



Control Number: 45283



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**RATEPAYERS' APPEAL OF THE
DECISION BY NORTH SAN SABA
WATER SUPPLY CORPORATION TO
CHANGE RATES** §
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**RESPONSE TO ORDER NO. 2
COMMISSION STAFF'S COMMENTS**

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Comments. Staff requests that the Commission refer this proceeding to the State Office of Administrative Proceedings. In support of its Comments, Staff states the following:

I. Background

On October 26, 2015, certain ratepayers of North San Saba Water Supply Corporation (North San Saba WSC) petitioned for an appeal of the new rates established by North San Saba WSC. The new rates are effective September 5, 2015.

On October 29, 2015, the Administrative Law Judge entered Order No. 1. Order No. 1 established November 25, 2015 as the deadline for Staff to file comments regarding the ratepayers' appeal.

On December 2, 2015, the Administrative Law Judge entered Order No. 2. Order No. 2 established December 4, 2015 as the deadline for Staff to file comments regarding the ratepayers' appeal

II. Applicable Legal Standard

The Texas Water Code permits ratepayers to appeal rates established by a water supply corporation.¹ An appeal "must be initiated by filing a petition for review with the utility commission and the entity providing service within 90 days after the effective date"² "The petition must be signed by the lesser of 10,000 or 10 percent of those ratepayers whose rates have been changed and who are eligible to appeal"³ The Commission "shall hear the appeal de

¹ See Tex. Water Code § 13.043(b)(1) (TWC).

² TWC § 13.043(c).

³ *Id.*

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novo and shall fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken.”⁴ Additionally, the Commission “may establish the effective date for the utility commission's rates at the original effective date as proposed by the service provider, may order refunds or allow a surcharge to recover lost revenues, and may allow recovery of reasonable expenses incurred by the retail public utility in the appeal proceedings.”⁵ The Commission’s substantive rules list similar requirements.⁶

III. Staff’s Comments

a. The jurisdictional threshold has been satisfied

Staff has reviewed records kept by the Texas Commission on Environmental Quality. Based on Staff’s review of these records, Staff has determined that the North San Saba WSC serves two hundred and ninety-seven (297) connections. Thirty-six (36) ratepayers served by North San Saba WSC signed the petition. Additionally, the ratepayers filed their petition within ninety (90) days of the September 5, 2015 effective date. Thus, Staff recommends that the ratepayers’ petition is administratively complete, and that the 10% signature requirement for the Commission’s appellate jurisdiction has been satisfied.⁷

b. The ratepayers’ appeal should be referred to the State Office of Administrative Hearings

Given that a sufficient number of ratepayers have petitioned for an appeal, it will be necessary to develop an evidentiary record for the Commission to set North San Saba WSC’s rates. Thus, Staff requests that the Commission refer this proceeding to the State Office of Administrative Hearings.⁸

⁴ TWC § 13.043(e).

⁵ *Id.*

⁶ *See generally* 16 Tex. Admin. Code § 24.41(b)-(e) (TAC).

⁷ Staff’s recommendation is based on the attached memorandum from Sean Scaff in the Water Utilities Division.

⁸ *See generally* 16 TAC § 22.207.

IV. Conclusion


A sufficient number of ratepayers have signed the petition to appeal North San Saba WSC's rates. Thus, Staff requests that the Commission refer this proceeding to the State Office of Administrative Hearings.

Date: December 4, 2015

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 4, 2015, in accordance with 16 TAC § 22.74.



Sam Chang