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PUBLIC UTILITY COMMISSION
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COMMISSIONER MEMORANDUM

MEETING DATE: May 25, 2018

DATE DELIVERED: May 24, 2018

AGENDA ITEM NO.: 2

CAPTION: Docket No. 47897; SOAH Docket No. 473-18-3008.WS - Application of Forest Glen Utility Company for Authority to Change Rates

ACTION REQUESTED: Memo from Chairman Walker

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Executive Director

Public Utility Commission of Texas

TO: Chairman DeAnn T. Walker
Commissioner Arthur C. D'Andrea

All Parties of Record (*via electronic transmission*)

FROM: Hannah Turner *HT*
Commission Advising

RE: *Application of Forest Glen Utility Company for Authority to Change Rates.*
Docket No. 47897, Draft Preliminary Order, May 25, 2018 Open Meeting, Item
No. 2.

DATE: May 24, 2018

Please find enclosed a memorandum by Chairman Walker regarding the above-referenced docket. No other commissioner will file a memorandum in this docket.

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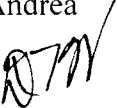


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Public Utility Commission of Texas

Memorandum

TO: Commissioner Arthur C. D'Andrea
FROM: Chairman DeAnn T. Walker 
DATE: May 24, 2018
RE: Open Meeting of May 25, 2018 – Agenda Item No. 2
Docket No. 47897 – *Application of Forest Glen Utility Company for Authority to Change Rates*

This case raises an issue concerning the proper interpretation of Texas Water Code (TWC) § 13.1871 and 16 Texas Administrative Code (TAC) § 24.26. Water and sewer utilities that file applications to change rates are often required to supplement or revise their applications before the Commission accepts the application as complete. When a utility's revised or supplemented application is accepted as complete, the Texas Water Code and Commission rules require that the utility file an updated statement of intent with a new proposed effective date. Because Forest Glen Utility Company did not comply with the requirement to provide an updated statement of intent at the time its revised application was accepted as complete, I recommend that we do not adopt the draft preliminary order until Forest Glen files an updated statement of intent.

If the Commission rejects a utility's application as incomplete and suspends the proposed rates under TWC § 13.1871(e) and 16 TAC § 24.26(b)(1), the utility must file a properly completed application and provide an updated statement of intent with a new proposed effective date. In fact, under 16 TAC § 24.26(c), the utility is prohibited from notifying its customers of a new effective date until the Commission has provided written notification that all deficiencies have been corrected. If the Commission subsequently suspends the rates under TWC § 13.1871(g) and 16 TAC § 24.26(a)(2), then the 265-day suspension period will start with the new proposed effective date.

Forest Glen filed its initial application on December 21, 2017. It provided a statement of intent on December 27, 2017 with a proposed effective date of February 1, 2018. The Commission administrative law judge (ALJ) found Forest Glen's application deficient on January 31, 2018, at which point the ALJ suspended Forest Glen's rates under TWC § 13.1871(e). Forest Glen submitted a revised application with additional information on February 23, 2018. On March 27, 2018, the Commission ALJ found Forest Glen's application complete and suspended the proposed rates for not more than 265 days under TWC § 13.1871(g) and 16 Tex. Admin. Code § 24.26(a)(2). To date, Forest Glen has not provide an updated statement of intent with a new proposed effective date as required by TWC § 13.1871.

I believe that Forest Glen must provide an updated statement of intent with a new proposed effective date before the Commission can process the case. In accordance with TWC § 13.1871(b), the new proposed effective date must be at least 35 days after the new statement of intent is provided. If the State Office of Administrative Hearings ALJ finds that the updated statement of intent is properly provided, then the rates may suspend for not more than 265 days from the new proposed effective date. The Commission should consider a preliminary order once a proper statement of intent is filed.

Because the issues that I have set forth are legal interpretations of the statute, I am open to requesting briefing on the issue, if you would prefer to obtain additional information prior to making a determination. I look forward to discussing this with you at the open meeting.