



Control Number: 45207



Item Number: 51

Addendum.StartPage: 0

SOAH DOCKET NO. 473-16-1108.WS
PUC DOCKET NO. 45207

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**COMPLAINT OF J. HINKEN AGAINST
BASTROP WEST WATER AND PAUL
KLAUS**

§
§
§
§

BEFORE THE STATE OFFICE
OF PUBLIC UTILITY COMMISSION
ADMINISTRATIVE HEARINGS

JAN 4: 33

FILING CLERK

COMMISSION STAFF'S MOTION TO DISMISS

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Motion to Dismiss. In support thereof, Staff shows the following:

I. BACKGROUND

On September 30, 2015, J. Hinken (Hinken) filed a complaint against Bastrop West Water and its owner, Paul Klaus (collectively, BWB) pursuant to Texas Admin. Code § 22.242 (TAC). On November 9, 2015, the Commission referred this case to the State Office of Administrative Hearings (SOAH). On December 20, 2016, SOAH Order No. 15 set the date for the hearing on the merits for January 31, 2017.

II. MOTION TO DISMISS

Staff moves to dismiss this complaint pursuant to 16 TAC § 22.181(d)(6) on the grounds of failure to prosecute. At the appointed date and time for the hearing on the merits, Commission Staff and BWB were present but, after waiting approximately thirty minutes, Hinken failed to appear and provided no notice that she would not be attending. Due to the already extended nature of the schedule and Hinken's failure to appear, Staff moves to dismiss this docket due to a failure of the complainant to prosecute her claims.

Pursuant to 16 TAC § 22.181(e)(3), Hinken shall have 20 days from the date of receipt to respond to a motion to dismiss. The rule specifically requires that a response must contain a statement of reasons the party contends the motion to dismiss should not be granted, and if necessary: (a) A statement that refers to each material fact identified in the motion to dismiss as uncontested that the responding party contends is contested; and (b) an affidavit that supports the response to the motion to dismiss and that includes evidence the party relies upon to establish

contested issues of fact. The affidavit may include evidence that is not found in the then-existing record.

III. CONCLUSION

For the reasons set forth in this motion, Staff respectfully requests that this motion to dismiss be granted.

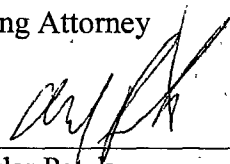
Dated January 31, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

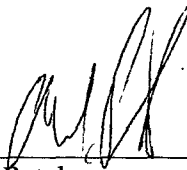
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CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 31, 2017, in accordance with 16 TAC § 22.74.



Alexander Petak