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# OPEN MEETING COVER SHEET

**MEETING DATE:** January 30, 2015

**DATE DELIVERED:** January 22, 2015

**AGENDA ITEM NO.:** 7

**CAPTION:** Docket No. 43931; SOAH Docket No. 473-15-1626 WS - Appeal of M.E.N. Water Supply Corporation, Angus Water Supply Corporation, Chatfield Water Supply Corporation, Corbet Water Supply Corporation, and the City of Kerens for Review of a Decision by the City of Corsicana to Set Wholesale Water Rates

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

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**Public Utility Commission of Texas**

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

All Parties of Record

FROM: Davida Dwyer, Commission Advising ~~PD~~

RE: January 30, 2015, Open Meeting Agenda Item No. 7  
Draft Preliminary Order, P.U.C. Docket No. 43931; SOAH Docket No. 473-15-1626.WS- *Appeal of M.E.N. Water Supply Corporation, Angus Water Supply Corporation, Chatfield Water Supply Corporation, Corbet Water Supply Corporation, and the City of Kerens for Review of a Decision by the City of Corsicana to Set Wholesale Water Rates*

DATE: January 22, 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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SOAH DOCKET NO. 473-15-1626.WS  
PUC DOCKET NO. 43931

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APPEAL OF M.E.N. WATER SUPPLY §  
CORPORATION, ANGUS WATER §  
SUPPLY CORPORATION, CHATFIELD §  
WATER SUPPLY CORPORATION, §  
CORBET WATER SUPPLY §  
CORPORATION, AND THE CITY OF §  
KERENS FOR REVIEW OF A DECISION §  
BY THE CITY OF CORSICANA TO SET §  
WHOLESALE WATER RATES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**DRAFT PRELIMINARY ORDER**

On December 9, 2014, M.E.N. Water Supply Corporation, Angus Water Supply Corporation, Chatfield Water Supply Corporation, Corbet Water Supply Corporation, and the City of Kerens (collectively, Petitioners) filed an appeal, under Texas Water Code (TWC) § 13.043(f), with the Public Utility Commission of Texas (Commission) for review of a decision by the city of Corsicana to increase wholesale water rates, effective in late 2014.<sup>1</sup> Petitioners also request, under TWC § 13.043(h), P.U.C. SUBST. R. 24.29, and P.U.C. SUBST. R. 24.41, that the Commission establish interim rates to be in effect until a final decision is made in this proceeding.<sup>2</sup>

On December 15, 2014, the Commission issued an order referring this docket to the State Office of Administrative Hearings (SOAH) and requesting that interested parties file a list of issues to be addressed in this proceeding. Commission Staff, the city of Corsicana, and Petitioners each timely filed a list of issues.

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<sup>1</sup> Navarro County Wholesale Ratepayers' Petition to Appeal Water Rate and Request for Interim Rates (Petitioner's Appeal) at 1 (Dec. 9, 2014).

<sup>2</sup> *Id.*

### I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>3</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Does Petitioners' appeal meet the requirements of TWC § 13.043(f) and P.U.C. SUBST. R. 24.130, 16 Texas Administrative Code (T.A.C.) § 24.130?
2. If so, are the challenged wholesale water rates set by the city of Corsicana charged pursuant to a written contract (whether by agreement of the parties or as resolved by court determination in accordance with P.U.C. SUBST. R. 24.131, 16 T.A.C. § 24.131)?
  - a. If the rates are charged pursuant to a written contract, have Petitioners met their burden of proof, under P.U.C. SUBST. R. 24.136, 16 T.A.C. 24.136, by demonstrating that the rates set by the city of Corsicana adversely affect the public interest by violating at least one of the public interest criteria listed in P.U.C. SUBST. R. 24.133(a), 16 T.A.C. 24.133(a)?
    - i. If the rates do not adversely affect the public interest, what are the bases for determining that the rates do not adversely affect the public interest, as required by P.U.C. SUBST. R. 24.134(a), 16 Tex. Admin. Code § 24.134(a)?
    - ii. If the rates adversely affect the public interest, what are the bases for determining that rates adversely affect the public interest, as required by P.U.C. SUBST. R. 24.134(e), 16 Tex. Admin. Code § 24.134(e)?

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<sup>3</sup> TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2000).

- b. If the wholesale water rates set by the city of Corsicana are not charged pursuant to a written contract, has the city of Corsicana met its burden of proof under P.U.C. SUBST. R. 24.136, by showing that its cost of service supports imposition of the rates under P.U.C. SUBST. R. 24.131(c) and 24.135, 16 T.A.C. §§ 24.131(c) and 24.135?
3. Should interim rates be established under TWC § 13.043(h)? If so, what are the appropriate interim rates?

This list of issues is not intended to be exhaustive. The parties and the SOAH ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the SOAH ALJ, or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the SOAH 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 \_\_\_\_\_ 2015.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**