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**SOAH DOCKET NO. 473-18-0193.WS
PUC DOCKET NO. 47275**

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**APPLICATION OF THE COMMONS
WATER SUPPLY, INC.
FOR A RATE/TARIFF CHANGE**

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BEFORE THE STATE OFFICE

PUBLIC UTILITY COMMISSION
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 5
SCHEDULING PREHEARING CONFERENCE AND
REQUIRING NOTICE, APPROVING PROCEDURAL SCHEDULE,
AND RULING ON MOTION TO COMPEL,**

I. SCHEDULING PREHEARING CONFERENCE AND REQUIRING NOTICE

On December 28, 2017, staff (Staff) of the Public Utility Commission (Commission) filed an Unopposed Motion to Abate the Procedural Schedule (Motion). The Motion advised that the 20-day notice of the prehearing conference had not been provided as required by Texas Water Code § 13.1871(m)-(n). On January 31, 2018, the Administrative Law Judge (ALJ) convened the second prehearing conference in this case and took up, among other things, certain matters that will be discussed in more detail below. Due to a misunderstanding of the notice requirement underlying the abatement of the procedural schedule addressed in SOAH Order No. 4, Staff noted that notice of the January 31, 2018 prehearing conference had not been provided to the ratepayers of The Commons Water Supply, Inc. (The Commons). After a short discussion, the parties agreed to schedule a prehearing conference that gives ratepayers, and any affected municipality and county at least 20 days' notice of the prehearing conference and provides them the opportunity to intervene should they so choose.

THEREFORE, a prehearing conference is scheduled for **10:00, Tuesday, February 27, 2018, at the State Office of Administrative Hearings (SOAH), 300 W. 15th Street, Fourth Floor, Austin, Texas 78701.** Matters that may be discussed include procedures, pending motions, possible settlement of issues, the procedural schedule (including the hearing date), the effective date, service procedures, and other matters that may

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aid in efficient and fair processing of this case. Persons who attend the prehearing conference must first check in with building security personnel in the building's lobby and be issued visitor badges, and should allow sufficient time for the check-in procedure.

At least 20 days before the prehearing conference, Applicant **SHALL** provide notice of the prehearing conference to the governing body of each affected municipality and county and to each ratepayer as though the requirements of Texas Water Code § 13.1871(m)-(n) and 16 Texas Administrative Code § 24.22(d)(2), relating to notice of the hearing, applied to the prehearing conference. In addition, the notice **SHALL** include the text of the paragraph immediately before, and the paragraph immediately after, this paragraph. Before providing notice, Applicant **SHALL** consult with Staff regarding the text of the notice to be provided to the Commons' ratepayers. Applicant **SHALL, no later than February 20, 2018**, file an affidavit and a copy of the notice, demonstrating that it provided the notice as required.

Any person who wants to intervene in this case (*i.e.*, participate in this case as a party) shall move to intervene either (1) in a written request to intervene **filed at the Commission no later than February 20, 2018**; or (2) **orally at the February 27, 2018 prehearing conference**. Any filed motion shall refer to SOAH Docket No. 473-18-0193.WS and PUC Docket No. 47275, include the person's contact information, and otherwise comply with the Commission's procedural rules. Previous submission of a protest does not meet the requirement that a person who wants to participate as a party must move to intervene as described above.

Pursuant to the agreement of the parties, the hearing on the merits in this case is scheduled for **10:00 a.m., March 26-27, 2018 at the SOAH facilities identified above**. Should the hearing continue into the second day, the hearing will begin at 9:00 a.m., on March 27, 2018.

II. APPROVING PROCEDURAL SCHEDULE; NOTICE OF HEARING

While the procedural schedule is potentially an issue for the prehearing conference scheduled for February 27, 2018, the parties agreed on a new procedural schedule at the prehearing conference held on January 31, 2018. The agreed procedural schedule is **APPROVED**, and is as follows:

EVENT	DEADLINE
Prehearing Conference	February 27, 2018 ¹ 10:00 a.m.
Applicant's Rebuttal to Staff's Direct Testimony	March 7, 2018 ²
Deadline for Discovery (Including Depositions) on Staff's Direct Testimony	March 2, 2018
Intervenor's Direct Testimony	March 13, 2018
Deadline for Discovery (Including Depositions) on Applicant's Rebuttal to Staff's Direct Testimony	March 14, 2018 ³
Objections to Applicant's Rebuttal to Staff's Direct Testimony	March 14, 2018
Objections to Intervenor's Direct Testimony	March 16, 2018
Applicant and Staff's Rebuttal to Intervenor's Direct Testimony	March 20, 2018
Replies to Objections to Applicant's Rebuttal to Staff's Direct Testimony	March 21, 2018
Hearing on the Merits	March 26-27, 2018 10:00 a.m. (first day) 9:00 a.m. (subsequent days)
Objections and Replies to Objections to Applicant and Staff's Rebuttal to Intervenor's Direct Testimony	Live at the hearing
Extended Jurisdictional Deadline	August 20, 2018

¹ The Commons will send its ratepayers notice of the prehearing conference, via direct mail, no later than February 5, 2018.

² The deadline for Applicant's Rebuttal to Staff's Direct Testimony accommodates scheduling conflicts and other logistical issues unique to this docket. The parties agree that it is not precedential.

³ Discovery responses are due five business days after the request is received.

Any person seeking intervention at the prehearing who arguably cannot abide by the procedural schedule approved above must provide good cause to amend the procedural schedule. Parties seeking to amend the procedural schedule should note that, the parties have made good faith efforts to accommodate any late intervenors. As a result, the ALJ believes the procedural schedule outlined above allows sufficient time for the efficient processing of this case, including the interests of any potential late intervenors.

Persons seeking to intervene at or before the prehearing conference of February 27, 2018, should review and familiarize themselves with SOAH Order Nos. 1-4, which can be found on the Commission's Interchange website.

The parties are also advised that routine procedural and logistical questions may be directed to the undersigned ALJ's administrative assistant, Denise Kimbrough, at (512) 936-0712 or denise.kimbrough@soah.texas.gov. However, the parties are advised that SOAH support personnel may not provide advice or interpret law or orders for the parties.

III. GRANTING STAFF'S MOTION TO COMPEL

At the prehearing conference of January 31, 2018, the parties discussed Staff's pending Motion to Compel response to Staff Request for Information (RFI) No. 5-8. The RFI is as follows:

Staff 5-8: Please provide balance sheets and income statements for the years 2015 and 2016 prepared for Signorelli Holdings, LTD. And each of the companies listed in response to Staff RFI No. 5-7.

The Commons filed a Response to Staff's Motion to Compel on December 28, 2017. The Motion to Compel and the Response to Staff's Motion to Compel were timely filed. Staff argues that the information sought is important to its analysis of \$150,000 in affiliate costs requested by The Commons as part of its cost of service. Staff also points out that the \$150,000 in question is the largest operations and maintenance expenses included in The Commons' application.

Therefore, it is clearly germane. In its response, The Commons argues that Staff's RFI would not lead to relevant information because the "... salary expense allocations in question are based on the amount of time employees of the management company actually spend on Commons' matters, which is the appropriate direct allocation method for affiliate transactions. Commons has provided additional information regarding the specific tasks each employee does for Commons."⁴ The Commons further argues that it would be inequitable to allocate salary costs on the basis of revenue instead of time spent working on specific tasks by specific employees.


Staff's Motion to Compel is **GRANTED**. The Commission is charged with strict oversight over affiliate costs under Texas Water Code § 13.185(e). As Staff correctly argues, oversight over a utility's affiliate costs involves review of affiliate transactions performed between and among affiliates. The Signorelli Company appears to be an affiliate company to The Commons, so it is appropriate for Staff to inquire into the matters raised in Staff RFI 5-8 to ensure that the utility is only allocated a reasonable amount of costs, whatever the level of those may be upon inspection of the costs and the duties performed. The Commons' argument regarding its presentation of costs and the allocations it had adopted in its application prejudices how the pertinent allocations should be assessed by Staff. However, that decision is for Staff or any other party to make after inspection and review of the disputed information. If The Commons disagrees with Staff's ultimate assessment and proposed disposition of the issue, it can address those concerns and disagreements in rebuttal testimony, either prefiled or live on the witness stand. The Commons' objection to Staff's Motion to Compel response to RFI 5-8 is **OVERRULED**.

The parties at the prehearing conference of January 31, 2018, discussed the effect of this ruling on testimony that has already been filed. Staff indicated that, after review of the requested material, it may be possible to address the new information via an errata rather than by supplemental direct testimony. The approach is reasonable, but if it becomes necessary to propose supplemental testimony, Staff should inform the ALJ and The Commons in writing as soon as possible, at which time the parties can suggest an appropriate filing date to afford The

⁴ Commons Water Supply, Inc.'s Responses to Commission Staff's Motion to Compel at 2.

Commons time to file rebuttal to Staff's supplemental testimony, if the existing date for rebuttal cannot accommodate inclusion of additional testimony on the issue in controversy.

SIGNED February 1, 2018.


FERNANDO RODRIGUEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS