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PETITION OF THE CITY OF DALLAS § BEFORE THE STATE OFFICE
FOR REVIEW OF A DECISION BY § OF PUBLIC UTILITY COMMISSION
THE SABINE RIVER AUTHORITY § ADMINISTRATIVE HEARINGS
FILING CLERK

**REQUEST TO WITHDRAW APPLICATION AND MOTION FOR
DISMISSAL WITH PREJUDICE**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

Comes now the City of Dallas ("Dallas"), Petitioner in the above styled and numbered docket pursuant to the Commission's Procedural Rules TEX. ADMIN CODE §22.181(d)(10) and (g)(1) and (g)(5) hereby files its Request to Withdraw its Application and Motion for Dismissal with Prejudice. As grounds for said Request and Motion, Dallas shows the following:

I. Procedural History

Dallas filed this appeal on October 30, 2014 complaining of action by the Board of Directors of the Sabine River Authority ("SRA") on October 9, 2014. The Commission assumed jurisdiction and the case was referred to SOAH on November 13, 2014. By SOAH Order No. 5 dated January 21, 2015, the ALJ abated the Proceedings. On April 3, 2014, after hearing, the ALJ entered SOAH Order 8, setting interim rates pending the resolution of the case, and requiring the interim rate payments to be placed into escrow. The escrow agreement was approved on August 3, 2015 in SOAH Order No. 10. There has been no activity at the Commission since SOAH Order No. 10.

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II. Settlement

The City of Dallas and the Sabine River Authority have now settled the dispute resolving all Issues and have executed a Settlement Agreement, Amendment to the Contract, and other documents resolving all issues raised in this appeal. The settlement agreement contemplates that the City of Dallas will move to dismiss this appeal with prejudice. The parties have executed a separate agreement addressing the funds held in escrow under the Escrow Agreement. Thus, all issues are resolved.

III.

The Commission's Procedural Rule, TEX. AMIN CODE §22.181(a) provides that the Presiding Officer on the motion of any party may recommend that the commission dismiss, with or without prejudice any proceeding for any reason specified in this section. TEX. ADMIN CODE §22.181(d)(10) provides for the withdrawal of an application consistent with subsection (g) of §22.181. Tex. Admin. Code §22.181(g)(1) provides that a party that initiated a proceeding may withdraw its application with or without prejudice at any time before that party has presented its direct case. Because of the abatement ordered in SOAH Order No. 5, no party's direct case has been filed. TEX. ADMIN CODE. §22.181(g)(5) directs the presiding officer to issue an order of dismissal with or without prejudice upon a request to withdraw. Under TEX. ADMIN CODE. §22.181(f)(2), no proposal for decision is required.

CONFERENCE WITH SRA

The undersigned counsel of record for the City of Dallas has conferred with Counsel of record for the SRA. SRA has no objection to this motion.

WHEREFORE, PREMISES CONSIDERED the City of Dallas prays that the Administrative Law Judge, as presiding officer, grant the Request for Withdrawal and issue an Order of Dismissal with prejudice pursuant to TEX. ADMIN. CODE §22.181(g)(5), and for such other and further relief to which the City may be entitled.

Respectfully submitted,

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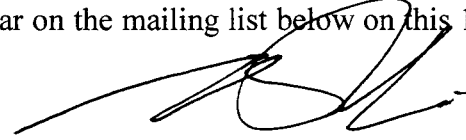
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By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested on all parties whose names appear on the mailing list below on this 1st day of November, 2017.



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

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THE SABINE RIVER AUTHORITY § ADMINISTRATIVE HEARINGS**

ORDER OF DISMISSAL WITH PREJUDICE

On the _____ day of October, 2017 the City of Dallas filed its Request to Withdraw and Motion for Dismissal with prejudice in the above styled and numbered matter. Having considered the Motion and the applicable rules, the presiding office finds that the motion should be granted.

Consistent with the City of Dallas' Request to Withdraw and Motion to Dismiss, this appeal is dismissed with prejudice to refiling.

**William G. Newchurch
Administrative Law Judge
State office of Administrative Hearings**