

Control Number: 44010



Item Number: 65

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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

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§

PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMMISSION STAFF'S RESPONSE TO THE CITY OF AUSTIN'S MOTION FOR  
RECONSIDERATION OF THE COMMISSION'S DENIAL OF THE CITY OF  
AUSTIN'S APPEAL OF SOAH ORDER NO. 6**

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 of the Commission's Denial of the City of Austin's Appeal of SOAH Order No. 6 and would show the following:

**I. BACKGROUND**

On March 23, 2015 and May 4, 2015, prehearing conferences were held at the State Office of Administrative Hearings (SOAH) to determine jurisdiction over the City of Austin's rate changes effective October 1, 2014 and 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 both the October 1, 2014 rate change and the November 1, 2014 rate change because the River Place customers were uniquely affected by each of the rate changes.

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. The City of Austin generally concurred with the ALJs decisions regarding the determination of jurisdiction, but alleged that the ruling as to the November 1, 2014 rate change was based upon a factual error.<sup>1</sup>

On May 28, 2015, the Commission's Advising and Docket Management Division filed a memorandum stating that no Commissioner had voted to add the City of Austin's Appeal of

<sup>1</sup> City of Austin's Appeal of SOAH Order No. 6 and Motion for Reconsideration at 3 (May 18, 2015).

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Order No. 6 to an open meeting agenda. On June 4, 2015, the City of Austin filed a Motion for Reconsideration (Motion) of the Commissioners' denial of its appeal of SOAH Order No. 6. This Response is timely filed.<sup>2</sup>

**II. STAFF'S RESPONSE TO THE CITY OF AUSTIN'S MOTION FOR RECONSIDERATION OF THE COMMISSIONERS' DENIAL OF THE APPEAL OF SOAH ORDER NO. 6**

Motions for reconsideration are available for "any *interim order* of the commission that immediately prejudices a substantial or material right of a party, or materially affects the course of the hearing, other than evidentiary rulings."<sup>3</sup> The memorandum filed on May 28, 2015 indicating that no Commissioners had voted to hear the City of Austin's Appeal of SOAH Order No. 6 at an open meeting is not an interim order and is not subject to motions for reconsideration.

**III. CONCLUSION**

For the reasons stated above, Staff recommends that the Commission take no action on the City of Austin's Motion for Reconsideration of the Commissioner's Denial of the City of Austin's Appeal of SOAH Order No. 6.

**DATE: June 9, 2015**

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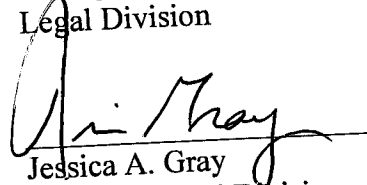
<sup>2</sup> Pursuant to 16 TAC § 22.123(b)(4), responses to motions for reconsideration shall be filed within three working days of the filing of the motion. Three working days from June 5, 2015 is June 9, 2015.

<sup>3</sup> 16 TAC § 22.123(b)(1) (emphasis added).

Respectfully Submitted,

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Division Director  
Legal Division

Shelah J. Cisneros  
Managing Attorney  
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A handwritten signature in black ink, appearing to read "J. Gray", written over a horizontal line.

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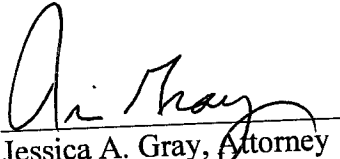
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**PUC DOCKET NO. 44010**  
**SOAH DOCKET NO. 473-15-2123.WS**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 9, 2015 in accordance with 16 TAC § 22.74.

  
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Jessica A. Gray, Attorney