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DOCKET NO. 44322

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REQUEST OF YES PREP PUBLIC §  
SCHOOLS FOR EMERGENCY ORDER §  
TO OBTAIN WATER SERVICE FROM §  
SUNBELT FRESH WATER SUPPLY §  
DISTRICT §

PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

**COMMISSION STAFF'S SECOND RESPONSE TO ORDER NO. 1**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Second Response to Order No. 1.

**I. INTRODUCTION**

At issue in this proceeding is whether YES Prep Public Schools' (YES Prep) request for emergency order to obtain water service from Sunbelt Fresh Water Supply District should be granted. For the reasons stated below, Staff recommends that an emergency order should be issued requiring Suburban Utility Company (Suburban) to provide continuous and adequate service to YES Prep's North Central Campus in compliance with the specific criteria identified by Staff and detailed below. If Suburban fails to provide such adequate and continuous service, Staff further recommends that Suburban be required to contract with Sunbelt to allow Sunbelt to provide service to YES Prep's North Central Campus. If Suburban does not contract with Sunbelt within a reasonable time period to allow Sunbelt to provide service to YES Prep's North Central Campus, then Staff recommends the Commission authorize additional relief as detailed below.

**II. BACKGROUND**

On January 15, 2015, YES Prep filed an application (Application) with the Public Utility Commission of Texas (Commission) that requests the Commission issue an emergency order pursuant to 16 TEX. ADMIN. CODE § 24.14. YES Prep's charter school in Aldine (YES Prep's North Central Campus) receives water from Suburban Utility Company, the entity that is YES Prep's current water provider under the certificate of convenience and necessity (CCN No.

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10835) for the area in which the North Central Campus is located.<sup>1</sup> Based upon a demonstrated failure to provide adequate and continuous service,<sup>2</sup> YES Prep requests an emergency order for its North Central Campus to receive service from Sunbelt Fresh Water Supply District (Sunbelt or District), rather than from Suburban Utility Company.<sup>3</sup> YES Prep requests an emergency order because of concern over the health and welfare of the over 1000 students and faculty at YES Prep's North Central Campus.<sup>4</sup> In addition, YES Prep requests the Commission issue this emergency order without a hearing as permitted by 16 TEX. ADMIN. CODE §24.14.<sup>5</sup>

On January 16, 2015, the Commission Administrative Law Judge (ALJ) issued Order No. 1, requiring Staff to file a response to the Application by January 22, 2015, including comments regarding sufficiency of the Application and propose a procedural schedule for processing this Application. Staff filed an initial response, noting that Staff was in contact with YES Prep and Sunbelt FWSD and was working to ascertain additional details regarding the Application.

On January 27, 2015, YES Prep amended the Application (Amended Application) for an emergency order<sup>6</sup> and later filed copies of the minutes of the District's December 4, 2014 meeting indicating that Sunbelt would serve YES Prep's North Central Campus upon a showing of certain documentation.<sup>7</sup>

On January 29, 2015, Suburban filed its response (Response) to YES Prep's Amended Application. Suburban requested a hearing on the matter and time for discovery<sup>8</sup>. The matter was

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<sup>1</sup> *YES Prep Public School's Emergency Order Application*, P.U.C. Docket No. 44322, January 15, 2015 at 1.

<sup>2</sup> See *YES Prep Public School's Amendment to Emergency Order Application*, P.U.C. Docket No. 44322, January 27, 2015, Exhibits A, B, and D. See also *Suburban Utility Company's Response to YES Prep Public School's Emergency Order Application*, P.U.C. Docket No. 44322, January 29, 2015 at Exhibit A.

<sup>3</sup> See *YES Prep Public School's Amendment to Emergency Order Application*, P.U.C. Docket No. 44322, January 27, 2015 at 1, and Exhibit C.

<sup>4</sup> *Id.*

<sup>5</sup> *YES Prep Public School's Emergency Order Application*, P.U.C. Docket No. 44322, January 15, 2015 at 1.

<sup>6</sup> See *YES Prep Public School's Amendment to Emergency Order Application*, P.U.C. Docket No. 44322, January 27, 2015.

<sup>7</sup> See *YES Prep Public School's Amendment to Emergency Order Application*, Exhibit F, P.U.C. Docket No. 44322, January 27, 2015.

