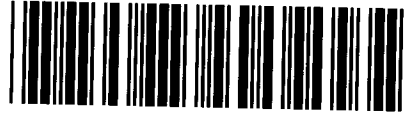




Control Number: 44485



Item Number: 29

Addendum StartPage: 0

**SOAH DOCKET NO. 473-15-3743.WS**

**PUC DOCKET NO. 44485**

**RATEPAYERS' APPEAL OF THE  
DECISION BY THE CITY OF WILMER  
TO CHANGE RATES**

§  
§  
§

**BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS**

2015 OCT 26 PM 2:54  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S RESPONSE TO THE DIRECT TESTIMONY OF  
RATEPAYERS**

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

**I. BACKGROUND**

On February 24, 2015, designated ratepayers representative, Joseph Aldrich (Ratepayers), on behalf of twelve (12) named ratepayers,<sup>1</sup> filed a petition with the Commission to appeal the City of Wilmer's increased water and sewer rates. On May 7, 2015, the docket was referred to the State Office of Administrative Hearings (SOAH). On June 17, 2015, SOAH Order No. 2 was issued establishing a procedural schedule which set the deadline for Ratepayers to file direct testimony as September 16, 2015. On October 7, 2015, Staff filed a Motion for Summary Decision. In order to be timely, responsive pleadings must be filed within five working days under 16 Texas Admin. Code § 22.78 (October 14, 2015) and under 1 Texas Admin. Code § 155.505, responses to a Motion for Summary Decision must be filed within fourteen days (October 21, 2015). Again, Ratepayers' response was not filed until October 22, 2015.<sup>2</sup> Finally, on October 23, 2015, Ratepayers filed a request for an extension of time to respond to Staff's motion.<sup>3</sup>

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<sup>1</sup> *Ratepayers' Appeal of the Decision by the City of Wilmer to Change Rates*, PUC Docket No. 44485, Response to Commission Staff's 1<sup>st</sup> RFI at Attachment A, 5-6, (September 14, 2015).

<sup>2</sup> Ratepayer's Direct Testimony of Joseph Aldrich (October 22, 2015).

<sup>3</sup> Ratepayer's Request for Extension of Time to Respond to Staff's Motion for Summary Decision (October 23, 2015).

## **II. STAFF'S RESPONSE TO THE DIRECT TESTIMONY OF RATEPAYERS**

Staff has reviewed the testimony provided by the ratepayers' representative. Staff's position is that the additional material does not add anything material to the record. The City of Wilmer has the burden of proof in an appeal of rates and has not offered any direct evidence in support of the City's rates.<sup>4</sup> Moreover, the City of Wilmer fully supports Staff's Motion for Summary Decision as is evidenced in the letter of support from the City of Wilmer's Mayor.<sup>5</sup>

Staff is entitled to summary decision on all issues because the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record show that there is no genuine issue as to any material facts.<sup>6</sup> The record in this matter, even with the addition of the Direct Testimony of the Ratepayers, does not contain any material facts that disrupt the appropriateness of summary relief requested by Staff. Staff respectfully requests that the Administrative Law Judge grant Staff's Motion for Summary Decision filed on October 7, 2015.

## **III. CONCLUSION**

Staff respectfully requests the Commission issue an order consistent with the above requests.

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<sup>4</sup> 16 Tex. Admin. Code § 24.12.

<sup>5</sup> Letter of Support from City of Wilmer Mayor, Attachment A.

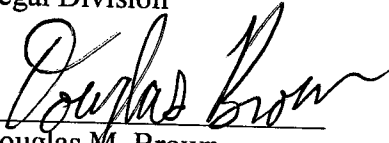
<sup>6</sup> 16 Tex. Admin. Code § 22.182 and 1 Tex. Admin. Code § 155.505.

**Dated: October 26, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Stephen Mack  
Managing Attorney  
Legal Division

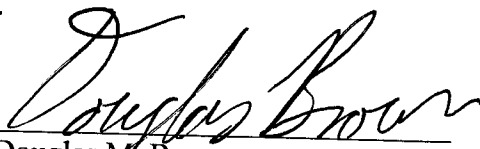
  
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Austin, Texas 78711-3326

**SOAH DOCKET NO. 473-15-3743.WS  
PUC DOCKET NO. 44485**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on October 26, 2015 in accordance with 16 TAC § 22.74.

  
Douglas M. Brown

## **Attachment A**



October 22, 2015

Public Utility Commission  
1701 N. Congress Avenue  
Austin, Texas 78711-3326

*Re: PUC Docket No. 44485; SOAH Docket No. 473-15-3743.WS*

Dear Honorable Commissioners:

Regarding Docket No. 44485, please be advised I fully and completely support the resolution proposed by the PUC, specifically its recommended rates for customers subject to PUC appellate jurisdiction.

Thank you for your time and attention to this matter.

Sincerely,

CASEY BURGESS,  
Mayor