



Control Number: 47912



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**SOAH DOCKET NO. 473-18-2475.WS
DOCKET NO. 47912**

2018 JUL 15 08:22:02

RATEPAYERS' APPEAL OF THE DECISION BY SOUTH CENTRAL CALHOUN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 TO CHANGE RATES	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**EMERGENCY OPPOSED MOTION TO ABATE PROCEDURAL SCHEDULE
PENDING MEDIATION**

South Central Calhoun County Water Control and Improvement District No. 1 ("District") moves to abate the procedural schedule to give parties the time to mediate and save the ratepayers the cost and expense of adhering to the procedural deadlines. This Motion is opposed by the Public Utility Commission of Texas ("PUC"), and is unopposed by the Ratepayers Representative.

I. BACKGROUND

On December 28, 2017, ratepayers of South Central Calhoun County Water Control and Improvement District No. 1 filed a petition to appeal changes in retail sewer rates charged by the District effective November 1, 2017 ("Petition").

On May 7, 2018, the State Office of Administrative Hearings ("SOAH") issued Order No. 2, Memorializing Prehearing Conference; Adopting Procedural Schedule; Setting Hearing on the Merits; And Referring the Case for Mediation Evaluation. The next applicable District deadline established by Order No. 2 is June 18, 2018, which is the deadline to file its direct testimony. The procedural schedule is attached to this Motion as *Attachment A*.

Administrative Law Judge ("ALJ") Steve Arnold contacted counsel for the District regarding whether this case was a candidate for mediation. All parties have since agreed to mediate. In light of the agreement to mediate, the District conferred with the parties regarding abating the procedural schedule on June 4, 2018. By phone, Mr. Windell Durant, the Ratepayer Representative, agreed to abate the case with the District's counsel, Ms. Martin. Also, by phone, Ms. Martin and the PUC Staff Lawyer, Ms. Oshea Spenser discussed abatement. The District's reason for seeking an abatement was to avoid incurring rate case expenses while mediation was pending, which could later be recovered from the ratepayers.

On June 6, 2018, ALJ Steve Arnold, the assigned mediator/evaluator, filed a letter with SOAH noting that he had conferred with all parties and that he found the case appropriate for mediation. The case would proceed with Administrative Law Judges Steve Arnold and Howard Seitzman as co-mediators. On the same day, the co-mediators provided the parties with instructions for mediation. The parties are to provide the co-mediators with several agreed dates for mediation.

On June 7, Ms. Martin, on behalf of the District, contacted the parties via email providing potential dates and seeking agreed dates for mediation. That same day, Ms. Martin received a phone call from Ms. Spenser. Ms. Spenser explained that the PUC filed a second request for information to the District that day. Ms. Martin asked about the PUC's dates for mediation and about abatement. Ms. Spenser indicated that her response to those pending requests depended upon when the District could provide its responses to the PUC's second request for information. Ms. Spenser advised Ms. Martin that she would inquire with her management regarding abatement and that she would contact Ms. Martin on Monday June 11, 2018. Ms. Martin agreed to determine whether the District could provide the responses to the second request for

information earlier than the normal deadline. Ms. Martin reminded Ms. Spencer of the District's direct testimony deadline of June 18, 2018.

On June 13, 2018, Ms. Martin contacted Ms. Spencer by phone to follow up on the request for abatement. Ms. Spencer indicated that her management could not agree to abatement without having more information on the District's timing to provide the requests for information early. Ms. Martin explained that the District would make its best efforts to get the information to the PUC by the end of the week of June 18, 2018. That was still not sufficient enough for the PUC to agree to abate the case.

On June 14, 2018, Ms. Martin and Ms. Keeney, on behalf of the District, contacted Ms. Spencer and Ms. Katherine Gross, PUC Managing Attorney, regarding an agreement to abate, or in the alternative pushing out the procedural schedule deadlines by one month to give the parties time to respond to discovery, review any productions, and mediate. The offer was, if mediation was not successful, the District would provide its testimony within one month of the current deadline of June 18, 2018 by July 18, 2018 and all other deadlines would be pushed back by one month. Again, the District explained that the rate case expense of preparing testimony could be significant and that costs to the District, and ultimately the ratepayers, could be avoided.