<sup>8</sup> *Suburban Utility Company's Response to YES Prep Public School's Emergency Order Application*, P.U.C. Docket No. 44322, January 29, 2015 at 1.

considered at the January 30, 2015 Open Meeting. The Commissioners continued the matter until the February 12, 2015 Open Meeting to allow Staff time to provide its recommendation after consideration of the Amended Application and Response.

### III. APPLICABLE AUTHORITIES

YES Prep's Amended Application requests the Commission issue an order that would compel Suburban to provide continuous and adequate water service by allowing Sunbelt to provide water service to YES Prep's North Central Campus. YES Prep requests that the Commission issue an emergency order without a hearing pursuant to 16 TEX. ADMIN. CODE § 24.14 (*Emergency Orders*).

Staff asserts that the Commission has jurisdiction to consider and approve this Amended Application pursuant to TEXAS WATER CODE § 13.041(a) and (d), and 16 TEX. ADMIN. CODE § 22.294.

TEXAS WATER CODE § 13.041 grants the Commission broad authority to regulate and supervise the business of each water and sewer utility within its jurisdiction. TEXAS WATER CODE § 13.041(a) broadly authorizes the Commission to "...do all things, whether specifically designated in Chapter 13 or implied in Chapter 13, necessary and convenient to the exercise of these powers and jurisdiction."

TEXAS WATER CODE § 13.041(d) authorizes the Commission to issue emergency orders, with or without a hearing:

- 1) to compel a water or sewer service provider that has obtained or is required to obtain a certificate of convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the service provider's actions or failure to act; and
- 2) to compel a water utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if service discontinuance or serious impairment in service is imminent or has occurred.

16 TEX. ADMIN. CODE § 24.14 and 16 TEX. ADMIN. CODE § 22.294 addresses the issuance of emergency orders pursuant to various provisions of Chapters 5 and 13 of the Texas Water Code. 16 TEX. ADMIN. CODE § 24.14 is very similar to TEXAS WATER CODE § 13.041(d) and provides:

- a) The commission may issue emergency orders under Chapter 22, Subchapter P of this title (relating to Emergency Orders for Water and Sewer Utilities), with or without a hearing:
  - (1) to compel a water or sewer service provider that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the service provider's actions or failure to act. *These orders may contain provisions requiring specific utility actions to ensure continuous and adequate utility service and compliance with regulatory guidelines.* (Emphasis added).

#### **IV. COMPLIANCE WITH 16 TEX. ADMIN. CODE § 22.295 (*APPLICATION FOR EMERGENCY ORDER*)**

The Commission's Procedural Rules require that an application for an emergency order meet the requirements established in 16 TEX. ADMIN. CODE § 22.295 (*Application for Emergency Order*). Staff has reviewed YES Prep's Amended Application and, as detailed in the attached memorandum from Heidi Graham (attached as Attachment A) of the Water Utility Regulation Division, Staff recommends that it be found sufficient under the procedural requirements of 16 TEX. ADMIN. CODE §22.295.

#### **V. DISCUSSION**

##### **A. Staff Recommendation Regarding YES Prep's Request for Issuance of an Emergency Order**

Pursuant to TEXAS WATER CODE 13.041(d), the Commission may issue an emergency order, with or without a hearing, to compel Suburban to provide continuous and adequate water service to YES Prep if the discontinuance of the service is imminent or has occurred because of Suburban's actions or failure to act. Additionally, pursuant to 16 TEX. ADMIN. CODE § 24.14 (a)(1), an emergency order issued by the Commission may contain provisions requiring specific utility actions to ensure continuous and adequate utility service and compliance with regulatory guidelines.

As detailed in the attached memorandum, it is Staff's position that YES Prep has demonstrated that Suburban has failed to provide continuous and adequate water service to YES Prep as required by TEXAS WATER CODE § 13.250. YES Prep identified a multitude of occasions where service has been interrupted or unavailable,<sup>9</sup> forcing students and faculty to go to extraordinary efforts to ensure that drinking water and restrooms are available.<sup>10</sup> Suburban's own filing supports this conclusion. Suburban identified eleven occasions in the second half of 2014 where water service was repeatedly unavailable due to maintenance failures such as distribution line breaks, and electrical issues.<sup>11</sup> While Suburban categorizes such outages as not being the result of inaction, Staff disagrees. The very fact that so many outages have occurred within a six-month period reasonably leads to the conclusion that the facilities are in disrepair, a situation that exists due to Suburban's failure to act. Moreover, Staff believes that an urgent need to address this situation exists due to the health and safety issues that arise from repeated outages during a six-month period at a school campus serving 1,000 students and faculty.

Staff recommends that the Commission find that Suburban has not provided continuous and adequate service to YES Prep's North Central Campus based upon the discontinuance of service (the repeated number of outages cited in the record) that has occurred because of Suburban's actions or failure to act. Therefore, Staff recommends the Commission grant YES Prep's request to issue an emergency order compelling Suburban to provide continuous and adequate water service to YES Prep's North Central Campus.

**B. Requiring Specific Utility Action to Ensure Continuous and Adequate Utility Service and Compliance with Regulatory Guidelines**

In requesting that the Commission order Suburban to allow Sunbelt to provide service to YES Prep (in order to fulfill Suburban's requirement to provide continuous and adequate service), YES Prep has requested a remedy that is clearly within the Commission's authority to provide. 16 TEX. ADMIN. CODE § 24.14(a)(1) states specifically that an emergency order "may contain provisions requiring specific utility actions to ensure continuous and adequate utility

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<sup>9</sup> See *YES Prep Public School's Amendment to Emergency Order Application*, P.U.C. Docket No. 44322, January 27, 2015 at Exhibits A, B, and D.

<sup>10</sup> *Id.*

<sup>11</sup> *Suburban Utility Company's Response to YES Prep Public School's Emergency Order Application*, P.U.C. Docket No. 44322, January 29, 2015 at Exhibit A.

service and compliance with regulatory guidelines.” Staff asserts that the Commission may craft any appropriate order; taking into account the history of outages and the ready ability of another provider to provide continuous and adequate service to the school; and the undisputed negative health and welfare impacts that the outages are having on school children and faculty required to be in attendance for lengthy periods of time with no alternative locations.

YES Prep is not currently experiencing an extended outage. Therefore, Staff recommends that an emergency order be issued which requires Suburban to provide continuous and adequate service to YES Prep’s North Central Campus as measured by: 1) adequate water pressure at all times; 2) continuous availability of water at all times; and 3) a lack of interruption of water service, planned or otherwise, when school is in use. Staff further recommends weekly status updates for six months from the date of the order detailing compliance with the criteria described in the emergency order.

Staff recommends that the emergency order deem that Suburban is out of compliance with the requirements above if any of the following conditions occur: 1) drop in water pressure such that the water is not useable under normal conditions for 15 minutes or longer; 2) an outage or disruption in water service at any time; or 3) a planned outage while the school is in use.

TEXAS WATER CODE § 13.248 specifically authorizes contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities. When approved by the Commission, after public notice and hearing, such contracts are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.

Therefore, as part of the proposed emergency order compelling Suburban to provide continuous and adequate service, Staff recommends that if Suburban is deemed to be out of compliance with the Commission’s order then Suburban should be ordered to contract with Sunbelt within seven days, allowing Sunbelt to provide service to the YES Prep North Central Campus and file such contract with the Commission.

Staff further recommends that, as part of the emergency order, if Suburban fails to contract with Sunbelt within 7 days of the date it is deemed to not be in compliance with the Commission’s order then Sunbelt is authorized by the Commission’s order to provide service to the YES Prep North Central Campus. If Sunbelt provides service to Yes Prep’s North Central Campus without a contract, then Yes Prep and/or Sunbelt should be ordered to begin

decertification proceedings pursuant to TEXAS WATER CODE § 13.254. Should Sunbelt provide water to Yes Prep's North Central Campus pursuant to a Commission order but without a contract, the Staff requests that the Commission forego any enforcement action against Sunbelt pursuant to TEXAS WATER CODE §§ 13.242 and/or 13.4151.

Staff notes that if Suburban does not comply with the Commission's order, it may be subject to enforcement actions and penalties pursuant to TEXAS WATER CODE §§ 13.4151, 13.416, and 13.417.

Attached for the Commission's consideration is Staff's proposed order incorporating the recommendations detailed above (attached as Attachment B).

### **C. Hearing on Emergency Order**

YES Prep requested an emergency order to be issued without a hearing. Suburban objects to this request, and asks that a hearing be scheduled and discovery allowed. 16 TEX. ADMIN. CODE § 24.14(c) requires that the emergency order fix a time and place, as soon as practicable after the emergency order is issued for a hearing to be held if the initial emergency order was issued without a hearing.

