29 AM 11:14 2009 JAN 26 AM 10:43

The Honorable Thomas H. Walston  
State Office Of Administrative Hearings  
P.O. Box 13025  
Austin, TX 78711-3025  
Fax: (512) 475-4994

PUBLIC UTILITY COMMISSION CHIEF CLERKS OFFICE  
FILING CLERK

Re: Petition by Outside City Ratepayers Appealing Rates Established by the Town of Woodloch in Montgomery County, Texas, Application Nos. 35969-A and 35970-A; SOAH Docket No. 582-08-2571; TCEQ Docket No. 2008-0507-UCR

Dear Judge Walston:

On January 20, 2009, I received a phone call from Mr. Duncan Norton, Attorney from the law firm, Lloyd Gosselink, Attorneys at law, informing me that they would be requesting a Motion for Continuance on behalf of the Town of Woodloch. This was the deadline date for filing Woodloch's prefiled testimony.

Originally the Town's prefiled testimony was due September 9, 2008. I do not know the reason they failed to meet this deadline. Due to Hurricane Ike, the case was abated and the date was extended to December 19, 2008. On December 19, 2008, Woodloch requested an extension due to hiring a new attorney and health issues. As we had not received the Town of Woodloch's request for the extension in a timely manner, we were unable to file a request to deny the Town's extension request until December 30, 2008. However, unknown to us, an extension had already been granted on that same date. The deadline date was extended to January 20, 2009. On January 20, 2009, I was informed that Woodloch would be requesting another extension based on the same reasons they used in their December 19, 2009 request; i.e., retaining the services of the law firm of Lloyd Gosselink, Attorneys at Law.

We are requesting that this extension be denied for the following reasons.

1. On December 19, 2008, in the final minutes before the deadline, the Town of Woodloch requested a one month extension in filing their prefiled testimony. They stated in their request that they had retained another attorney, Ms. Marcia Tillman. They also stated that city counsel had advised them to retain the services of the law firm of Lloyd Gosselink, Attorneys at Law with Ms. Tillman as secondary.
  - a. The December 2008 city council meeting was held on December 9, 2008.
  - b. The request for the extension on December 19, 2008 was based on retaining new attorneys, Marcia Tillman and the firm of Lloyd Gosselink, Attorneys at Law.

c. On December 30, 2008, the Town of Woodloch was granted a one month extension, extending the deadline to January 20, 2009.

d. The Town of Woodloch failed to retain the services of the Gosselink firm, as indicated in their request for an extension on December 19, 2008, until the final hours of their extended deadline date. It is our belief this was a deliberate attempt by the Town of Woodloch to once again delay this process. The prefiled testimony was due on January 20, 2009 and the law firm of Lloyd Gosselink was retained on January 19, 2009. The second request for a continuance was January 20, 2009, the deadline date.

e. Woodloch missed their first deadline date of September 9, 2008 for filing their prefiled testimony. Due to the hurricane hitting three days later, abatement was ordered and they received the aforementioned extended deadline date of December 19, 2008 for their prefiled testimony.

2. In the background section of Woodloch's new Motion for Continuance, the attorney states that he had just learned of the imminent deadline. However, Woodloch was well aware of the deadline and had already informed the Judge thirty days previously that they would be using this law firm, leading all parties to believe the attorney had already been retained or at least informed of this proceeding.
3. We are not in agreement with hiring a water expert to determine the rates as it is our belief that TCEQ is the proper authority to recommend the appropriate rates. We are not seeking an interim rate, but rather a final rate as determined by this court.
4. We object strenuously to a water utility expert filing prefiled testimony as they were not identified as a possible witness in the discovery portion of this case. In fact, Woodloch stated there would be no experts testifying
5. I have tried repeatedly over the last many months to get cooperation from the Town of Woodloch regarding their financial situation to absolutely no avail.
6. As Woodloch would quickly move to establish another rate increase, we believe it is in our best interests to let the court establish the fair rates. Woodloch has not been forthcoming in any explanation as to how the water and sewer revenues are being spent; how the grants and bonds have been spent; the need for additional grants and bonds; or any explanation of the expenses they claim to have.
7. The attorney states Woodloch is in dire financial straits. We would like the Town of Woodloch to prove they are in dire straits as they have refused to provide information as to how the water and sewer revenues are spent and how much of these revenues go to municipal expenses.
8. Finally, the appeal was based on the hardship incurred on the outside city ratepayers by the higher water rates. By applying an expert's fee and the new

attorney's fees, the customers would have an even greater hardship placed on them.

The Town of Woodloch has had an attorney on retainer since before this case was originally filed. The Town of Woodloch has had since at least July 15, 2008 to retain a new attorney, hire any experts, properly serve and in a timely manner any documents, and to file their prefiled testimony. It is our belief that the Town of Woodloch has continuously sought to postpone this case in that:

1. They failed to appear at the original Mediation Hearing.
2. They failed to comply with the Mediation Orders.
3. They failed to properly serve their Answers to TCEQ's First Request for Discovery, Interrogatories, and Production of Documents.
4. They missed the September 9, 2008 deadline for filing their prefiled testimony. An extension to December 19, 2008 was granted.
5. They waited until the final minutes on December 19, 2008, to request an extended deadline date for filing prefiled testimony on the basis they had retained new attorneys. Again, an extension was granted to January 20, 2009.
6. They abused the Judge's generosity in extending them the time requested by waiting until the final hours to actually retain the attorney they had stated in their first request for extension of time would be representing them. They then filed another request for extension of January 20, 2009. the current deadline date.

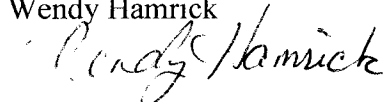
For the reasons stated in this request, we respectfully request the Judge deny The Motion for Continuance and adhere to the Judge's Order No. 6 Revising Procedural Schedule dated December 30, 2008. Woodloch has had more than ample time to prepare their case and we pray this case may continue on the course as set.

Respectfully,

Cathy Lewkowski



Wendy Hamrick



Mailing List Attached

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TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
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January 21, 2009

2009 JAN 22 AM 9:07

CHIEF CLERKS OFFICE

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## Fax Cover Sheet

Date 01-22-09

Number of pages 5 (including cover page)

To:

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Company \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

From:

Name Cathy Lewkowski

Company \_\_\_\_\_

Telephone \_\_\_\_\_

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