



Control Number: 43720



Item Number: 10

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2015 JAN 23 PM 12:00
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

OPEN MEETING COVER SHEET

MEETING DATE: January 30, 2015

DATE DELIVERED: January 23, 2015

AGENDA ITEM NO.: 6

CAPTION: Docket No. 43720; SOAH Docket No. 473-15-1710 WS - Ratepayers' Appeal of the Decision by the Town of Woodloch to Change Rates (37967-A, 37968-A)

ACTION REQUESTED: Discussion and possible action with respect to Preliminary Order

- Distribution List:
- Commissioners' Office (9)
 - Lloyd, Brian
 - Whittington, Pam
 - Phillips, Michael
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 - Tietjen, Darryl (2)
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 - Smyth, Scott (2)
 - Benter, Tammy (2)
 - Gonzales, Adriana (if rulemaking)

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

2015 JAN 23 PM 12:00

Public Utility Commission of Texas

TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

All Parties of Record

FROM: Carlos Carrasco, Commission Advising LLC

RE: January 30, 2015, Open Meeting Agenda Item No. 6
Draft Preliminary Order, P.U.C. Docket No. 43720; SOAH Docket No. 473-15-1710.WS – *Ratepayers' Appeal of the Decision by the Town of Woodloch to Change Rates (37967-A, 37968-A)*.

DATE: January 23, 2015

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the January 30, 2015 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the January 30, 2015 open meeting.

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**P.U.C. DOCKET NO. 43720
SOAH DOCKET NO. 473-15-1710.WS**

2015 JAN 23 PM 12:00

PUBLIC UTILITY COMMISSION
FILING CLERK

**RATEPAYERS' APPEAL OF THE
DECISION OF THE TOWN OF
WOODLOCH TO CHANGE RATES
(37967-A AND 37968-A)**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

DRAFT PRELIMINARY ORDER

On July 3, 2014, Cathy Lewkowski, David Bonham, and Miriam Gomez, designated representatives for the ratepayers of the Town of Woodloch, filed a petition with the Texas Commission on Environmental Quality (TCEQ) to appeal the decision of the Woodloch City Council to add a \$35 surcharge only to the outside ratepayers' water bill. The Town of Woodloch serves approximately 250 residences including ratepayers living outside the city limits.¹ On June 10, 2014, the Woodloch City Council voted to amend its water and sewer rates to include a \$35 monthly surcharge on water and sewer services for outside ratepayers.² The Woodloch City Council voted to include the \$35 surcharge in order to recover the rate case expenses incurred in Docket No. 42862, currently pending before the State Office of Administrative Hearings (SOAH).³

On September 1, 2014, the Public Utility Commission (Commission) began the economic regulation of water and sewer utilities and this case transferred to the Commission.⁴ On December 18, 2014, the Commission referred this matter to the State Office of Administrative

¹ Petition to Appeal Rates Established by City Council Town of Woodloch at 1 (November 5, 2014).

² *Id.* at 9, 12.

³ *Id.*

⁴ Act of May 13, 2013, 83rd Leg., R.S., ch. 170 (HB 1600), § 2.96, 2013 Tex. Gen. Laws 725, 730; Act of May 13, 2013, 83rd Leg., R.S., ch. 171 (SB 567), § 96, 2013 Tex. Gen. Laws 772.

Hearings (SOAH). On January 12, 2015, Commission Staff timely filed a proposed list of issues.

I. Issues to be Addressed

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.⁵ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Did the petition appealing the rate change by Woodloch follow the requirements of Tex. Water Code Ann § 13.043(b), (c), and (d); P.U.C. Subst. R. 24.41(b), (c), and (d), 16 Tex. Admin. Code § 24.41(b), (c), and (d); and P.U.C. Subst. R. 24.42(a) and (b), 16 Tex. Admin. Code § 24.42(a) and (b)?
 - a. Was the petition filed within 90 days after the effective date of the rate change? Tex. Water Code Ann § 13.043(c) and P.U.C. Subst. R. 24.41(b), 16 Tex. Admin. Code § 24.41(b)
 - b. What number of ratepayers had their rates changed? Tex. Water Code Ann § 13.043(c) and (d) and P.U.C. Subst. R. 24.41(d), 16 Tex. Admin. Code § 24.41(d)
 - c. Did the lesser of 10,000 or 10% of those ratepayers file valid protests to Woodloch's rate change? Tex. Water Code Ann § 13.043(c) and P.U.C. Subst. R. 24.41(b), Tex. Admin. Code § 24.41(b)
2. Considering only the information available to the board of directors, what are the just and reasonable rates for Woodloch that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory? Tex. Water Code Ann § 13.043(e) and (j) and P.U.C. Subst. R. 24.41(e) and (i), Tex. Admin. Code § 24.41(e) and (i)

⁵ Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

- a. What is the appropriate methodology to determine just and reasonable rates for Woodloch?
 - b. What is the revenue requirement that would give Woodloch sufficient funds to provide adequate retail water service?
 - c. What is the appropriate allocation of the revenue to customer classes?
 - d. What is the appropriate design of rates for each class to recover Woodloch's revenue requirement?
3. What are the reasonable expenses incurred by Woodloch in this proceeding? Tex. Water Code Ann § 13.043(e) and P.U.C. Subst. R. 24.41(e)(2), Tex. Admin. Code § 24.41(e)(2)
 - a. Should the Commission allow recovery of these reasonable expenses?
 - b. If so, what is the appropriate recovery mechanism?
4. What is the appropriate effective date of the rates fixed by the Commission in this proceeding? Tex. Water Code Ann § 13.043(e) and P.U.C. Subst. R. 24.41(e)(3), Tex. Admin. Code § 24.41(e)(3)
5. If the Commission establishes rates different than the rates set by Woodloch, should the Commission order refunds or allow surcharges to recover lost revenues? If so, what is the appropriate amount and over what time period should the refund or surcharge be in place? Tex. Water Code Ann § 13.043(e) and P.U.C. Subst. R. 24.41(e)(4), Tex. Admin. Code § 24.41(e)(4)

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The

Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Tex. Gov't Code Ann. § 2003.049(e).

II. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the _____ day of January 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER