



Control Number: 43674



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**PUC DOCKET NO. 43674**  
**SOAH DOCKET NO. 473-15-1149.WS**

**PETITION OF THE CITY OF DALLAS  
FOR REVIEW OF A DECISION BY  
THE SABINE RIVER AUTHORITY TO  
SET WATER RATES (LAKE FOREST  
RESEVOIR)**

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**PUBLIC UTILITY COMMISSION  
OF  
TEXAS**

**COMMISSION STAFF'S LIST OF ISSUES**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this List of Issues and would show the following:

**I. BACKGROUND**

On October 30, 2014, the City of Dallas filed a petition with the Commission for review of a water rate for Lake Fork Reservoir (Lake Fork) set by the Sabine River Authority on October 9, 2014. The petition was filed pursuant to TEX. WATER CODE ANN. (TWC) §§ 12.013 and 13.043(f) and Title 16, TEX. ADMIN. CODE (16 TAC) § 24.131(a). On November 7, 2014, Staff recommended this docket be referred to the State Office of Administrative Hearings (SOAH) because, according to the petition, the Commission received a complaint within 90 days of the effective date of rate change. On November 10, 2014, this proceeding was referred to SOAH and the Order of Referral required the interested parties to file with the Commission a list of issues to be addressed in this docket by December 2, 2014. Therefore, this pleading is timely filed.

**II. LIST OF ISSUES**

The applicable provisions of the rules for this type of case are P.U.C. SUBST. R. (16 TAC) §§ 24.130 to 24.138. Staff has identified the following issues to be addressed in this proceeding:



1. Is the rate in question charged pursuant to a contract?
2. If the rate in question is charged pursuant to a contract, has the City of Dallas met its burden of proof under 16 TAC § 24.136 to demonstrate that the proposed rate imposed by the Sabine River Authority adversely affects the public interest pursuant to 16 TAC § 24.133(a) by showing that the proposed drought surcharge violates at least one of the following public interest criteria:
  - a. the protested rate impairs the seller's ability to continue to provide service, based on the seller's financial integrity and operational capability;
  - b. the protested rate impairs the purchaser's ability to continue to provide service to its retail customers, based on the purchaser's financial integrity and operational capability;
  - c. the protested rate evidences the seller's abuse of monopoly power in its provision of water or sewer service to the purchaser. In making this inquiry, the commission shall weigh all relevant factors. The factors may include:
    - (i) the disparate bargaining power of the parties, including the purchaser's alternative means, alternative costs, environmental impact, regulatory issues, and problems of obtaining alternative water or sewer service;
    - (ii) the seller's failure to reasonably demonstrate the changed conditions that are the basis for a change in rates;
    - (iii) the seller changed the computation of the revenue requirement or rate from one methodology to another;
    - (iv) where the seller demands the protested rate pursuant to a contract, other valuable consideration received by a party incident to the contract;
    - (v) incentives necessary to encourage regional projects or water conservation measures;
    - (vi) the seller's obligation to meet federal and state wastewater discharge and drinking water standards;
    - (vii) the rates charged in Texas by other sellers of water or sewer service for resale;



(viii) the seller's rates for water or sewer service charged to its retail customers, compared to the retail rates the purchaser charges its retail customers as a result of the wholesale rate the seller demands from the purchaser;

d. the protested rate is unreasonably preferential, prejudicial, or discriminatory, compared to the wholesale rates the seller charges other wholesale customers?

3. If the rate in question is not charged pursuant to a contract or the Commission determines that the the proposed rate does adversely affect the public interest, has the Sabine River Authority met its burden of proof under 16 TAC § 24.136 to demonstrate that its cost of service satisfies the mandates of Chapters 12 and 13 of the Texas Water Code?





**Dated: December 2, 2014**

Respectfully Submitted,

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Steph Mack

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on December 2, 2014 in accordance with P.U.C. Procedural Rule 22.74.

Doug Brown w/permission  
Douglas M. Brown  
Steph Mack

