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**PETITION OF THE CITIES OF
GARLAND, MESQUITE, PLANO, AND
RICHARDSON APPEALING THE
DECISION BY NORTH TEXAS
MUNICIPAL WATER DISTRICT
AFFECTING 2018 WHOLESALE WATER
RATES**

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PUBLIC UTILITY COMMISSION
FILING CLERK
**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S RECOMMENDATION AND REQUEST FOR REFERRAL

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Recommendation and Request for Referral and would show the following:

I. BACKGROUND

On December 15, 2017, the Cities of Garland, Mesquite, Plano, and Richardson (collectively, Petitioners) filed a petition appealing the wholesale water rates charged by the North Texas Municipal Water District (NTMWD) for fiscal year 2018. The petition was filed in accordance with Texas Water Code § 13.043(f) (TWC) and requests that the Commission find that the rates adversely affect the public interest. Order No. 1 required Staff to file a recommendation on whether the appeal meets the requirements of 16 Tex. Admin. Code § 24.130 (TAC) on or before January 14, 2018. Therefore, this pleading is timely filed.¹

II. RECOMMENDATION

Staff has reviewed the petition and accompanying attachments and recommends that it be found to satisfy the requirements of 16 TAC § 24.130. A petition appealing a decision of a provider of water service affecting the amount paid for water service must be initiated within 90 days after

¹ January 14, 2018, is a Sunday. Because the Commission is not open for business on Sunday, and is closed on December 15, 2018, for Martin Luther King, Jr. Day. Accordingly, the deadline is extended to Tuesday, December 16, 2018, under 16 TAC § 22.4(a).

the date of the notice of the decision is received from the provider.² The petition must be in writing; state the statutory authority invoked by the petitioner, factual allegations, and the relief sought; and include any applicable contract as an attachment.³ Finally, the petition must be served on the party against whom relief is sought.⁴

Petitioners received notice of NTMWD's decision to increase water rates for fiscal year 2018 via a letter dated September 29, 2017.⁵ Petitioners' filed this appeal on December 15, 2017, which is within 90 days of September 29th. As filed, the petition invokes the statutory authority granted to the Commission under TWC § 12.013 and § 130.143(f),⁶ contains factual allegations addressing why NTMWD's rates adversely affect the public interest,⁷ and enumerates the specific relief sought against NTMWD.⁸ All contracts applicable to the appeal were attached to the petition,⁹ and it was served on NTMWD on December 15, 2017.¹⁰ Accordingly, Staff concludes that it complies with all of the requirements set forth in 16 TAC § 24.130.

III. REQUEST FOR REFERRAL

In accordance with Staff's recommendation that the petition complies with 16 TAC § 24.130, Staff requests that the Commission refer this proceeding to the State Office of Administrative Hearings (SOAH). After determining that a petition filed under TWC § 13.043(f) meets the requirements of 16 TAC § 24.130, the Commission is required to forward it to SOAH for an evidentiary hearing.¹¹ If the petition is appealing a rate charged pursuant to a written

² TWC § 13.043(f); 16 TAC § 24.130(c).

³ 16 TAC § 24.130(a)-(b).

⁴ *Id.* § 24.130(a).

⁵ Original Petition Appealing Wholesale Water Rates at 4 (Dec. 15, 2017) (Original Petition).

⁶ *Id.* at 5.

⁷ *Id.* at 6-12.

⁸ *Id.* at 12.

⁹ *Id.* at Attachments A and B.

¹⁰ *Id.* at 14.

¹¹ 16 TAC § 24.131(a).

contract, the evidentiary hearing may only address whether the protested rate adversely affects the public interest.¹² Therefore, Staff further recommends that the scope of the referral be limited to the issue of whether NTMWD's proposed wholesale water rate is in the public interest.

IV. CONCLUSION

Staff respectfully recommends that the petition be found to meet the requirements of 16 TAC § 24.130 and that the Commission refer this proceeding to SOAH in order to determine whether the wholesale rate charged by NTMWD for fiscal year 2018 is in the public interest.

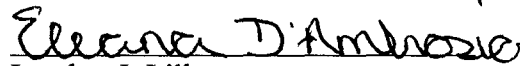
Dated: January 12, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney



Landon J. Lill
State Bar No. 24092700
Eleanor D'Ambrosio
State Bar No. 24097559
Kevin R. Bartz
State Bar No. 24101488
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)
Landon.Lill@puc.texas.gov

¹² 16 TAC § 24.131(b), .132(a).

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 12, 2018, in accordance with 16 TAC § 22.74.


Eleanor D' Ambrosio