

Control Number: 44010



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PETITION OF THE RATEPAYERS §
OF THE RIVER PLACE WATER AND §
WASTEWATER SYSTEMS FOR §
REVIEW OF A DECISION BY THE §
CITY OF AUSTIN TO CHANGE §
RETAIL RATES §
BEFORE THE STATE OFFICES
OF
ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S RESPONSE TO THE CITY OF AUSTIN'S MOTION FOR
RECONSIDERATION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Response to the City of Austin's Motion for Reconsideration and would show the following:

I. BACKGROUND

On May 4, 2015, a prehearing conference was held at the State Office of Administrative Hearings (SOAH) on the matter to determine jurisdiction over the City of Austin's rate change effective November 1, 2014 pursuant to Tex. Water Code Ann. § 13.043(b) and the Petitioners' request for interim rates. On May 6, 2015, the SOAH Administrative Law Judges (ALJ) issued Order No. 6 finding that the Commission has jurisdiction over the November 1, 2014 rate change because the River Place customers were uniquely affected by the rate change. On May 18, 2015, the City of Austin filed an Appeal of SOAH Order No. 6 and Motion for Reconsideration pursuant to Title 16, Tex. Admin. Code (16 TAC) § 22.123, alleging that the rulings in SOAH Order No. 6 were based on factual errors. This Response¹ is timely filed.²

¹ This Response only addresses the City of Austin's Motion for Reconsideration and not the City of Austin's Appeal of Order No. 6. Staff intends to file a response to the City of Austin's Appeal of Order No. 6 by May 26, 2015, consistent with the deadline for responses to appeals of interim orders in 16 TAC § 22.123(a)(4).

² Pursuant to 16 TAC § 22.123(b)(4), responses to motions for reconsideration shall be filed within three working days of the filing of the motion. Three working days from May 18, 2015 is May 21, 2015.

II. MOTION FOR RECONSIDERATION WAS NOT TIMELY FILED

In Order No. 6, the ALJs determined that the River Place customers were uniquely affected by the November 1, 2014 rate change because the rates listed in the September 26, 2014 notice³ to the River Place customers were different than those listed in the September 8, 2014 notice to other outside-City retail customers.⁴ Therefore, the ALJs determined that the Commission has jurisdiction over the November 1, 2014 rate change pursuant to Tex. Water Code Ann. § 13.043(b).⁵ In its Appeal of SOAH Order No. 6 and Motion for Reconsideration, the City of Austin argues that the ALJ's decision that the Commission has jurisdiction over the rate change effective November 1, 2014 was based on a factual error.⁶

Motions for reconsideration must be filed within five working days of the issuance of the order.⁷ Order No. 6 was issued on May 6, 2015 and five working days from the issuance date was May 13, 2015. The City of Austin filed its Appeal of Order No. 6 and Motion for Reconsideration on May 18, 2015; as such, the Motion for Reconsideration was not timely filed. Therefore, Staff recommends that the City of Austin's Motion for Reconsideration be denied.

This Response only addresses the City of Austin's Motion for Reconsideration and not the City of Austin's Appeal of Order No. 6. In accordance with the response deadline in 16 TAC § 22.123(a)(4), Staff intends to file a response to the City of Austin's Appeal of Order No. 6 by May 26, 2015.

III. CONCLUSION

Because the City of Austin's Motion for Reconsideration was not timely filed, Staff recommends that the City of Austin's Motion for Reconsideration be denied.

³ SOAH Order No. 6 at 14 (May 6, 2015).

⁴ SOAH Order No. 6 at 13.

⁵ SOAH Order No. 6 at 10.

⁶ City of Austin's Appeal of SOAH Order No. 6 and Motion for Reconsideration at 3-5 (May 18, 2015).

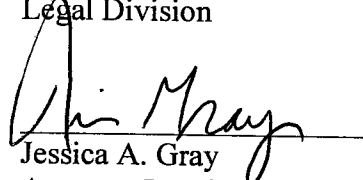
⁷ 16 TAC § 22.123(b)(2).

DATE: May 21, 2015

Respectfully Submitted,

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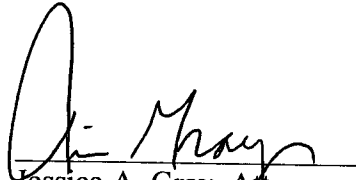
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 21, 2015 in accordance with 16 TAC § 22.74.



Jessica A. Gray, Attorney