

Control Number: 43535



Item Number: 6

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.

43535

SOAH DOCKET NO. 582-04-0253 and 582-04-1268  
TCEQ DOCKET NOS. 2003-0737-UCR, 2003-0738-UCR, and 2003-1289-UCR

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APPLICATION OF THE CITY OF  
ROYSE CITY TO AMEND WATER  
CCN AND TO OBTAIN SEWER CCN  
IN COLLIN, ROCKWALL, AND HUNT  
COUNTIES

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BEFORE THE STATE OFFICE

APPLICATION OF VERANDAH  
COMMUNITIES, LP TO OBTAIN  
SEWER CCN IN HUNT AND  
ROCKWALL COUNTIES

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OF

APPLICATION OF PARKER CREEK  
ESTATES, L.P. TO OBTAIN A WATER  
AND SEWER CCN IN ROCKWALL  
COUNTY, TEXAS, APPLICATION  
NOS. 34297-C AND 34301-C

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ADMINISTRATIVE HEARINGS

**ORDER NO. 3**  
**SETTING OUT SCHEDULE AND PROCEDURES:**  
**NOTICE OF HEARING ON THE MERITS**

On January 5, 2004, a consolidated preliminary hearing was held in these dockets. The following appeared at the preliminary hearing and were recognized and admitted as parties: (1) City of Royse City (Royse City); (2) Parker Creek Estates, L.P. (Parker Creek); (3) Verandah Communities, L.P. (Verandah); (4) Verandah Freshwater Supply District (VFSD); (5) the Honorable Dean M. Gandy (Mr. Gandy); (6) the City of Fate (Fate); and (7) the Executive Director (ED) of the Texas Commission on Environmental Quality. No other persons or entities sought party status. At the preliminary hearing, the ED offered eight exhibits, all of which were admitted, for purposes of establishing notice and jurisdiction. No parties challenged notice or jurisdiction, and the Administrative Law Judge (ALJ) finds that both have been properly shown.

Royse City moved for a consolidated hearing in these cases. Parker Creek, Verandah, and VFSD opposed a consolidated hearing. After considering the arguments of the parties, the ALJ concluded that a consolidated hearing was appropriate and granted Royse City's motion. Therefore, the above-referenced cases are consolidated for a joint hearing on the merits.

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### I. SCHEDULE

At the preliminary hearing, the parties conferred and presented the following schedule, which is hereby adopted and shall govern this proceeding:

DEADLINE/DATE	ACTIVITY
1/12/04	Discovery begins
4/12/04	Last day to propound written discovery on the parties
5/4/04	All discovery responses and supplementation due
6/3/04	All applicants' prefiled direct testimony due
7/2/04	All protestants' prefiled testimony due
7/30/04	Executive Director's prefiled direct testimony due
8/13/04	Deadline for completing depositions
9/3/04	Deadline for filing objections to all prefiled testimony
9/17/04	Deadline for filing responses to objections to prefiled testimony
9/24/04	Prehearing Conference (10:00 a.m.)
9/28/04	Hearing on the Merits (9:00 a.m.)

### II. HEARING DATE AND LOCATION

The hearing on the merits will convene at **9:00 a.m. on September 28, 2004**, at the State Office of Administrative Hearings, 4<sup>th</sup> Floor, 300 West 15<sup>th</sup> Street, Austin, Texas. Once convened, the hearing shall continue from day to day until completed. Currently, the parties anticipate four days for the hearing and the parties are expected to reserve that amount of time. The prehearing conference will convene at **10:00 a.m. on September 24, 2004**, at the same location listed above for the hearing on the merits. At the prehearing conference, the parties shall be prepared to address party alignment, order of presentation and questioning by the parties, and time allocations and limitations, if needed.

### III. PROCEDURAL RULES

Except as otherwise provided herein, this case shall be conducted in accordance with the procedural rules of the TCEQ and SOAH. *See* 30 TEX. ADMIN. CODE (TAC) Chapter 80 and 1 TAC Chapter 155. In the event of a conflict, the TCEQ's rules apply. 1 TAC § 155.1 (b).

### IV. DISCOVERY

Discovery shall be conducted according to the Texas Rules of Civil Procedure (TRCP), as supplemented by SOAH's discovery rules, 1 TAC § 155.31. The TRCP shall be interpreted consistently with chapter 80 of the TCEQ's rules, the Texas Water Code, the Texas Health and Safety Code, and the Administrative Procedure Act. *See* 30 TAC § 80.151. Pursuant to SOAH Procedural Rule 155.23(3), discovery documents shall be served on the other parties but shall not be filed with the ALJ unless such materials are the subject of a discovery dispute and only those portions relevant to the dispute shall be attached to any pertinent motion.

