



Control Number: 47897



Item Number: 228

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**SOAH DOCKET NO. 473-18-3008.WS
DOCKET NO. 47897**

**APPLICATION OF FOREST GLEN
UTILITY COMPANY FOR
AUTHORITY TO CHANGE RATES**

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

2018 AUG 23 AM 9:47

**MOTION TO NULLIFY FGU ATTEMPT TO STRIKE TESTIMONY OF
VAN JOHNSON**

COMES NOW, Van Johnson (FGU Potranco Ranch Customer) for Reuse water files this motion to nullify FGU attempt to discount Direct Testimony and Exhibits of Van Johnson and in support thereof, would respectfully show the following:

I. BACKGROUND

On May 18, 2018, the State of Administrative Hearings ("SOAH") held the Prehearing Conference in this matter and named parties, including Intervenor Van Johnson. Mr. Johnson and each of the three (3) other intervenors participated in the hearing fully and agreed to the due dates established in the procedural schedule included in SOAH Order No. 2. The date given for Intervenor's testimony was August 9, 2018. Van Johnson's testimony was accepted by PUC Interchange August 8, 2018, 4:30:13 pm., one day prior to due date.

II. AUTHORITIES

Title 16 Texas Administrative Code (TAC) § 22.225 of the Commission rules sets forth the manner and timing for filing of PFT in contested utility rate cases:

(a)(8) For all water and sewer matters filed under TWC chapters 12 or 13, the presiding officer shall establish a prefiled testimony schedule²

SOAH Order No. 2 established August 9, 2018 as the deadline for Intervenor to file all prefiled testimony.³ Commission rules further provide that PFT must be filed timely to be admitted into evidence and comprise the administrative record in hearings held under the Administrative Procedure Act:

(b) Unless otherwise ordered by the presiding officer, direct and rebuttal testimony shall be received in written form. The written testimony of a witness on direct examination or rebuttal, either in narrative or question and answer form, may be received as an exhibit and incorporated into the record without the written testimony being read into the record. A witness who is offering written testimony shall be sworn and shall be asked whether the written testimony is a true and accurate representation of what the testimony would be if the testimony were to be given orally at the time the written testimony is offered into evidence. The witness shall submit to cross-examination, clarifying questions, redirect examination, and recross-examination. The presiding officer may allow voir dire examination where appropriate. Written testimony shall be subject to the same evidentiary objections as oral testimony. *Timely prefiling of written testimony and exhibits, if required under this section or by order of the presiding officer, is a prerequisite for admission into evidence.*⁴

Additionally,

(d) *On or before the date the prefiled written testimony and exhibits are due, parties shall file the number of copies required by §22.71 of this title (relating to Filing of Pleadings, Documents and Other Materials), or other commission rule or order, of the testimony and exhibits with the commission filing clerk and shall serve a copy upon each party.*⁵

The Commission's procedural rules also state:

² 16 TAC § 22.225(a)(8).

³ SOAH Order No. 2 (May 21, 2018).

⁴ 16 TAC § 22.225(b) (emphasis added).

⁵ *Id.* at § 22.225(d). (emphasis added).

(e) Pleadings and any other documents shall be deemed filed when the required number of copies and the electronic copy, if required, in conformance with §22.72 of this title are presented to the commission filing clerk for filing.⁶

(h) All documents shall be filed by 3:00 p.m. on the date due, unless otherwise ordered by the presiding officer.⁷

III. MOTION TO NULLIFY

As shown on the commission's email response to upload of Van Johnson's testimony on August 8, 2018, 4:30:13 pm (See addendum 1 to this motion to nullify) for the email. In addition to the uploading to the PUC Interchange on said date, an email with the exact copy of upload was provided to Ms. Oshea Spencer, PUC Attorney, Mr. Randall Wilburn, Ms. Helen Gilbert, Mr. Cecil Perkins, Mr. Fleming Mitchell, and Mr. Dennis Brown, was emailed to said parties on August 8, 2018, 4:35 pm. (See addendum 2 to this motion to nullify). Of special note, Mr. Randall and Van Johnson agreed to communicate via email with documents provided to PUC Interchange as cost savings. Further, PUC's was mailed 10 copies as directed of Van Johnson's testimony on August 9, 2018 and receipted by PUC on August 10, 2018.

