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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,
HATS COUNTY, TEXAS, AND WEST
TRAVIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 5

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PUBLIC UTILITY COMMISSION
BEFORE THE FILING CLERK

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

LIST OF ISSUES PRESENTED BY THE CITY OF BEE CAVE

In accordance with the Order of Referral of the Public Utility Commission ("Commission" or "PUC") issued September 15, 2014, requesting a list of issues to be addressed in this docket, The City of Bee Cave presents this its List of Issues.

ISSUES

1. Jurisdiction – Water Code Chapters 11 and 12, and the Local Government Code

Travis County M.U.D. No. 12 ("Petitioner") has invoked TEX. WATER CODE §§11.036, 11.041, 12.013 and 13.043(f) and TEX. LOCAL GOV'T CODE §572.061(d).

Facts averred by Petitioner do not state a basis for Commission action under Chapter 11 or Chapter 12 of the Water Code.

The Local Government Code does not establish an independent basis for jurisdiction.

2. Jurisdiction - Contract

The rate about which Petitioner complains might be contemplated by a contract (not a contract that establishes jurisdiction under Chapter 11 or 12 of the Water Code). If so, Petitioner would actually be asking the PUC to resolve a contract dispute that should properly be addressed

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by a state court. Petitioner's position in this regard is not clear. It's important that the Commission determine whether all parties agree that the rate in question is set pursuant to contract, so that the proper procedure can be determined, as required by Substantive Rule §24.131.

3. Parties

Petitioner states that it represents not only itself, but also Travis County M.U.D. No. 11 and Travis County M.U.D. No. 13. There is currently nothing of record to establish authority for that representation.

If the Commission finds that it has subject matter jurisdiction, how do Travis County M.U.D. No. 11 and Travis County M.U.D. No. 13 come before the Commission in this matter? Are they customers of the West Travis County Public Utility Agency or Travis County M.U.D. No. 11 and Travis County M.U.D. No. 5? They are not customers of Bee Cave. Nothing of record demonstrates that these two districts have standing to request any action from the Commission in this matter.

4. Public Interest

If the parties agree that the rate in question is set pursuant to contract, then the issue for a contested hearing is whether the rate in question adversely affects the public interest, pursuant to Substantive Rule §§24.132 and 24.133.

5. Interim Rates

Petitioner has requested interim rates. If the Commission determines that the parties all agree that the rate in question is set pursuant to contract, interim rates should not be considered.

Interim rates should not be set anyway. The rate in question is a drought surcharge. That drought conditions exist is obvious and the Commission knows fully about the effect of drought on water utility revenues. Additionally, the utility is publicly owned and operated.

Interim rates would do harm. The public interest criteria of Substantive Rule §24.133 should be satisfied for interim rates just as those criteria should be satisfied for final rates.

6. Consolidation

Petitioner has requested "expedited consolidation" of this petition with the petition currently pending in PUC Docket No. 42866; SOAH Docket No. 473-14-5144.

The only reason for consolidation offered by Petitioner is the identity of the parties. But the parties in the two proceedings are not identical.

The substantive issues associated with the rates addressed by the two petitions are totally different and have no relationship to each other.

The predictable result of consolidation will be confusion, and nothing more.

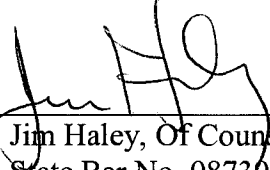
CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the City of Bee Cave respectfully requests that the Commission issue a Preliminary Order that reflects the considerations set forth herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been submitted for filing at the Public Utility Commission of Texas on the 25th day of September, 2014, and served in accordance with the Public Utility Commission of Texas' Procedural Rules.



Jim Haley