The parties are expected to attempt to resolve discovery disputes without the need for the ALJ's intervention. Significant disputes which cannot be resolved, however, should be brought to the ALJ's attention in a motion to compel. Any request for relief should include a copy of any discovery correspondence necessary for an informed ruling on the dispute. Parties may obtain disclosure of information and material as provided in TRCP 194. The parties are encouraged to cooperate and reach agreements regarding discovery matters.

The parties have agreed, for purposes of this proceeding, that voluminous responses shall be those responses in excess of 25 pages per request, or responses in excess of 200 pages per discrete set of discovery requests. The parties may change this definition, without order of the ALJ, but only by agreement of the parties.

## V. PLEADINGS

Unless specified or agreed otherwise, to be considered filed on a particular day, filings must be received by the ALJ and the parties by 5:00 p.m. on that date. When something is due by a certain date or time, it is not sufficient to merely mail the filing on that day. 1 TAC § 155.23 (4).

Unless a party obtains an order granting oral argument, the ALJ will rule on motions based on the written pleadings. If oral argument is granted, it shall be conducted by telephone conference, unless the ALJ specifies otherwise. The party requesting oral argument shall make arrangements for the telephone conference in a manner so as not to delay a ruling on the motion.

Motions or other correspondence may be FAXED. Filings should be sent to all parties contemporaneously (*i.e.*, that same day) with any filing to the ALJ. This is particularly important when deadlines for responses are involved since it will be assumed that all parties received a filing the same day the ALJ did and the time for responses begins accordingly. If a deadline is approaching and a party cannot send a fax for reasons beyond its control [*e.g.* both SOAH fax numbers (Natural Resources 512/936-0730 and SOAH Main Docket 512/475-4994) have been busy since 4:00 p.m.], call and tell the ALJ's assistant, Lisa Serrano (512/936-0724), or the SOAH Docket Division (512/475-3445) of the problem. Parties shall use the ALJ's service list and this list should be attached to all filings.

## VI. MEDIATION

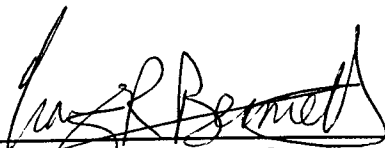
The parties are advised that both SOAH and the TCEQ provide trained mediators who can conduct mediation and assist the parties in attempting to resolve this matter without the need for a hearing. To obtain more information on SOAH's mediation program, the parties may submit a request in writing to the undersigned ALJ or may contact Renee Rusch, the ALJ who is the leader of SOAH's Alternative Dispute Resolution Team. Judge Rusch may be contacted by telephone at (512) 475-4993. If the parties wish to have a mediator assigned to this case, they must file a request in writing in this docket.

## VII. TRANSCRIPT

For any proceeding in a docket set to last longer than one day, a court reporter is generally required. 1 TAC § 155.43(b). Upon his own motion, the ALJ may request a verbatim record and an original and two copies of a transcript of a proceeding. 30 TAC § 80.23 (b)(4).

Because the parties estimate that the hearing on the merits will take more than one day, a court reporter will be needed to transcribe the hearing and to deliver the original and one copy of that transcript to the ALJ and one copy to the ED. Royse City shall work with the TCEQ Chief Clerk's Office to ensure that a court reporter attends the hearing. Royse City also shall pay the cost of that recording and transcription, subject to an allocation of those costs among all the parties at the end of the case. 30 TAC § 80.23.

SIGNED January 6, 2004.

  
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**CRAIG R. BENNETT**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**  
**WILLIAM P. CLEMENTS BUILDING**  
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Phone (512) 475-4993  
Facsimile (512) 475-4994

**SERVICE LIST**

**AGENCY:** TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
(TCEQ)

**STYLE/CASE:** CITY OF ROYSE CITY AND PARKER CREEK ESTATES, LP

**SOAH DOCKET NUMBER:** 582-04-0253 & 582-04-1268

**TCEQ DOCKET NUMBERS:** 2003-0737-UCR, 2003-0738-UCR & 2003-1289-UCR

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**ADMINISTRATIVE COURT**

**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**CRAIG R. BENNETT  
PRESIDING ADMINISTRATIVE LAW JUDGE**

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**PARTIES**

**REPRESENTATIVE/ADDRESS**

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**xc:    Docket Clerk, State Office of Administrative Hearings  
       Docket Clerk, Office of the Chief Clerk, TCEQ, Fax No. (512) 239-3311**