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SOAH DOCKET NO. 473-16-1836.WS
PUC DOCKET NO. 45231

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**RATEPAYERS' APPEAL OF THE
DECISION BY TROPHY CLUB
MUNICIPAL UTILITY DISTRICT
NO. 1 TO CHANGE RATES**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 4
GRANTING MOTION TO SEVER PID RATEPAYERS

On November 16, 2015, Trophy Club Municipal Utility District No. 1 (Trophy Club) filed a Motion to Sever the petition filed by the Public Improvement District ratepayers (PID ratepayers) from this case. The issues of whether the PID ratepayers have standing to participate in this proceeding as parties and whether their petition should be severed from this case were included as issues to be resolved by the State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) in the Preliminary Order issued by the Public Utility Commission of Texas (Commission) on February 16, 2016. During a prehearing conference held by the ALJ on March 7, 2016, the parties agreed to provide further briefing on the issues. Having considered the parties arguments, the ALJ finds that the PID ratepayers' petition should be severed from this docket and that the PID ratepayers do not have standing to be intervenors in this case, as further explained below.

Under Texas Water Code § 13.043(b), only the ratepayers of a utility have standing to appeal the utility's rates. The PID ratepayers are not customers of Trophy Club; they are ratepayers of the Town of Trophy Club (Town). Therefore, the PID ratepayers do not have standing to appeal the rates of Trophy Club.

Under 16 Texas Administrative Code § 22.103(b)(1), a person has standing if the person has a right to participate that is expressly conferred by statute, Commission rule, or other law. It is undisputed that the PID ratepayers have no expressly conferred standing in this case. The Commission's rule at 16 Texas Administrative Code § 22.103(b)(2) states that a person has standing if that person has a justiciable interest that may be adversely affected by the outcome of the proceeding. The PID ratepayers do not pay taxes to Trophy Club, do not reside in the geographic boundaries of Trophy Club, do not elect Trophy Club's board of directors, do not pay for Trophy Club's facilities, are not served by Trophy Club, and do not have a contractual

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relationship with Trophy Club. Therefore, the PID ratepayers do not have a justiciable interest in this case. The PID ratepayers argue that they have a justiciable interest because the Town has a contract with Trophy Club that requires the Town's rates to be identical to Trophy Club's rates. However, the Commission cannot order a change to the Town's rates in this case, which is an appeal of Trophy Club's, not the Town's, rates. Therefore, the PID ratepayers are not entitled to the relief that they seek in this matter. Any relief to which the PID ratepayers are entitled would be available from the Town, not from Trophy Club.

Therefore, it is **ORDERED** that the PID ratepayers' petition is **SEVERED** from this docket, and the PID ratepayers are **DENIED** intervenor status in this case.

It is further **ORDERED** that the parties shall jointly submit an agreed procedural schedule, including three sets of proposed hearing dates, by **April 18, 2016**.

SIGNED April 7, 2016.



STEPHANIE FRAZEE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS