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SOAH DOCKET NO. 582-08-2571
TCEQ DOCKET NO. 2008-0507-UCR

2009 FEB - 4 PM 12:53
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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

**PETITION BY OUTSIDE
RATEPAYERS APPEALING RATES
ESTABLISHED BY THE TOWN OF
WOODLOCH**

§ **BEFORE THE STATE OFFICE**
§
§ **OF**
§
§ **ADMINISTRATIVE HEARINGS**
§

**ORDER NO. 7
GRANTING CONTINUANCE; REQUIRING SERVICE OF DISCOVERY ANSWERS
AND A MOTION TO ESTABLISH INTERIM RATES; NOTICE OF PREHEARING
CONFERENCE; AND NOTICE OF HEARING ON THE MERITS**

I. PROCEDURAL SCHEDULE

The Town of Woodloch (Woodloch) has requested 30-day continuance of the procedural schedule for this case. Woodloch retained new counsel on January 19, 2009, the day before its prefiled testimony was due. The attorney states that Woodloch needs a water utility expert to review the rate structure to determine the proper path forward. Woodloch also states that it is agreeable to further settlement negotiations and to setting interim rates charged to customers outside the city equal to the rates charged to those customers before the rate increase at issue.

The Office of Public Interest Counsel (OPIC) filed a response, noting that the Woodloch has already been granted two continuances; that Woodloch waited until the last minute to hire its current counsel; and that Woodloch has failed to serve discovery answers on all parties. Nevertheless, OPIC does not oppose the continuance if conditions are imposed requiring service of Woodloch's discovery answers on all parties.

Protestants Cathy Lewkowski and Wendy Hamrick oppose Woodloch's request for continuance. They list several instances in which Woodloch has not complied with the scheduling requirements of this case or otherwise failed to cooperate with the other parties. They are also concerned that additional attorneys fees and expert fees will increase expenses that will be passed on to them. Therefore, they object to the continuance requested by Woodloch.

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or mediation might resolve this case. However, the ALJ will not refer the matter to additional mediation unless all parties agree. **The City of Woodloch shall file a report on settlement discussions no later than February 13, 2009.**

III. NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a pre-hearing conference will be held in this case as follows:

**April 20, 2009, 1:00 p.m.
State Office of Administrative Hearings
300 W. 15th Street, 4th Floor
Austin, Texas.**

The prehearing conference may be canceled if no objections or motions are pending for hearing.

IV. NOTICE OF HEARING ON THE MERITS

Notice is hereby given that a hearing on the merits will be held in this case as follows:

**May 13, 2009, 10:00 a.m.
State Office of Administrative Hearings
300 W. 15th Street, 4th Floor
Austin, Texas.**

SIGNED February 4, 2009.



**THOMAS H. WALSTON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
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CHIEF CLERKS OFFICE

2009 FEB - 4 PM 12: 54

COMMISSION
ON ENVIRONMENTAL
QUALITY

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)
STYLE/CASE: TOWN OF WOODLOCH
SOAH DOCKET NUMBER: 582-08-2571
REFERRING AGENCY CASE: 2008-0507-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ THOMAS H. WALSTON**

REPRESENTATIVE / ADDRESS

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TOWN OF WOODLOCH

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TOWN OF WOODLOCH

xc: Docket Clerk, State Office of Administrative Hearings

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DATE:

02/04/2009

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REGARDING:

ORDER NO. 7- GRANTING CONTINUANCE; REQUIRING SERVICE OF DISCOVERY ANSWERS AND A MOTION TO ESTABLISH INTERIM RATES; NOTICE OF REHEARING CONFERENCE; AND NOTICE OF HEARING ON THE MERITS

DOCKET NUMBER:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
582-08-2571
12:53

Table with 2 columns: Name and Contact Information. Includes entries for CATHY LEWKOWSKI, MARCIA TILLMAN, DUNCAN C. NORTON, ELI MARTINEZ, STEFANIE SKOGEN, DOCKET CLERK, DIANE L. LINCOLN, and WENDY HAMRICK.

TCEQ Docket Clerk, Fax Number 512/239-3311

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT NORMA LOPEZ(nlo) (512) 475-4993

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Although the ALJ has serious concerns about Woodloch's conduct in this proceeding and the delay that has already occurred, the motion will be granted. Woodloch's current attorney is experienced in matters of this type and should bring some order to Woodloch's actions to allow this matter to proceed in an orderly fashion. Therefore, the previous procedural schedule is extended for 30 days, the following schedule is adopted, and all parties are ORDERED to comply with the procedural schedule:

Deadline/Date	Activity
February 19, 2009	Woodloch's prefiled testimony due.
March 12, 2009	Outside Ratepayers' and OPIC's prefiled testimony due.
March 30, 2009	ED's prefiled testimony due.
April 6, 2009	Objections to prefiled testimony due.
April 13, 2009	Responses to objections to prefiled testimony due.
April 20, 2009 (1:00 p.m.)	Prehearing conference to rule on objections to prefiled testimony and other pending motions
May 13, 2009 (10:00 a.m.)	Hearing on the merits.

II. ADDITIONAL REQUIREMENTS

It is further ORDERED that:

- The Town of Woodloch shall file a motion to establish interim rates for outside-the-city customers equal to the rate charged to those customers prior to the rate increase at issue in this case. **Woodloch shall file this motion with a proposed order no later than February 13, 2009, including a statement about whether any party objects to the proposed interim rates.** The ALJ assumes other parties will not object to such interim rates, but **any party desiring to object shall file objections no later than February 20, 2009.**
- **No later than February 12, 2009,** the Town of Woodloch shall answer all pending discovery requests and make sure that all discovery responses have been provided to all parties.
- The parties shall promptly confer and determine whether additional settlement negotiations