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**DOCKET NO. 47182**

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OF TEXAS  
PUBLIC UTILITY COMMISSION  
FILING CLERK

<b>RATEPAYERS' APPEAL OF THE DECISION BY KEMPNER WATER SUPPLY CORPORATION TO CHANGE RATES</b>	<b>§ § § §</b>	<b>PUBLIC UTILITY COMMISSION</b>
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**COMMISSION STAFF'S ADMINISTRATIVE COMPLETENESS  
RECOMMENDATION**

**COMES NOW** the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 1, Staff's Administrative Completeness Recommendation. Staff recommends that the petition be found sufficient and that the case be referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits. In support thereof, Staff shows the following:

**I. BACKGROUND**

On May 17, 2017, the ratepayers (Ratepayers) of Kempner Water Supply Corporation (Kempner WSC) filed a petition with the Commission appealing the change in retail water rates by Kempner WSC, effective for billing April 1, 2017. This appeal is governed by Tex. Water Code § 13.043 (TWC) and 16 Tex. Admin. Code §§ 24.41 & 24.42 (TAC).

On May 22, 2017, the Commission Administrative Law Judge (ALJ) issued Order No. 1, requiring Staff to file a recommendation on the administrative completeness of the Ratepayers' petition by June 9, 2017. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS RECOMMENDATION**

Pursuant to TWC § 13.043(c), an appeal by ratepayers of a WSC's rates must be filed within 90 days after the effective date of the rate change. Here, the effective date of the Kempner WSC rate change is April 1, 2017 and the appeal petition was filed on May 17, 2017. Furthermore, TWC §§ 13.043(c) and (d) and 16 TAC § 24.42 specify the information required to be included in the petition, including the requirement that the petition must be signed by the lesser of either 10,000 or 10% of those ratepayers whose rates have been changed and are eligible to appeal. As indicated in the attached memorandum of Fred Bednarski of the Commission's Water Utility Division, Staff has confirmed that the petition includes the information required by TWC §§ 13.043(c) and (d) and 16 TAC § 24.42. Therefore, Staff

recommends that the Ratepayers' petition is sufficient and that it be found administratively complete.

### **III. REFERRAL RECOMMENDATION & PROCEDURAL SCHEDULE**

Because the Ratepayers' petition meets the threshold established in TWC § 13.043(c) of 10% of ratepayers eligible to appeal, Staff recommends that this proceeding be referred to SOAH for a hearing on the merits. Accordingly, Staff does not propose a procedural schedule at this time. Should the Commission refer this proceeding to SOAH, Staff anticipates working with the parties to reach an agreed-upon procedural schedule prior to a prehearing conference.

### **IV. CONCLUSION**

For the reasons stated above, Staff respectfully recommends that the petition be found administratively complete and that the petition be referred to SOAH for a hearing on the merits.

Dated: June 9, 2017

Respectfully Submitted,

#### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

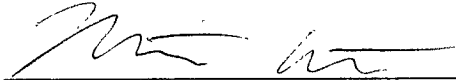


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**CERTIFICATE OF SERVICE**

I, Matthew Arth, staff attorney for the Public Utility Commission of Texas, certify that a copy of this document was served on all parties of record on June 9, 2017, in accordance with the requirements of 16 Tex. Admin. Code § 22.74:

  
Matthew A. Arth

**Public Utility Commission of Texas**

**Memorandum**

**To:** Matthew Arth, Attorney  
Legal Division

**Thru:** Debi Loockerman, Financial Manager  
Water Utility Regulation Division

**From:** Fred Bednarski III, Financial Examiner  
Water Utility Regulation Division

**Date:** June 09, 2017

**Subject:** **Docket No. 47182; Ratepayers' Appeal of the Decision by Kempner Water Supply Corporation to Change Rates**

On May 17, 2017, the ratepayers of Kempner Water Supply Corporation (Kempner WSC) filed petitions with the Public Utility Commission (PUC) pursuant to Tex. Water Code § 13.043(b)(1) (TWC) and 16 Tex. Admin. Code §§ 24.41 and 24.42 (TAC).

Pursuant to TWC § 13.043(c) an appeal under Subsection (b) must be initiated by filing a petition for review with the utility commission within 90 days of the effective date of the rate change and additionally 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 under Subsection (b).

Staff reviewed the petition and determined the water rate increase was approved by the board of directors of Kempner WSC during February 2017 with an effective date of April 1, 2017. After duplicate signatures were removed from the petitioner count, Staff determined that the petition was signed by more than 549 (10 percent) ratepayers. Each signature page contained a clear and concise statement that the petition is an appeal of Kempner WSC rate increase effective April 1, 2017. Staff determined from Kempner WSC's response to requests for information that approximately 5,489 ratepayers were affected by water rate increase appealed in this docket. Staff additionally determined that the petitions were filed within 90 days after the effective date of the rate increase.

Therefore, Staff recommends that the appeal filed by ratepayers of Kempner WSC be deemed administratively complete and accepted for filing. Staff also requests that the petition referenced above be referred to the State Office of Administrative Hearings (SOAH) for a hearing.