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

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PETITION OF THE CITY OF
DALLAS FOR REVIEW OF A
DECISION BY THE SABINE RIVER
WATER AUTHORITY

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BEFORE THE STATE OFFICE OF
FILING CLERK
OF
ADMINISTRATIVE HEARINGS

SABINE RIVER AUTHORITY'S RESPONSE TO SOAH ORDER NO. 1

TO THE HONORABLE WILLIAM NEWCHURCH, ADMINISTRATIVE LAW JUDGE:

COMES NOW the Sabine River Authority (the "Authority") and files this response to SOAH Order No. 1, which directs the parties to confer and propose at least three alternative dates on which the Administrative Law Judge ("ALJ") (could hold the prehearing conference in the above-referenced matter.

On November 10, 2014, the Public Utility Commission ("PUC" or "Commission") adopted its Order of Referral, submitting this docket to the State Office of Administrative Hearings ("SOAH"), and requesting the assignment of an ALJ to conduct a hearing. In that Order of Referral, the Commission directed the City of Dallas ("City"), and invited the PUC Staff and other interested parties, to file with the Commission by December 2, 2014, a list of issues to be addressed in the docket. The Commission stated that it would consider and possibly adopt a Preliminary Order at its meeting currently scheduled for December 18, 2014.

The undersigned, while not agreeing that the prehearing conference should occur before the Preliminary Order is provided, has cooperated with other counsel in identifying three dates prior to December 18 on which the parties' representatives could be available for a prehearing conference. However, the Authority believes that doing so would be out of sequence with the referral process identified in P.U.C. PROC. R. 22.207 and TEX. GOV'T CODE ANN. § 2003.049(e).

It is premature to hold a substantive prehearing conference prior to the time that the ALJ and the parties have received from the Commission the identification of the issues to be addressed.

The Order of Referral was issued pursuant to P.U.C. PROC. R. 22.207, which provides as follows:

The utility division of the State of [sic] Office of Administrative Hearings shall conduct hearings related to contested cases before the commission, other than a hearing conducted by one or more commissioners. At the time SOAH receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. . . .¹

This Commission rule implements the directive of TEX. GOV'T CODE ANN. § 2003.049, which directs SOAH to establish a utility division to perform the contested case hearings for the Commission. Further, Subsection 2003.049(e) provides:

(e) At the time [SOAH] receives jurisdiction of a proceeding, the [PUC] shall provide to the administrative law judge a list of issues or areas that must be addressed²

Thus, the mandated identification of issues by the Commission has already commenced; the City and the Authority will file their lists of issues by December 2.

Postponing the prehearing conference in this docket until a date after December 18, 2014, will avoid unnecessary duplication of effort in identifying issues, and will promote administrative efficiency.

Counsel for the Authority has conferred with counsel for the City and the PUC Staff, and has indicated to them that the Authority believes it is more appropriate, in light of the rule and statute cited above, to hold the prehearing conference after the Commission has adopted the Preliminary Order and forwarded same to SOAH. Commission Staff does not object to holding

¹ P.U.C. PROC. R. 22.207 *Referral to State Office of Administrative Hearings*, effective November 1, 1993.

² TEX. GOV'T CODE ANN. § 2003.049(e) (West 2008).

the prehearing conference before December 18, and the City opposes waiting until after December 18 and did not identify potential conference dates after December 18. In light of the ALJ's directive to provide three possible dates for the prehearing conference, if the ALJ determines to hold the prehearing conference after December 18, 2014, the City and PUC Staff (and the Authority) have committed to identifying dates in early January 2015.

WHEREFORE, PREMISES CONSIDERED, Sabine River Authority respectfully requests that the prehearing conference be scheduled on a date after the PUC issues its Preliminary Order in PUC Docket No. 43674, which is currently anticipated to be December 18, 2014.

Respectfully submitted,

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**ATTORNEYS FOR SABINE RIVER
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, e-mail, hand-delivery and/or regular, first class mail on this 19th day of November, 2014, to the parties of record.


GEORGIA N. CRUMP