



Control Number: 46438



Item Number: 247

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SOAH DOCKET NO. 473-17-2372.WS
PUC DOCKET NO. 46438

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APPLICATION OF J&S WATER
COMPANY, LLC FOR A
RATE/TARIFF CHANGE

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BEFORE THE PUBLIC UTILITY COMMISSION
OF
ADMINISTRATIVE HEARINGS
FILING CLERK

PREFILED DIRECT TESTIMONY
OF
PHILIP S. HAAG

ON BEHALF OF
J&S WATER COMPANY, LLC

MAY 1, 2017

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**PREFILED DIRECT TESTIMONY
OF PHILIP S. HAAG**

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1 **DIRECT TESTIMONY**

2 **OF PHILIP S. HAAG**

3 **I. INTRODUCTION**

4 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

5 A. My name is Philip S. Haag. My business address is McGinnis Lochridge, 600 Congress
6 Avenue, Suite 2100, Austin, Texas 78701.

7 **Q. WHAT IS YOUR RELATIONSHIP TO THE APPLICANT IN THESE**
8 **PROCEEDINGS**

9 A. The utility, J&S Water Supply, LLC (“J&S Water”), hired my law firm to represent them
10 in these proceedings. I am lead counsel for J&S Water.

11 **II. PROFESSIONAL TRAINING AND EXPERIENCE**

12 **Q. PLEASE DESCRIBE EXHIBIT PSH-1.**

13 A. Exhibit PSH-1 is a copy of my resume, which describes my professional training and
14 experience.

15 **III. PURPOSE OF TESTIMONY**

16 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

17 A. I will present testimony on the rate-case expenses paid to date by J&S Water for legal
18 representation and to process this contested application.

19 **IV. RATE-CASE EXPENSES**

20 **Q. WHY DOES J&S WATER SEEK RECOVER OF ITS RATE-CASE EXPENSES?**

21 A. Rate-case expenses are necessary expenses that J&S Water must incur in justifying its rates
22 to the Public Utility Commission (the “Commission”) through an application such as this
23 one. J&S Water’s retail customers have a right to protest the rates set by J&S Water to the

1 Commission. J&S Water must demonstrate that the revenue requirement and rates it
2 proposes are just and reasonable. Because this is a government-imposed cost, to the extent
3 it is reasonable and necessary to the prosecution of that case, the Commission must permit
4 J&S Water to recover rate-case expenses.

5 **Q. WHAT RATE-CASE EXPENSES ARE J&S WATER SEEKING TO RECOVER IN**
6 **THIS CASE?**

7 A. J&S Water seeks to recover all of the reasonable and necessary costs incurred to prepare
8 and file its testimony in support of its rates, as well as those reasonable and necessary post-
9 filing costs incurred to prosecute the application to completion and final decision by the
10 Commission.

11 **Q. WHAT ITEMS ARE INCLUDED IN THE RATE-CASE EXPENSES THAT J&S**
12 **WATER SEEKS TO RECOVER?**

13 A. A large portion of the rate-case expenses that J&S Water seeks to recover includes my
14 firm's attorneys' fees and costs for legal services rendered to respond to discovery, attempt
15 settlement, prepare evidence and testimony in support of J&S Water's rates, and prosecute
16 the application to completion and final decision before the Commission. J&S Water also
17 seeks to recover its consultant fees, as well as travel and lodging costs and other eligible
18 expenses, which costs and expenses will be established by testimony of the J & W Water's
19 rate consultant.

20 **Q. PLEASE GENERALLY DESCRIBE YOUR LEGAL WORK TO PREPARE**
21 **EVIDENCE AND TESTIMONY IN SUPPORT OF J&S WATER'S RATES AND**
22 **PROSECUTE THE APPLICATION IN THIS CASE TO DATE, AND THE TYPES**
23 **OF EXPENSES THAT J&S WATER HAS INCURRED.**

- 1 A. Since this application was filed and protested by J&S Water's retail customers, the legal
2 work performed on this case by my firm includes, without limitation:
- 3 a. Review of the application and conferences with J&S Water's representatives to
4 develop legal strategy;
 - 5 b. Conferences with the Commission staff regarding the application, including
6 responses to staff requests for information;
 - 7 c. Legal research and analysis of the Commission staff and Intervenors' challenges to
8 J&S Water's rates;
 - 9 d. Conferences and correspondence with the consultant;
 - 10 e. Preparation for and attendance at multiple hearings, including hearings before
11 SOAH related to Intervenors' challenges to J&S Water's retail rates;
 - 12 f. Preparation and response to written discovery propounded by the Commission's
13 staff;
 - 14 g. Correspondence to and conferences with J&S Water's staff and representatives
15 regarding the case, settlement, and status;
 - 16 h. Correspondence to and conferences with Intervenors' representatives regarding
17 discovery, various legal issues, settlement, and other rate-case issues;
 - 18 i. Analysis of legal and factual issues for prefiled testimony;
 - 19 j. Coordinating and drafting prefiled testimony for J&S Water's witnesses; and
 - 20 k. Assembly and preparation of exhibits to be included with J&S Water's prefiled
21 testimony.

22 This is by no means the complete list of tasks performed by attorneys, but it is a
23 representative description of the tasks that attorneys have performed in this rate case.

1 Q. HOW MUCH IN RATE-CASE EXPENSES FOR LEGAL SERVICES FROM
2 YOUR FIRM HAS J&S WATER INCURRED AS OF APRIL 25, 2017?

3 A. \$15,383.55

4 Q. DO YOU HAVE AN OPINION REGARDING THE REASONABLENESS OR
5 NECESSITY OF THE AMOUNT OF RATE-CASE EXPENSES THAT THE
6 UTILITY HAS ALREADY INCURRED?

7 A. Yes.

8 Q. WHAT IS YOUR OPINION?

9 A. It is my opinion that the attorney's fees incurred and paid by J&S Water through April 25,
10 2017 were reasonable and necessary to prepare, file, and prosecute J&S Water's
11 application in response to the protest by its retail customers. I am familiar with the hourly
12 rates charged by attorneys for the types of work performed in this case. My hourly rates
13 are reasonable. Given issues raised by the Commission staff and the active participation by
14 the Intervenors who protested J&S Water's rates, and the legal and factual issues with the
15 application, the amount of rate-case expenses paid by J&S Water to date is reasonable and
16 necessary.

17 Q. DO YOU HAVE AN OPINION WHETHER THE EXPENSES IDENTIFIED IN
18 ISSUES NOS. 22 AND 37 (AND ABOVE) ARE IN THE PUBLIC INTEREST?

19 A. Yes.

20 Q. WHAT IS YOUR OPINION?

21 A. It is my opinion that they are in the public interest.

1 Q. WITH RESPECT TO ISSUE NO. 38, IF A REFUND OR SURCHARGE RESULTS
2 FROM THIS PROCEEDING, HOW AND OVER WHAT PERIOD OF TIME
3 SHOULD THIS BE MADE? TWC § 13.871

4 A. It is my opinion that refunds or surcharges should be made pro rata over the same period
5 that elapses between the date the rate change application was filed and the date of the final
6 decision in this matter.

7 Q. WITH RESPECT TO ISSUE NO. 40, WHAT IS THE APPROPRIATE DATE OF
8 THE RATES FIXED BY THE COMMISSION IN THIS PROCEEDING? TWC
9 § 13.1871

10 A. It is my opinion that the effective date should be the date of the second notice of application
11 to the customers; to wit, March 1, 2017.

12 V. CONCLUSION

13 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

14 A. Yes, with one exception. I have not attempted to estimate costs of the hearing or any appeal
15 since that would be too speculative. Accordingly, I will need to supplement the rate case
16 expenses as the amounts of the same become more clear.

PSH - 1



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PRACTICE AREAS

Water Law
Environmental
Real Estate

INDUSTRIES

Real Estate

Phil Haag concentrates his practice on a wide range of water and wastewater utility service and entitlement matters. He represents various utilities (water districts, water supply corporations and the like) that provide water and wastewater service and developers seeking water and wastewater service from utilities. Phil also represents commercial, industrial and municipal clients before the Texas Commission on Environmental Quality (TCEQ) in environmental permitting and enforcement actions.

Phil handles all variants of water and wastewater utility matters including surface water and groundwater permitting, water rate proceedings, water supply contracts and the acquisition of water and wastewater service for development.

Phil is also a trained mediator who uses those skills on a routine basis. Phil has been listed in *Best Lawyers*® in the field of Environmental Law – Water Rights since 2006.

Representative Experience

Water Law

In matters regarding water districts and water supply corporations, Phil's experience includes:

- Representing numerous water districts on a general or special counsel basis.
- Representing numerous water supply corporations on a general or special counsel basis.
- Negotiating agreements between districts and cities, and between water supply corporations and cities.
- Handling Open Meetings and Open Records matters.

In water supply matters, Phil's experience includes:

- Helping secure water rights permits for two reservoirs in East Texas.
- Negotiating numerous contracts for wholesale water service for various Central Texas cities and other water users.
- Helping secure groundwater permits from groundwater conservation districts.
- Successfully challenging excessive water rates from large wholesale suppliers.

In matters regarding Certificates of Convenience and Necessity (CCN), Phil's experience includes:

- Representing a Central Texas city in resolving a longstanding water service area dispute with a water supply corporation.
- Successfully negotiating a water service area agreement on behalf of a water supply corporation and nearby city.
- Completing numerous service area transfers to release developers from undesired service areas.
- Helping secure and transfer many CCNs for water and wastewater suppliers.

Environmental

Phil has represented numerous clients in applying for and obtaining waste discharge permits for municipal waste treatment plants. He has represented a client in a highly contested hearing to obtain a controversial waste recycling permit. Phil has also successfully represented parties in various other environmental permits.

Real Estate

Phil has represented real estate development companies before numerous Central Texas cities in negotiating development agreements, as well as securing water and wastewater service. In addition, Phil regularly represents development interests in their efforts to obtain water and wastewater service from various utilities, including water districts and water supply corporations.

Publications & Presentations

- Speaker and Co-Author, *Issues Related to Water and Sewer Utility Regulation*, Half Moon Seminar: Water Laws & Regulations, San Antonio, Texas (February 24, 2016)

Professional Associations & Community Involvement

- State Bar of Texas: Environmental & Natural Resources Law Section (past Chair); Alternative Dispute Resolution Section
- Austin Bar Association: Environmental Section; Real Estate Section
- Real Estate Council of Austin
- Association of Water Board Directors (Legislative Committee; Advisory Council)
- Texas Water Conservation Association
- Texas Rural Water Association

Professional Recognition

- Listed in *Best Lawyers*© in the field of Environmental Law since 2006

Bar Admissions

- Texas

Education/Professional Background

- Southern Methodist University, Dedman School of Law, J.D., 1976
- Cornell College, B.A., 1973 (cum laude)