



Control Number: 47288



Item Number: 22

Addendum StartPage: 0

**SOAH DOCKET NO. 473-17-5910.WS
PUC DOCKET NO. 47288**

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STATE OFFICE OF ADMINISTRATIVE HEARINGS

**RATEPAYERS' APPEAL OF THE § BEFORE THE STATE OFFICE
DECISION BY WEST WISE SPECIAL §
UTILITY DISTRICT TO CHANGE § OF
RATES §
§ ADMINISTRATIVE HEARINGS**

**SOAH ORDER NO. 2
NAMING PARTIES; ISSUING NOTICE OF HEARING;
ADOPTING PROCEDURAL SCHEDULE; AND SETTING OUT VARIOUS
REQUIREMENTS**

On September 18, 2017, the Administrative Law Judge (ALJ) convened a prehearing conference in this proceeding. The following are parties to this proceeding:

- West Wise Special Utility District (District), represented by attorneys Leonard Dougal and Ali Abazari
- Ratepayer Sharon Boyette, representing herself
- Staff of the Public Utility Commission of Texas (Commission), represented by Ashley Nwonuma

II. NOTICE OF HEARING ON THE MERITS

Pursuant to the parties' agreement, the ALJ will convene the hearing on the merits on:

January 24-26, 2017, 9:00 a.m.
State Office of Administrative Hearings
300 W. 15th Street, Fourth Floor
Austin, Texas

22

III. PROCEDURAL SCHEDULE

At the prehearing conference, the parties agreed to the following procedural schedule that will govern this proceeding.

Event	Date
The prefiling of the District's direct case	October 31, 2017
Objections to the District's prefiled direct case	November 7, 2017
Replies to objections to the District's prefiled direct case	November 14, 2017
Last day to serve written discovery on the District's prefiled direct case	November 14, 2017
Settlement Conference	November 17, 2017
The prefiling of the Ratepayer's direct case or statement of position	November 28, 2017
Objections to Ratepayer's prefiled direct case	December 5, 2017
Replies to objections to Ratepayer's prefiled direct case	December 12, 2017
Last day to serve written discovery on Ratepayer's prefiled direct case	December 12, 2017
The prefiling of Staff's direct case	December 22, 2017
Objections to Staff's prefiled direct case	January 5, 2018
Replies to objections to Staff's prefiled direct case	January 12, 2018
Last day to serve written discovery on Staff's prefiled direct case	January 12, 2018
The prefiling of the District's rebuttal case	January 12, 2018
Objections to the District's prefiled rebuttal case	January 17, 2018
Last day to serve written discovery on the District's prefiled rebuttal case	January 18, 2018
Identification of witnesses that will be subject to cross-examination at the hearing on the merits	January 18, 2018
Replies to objections to rebuttal case (Live at hearing)	January 24, 2018
Hearing on the merits	9:00 a.m., on January 24-26, 2018

The parties have also agreed that the following deadlines will apply to discovery requests on a party's prefiled direct and rebuttal cases, as follows:

- Responses are due within five business days of receipt of a request
- Objections are due within five business days of receipt of a request
- Motions to compel are due within three business days of receipt of an objection
- Replies to motions to compel are due within three business days of receipt of a motion


The parties also agreed that service will be done through email.

IV. GENERAL PROCEDURES

The Commission's procedural rules govern this proceeding. *See* 16 Tex. Admin. Code ch. 22. The procedural rules may be found at the Commission's website, www.puc.texas.gov. Parties are expected to know these procedures and comply with them fully. In addition, the procedures the ALJ set out in SOAH Order No. 1 are still applicable, and the parties must comply with them fully.

The ALJ has attached additional information to this Order that the parties may find helpful.

SIGNED September 19, 2017.



KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

ADDITIONAL INFORMATION

Overview of Contested Case Process

- This contested case hearing will proceed like a trial – with witnesses testifying under oath and subject to cross-examination.
- The administrative law judge (ALJ) presides over this hearing process. The ALJ works for the State Office of Administrative Hearings (SOAH). SOAH is a state agency that provides impartial judges to preside over contested case hearings.
- At the end of the hearing process, the ALJ will make a written recommendation about the appeal of the District's rates. This is called a Proposal for Decision (PFD).
- The final decision maker will be the three-member Public Utility Commission of Texas (PUC or Commission).
- The Staff of the PUC participates in the hearing as a party. Staff is distinct from the three-member Commission that will ultimately decide this case. Staff can be an important source of information for unrepresented parties.

The Prehearing Phase

- Two primary things happen before the actual hearing on the merits: (1) discovery, and (2) filing of prefiled direct and rebuttal cases and statements of position. Deadlines for these activities are set out in the schedule in SOAH Order No. 2.
- Discovery is the formalized exchange of information among parties.
- Unlike some trials in district court, every witness's direct testimony in this case will be written in a question-and-answer format and filed prior to the hearing. At the hearing, each witness will take the stand and be sworn in, and the witness's direct testimony will be admitted if it complies with the rules of evidence. The witness will then be subject to cross-examination by the parties. However, the other parties may waive cross-examination of a witness, and if that happens, the witness's attendance at the hearing is not required.
- Every party in this case must prefile either testimony or a statement of position by the deadline established in the schedule.
- **Testimony** is evidence and includes assertions of fact. A **statement of position** is argument, not evidence. There will be no cross-examination at the hearing of a party who has only filed a statement of position. The ALJ cannot consider assertions of fact in a statement of position unless they are in some other document or testimony admitted in evidence. A party filing a statement of position may ask questions of testifying witnesses.

The Hearing

- The ALJ will convene the hearing in SOAH's hearing facilities in Austin, Texas, at **9:00 a.m. on January 24-26, 2018**. The hearing is scheduled for three days.
- All witnesses who prefiled evidence must appear at the hearing unless all parties waive cross-examination. It may also be possible for a witness to testify telephonically if timely requested by a party.

- Prefiled evidence will be admitted (subject to objections based on the Texas Rules of Evidence), and witnesses will be cross-examined.

The Post-Hearing Phase

- After the hearing, parties will file written closing arguments (briefs) according to the deadlines that the ALJ will establish.
- The ALJ will issue a PFD and recommend an outcome on the appeal of the District's rates.
- The ALJ's analysis will be based on the facts (established through evidence introduced in the hearing) and the applicable law found in the Texas Water Code and in the Commission's rules.
- Parties who disagree with the ALJ's PFD will be able to file written objections (exceptions) to the PFD.
- The Commission will make a decision at a meeting open to the public. The Commission can adopt or reject the ALJ's PFD, in whole or in part.

Filing and Serving Documents in the Case

- Whenever any party formally **files** any document in this case (such as a motion, request for discovery, response to discovery, testimony, or statement of position), it must file the document with the PUC.
- Filings at the Commission must occur **by 3:00 p.m.** on the date in question unless otherwise specified.
- The procedures regarding **filing** are specified in Subchapter E of the Commission's procedural rules and apply in this proceeding. Parties are expected to know those procedures and comply with them fully. Pleadings and other filings shall be deemed filed when the proper number of legible copies are presented to the PUC filing clerk for filing. All pleadings must contain both the SOAH and PUC docket numbers.
- At the same time a party **files** a document with the PUC, the party must also **serve** all other parties in the case by sending them a copy of the document.
- The parties have agreed that they will serve the other parties through email.
- Discovery requests and responses must be **filed** with the PUC, but only have to be **served** on the party to whom the request or response is directed.
- The Commission maintains an on-line document interchange that is a convenient way of keeping track of documents filed in a case. All PUC filings are available for viewing and downloading from the Commission's website at www.puc.texas.gov. Once there, click "filings," then "filings search," then "filings search" again, and then type in the control number 47288 and click on "search" or hit enter. A list of documents filed in this docket will appear and you may access those documents by clicking on the item number.

Receiving Documents from SOAH

- Parties may elect to receive documents from the ALJ via email. Sign up via SOAH's "Request Email Service" link at top right of SOAH's webpage, www.soah.texas.gov.