



Control Number: 43121



Item Number: 19

Addendum StartPage: 0

PUC DOCKET NO. 43121

**REQUEST BY EDE AND RANDY
BULLOCK FOR DETERMINATION OF
RCH WATER SUPPLY
CORPORATION'S COMPLIANCE
WITH TEXAS WATER CODE § 13.004
(37766-I)**

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PUBLIC UTILITY COMMISSION

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**COMMISSION STAFF'S RESPONSE TO RCH WATER SUPPLY CORPORATION'S
OBJECTION TO DOCUMENTS REQUESTED BY COMMISSION STAFF**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to RCH Water Supply Corporation's (RCH) Objection to Documents Requested by Commission Staff, and would show the following:

I. BACKGROUND

On October 14, 2013, Ede and Randy Bullock (Petitioners) filed a petition with the Texas Commission on Environmental Quality (TCEQ) to investigate RCH Water Supply Corporation (RCH) pursuant to TEX. WATER CODE (TWC) § 13.004. On October 22, 2015, Staff responded to Order No. 2, and requested that RCH provide additional information to confirm that it is "operating in a manner that complies with the requirements for classification as a nonprofit water service corporation under Section 13.002(24)." On October 23, 2015, Order No. 4 was issued, requiring that RCH file the additional information requested in Staff's filing. On October 28, 2015, RCH's objection to Staff's request for additional documents was filed.¹

II. RESPONSE TO OBJECTIONS

As noted by the parties, the Commission's jurisdiction in this proceeding is based on TWC § 13.004. RCH claims that it has shown through previous filings that it is a water supply corporation and that "none of the requested documents relate whatsoever to whether RCH is a water supply corporation."² However, the Commission's statutory jurisdiction is not solely based on whether the RCH is a water supply corporation.

Under TWC § 13.004(a)(2), the Commission has jurisdiction if the water supply corporation "is operating in a manner that does not comply with the requirements for classifications as a nonprofit water

¹ Staff received a copy of RCH's objections on October 23, 2015.

² *RCH Water Supply Corporation's Objection to Documents Requested by Commission Staff* at 2 (Oct. 28, 2015).

supply or sewer service corporation prescribed by Sections 13.002(11) and (24).” TWC § 13.002(24) defines a water supply or sewer service corporation as “a nonprofit corporation organized and operating under Chapter 67 that provides potable water service or sewer service for compensation and that has adopted and is operating in accordance with by-laws or articles of incorporation which ensure that it is member-owned and member-controlled.”

Therefore, in order to ensure that an entity meets the classification of a water supply corporation, not only does the entity need to show that it is a non-profit corporation, but also that it was organized and operating under Chapter 67 of the TWC, that it provides potable water service or sewer service for compensation, and that it has adopted and is operating in accordance with by-laws or articles of incorporation which ensure that it is member-owned and member-controlled.

Staff’s requested information in its Response to Order No. 2 is necessary not only to demonstrate that the RCH is a water supply corporation, but also to establish whether it meets all the requirements of classification under TWC § 13.002(24). The administrative law judge (ALJ) appropriately issued Order No. 4 requiring that RCH submit the additional information. Staff requests that RCH’s objection be overruled.

Dated: October 30, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director – Legal Division

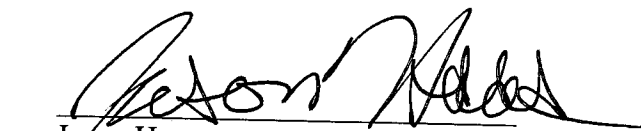
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 30, 2015, in accordance with 16 Tex. Admin. Code § 22.74.



Jason Haas