Staff recommends the Commission issue the emergency order without a hearing, but set the matter for a hearing as soon as is practicable.

### **III. CONCLUSION**

The Commission has broad authority to issue emergency orders to ensure continuous and adequate service, and may craft an appropriate cure by ordering specific utility actions required to ensure continuous and adequate utility service and compliance with regulatory guidelines. Staff recommends that YES Prep's Application for an emergency order be granted as recommended by Staff in the discussion above, and Staff respectfully requests approval of the proposed emergency order.

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director-Legal Division

Shelah J. Cisneros  
Managing Attorney-Legal Division

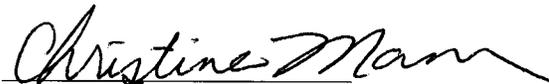


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**DATED:** February 4, 2015

**DOCKET NO. 44322**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on February 4, 2015, in accordance with P.U.C. Procedural Rule 22.74.



Christina Mann

ATTACHMENT A

## PUC Interoffice Memorandum

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**To:** Chrissy Mann, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utilities Division

**From:** Heidi Graham  
Water Utilities Division

**Date:** February 4, 2015

**Subject:** Docket No. 44322, Request of YES Prep Public Schools for Emergency Order to Obtain Water Service from Sunbelt Fresh Water Supply District

On January 15, 2015, YES Prep Public Schools (YES Prep) filed an application with the Public Utility Commission of Texas (Commission) which requests the Commission issue an emergency order pursuant to 16 TEX. ADMIN. CODE § 24.14. YES Prep's charter school in Aldine (YES Prep's North Central Campus) receives water from and is in the certificated area of Suburban Utility Company (CCN No. 10835). YES Prep requests an emergency order for its North Central Campus to receive water service from Sunbelt Fresh Water Supply District (Sunbelt or District), rather than from Suburban Utility Company because YES Prep asserts that Suburban has failed to provide adequate and continuous service. I recommend the emergency order be issued because the YES Prep's amended application was complete pursuant to 16 TEX. ADMIN. CODE § 22.295 and discontinuance of YES Prep's service has occurred because of Suburban's actions or failure to act.

The Application meets the requirement of 16 TEX. ADMIN. CODE § 22.295

As required by 16 TEX. ADMIN. CODE § 22.295(b)(1) YES Prep's Application was sworn (in this case by the attorney of record for YES Prep (see Attachment E of the Application)). In addition, the Application contains the affidavit of Charles Klein, Director of Operations, YES Prep Public Schools and the signature of the responsible corporate officer.<sup>1</sup>

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<sup>1</sup> *Yes Prep Public School's Amendment to Emergency Order Application*, P.U.C. Docket No. 44322, January 27, 2015, Exhibits D and E.

As required by 16 TEX. ADMIN. CODE § 22.295(b)(2), the Application states that the applicant is not seeking and has not obtained an emergency order from the Texas Commission on Environmental Quality.<sup>2</sup>

The Application provides the name, address and telephone number of the applicant, the person submitting the application on the applicant's behalf and the person signing the application on the applicant's behalf as required by 16 TEX. ADMIN. CODE § 22.295(b)(3).<sup>3</sup>

In compliance with 16 TEX. ADMIN. CODE § 22.295(b)(4), the Application identifies YES Prep's North Central Campus as the facility and location that would be affected by the requested emergency order. <sup>4</sup> Staff notes that the application also identifies the current water provider as Suburban and the potential water provider as Sunbelt.<sup>5</sup> The Application therefore identifies the two utilities and the single customer that would be potentially affected by an emergency order.

The Application describes the condition of emergency or other condition justifying the issuance of an emergency order, as required by 16 TEX. ADMIN. CODE § 22.295(b)(5) , stating:

YES Prep's North Central Campus has experienced numerous water service outages for over a year and the frequency of those outages has increased over the last three (3) months. YES Prep is concerned about the health and safety of the over 1000 students and faculty that go to school and work at the North Central Campus and believes the PUC should issue an emergency order to enable the North Central Campus to obtain the water service it needs on a daily basis.

Pursuant to 16 TEX. ADMIN. CODE § 22.295(b)(6), the Application alleges facts to support any findings required under this subchapter by including a cumulative list of the water service outage reports from July 2013 through December 2014 at YES Prep North Central Campus

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<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See *Yes Prep Public School's Emergency Order Application*, P.U.C. Docket No. 44322, January 15, 2015 at 1.

(Exhibit A) and an article from the *Houston Chronicle*, describing conditions at the YES Prep North Central Campus resulting from the repeated outages (Exhibit B).

As directed by 16 TEX. ADMIN. CODE § 22.295(b)(7), the Application estimates the dates on which the proposed order should begin (February 2, 2015) and end (90 days later, approximately May 5, 2015).<sup>6</sup>

The Application describes the action sought and the activity proposed to be allowed, mandated, or prohibited as required by 16 TEX. ADMIN. CODE § 22.295(b)(8). Specifically, the Application requests that the Commission issue an Emergency Order to Compel Suburban Water Company to provide continuous and adequate water service to YES Prep's North Central Campus by allowing Sunbelt to provide water service to YES Prep's North Central Campus.

The Application is signed by Jason Bernal, the responsible corporate officer with the required declaration in compliance with the requirements of 16 TEX. ADMIN. CODE § 22.295(b)(10).<sup>7</sup>

The Application and Suburban's response show that discontinuance of YES Prep's service has occurred because of Suburban's actions or failure to act as required by 16 TEX. ADMIN. CODE § 24.14 (a)(1).

YES Prep identifies a multitude of occasions where service has been interrupted or unavailable. Suburban identifies eleven occasions in the second half of 2014 where water service was repeatedly unavailable due to maintenance failures such as distribution line breaks, and electrical issues. Based upon the frequency of the outages and the impact on the student body and faculty of YES Prep's Campus, I recommend the Commission issue an emergency order compelling Suburban to provide continuous and adequate service and providing immediate recourse to YES Prep in allowing YES Prep to receive water from Sunbelt if Suburban is unable or unwilling to do so.

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<sup>6</sup> See *Yes Prep Public School's Amendment to Emergency Order Application*, P.U.C. Docket No. 44322, January 27, 2015 at 2.

<sup>7</sup> *Id.*

**ATTACHMENT B**

**DOCKET NO. 44322**

<b>REQUEST OF YES PREP PUBLIC</b>	<b>§</b>	
<b>SCHOOLS FOR EMERGENCY ORDER</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>TO OBTAIN WATER SERVICE FROM</b>	<b>§</b>	
<b>SUNBELT FRESH WATER SUPPLY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>DISTRICT</b>	<b>§</b>	

**COMMISSION STAFF'S PROPOSED EMERGENCY ORDER**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Proposed Emergency Order.

**I. Findings of Fact**

1. On January 15, 2015, YES Prep Public Schools (YES Prep) filed an application with the Public Utility Commission of Texas (Commission) which requests the Commission issue an emergency order pursuant to 16 TEX. ADMIN. CODE § 24.14.
2. On January 16, 2015, Commission Administrative Law Judge issued Order No.1 requiring a response from Commission Staff by January 22, 2015.
3. On January 22, 2015, Commission Staff filed a response, stating a further response would be issued by Staff.
4. On January 27, 2015, YES Prep amended its application to include additional information and comply with the requirements of 16 TEX. ADMIN. CODE § 22.295 and served counsel for Sunbelt Fresh Water Supply District and Suburban Utility Company (Suburban).
5. On January 29, Suburban filed a response opposing the issuance of an emergency order and requesting a hearing.

6. Suburban is a water service provider that has obtained a certificate of public convenience and necessity (CCN), CCN No. 10835.
7. YES Prep's North Central Campus has experienced numerous water service outages for the past year with the frequency of those outages increasing over the last three (3) months.
8. Most of the outages are attributed to Suburban's maintenance issues and failure to properly maintain its facilities.
9. YES Prep has identified a service provider, Sunbelt Fresh Water Supply District, which is willing and able to provide continuous and adequate service to YES Prep's North Central Campus.
10. Suburban relies, in part, on the revenues generated through rates paid by YES Prep to Suburban.
11. On January 30, 2015, YES Prep, Suburban, and Sunbelt appeared before the Commissioners at the Open Meeting.
12. On January 30, 2015, the Commissioners voted to continue discussion of the item at the February 12, 2015 Open Meeting
13. On February 4, 2015, Staff filed its second recommendation and proposed emergency order.
14. On February 12, 2015, the Commission considered the Application at its scheduled Open Meeting.

## II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to: TEX. WATER CODE ANN. §§ 13.041 and 13.250; 16 TEX. ADMIN. CODE §§ 24.14 and 24.114; and 16 TEX. ADMIN. CODE §§ 22.294 and 22.295
2. TEX. WATER CODE ANN. § 13.250 requires retail public utilities that possess or are required to possess a CCN to serve every consumer within its certified area and render continuous and adequate service within the area or areas.
3. TEX. WATER CODE ANN. § 13.041 and 16 TEX. ADMIN. CODE §§ 24.14 and 24.114(b)(4) allow the Commission to compel a water or sewer service provider that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the service provider's actions or failure to act.
4. 16 TEX. ADMIN. CODE § 22.295 sets forth the required elements of an application for an emergency order. YES Prep has satisfied the requirements of 16 TEX. ADMIN. CODE § 22.295.
5. In order to issue an emergency order compelling a water or sewer service provider that has obtained or is required to obtain a CCN to provide continuous and adequate water service, 16 TEX. ADMIN. CODE §24.14(a)(1) requires a finding that discontinuance of the service is imminent or has occurred because of the service provider's actions or failure to act in order to issue an emergency order.
6. The Commission finds that Suburban has obtained a CCN that includes the YES Prep's North Central Campus in its service area, and the repeated outages at YES Prep's North Central Campus in the past six months demonstrate that Suburban has failed to provide continuous and adequate service as required by TEX. WATER CODE ANN. § 13.041 and 16 TEX. ADMIN. CODE § 24.114. Therefore, the criteria by which the Commission is

authorized to issue an emergency order compelling Suburban to provide continuous and adequate service have been met.

7. Pursuant to 16 TEX. ADMIN. CODE §24.14(a) the Commission may issue an emergency order which contains provisions requiring specific utility actions to ensure continuous and adequate utility service and compliance with regulatory guidelines.
8. TEX. WATER CODE ANN. § 13.041 and 16 TEX. ADMIN. CODE § 24.14 require that if the emergency order is issued without a hearing, the order shall fix a time and place for a hearing as soon as practicable after the emergency order is issued.
9. TEXAS WATER CODE § 13.248 authorizes contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities. When approved by the Commission, after public notice and hearing, such contracts are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.
10. Pursuant to TEXAS WATER CODE ANN. §§ 13.4151, 13.416, and 13.417, Suburban may be subject to enforcement action and penalties for failure to comply with the Texas Water Code, a Commission rule, or an order of the Commission.

### **III. Ordering Paragraphs**

In accordance with the findings of fact and conclusions of law, the Commission issues the following Order:

1. Pursuant to TEX. WATER CODE ANN. § 13.041 and 16 TEX. ADMIN. CODE. § 24.14, YES Prep's request for and Emergency Order is granted, in part.

2. Suburban shall provide continuous and adequate service to YES Prep's North Central Campus as described by the following criteria:
  - a) adequate water pressure at all times;
  - b) continuous availability of water at all times; and
  - c) lack of interruption of water service, planned or otherwise, when school is in use.
3. Suburban is deemed to be out of compliance with Ordering Paragraph if any of the following conditions occur:
  - a) drop in pressure such that the water is not useable under normal conditions for 15 minutes or longer;
  - b) outage or disruption in water service at any time; or
  - c) planned outage occurring when school is in use.
4. Suburban shall provide weekly status updates in this docket from the date of the order detailing its compliance with this Emergency Order and providing updates on improvements to its facilities.
5. If Suburban fails to comply with Ordering Paragraph No. 2 as measured by Ordering Paragraph No. 3, or by other information identified by Staff or other parties and is deemed to be out of compliance with this order, Suburban shall be ordered to contract with Sunbelt within seven days, allowing Sunbelt to provide service to the YES Prep North Central Campus and file such contract with the Commission.
6. If Suburban fails to contract with Sunbelt within 7 days of the date Suburban is deemed to be out of compliance with the Commission's order, then Sunbelt is authorized to provide service to YES Prep's North Central Campus. If Sunbelt provides service to Yes Prep's North Central Campus without a contract, then Yes Prep and/or Sunbelt are ordered to begin decertification proceedings pursuant to TEXAS WATER CODE § 13.254.

7. This matter is referred to the State Office of Administrative Hearings for a hearing on the issues presented herein on [DATE].
8. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

**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**