II. REQUEST FOR ABATEMENT OF PROCEDURAL SCHEDULE

As previously stated, the District and the parties have all agreed to mediate. However, the parties have not agreed to a date. The District has agreed to provide the PUC with all requested documentation so that it can prepare for mediation. The District is hopeful that it can resolve all issues in this docket without incurring the additional expense of testimony preparation, responses to any objections and compliance with other procedural deadlines.

The District requests that the case be abated until the close of mediation. After that time, if mediation is not successful, the District defers to this court on when to reinstate the deadlines.

In the alternative, the District requests that this Court push all procedural deadlines out by 30 days in order to allow the parties time to mediate.

The District has contacted the PUC Staff and other parties to this proceeding regarding this motion. The PUC Staff opposes this motion. As previously stated, the Ratepayers Representative has indicated that he is in agreement that the case should be abated. This agreement is also shown in Mr. Durant's correspondence to the District dated June 15, 2018, attached as *Attachment B*.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the District respectfully requests that the Administrative Law Judge grant this request to abate the procedural schedule, or in the alternative push out the deadlines by 30 days. The District further requests any other relief to which it may be justly entitled.

Respectfully submitted,

GRAVES, DOUGHERTY, HEARON & MOODY, P.C.
401 Congress Avenue, Suite 2200
Austin, Texas 78701
(512) 480-5639 (telephone)
(512) 536-9939 (facsimile)

By:



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ATTORNEYS FOR SOUTH CENTRAL CALHOUN
COUNTY WATER CONTROL AND IMPROVEMENT
DISTRICT NO. 1


CERTIFICATE OF SERVICE

I certify that a copy of this document was served on the following parties of record on June 15, 2018 via Email.

Windell Durant
555 La Lucia St.
Port Lavaca, Texas 77979
(817) 559-4802 Phone
wldurant76@gmail.com
DESIGNATED RATEPAYERS REPRESENTATIVE

Oshea Spencer
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3336
(512) 936-7289 Phone
(512) 936-7268 Fax
Oshea.Spencer@puc.texas.gov
*PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION*

VIA HAND DELIVERY TO
Judge Casey Bell
Judge Steve Arnold, Mediator
Judge Howard Seitzman, Mediator
William P. Clements Building
Room 504, 5th floor
300 West 15th Str.,
Austin, Texas



Natasha J. Martin

**SOAH DOCKET NO. 473-18-2475.WS
PUC DOCKET NO. 47912**

2018 MAY -7 PM 3:10

RATEPAYERS' APPEAL OF THE	§	BEFORE THE STATE OFFICE
DECISION BY SOUTH CENTRAL	§	
CALHOUN COUNTY WATER	§	OF
CONTROL AND IMPROVEMENT	§	
DISTRICT NO. 1 TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 2
MEMORIALIZING PREHEARING CONFERENCE; ADOPTING
PROCEDURAL SCHEDULE; SETTING HEARING ON THE MERITS; AND
REFERRING CASE FOR MEDIATION EVALUATION**

On April 25, 2018, the undersigned Administrative Law Judge (ALJ) convened a prehearing conference in this matter as scheduled by SOAH Order No. 1. Ratepayers representative Eric Englund appeared telephonically on behalf of all ratepayers who signed the petition appealing the rate change at issue in this case. South Central Calhoun County Water Control and Improvement District No. 1 (District) and staff (Staff) of the Public Utility Commission of Texas (Commission) appeared in person.

Staff provided a proposed procedural schedule for the case, and Mr. Englund on behalf of the appealing ratepayers and the District both indicated their agreement to the proposal, including the dates for the hearing on the merits. Therefore, by agreement between the parties, the schedule set forth on Exhibit A attached to this order will govern this proceeding.

The hearing on the merits will convene on **October 30, 2018, at 9:00 a.m.** at the **State Office of Administrative Hearings** in the **William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas**. The hearing will continue from day to day until completed and will conclude by no later than November 1, 2018.

At this time, this case is referred to SOAH's alternative dispute resolution team leader Howard Seitzman for mediation evaluation. If the mediator/evaluator finds it appropriate, the parties should participate in mediation. With the issuance of this order, the official file is



transferred to Judge Seitzman. However, the procedural deadlines on Exhibit A remain in effect while this case is referred to mediation, unless and until further order from the undersigned ALJ.

