



Control Number: 43529



Item Number: 15

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014.

49399  
SOAH Docket No. 582-05-1528  
TCEQ Docket No. 2004-1201-UCR

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PUBLIC UTILITY COMMISSION  
FILING CLERK

Application of  
Fall Creek Utility Company, Inc.,  
to Raise Water and Sewer Utility Rates in  
Hood County, Texas

Before the

State Office of Administrative Hearings

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**EXECUTIVE DIRECTOR'S MOTION FOR SUBSTITUTION OF COUNSEL,  
STATUS REPORT, AND REQUEST FOR CLARIFICATION**

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TO THE HONORABLE ADMINISTRATIVE LAW JUDGE (ALJ) OF THE STATE  
OFFICE OF ADMINISTRATIVE HEARINGS:

The Executive Director of the Texas Commission on Environmental Quality (TCEQ) files  
the Executive Director's motion for substitution of counsel and status report.

**I. MOTION FOR SUBSTITUTION OF COUNSEL**

The Executive Director respectfully requests that Gabriel Soto be permitted to withdraw as  
the Executive Director's counsel and the following staff attorney be substituted as attorney  
for the Executive Director:

Dawn Burton, Staff Attorney  
Environmental Law Division  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-173  
Austin, Texas 78711-3087  
Telephone: (512) 239-0946  
Facsimile: (512) 239-0606

This matter is currently abated. The withdrawal and substitution of counsel is not sought for  
delay but so that justice may be done.

13

On October 18, 2005, the POA/Applicant filed a status report. In its status report, the POA/Applicant stated that the POA and Fall Creek Utility Company, Inc., had reached a settlement agreement and that the application for rate increase had been assigned and transferred to the POA. The POA/Applicant stated that it would not pursue the application for rate increase and requested that Judge Rogan dismiss the application.

On October 25, 2005, the ALJ issued Order No. 7, conditionally dismissing this proceeding from the SOAH docket. The dismissal will become final on November 1, 2005, unless a party submits a properly supported objection within the next week.

The Executive Director construes the request of the POA/Applicant as a request to withdraw its application with prejudice under 30 Texas Administrative Code (TAC) Section 80.25(a).

Under 30 TAC § 80.25(b), if an applicant requests to withdraw its application with prejudice, the ALJ shall remand the application and the request to withdraw the application to the Executive Director, who shall enter an order dismissing the application with prejudice.

### **III. REQUEST FOR CLARIFICATION**

The Executive Director would like to request that the ALJ clarify whether the dismissal of the application from the SOAH docket is with prejudice, with remand to the Executive Director to enter an order dismissing the application with prejudice.

## CERTIFICATE OF SERVICE

I certify that on October 25, 2005, the foregoing Executive Director's Motion for Substitution of Counsel and Status Report was sent by first-class mail, agency mail, or facsimile to all persons on the attached mailing list.

  
Dawn Burton

## MAILING LIST

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