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APPLICATION OF COMMUNITY §
WATER SERVICE, INC. AND §
WALTER J. CARROLL WATER §
COMPANY, INC. FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN ELLIS COUNTY §

BEFORE THE STATE OFFICE
PUBLIC UTILITY COMMISSION
FILING CLERK
OF
ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 8
MEMORIALIZING TELEPHONE PREHEARING CONFERENCE;
CANCELLING HEARING ON THE MERITS; AND ESTABLISHING
BRIEFING SCHEDULE**

On December 7, 2015, the undersigned Administrative Law Judge (ALJ) convened a telephone prehearing conference before the hearing on the merits, which was set for December 8, 2015.¹ All parties entered an appearance. At the outset, the ALJ notes that Order No. 7 incorrectly stated that the City of Red Oak (City) had not prefiled testimony. This was in error, as the City prefiled testimony on June 16, 2015, titled "Notice of Filing."² This was done a few months before a procedural schedule was established.

After some discussion at the prehearing conference, the City clarified that its main issue with the pending sale, transfer, merger application concerned the ability of Walter J. Carroll Water Company (Carroll Water Company) to provide adequate fire suppression support and whether water distribution lines were installed at the proper depth. In part because the issue of fire suppression is not within the Commission's jurisdiction and because Commission Staff supports the application, the City indicated that it had no cross-examination for either the Applicants'³ witnesses or for Staff's witnesses. The ALJ notes that the City did not provide discovery responses to Carroll Water Company and failed to comply with Order No. 5, which granted Carroll Water Company's motion to compel. Consequently, the City agreed that its

¹ ALJ Fernando Rodriguez also appeared telephonically.

² Interchange No. 37.

³ Applicants consist of Community Water Service, Inc. and Carroll Water Company.

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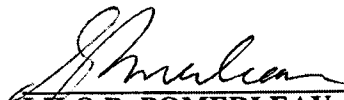
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prefiled testimony would be re-designated as a statement of position, which is not evidence but indicates its position in this matter. Carroll Water Company agreed to withdraw its request for sanctions.

The Staff of the Public Utility Commission of Texas (Commission) is not opposed to the sale, transfer, merger application and has filed testimony in support of Commission approval. Staff also waived cross-examination of Applicants' witnesses. Thus, no party requested cross-examination and the need for, and expense of, a live hearing on the merits or sanctions hearing was unnecessary. Accordingly, the hearing on the merits and hearing on sanctions, which was set for December 8, 2015, is cancelled. Staff and Applicants, as soon as practicable but no later than December 16, 2015, shall mark for admission and send or deliver its evidence to the State Office of Administrative Hearings. The ALJ will admit such evidence via written order.

The parties agreed that initial briefs shall be due on or before January 8, 2016. Initial briefs need consist only of a brief summary of the application and/or position of the parties and proposed findings of fact and conclusions of law. Applicants and Commission Staff also committed to working together on the proposed findings of fact. Reply briefs are due January 22, 2016, or two weeks after initial briefs are filed (if initial briefs are filed before January 8, 2016). A brief proposal for decision shall issue after the close of the record.

SIGNED December 8, 2015.



LILO D. POMERLEAU
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS