



Control Number: 43551



Item Number: 50

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.

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Kerry

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July 29, 2002

The Honorable Kerry Sullivan
Administrative Law Judge
State Office of Administrative Hearings
PO Box 13025
Austin TX 78711-3025

Re: SOAHDocket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application from City of Austin to Obtain a Water Certificate of Convenience and Necessity (CCN) in Travis, Hays and Williamson Counties; Application No. 33562-C

SOAHDocket No. 582-02-3056; TNRCC Docket No. 2002-0189 UCR; Application from City of Austin to Obtain a Sewer Certificate of Convenience and Necessity (CCN) in Travis, Hays and Williamson Counties; Application No. 33563-C

Dear Judge Sullivan:

I received the City of Austin's letter of July 29, 2002, to you addressing the proposed revised schedule and Order in connection with the above-referenced matter. I would like to explain briefly my concerns about the draft Order.

First, as noted in Austin's letter, both Mr. Zeppa and I believe that the draft scheduling Order inappropriately tries to foreclose depositions after April 7, 2003. Under the proposed schedule, this would be two weeks before the City of Austin filed its rebuttal testimony on April 21, 2003. Again, I believe that allowing depositions of witnesses who prefile testimony is not only appropriate from a fairness perspective but will also expedite the hearing. I do not care to be able to take depositions until the day before trial, but we should at least have a two-week period after April 21, 2003, in which to depose the City's rebuttal witnesses.

In regard to my second concern about Austin's proposal for a deadline of January 6, 2003, as the "last day to file pleadings raising applicable statutes and rules," I would simply respond as we have already on that issue. I do not have a problem filing a list of proposed statutes and rules by this Thursday, as you have already instructed the parties. However, as noted in your ruling on that issue, the Order you will subsequently issue defining the statutes and rules for the hearing will not be exclusive. I'm simply not smart enough to know all of the statutes and rules that apply to a hearing until such time as I've finished my work in preparing for the hearing. Sometimes, that is after all the pre-filed testimony and after I've had a chance to digest it and think about it. Accordingly, I don't intend to surprise anyone at hearing, but I do not want to have a January 6 deadline for raising the applicability of a particular statute or rule. Simply stated, a statute or rule either is applicable or it is not; I don't want the City of Austin trying to get an Order from the ALJ which would preclude me from raising an applicable statute and rule because I have not identified it by January 6, 2003, a date which is well before not only the evidentiary hearing but any prefiled testimony.

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July 29, 2002

Thank you for the opportunity to comment.

Very truly yours,

Ronald J. Freeman
Ronald J. Freeman

RJF/ljs
Enclosure

cc: All parties of record per attached Certificate of Service

July 29, 2002

CERTIFICATE OF SERVICE
Mailing List
SOAH DOCKET NO. 582-02-3056
TNRCC DOCKET NO. 2002-0189-UCR

I hereby certify that a true and correct copy of the above and foregoing instrument was served via facsimile transmission and/or U.S. Mail on this the 29th day of July, 2002, to the following:

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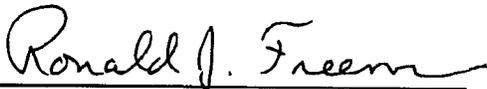
July 29, 2002

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FACSIMILE TRANSMISSION

TO: The Honorable Kerry Sullivan
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FROM: Ronald J. Freeman

DATE: July 29, 2002

TIME: 5:17pm

RE: SOAH Docket No. 582-02-3056

MESSAGE

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 5

Problems in transmission? Please contact J. J. Smith at 512/451-6689.

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