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SOAH DOCKET NO. 473-15-3742.WS
P.U.C. DOCKET NO. 43078

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APPLICATION OF FREMONT WATER COMPANY FOR A WATER RATE/TARIFF CHANGE IN KERR COUNTY (37993-R)	§ § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**COMMISSION STAFF'S RESPONSE TO CERTIFICATE OF CONFERENCE FROM
PROTESTANTS RELATING TO REQUEST FOR EARLY SOAH MEDIATION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Certificate of Conference from Protestants Relating to Request for Early SOAH Mediation and would show the following:

I. BACKGROUND

On July 25, 2014, Fremont Water Company (Fremont or Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) for a rate/tariff change in Kerr County, Texas, with a proposed effective date of September 26, 2014, pursuant to Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.21 and 24.22. On August 19, 2014, the TCEQ sent the Applicant a notice of deficiency, directing Applicant to complete and revise portions of its customer notice. Because the Applicant had to re-notice its customers, the effective date of the rate/tariff change was changed to October 31, 2014, at least 60 days following the date the completed application was mailed or delivered to customers, in accordance with TEX. ADMIN. CODE (TAC) § 291.22(a).

On September 1, 2014, the Public Utility Commission (Commission) began the economic regulation of water and sewer utilities and this case was transferred to the Commission.¹ On September 10, 2014, the Applicant submitted documentation in response to the notice of deficiency sent by TCEQ. On October 28, 2014, Commission Staff recommended the amended application and proposed notice be found administratively complete. Thereafter, on November 20, 2014, the Administrative Law Judge (ALJ) issued Order No. 5 deeming the amended application and notice for a rate/tariff change administratively complete. Order No. 5 set January 31, 2015 as the proposed effective date of the proposed rate change and May 1, 2015 as the

¹ Texas Water Code §§ 13.041, 13.042, 13.181-.192 (West 2008 & Supp. 2014).

deadline for ratepayers, any affected municipality, and Commission Staff to protest the proposed rates and request a hearing.

On May 1, 2015, Commission Staff requested the ALJ refer the case to the State Office of Administrative Hearings (SOAH) because, as of May 1, 2015, the Commission had received protests from over 10% of the ratepayers of the utility over whose rates the commission has original jurisdiction. In addition, Staff found that it was in the public interest to request a hearing on its own motion pursuant to 16 TAC § 24.28(1). Subsequently, on June 22, 2015, SOAH Order No. 1 was issued, adopting a procedural schedule and setting July 10, 2015 as the date for parties to request early SOAH mediation. Thereafter, on July 10, 2015, Christine Chartier, James and Marian Myers, and Donald and Mary Catherine Allen requested SOAH mediation. Pursuant to 16 TAC § 22.78, “[u]nless otherwise specified... a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.” Therefore, this response is timely filed.

II. DISCUSSION

Due to scheduling conflicts, Staff is not able to participate in settlement discussions or mediation until after August 1st and preferably after August 14th. Staff is currently handling a number of projects and cases with deadlines that occur throughout July and early August. Therefore, Staff recommends the following dates be considered if the ALJ grants SOAH mediation in this docket: August 17, 18, 19, 20 or 21. Staff has discussed these dates with Applicant and James and Marian Myers who indicated they were acceptable. Staff was unable to reach the other parties.

Staff offers, as an alternative to SOAH mediation, that settlement discussions be held among the parties at the PUC. Staff has experience in conducting settlement discussions among parties in contested proceedings, and there may be greater flexibility in scheduling a time and date for a settlement discussion among the parties at the PUC.

III. CONCLUSION

For early SOAH mediation, Staff proposes the following dates: August 17, 2015; August 18, 2015; August 19, 2015; August 20, 2015; or, August 21, 2015.

Dated: July 15, 2015

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on 15th of July, 2015 in accordance with 16 TAC § 22.74.


Maria Faconti