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OPEN MEETING COVER SHEET

COMMISSIONER MEMORANDUM

MEETING DATE: May 10, 2018

DATE DELIVERED: May 9, 2018

AGENDA ITEM NO.: 24

CAPTION: **Docket No. 48037**
Petition of MSEC Enterprises, Inc. for a
Good Cause Exception from the
Requirement to File a Statement of Intent
and Request for Approval of Tariff


ACTION REQUESTED: Discussion and possible action with respect
to Chairman Walker's Memo

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Public Utility Commission of Texas

Memorandum

TO: Commissioner Arthur C. D'Andrea
FROM: Chairman DeAnn T. Walker 
DATE: May 9, 2018
RE: Open Meeting of May 10, 2018 – Agenda Item No. 24
Docket No. 48037 – *Petition of MSEC Enterprises, Inc. for a Good Cause Exception from the Requirement to File a Statement of Intent and Request for Approval of Tariff*

After reviewing the filings in this proceeding, I have concerns regarding the request made by the petitioners, MSEC Enterprises. MSEC has requested that the Commission find a good cause exception under 16 Texas Administrative Code (TAC) § 24.2(b) to the requirements of 16 TAC § 24.22, which states that a water utility must make certain filings and provide certain notice when it seeks to change its rates. MSEC is requesting instead to be treated as a new utility seeking a tariff for the first time under 16 TAC § 24.21(b)(1)(C).

While the Commission does have the ability to make a good cause exception to its rules, it does not have the authority to grant an exception to the requirements of a statute. The rule to which MSEC seeks a good cause exception, 16 TAC § 24.22, simply mirrors the language of Texas Water Code (TWC) § 13.1871, which lists all the requirements a Class B water utility must fulfill in order to change its rates. Therefore, I do not believe that the Commission can grant MSEC's request for a good cause exception to these statutory requirements. Additionally, MSEC is not seeking a tariff for the first time; therefore, 16 TAC § 24.21(b)(1)(C) cannot apply. Based on the requirements imposed on the Commission, MSEC must follow the requirements of TWC § 13.1871 for a rate change. Therefore, the Commission should deny the petition.

The Commission is currently considering amendments to several sections of the rules applicable to water utilities. I believe in this broader process that the Staff should consider amending the alternative ratemaking rule, 16 TAC § 24.34, to allow for a utility such as MSEC to seek a change to its tariff in a more efficient manner.

I look forward to discussing this matter with you at the open meeting.