The mediator/evaluator will contact the parties directly. If the mediator/evaluator determines that mediation should take place, the mediator will schedule mediation in consultation with the parties. The parties are ordered to appear at that mediation with a party representative (in addition to the party's attorney, if any) who has full settlement authority for this matter. The case shall be returned to the undersigned ALJ by August 1, 2018, unless extended by order of the undersigned ALJ.

SIGNED May 7, 2018.



CASEY A. BELL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**Proposed Procedural Schedule for Ratepayers' Appeal of the Decision By South Central Calhoun
County Water Control Improvement District – PUC Docket No. 47912**

EVENT	DEADLINE
South Central Calhoun County Water Control and Improvement District's Direct Testimony	June 18, 2018
Objections to South Central Calhoun County Water Control and Improvement District's Direct Testimony	June 25, 2018
Replies to Objections to South Central Calhoun County Water Control and Improvement District's Direct Testimony	July 2, 2018
Appealing Ratepayers' Direct Testimony or Statement of Position	July 18, 2018
Objections to Appealing Ratepayers' Direct Testimony	July 25, 2018
Replies to Objections to Appealing Ratepayers' Direct Testimony	August 1, 2018
Staff's Direct Testimony	August 17, 2018
Objections to Staff's Direct Testimony	August 24, 2018
Replies to Objections to Staff's Direct Testimony	August 31, 2018
South Central Calhoun County Water Control and Improvement District's Rebuttal Testimony	September 7, 2018
Objections to South Central Calhoun County Water Control and Improvement District's Rebuttal Testimony	September 14, 2018
Deadline for written request for discovery	September 21, 2018
Replies to objections to South Central Calhoun County Water Control and Improvement District's Rebuttal Testimony	September 21, 2018
Deadline to file dispositive motions	September 27, 2018
Responses to motions	October 12, 2018
Identification of Witnesses that will be subject to Cross-Examination at the Hearing on the Merits	October 12, 2018
Hearing on the Merits	October 30 – November 1, 2018

Martin, Natasha J.

From: Windell Durant <wldurant76@gmail.com>
Sent: Friday, June 15, 2018 1:27 PM
To: Martin, Natasha J.
Subject: Re: Mediation Dates

Ms. Martin, this is Windell Durant. As the representative of the SCCCWCID rate payers I believe it is in everyone's best interest to suspend the current case schedule as we proceed through the mediation process. I see no reason for the SCCCWCID to incur unnecessary legal fees which could be passed on to the rate payers in future rate increases. I see no reasons prohibiting us from coming to an amicable agreement for both parties and improving the SCCCWCID for everyone concerned.

Thanks

Windell Durant

On Thu, Jun 7, 2018 at 3:03 PM, Martin, Natasha J. <NMartin@gdhm.com> wrote:

Ms. Spencer and Mr. Durant,

Per the mediators' letter attached, I am reaching out to determine several agreed dates for mediation. As the attached letter provides, the mediation will be held at the SOAH office in Austin. The District has provided several available dates over the next few weeks below. Please let me know if you have any conflicts with these dates or please suggest alternative dates if you have a conflict.

June 14 (preferred – Board meeting on June 15)

June 20

June 21

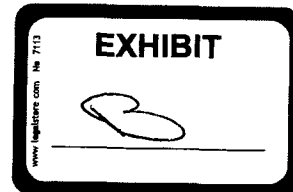
June 25

June 26

Thank you,

Natasha J. Martin

Attorney





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STATE OF TEXAS

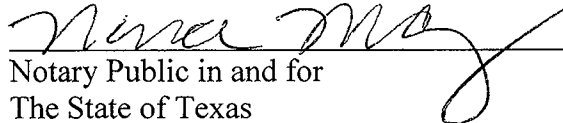
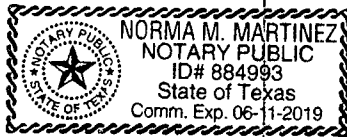
COUNTY OF TRAVIS

My name is Natasha J. Martin. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in the preceding motion. I have read the motion and the accompanying attachment and am familiar with their contents. Based upon my personal knowledge, the facts stated in the motion are true and correct.



Natasha J. Martin

SUBSCRIBED TO AND SWORN before me on this 15th day of June, 2018.



Notary Public in and for
The State of Texas