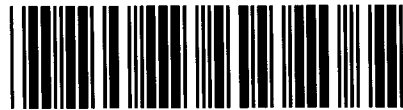




Control Number: 43535



Item Number: 13

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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.

43535

Russell, Moorman & Rodriguez, L.L.P.
102 West Morrow Street, STE 103
Georgetown, Texas 78626
Telephone: (512) 930-1317
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CLIENT NUMBER: 390-00

FROM: Angela K. Moorman/Kerry Russell

NUMBER OF PAGES: 7 + cover page

COMMENTS:

RE: City of Royse City's Objection to the ED's Motion to Extend Procedural Deadlines

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13

RM&R

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May 18, 2004

VIA FACSIMILE

Ms. LaDonna Castañuela
Office of Chief Clerk (MC-105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Objection to ED's Motion to Extend Procedural Deadlines, *Application of the City of Royse City to Amend Water CCN and to Obtain Sewer CCN in Collin, Rockwall, and Hunt Counties*, Consolidated Docket, SOAH Docket Nos. 582-04-0253 & 582-04-1268; TCEQ Docket Nos. 2003-0737-UCR, 2003-0738-UCR, & 2003-1289-UCR.

Dear Ms. Castañuela:

Enclosed is the *City of Royse City's Objection to the Executive Director of the Commission's Motion to Extend Procedural Schedules* to be filed in the above-referenced consolidated proceeding. If you have any questions, please telephone me or Mr. Kerry Russell at (512) 930-1317.

Sincerely,


Angela K. Moorman

390V00\lrr040518ukm3

ENCLOSURES

cc: Service List
Mr. Connie Goodwin
Mr. Kerry Russell

"Commission") filed a motion requesting that certain procedural deadlines again be extended and seeking to compel discovery from the City of Fate ("Fate"). For the reasons set forth below, Royse City respectfully requests that the Administrative Law Judge deny the ED's Motion to Extend Procedural Deadlines, leaving in place the procedural schedule set by Order No. 3 and revised by Order No. 5.

II. ARGUMENT AND AUTHORITIES

The entire basis for the ED's Motion to Extend Procedural Deadlines appears to be a discovery dispute between the ED and Fate. While the discovery dispute involves only those two parties, the ED's Motion to Extend Procedural Deadlines would unfairly and unnecessarily affect all parties in this consolidated docket.

The ED requests that the next three deadlines in the procedural schedule be revised as follows:

- (1) Last day to propound written discovery requests on the parties: Changed from May 17, 2004, to May 24, 2004.
- (2) All discovery responses and supplementations due: Changed from June 10, 2004, to June 17, 2004.
- (3) All Applicants' prefiled direct testimony due: Changed from June 17, 2004, to June 24, 2004.

The ED does not address that the new proposed deadline of June 24, 2004, for Applicants' prefiled testimony would be just one week before the next procedural deadline of July 2, 2004, for All Protestants' prefiled testimony. Such additional compression of the procedural schedule

would result in undue hardship for Royse City as it continues to develop its case for this consolidated docket. Such a revision would allow Royse City only one week to review Applicants' testimonies and develop and file its prefiled testimony as a Protestant in this consolidated docket. In a complicated case such as this with multiple applicants and protestants, one week is not enough time to prepare adequate testimony.

While settlement negotiations continue among various parties, Royse City continues to believe that because of the rapid growth in the Royse City area it is important that the various CCN disputes be worked out as quickly as possible so that new residents in that area can be served. To that end, if any parties cannot reach settlement, Royse City believes that it is important that the hearing on the merits go forward as currently scheduled. Royse City believes that the current procedural schedule, specifically as it relates to prefiled testimony, has been compressed to the greatest extent possible while maintaining the current date for the hearing on the merits.

Discovery disputes should be resolved between the parties involved. Other parties to the proceeding that have complied with all discovery deadlines should not be penalized for the actions of other parties. For this reason, Royse City requests that the ED's Motion to Extend Procedural Deadlines be denied and the discovery dispute between the ED and Fate be dealt with as any other discovery dispute in an administrative proceeding.

SOAH DOCKET NOS. 582-04-0253 & 582-04-1268
TCEQ DOCKET NOS. 2003-0737-UCR, 2003-0738-UCR, & 2003-1289-UCR

III. PRAYER

For the reasons stated herein, the City of Royse City respectfully requests that the Executive Director of the Commission's Motion to Extend Procedural Deadlines be denied. Royse City further prays for any additional relief to which it is justly entitled.

Respectfully submitted,

RUSSELL, MOORMAN & RODRIGUEZ, L.L.P.
102 West Morrow, Suite 103
Georgetown, Texas 78626
(512) 930-1317
(512) 864-7744 (Fax)



KERRY E. RUSSELL
State Bar No. 17417820

ANGELA K. MOORMAN
State Bar No. 24007700

**ATTORNEYS FOR THE CITY OF ROYSE CITY,
TEXAS**

CITY OF ROYSE CITY'S OBJECTION TO THE EXECUTIVE DIRECTOR OF THE COMMISSION'S MOTION TO EXTEND PROCEDURAL DEADLINES

SOAH DOCKET NOS. 582-04-0253 & 582-04-1268
TCEQ DOCKET NOS. 2003-0737-UCR, 2003-0738-UCR, & 2003-1289-UCR

CERTIFICATE OF SERVICE

I hereby certify that on this the 18th day of May, 2004, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, Federal Express overnight delivery, or hand delivery to the following:

<p>Mr. Craig R. Bennett Administrative Law Judge State Office of Administrative Hearings 300 West Fifteenth Street Austin, Texas 78701 Telephone: (512) 475-4993 Fax: (512) 936-0730 (512) 475-4994</p>	
<p>Mr. Geoffrey Kirshbaum Texas Commission on Environmental Quality MC-175 P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-0600 Fax: (512) 239-0606</p>	<p>Representing the Executive Director, Texas Commission on Environmental Quality</p>
<p>Mr. Blas Coy Office of the Public Interest Counsel Texas Commission on Environmental Quality MC-103 P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-6363 Fax: (512) 239-6377</p>	<p>Representing the Office of Public Interest Counsel, Texas Commission on Environmental Quality</p>
<p>Mr. Mark H. Zeppa Law Offices of Mark Zeppa, PC 4833 Spicewood Springs Road #202 Austin, Texas 78759-8436 Telephone: (512) 346-4011 Fax: (512) 346-6847</p>	<p>Representing:</p> <ul style="list-style-type: none">▪ Verandah Communities, LP▪ Verandah Freshwater Supply District▪ Parker Creek Estates, L.P.

CITY OF ROYSE CITY'S OBJECTION TO THE EXECUTIVE DIRECTOR OF THE COMMISSION'S MOTION TO EXTEND PROCEDURAL DEADLINES

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Mr. Skip Newsom Attorney 3724 Jefferson Street, Suite 200 Austin, Texas 78731 Telephone: (512) 477-4121 Fax: (512) 477-2860	Representing the City of Fate, Texas
Ms. Amy Cortinas Utility Rates and Services Section Water Utilities Division - MC-153 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-6960 Fax: (512) 239-6972	Texas Commission on Environmental Quality
Docket Clerk TCEQ Office of Chief Clerk (MC-105) P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Fax: (512) 239-3311	

By: 
ANGELA K. MOORMAN