FGU attorney's have repeatedly belittled the intervenors' pursuit of higher authority intervention and reconciliation of FGU's apparent, unremitting goal of financially squeezing Potranco Ranch customers without remorse. FGU Company attorneys' have intentionally obfuscated requests for information, properly delivered to them, by all parties to include Public Utility Commission.

FGU attorneys' shamelessly requested the deletion of documents presented to them in Van Johnson's testimony as not relevant and unqualified when these documents were qualified by naming McMillin Homes Inc., Mr. Steven Greenberg, and Yancey Water Corporations as providers. I am prepared for a deposition, polygraph, or take the stand with the PUC in defense of the origination of these documents or conversation with Mr. Steven Greenberg.

FGU attorneys' purported that the conversation with Mr. Greenberg is hearsay. To this blatantly false assertion, I ask the attorneys to ask Mr. Steven Greenberg and Mr. Cecil Perkins, under oath of perjury.


Finally, the documents and testimony provided by Van Johnson are true and were provided as stated during the closing of purchase from McMillin Homes Inc, provided by Mr. Steven Greenberg, or provided by Yancey Water Corporation. The written calculations are mine on Exhibit 1 and 2 of Testimony. My written testimony is mine and in no way should another party claim the testimony is not relevant for the purpose of obfuscation. The same can be said for FGU's 185 pages of testimony of billings to FGU, etc.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, Van Johnson respectfully requests that the ALJ grants its Motion to Nullify Forest Glen Utility Company Motion to Strike and Objections to Direct Testimony and Exhibits of Van Johnson's Prefiled Testimony and Exhibits in their entirety or, in the alternative, sustain Van Johnson's nullification to FGU motion to strike Intervenor Van Johnson's PFT and Exhibits at the hearing for this matter as requested above, and further relief to which it may be entitled to intervenors.


Respectfully submitted

Van Johnson, MPA, MA
112 Sunrise Hill
Castroville, Texas 78009
210-364-8317
johnsv337@gmail.com

By: 
Van Johnson, Intervenor

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 21st of August 2018.

By: 
Van Johnson

ADDENDUM 1



Van Johnson <johnsv337@gmail.com>

PUC Filing submission confirmation.

1 message

noreply@puc.texas.gov <noreply@puc.texas.gov>
To: johnsv337@gmail.com

Wed, Aug 8, 2018 at 4:30 PM

Filing Complete

Next Steps:

You have completed the electronic portion of your filing, however, in order for the PUC to be able to process your filing, you must submit this tracking number with your paper copies. You may print and include this page or the confirmation email you received. For any questions about the number of copies, please see the following page: <http://www.puc.texas.gov/industry/filings/FilingProceed.aspx> **Central Records: (512) 936-7180**

Tracking Number: ESDAZSPX

Filing Submitted on	8/8/2018 4:30:13 PM
Control Number	47897 APPLICATION OF FOREST GLEN UTILITY COMPANY FOR AUTHORITY TO CHANGE RATES
Filing Party	Van Johnson
Filing Type	TESTIMONY
Description	Van Johnson's Testimony to PUC
Documents	Van Johnson PUC Testimony.pdf
Addendum Included	No
Submitted By	Van Johnson 112 Sunrise Hill Castroville, TX 78009 2103648317 johnsv337@gmail.com

ADDENDUM 2



Van Johnson <johnsv337@gmail.com>

Van Johnson's Testimony to PUC

1 message

Van Johnson <johnsv337@gmail.com>

Wed, Aug 8, 2018 at 4:35 PM

To: "Spencer, Oshea" <oshea.spencer@puc.texas.gov>, Randall Wilburn <rbw@gwtlaw.com>, Helen Gilbert <hgilbert@gwtlaw.com>, Cecil Perkins <cecilsgroup@gmail.com>, Dennis Brown <dennisb51@sbcglobal.net>, Fleming Mitchell <mitch9130@gmail.com>

Bcc: Van Johnson <johnsv337@gmail.com>

Good evening everyone. Attached is a PDF copy of my testimony uploaded to the PUC Interchange a few minutes ago. The tracking number is ESDAZSPX.

I will mail of this document to PUC tomorrow afternoon.

Randy or Helen your copy is provided by email as agreed to a few weeks ago.

Van Johnson
112 Sunrise Hill
Castroville, TX 78009
210-364-8317



Van Johnson PUC Testimony.pdf

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