



Control Number: 43081



Item Number: 10

Addendum StartPage: 0

SOAH DOCKET NO. 473-14-0218
PUC DOCKET NO. 43081

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PUBLIC UTILITY COMMISSION
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SECOND PETITION OF TRAVIS
COUNTY MUNICIPAL UTILITY
DISTRICT NO. 12 APPEALING
CHANGE OF WHOLESALE
WATER RATES IMPLEMENTED
BY WEST TRAVIS COUNTY
PUBLIC UTILITY AGENCY, CITY
OF BEE CAVE, TEXAS, HAYS
COUNTY, TEXAS AND WEST
TRAVIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 5

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY'S
UNOPPOSED MOTION TO POSTPONE PREHEARING CONFERENCE**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The West Travis County Public Utility Agency ("WTCPUA") files this Motion to Postpone the Prehearing Conference scheduled for September 30, 2014, and in support hereof shows the following:

On September 15, 2014, the Public Utility Commission ("PUC" or "Commission") adopted its Order of Referral, submitting this docket to the State Office of Administrative Hearings ("SOAH"), and requesting the assignment of an Administrative Law Judge ("ALJ") to conduct a hearing.¹ In that Order of Referral, the Commission directed WTCPUA to file with the Commission by September 25, 2014, a list of issues to be addressed in the docket, and also invited the Commission Staff and any other interested party to also file a list of issues. The Commission stated that it would consider and possibly adopt a preliminary order in its meeting currently scheduled for October 17, 2014.

¹ A copy of the Order of Referral is attached hereto as Attachment A.

The Order of Referral was issued pursuant to P.U.C. PROC. R. 22.207, which provides as follows:

The utility division of the State of [sic] Office of Administrative Hearings shall conduct hearings related to contested cases before the commission, other than a hearing conducted by one or more commissioners. At the time SOAH receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. . . ²

This Commission rule implements the directive of TEX. GOV'T CODE ANN. § 2003.049, which directs SOAH to establish a utility division to perform the contested case hearings for the Commission. Further, Subsection 2003.049(e) provides:

(e) At the time [SOAH] receives jurisdiction of a proceeding, the [PUC] shall provide to the administrative law judge a list of issues or areas that must be addressed . . . ³

Thus, the mandated identification of issues by the Commission has already commenced; WTCPUA will file its list of issues on September 25, and it expects that the Staff and other parties will file theirs, as well.

However, SOAH Order No. 1, which schedules a prehearing conference in this matter at SOAH, also indicates that the ALJ intends to address the same issues that WTCPUA intends to present to the Commission. The prehearing conference scheduled by SOAH Order No. 1 is for a date before the time that the Commission will issue its Preliminary Order, which is out of sequence with the referral process identified in P.U.C. PROC. R. 22.207 and TEX. GOV'T CODE ANN. § 2003.049(e). WTCPUA believes it is premature to hold a substantive prehearing conference, such as the one contemplated by SOAH Order No. 1, prior to the time that the ALJ

² P.U.C. PROC. R. 22.207 *Referral to State Office of Administrative Hearings*, effective November 1, 1993.

³ TEX. GOV'T CODE ANN. § 2003.049(e) (West 2008).

and the parties have received from the Commission the identification of the issues to be addressed.

WTCPUA is mindful of the unique procedural posture of this proceeding, with the petition having been filed prior to the transfer of the water rate review authority from the Texas Commission on Environmental Quality (“TCEQ”) to the Commission, and understands that the agencies are still in the process of addressing these pending, transferred matters. However, because the Commission has a specific rule and process for identifying issues to be litigated by the parties at SOAH, it is reasonable to apply that rule to this docket, and to wait until the Commission has issued its Preliminary Order before holding a prehearing conference.⁴

Postponing the prehearing conference in this docket until a date after October 17, 2014, will ease the process, will avoid unnecessary duplication of effort in identifying issues, and will promote administrative efficiency.

Counsel for WTCPUA has conferred with counsel for the parties to this docket. Counsel for Travis County Municipal Utility District No. 12, West Travis County Municipal District No. 5, City of Bee Cave, and Hays County have all indicated their support for this Motion. Public Utility Commission Staff is not opposed to the Motion.

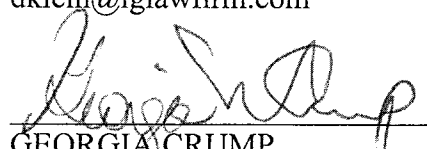
WHEREFORE, PREMISES CONSIDERED, West Travis County Public Utility Agency respectfully requests that the Prehearing Conference scheduled in this matter for September 30, 2014, be postponed to a date after the Public Utility Commission issues its Preliminary Order in PUC Docket No. 43081, which is currently anticipated to be October 17, 2014.

⁴ See *Petition of Travis County Municipal Utility District No. 12 Appealing Change of Wholesale Water Rates Implemented By West Travis County Public Utility Agency, and the City of Bee Cave, Texas, Hays County, Texas and West Travis County Municipal Utility District No. 5*, Docket No. 42866, SOAH Order No. 3 (Sept. 9, 2014). The ALJ ordered the procedural rules of the PUC, Chapter 22, govern that case on and after September 1, 2014.

Respectfully submitted,

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ATTORNEYS FOR WEST TRAVIS COUNTY
PUBLIC UTILITY AGENCY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, e-mail, hand-delivery and/or regular, first class mail on this 25th day of September, 2014, to the parties of record.



GEORGIA N. CRUMP

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Brandy D. Marty
Commissioner

Brian H. Lloyd
Executive Director



Rick Perry
Governor

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PUBLIC UTILITY COMMISSION
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Public Utility Commission of Texas

TO: State Office of Administrative Hearings

FROM: Stephen Journey 
Director, Commission Advising & Docket Management

RE: Order of Referral
P.U.C. Docket No. 43081; SOAH Docket No. 473-14-0218
Second Petition of Travis County Municipal Utility District No. 12 Appealing Change of Wholesale Water Rates Implemented by West Travis County Public Utility Agency, City Of Bee Cave, Texas Hays County, Texas And West Travis County Municipal Utility District No. 5

APPLICATION # 30812-A

DATE: September 15, 2014

Enclosed herewith are the following documents related to the above referenced application:

1. Application and Commission file in the above referenced docket*
2. Request for assignment of Administrative Law Judge
3. Order of Referral

cc: without Items 1 and 2: All Parties of Record

*Referred file contains all filings through September 12, 2013

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P.U.C. DOCKET NO. 43081
SOAH DOCKET NO. 473-15-0218

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SECOND PETITION OF TRAVIS
COUNTY MUNICIPAL UTILITY
DISTRICT NO. 12 APPEALING
CHANGE OF WHOLESALE WATER
RATES IMPLEMENTED BY WEST
TRAVIS COUNTY PUBLIC UTILITY
AGENCY, CITY OF BEE CAVE, TEXAS
HAYS COUNTY, TEXAS AND WEST
TRAVIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 5

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APPLICATION # 30812-A

ORDER OF REFERRAL

The Public Utility Commission of Texas (Commission) refers this docket to the State Office of Administrative Hearings (SOAH) and requests the assignment of an administrative law judge (ALJ) to conduct a hearing and issue a proposal for decision, if such is necessary in the event one or more issues are contested by the parties.

In order to develop a list of the issues to be addressed in this docket, as well as any necessary statement of Commission policy, precedent, and/or position on any threshold legal or policy issue(s) relevant to this proceeding **Travis county Municipal Utility District No. 12**, shall, and the Commission Staff and any other interested party may, file with the Commission a list of issues to be addressed in the docket by **September 25, 2014**. This pleading may also (1) identify any issue(s) which should not be addressed in the docket, and (2) identify any threshold legal and/or policy issue(s) which should be briefed for purposes of a preliminary order. Specific explanations should support proposals included in the pleading pursuant to (1) and (2). Parties shall not file responses to any pleading submitted in response to this Order, unless specifically requested.

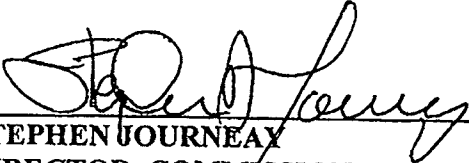
All subsequent pleadings in this docket must contain both the SOAH and PUC docket numbers to allow for efficient processing. Parties shall make filings in accordance with P.U.C.

PROC. R. 22.71(c) regarding the number of copies to be filed or P.U.C. PROC. R. 22.71(d)(c) regarding the number of confidential items to be provided.

The Commission will issue and provide to SOAH a preliminary order which includes a list of issues and areas that must be addressed in this proceeding, pursuant to TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2008 & Supp. 2013), and any necessary statement of Commission policy, precedent, or position on threshold issues, or combination thereof, relevant to this proceeding, pursuant to TEX. GOV'T CODE ANN. § 2001.058(c) (Vernon 2008 & Supp. 2013). The Commission will consider and possibly adopt a preliminary order in this docket in the open meeting currently scheduled to convene on **October 17, 2014**.

SIGNED AT AUSTIN, TEXAS the 15th day of September 2014.

PUBLIC UTILITY COMMISSION OF TEXAS


STEPHEN JOURNEAY
DIRECTOR, COMMISSION ADVISING & DOCKET
MANAGEMENT