



Control Number: 47058



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**SOAH DOCKET NO. 473-17-4369.WS
PUC DOCKET NO. 47058**

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**RATEPAYERS' APPEAL OF THE
DECISION BY THE SAN PATRICIO
COUNTY MUNICIPAL UTILITY
DISTRICT NO. 1 TO CHANGE RATES**

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BEFORE THE STATE OFFICE

PUBLIC UTILITY COMMISSION
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 6
GRANTING MOTION FOR INTERIM RATES;
DENYING MOTION FOR SUMMARY DECISION;
AND REQUIRING SUBMISSION OF DATES AND TIMES
FOR TELEPHONIC PREHEARING CONFERENCE**

On July 19, 2017, Camp Stryker R.V. Park (Camp Stryker), the appealing ratepayer in this case, filed a motion requesting the Administrative Law Judge (ALJ) establish interim rates to be in effect pending the final outcome of this appeal. On August 2, 2017, the ALJ issued SOAH Order No. 3 informing the parties that unless a party requested a hearing by August 15, 2017, the ALJ would limit consideration of whether to establish interim rates to the oral arguments made at the prehearing conference in this case and Camp Stryker's written motion. No party filed a request for a hearing, and neither San Patricio County Municipal Utility District No. 1 (San Patricio MUD) nor the staff (Staff) of the Public Utility Commission of Texas (Commission) has filed a response to Camp Stryker's motion.

On August 8, 2017, Staff filed a motion for summary decision in this case in which it argues that the Commission should set an interim rate because the rate increase "will result in rate shock and impose severe economic hardship on [Camp Stryker]," and that "the rates are unjust and unreasonable." Staff asserts in its motion that Camp Stryker is entitled to interim rates as a matter of law.¹

At the prehearing conference, Camp Stryker argued that the rates at issue in this case resulted in an increase in its per-gallon cost for water service by more than 1000 percent. Camp Stryker noted that its bill for February 2017, in which the park used 29,000 gallons of

¹ Commission Staff's Motion for Summary Decision at 5.

water, was for \$153, while its bill for March 2017, which was calculated using the rates at issue in this case, was for \$1,032.00, even though the park only used 13,000 gallons that month. According to Camp Stryker, there are only eight total commercial connections to the San Patricio MUD system. Two of the commercial connections are recreational vehicle (RV) parks, and the new rates only apply to the RV parks. Camp Stryker's owner, Robert Hunter, did indicate that Camp Stryker is constructing 36 additional pads for RVs that would provide connections to San Patricio MUD's system.

San Patricio MUD responded to Staff's motion, asserting that the rates it is charging to Camp Stryker are just and reasonable based on the capacity of its system. Attached to San Patricio MUD's response is a letter from J. Schwartz & Associates, Inc. dated January 31, 2017, concerning its inventory and review of the San Patricio MUD's potable water system capacity. It is unclear from the letter when this inventory and review was completed. According to this letter, 15.8% of the system's groundwater well pump capacity is in use; 29.3% of the total storage capacity is in use; 66% of the high service pump capacity is in use; and 52.8% of the hydropneumatic pressure tank capacity is in use. The letter notes that the high service pumps and the hydropneumatic pressure tanks are limiting factors for growth of the San Patricio MUD system, and that 38 additional connections would require San Patricio MUD, under applicable rules of the Texas Commission on Environmental Quality, to file a planning report explaining how it will provide the expected service demands.² The response asserts that it is the "professional opinion" of James Schwartz of J. Schwartz & Associates "that by allowing the RV Park to add its numerous connections it will cause a substantial strain on the load of the system." However, there is no such statement in the letter, which does not discuss additional connections at Camp Stryker. It is not clear whether the inventory considered each RV pad at Camp Stryker to be a separate connection.

Given the gross disparity between the previous rates and the rates that are being appealed, without any showing from San Patricio MUD as to why the increase in rates was necessary or how such increase is justified or reasonable, the ALJ concludes that the increase in rates could

² San Patricio MUD's Response to Commission Staff's Motion for Summary Decision, Ex. A at 1-2.

result in an unreasonable economic hardship on San Patricio MUD's customers, and that the rates at issue are unjust and unreasonable. Therefore, Camp Stryker's motion for interim rates is **GRANTED**, and pursuant to Texas Water Code § 13.043(h) and 16 Texas Administrative Code § 24.41(h), the rates that San Patricio was charging Camp Stryker prior to the rate change at issue in this case are hereby set as interim rates pending the final outcome of this appeal.

The ALJ finds that the letter from J. Schwartz & Associates creates genuine issues of material fact with respect to the issues to be addressed in this case (except for the issue of interim rates) pursuant to the Commission's preliminary order entered in this docket on June 29, 2017. These issues must be determined at a hearing in this case. Therefore, Staff is not entitled to a decision in its favor as a matter of law, and its motion for summary decision is **DENIED**.

The ALJ will convene a second prehearing conference in this matter to discuss scheduling and procedural matters. The prehearing conference will take place by telephone. The parties are **ORDERED** to confer with each other and submit to the ALJ, by no later than October 27, 2017, three agreed-upon dates and times that they are available for the prehearing conference. The parties should contact the ALJ's administrative assistant, Tujuana Tate at tujuana.tate@soah.texas.gov or (512) 475-2241, to determine the ALJ's availability on the dates and at the times they intend to propose and provide the phone numbers at which they can be reached for the conference.

SIGNED October 20, 2017.



CASEY A. BELL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS