



Control Number: 48342



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**SOAH DOCKET NO. 473-19-2620.WS**  
**PUC DOCKET NO. 48342**

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**APPLICATION OF GUM ISLAND  
UTILITY FOR AUTHORITY TO  
CHANGE RATES**

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§  
§

**BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS**

**SOAH ORDER NO. 1**  
**DESCRIPTION OF CASE, NOTICE OF PREHEARING CONFERENCE,  
AND GENERAL PROCEDURAL REQUIREMENTS**

**I. DESCRIPTION OF CASE**

On May 3, 2018, Gum Island Utility<sup>1</sup> (Gum Island or Applicant), filed with the Public Utility Commission of Texas (Commission) an application for a rate/tariff change (Application) under Water Certificate of Convenience and Necessity (CCN) No. 12042 in Harris County, Texas. Gum Island is a Class C utility, and provides retail water utility service to approximately 29 connections or customers.

On May 11, 2018, the Commission's Administrative Law Judge (ALJ) issued Order No. 1, requiring Commission staff (Staff) to comment on the sufficiency of the Application. On May 25, 2018, Staff filed its recommendation regarding sufficiency of the Application and found it deficient. On May 30, 2018, the Commission's ALJ issued Order No. 2 finding the Application deficient and suspended the effective date pursuant to Texas Water Code (TWC) § 13.1871(e) ordering the Applicant to amend its rate application by June 12, 2018.

On June 25, 2018, Gum Island provided additional information to address Staff's concerns, nevertheless, the information was still deficient and on July 10, 2018, Staff requested additional time to file a supplement recommendation, which was granted on July 11, 2018. On July 26, 2018, the applicant provided additional information, and on August 3, 2018, Staff recommended that the Application be deemed administratively complete. Staff noted that under TWC § 13.1871 and 16 Texas Administrative Code (TAC) § 24.26, the Applicant must re-notice its customers with a

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<sup>1</sup> The Applicant was filed under the name "Whitewing," however, as Commission Staff noted in its May 25, 2018, recommendation on sufficiency of application and notice, the holder of the certificate of convenience and necessity number under which the application is filed is Gum Island.

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new proposed effective date after the Commission finds that the application is administratively complete, and that under TWC § 13.1871(b), the new proposed effective date must be at least 35 days after the new statement of intent is filed. Staff further recommended that the effective date be suspended pursuant to TWC § 13.1871(g) and 16 TAC § 24.26(a)(2) for 265 days from the date of the Applicant's new proposed effective date. Staff did not make a recommendation on the sufficiency of the notice.

On August 8, 2018, the Commission's ALJ issued Order No. 6 and found the Application administratively complete. The order also suspended the effective date of Applicant's rate application for 265 days from the Applicant's new proposed effective date, as requested by Staff.

On February 12, 2019, the Commission referred this case to the State Office of Administrative Hearings (SOAH) for hearing, if necessary. The Order of Referral also states that the Commission will consider and possibly adopt a preliminary order at an open meeting currently scheduled for February 22, 2019. The preliminary order will include a list of issues and any necessary statement of Commission policy, precedent, or position on threshold issues.

## **II. JURISDICTION**

The Commission has jurisdiction over this matter pursuant to TWC §§ 13.041, 13.181, 13.1871, and 13.1872. SOAH has jurisdiction over matters in this case relating to the conduct of the hearing and issuance of a proposal for decision, if needed, pursuant to Texas Government Code § 2003.049.

## **III. NOTICE OF PREHEARING CONFERENCE AND INTERVENTION DEADLINE**

A prehearing conference will be convened at **10:00 a.m. on April 16, 2019**, at the State Office of Administrative Hearings, 300 West 15th Street, 4th Floor, Austin, Texas. At the prehearing conference, the parties should be prepared to discuss any procedural matter, including clarification or suspension of effective dates, any pending motions including motions to intervene,

any procedural deadlines, and the procedural schedule including hearing dates, and any other relevant matter.

At least 20 days before the prehearing conference, Gum Island **SHALL** provide notice of the prehearing conference to the governing body of each affected municipality and county and to each ratepayer pursuant to TWC § 13.1871(m)-(n) and 16 TAC § 24.22(d)(2). In addition, the notice **SHALL** include the text of the paragraph immediately before, and the paragraph immediately after, this paragraph. Before providing notice, Gum Island must consult Commission Staff regarding the notice to be provided. Gum Island must file **no later than April 5, 2019**, an affidavit and a copy of the notice demonstrating that it provided the notice as required.

Any person who wants to intervene in this case (*i.e.* participate as a party) shall move to intervene either: (1) in a written motion to intervene **filed at the Commission no later than April 11, 2019**; or (2) **orally at the April 16, 2018 prehearing conference**. Any motion shall refer to SOAH Docket No. 473-19-2620.WS and PUC Docket No. 48342, include the person's contact information, and otherwise comply with the Commission's procedural rules. Previous submission of a protest does not meet the requirement that a person who wants to participate as a party must move to intervene as described above.

#### IV. GENERAL PROCEDURAL REQUIREMENTS

All Commission filings are available for viewing and downloading from the Commission's website at <http://www.puc.texas.gov/>. Once there, click "Filings," then "Filings Search," then type in the control number 48342 and press "enter." A list of documents filed in this docket will appear and those documents (with a few exceptions such as confidential documents) can be accessed by clicking on the document number. The Commission's procedural rules are available on the Commission's website at <http://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>. The procedural rules will govern the conduct of this case, and the parties are expected to comply with those rules.

Routine procedural and logistical questions may be directed to the ALJ's administrative assistant, Erin Hurley, at 512-475-3419 or [erin.hurley@soah.texas.gov](mailto:erin.hurley@soah.texas.gov). SOAH support personnel may not provide advice or interpret orders or regulations for the parties.

**A. Filing and Service**

Filings are deemed to have been made when the proper number of legible copies is presented to the Commission filing clerk for filing. All filings must contain both the SOAH and Commission docket numbers.

When a party files a document with the Commission, that party must also serve (*i.e.*, provide a copy of that document to) every other party. Service on a party may be made by delivering a copy of the document to the party's authorized representative or attorney of record: in person; by agent; by courier receipted delivery; by first class mail; by certified mail, return receipt requested; by registered mail to the party's address of record; or by facsimile transmission to the recipient's current facsimile machine.

Only one address per party will be included on the official service list maintained by SOAH. Corrections to the service list should be directed to Ms. Hurley.

All mail from the ALJ to the parties will be sent by email, first class mail, or facsimile, unless a party requests express mailing and provides an express mail account number.

A party that wants to receive documents from the ALJ by email may go to SOAH's web site at <http://www.soah.texas.gov/index.asp>, click on "Request Email Service," and complete the short form.

**B. Motions**

A motion seeking a continuance or extension of time **SHALL** propose a new date or dates and indicate whether the other parties agree to the new date or dates. Because the ALJ or a hearing

room may not be available on a given day, proposing a range of dates is advisable. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, the motion is not granted and the existing schedule remains in place.


Unless otherwise specified in the Commission's procedural rules or an order issued in this case, any responses to a motion or other pleading shall be filed within **five working days** from receipt of the motion or pleading. If a party does not respond, the ALJ will assume that the party agrees with or does not oppose the requested relief.

### **C. Discovery**

Discovery may begin immediately in compliance with the Commission's procedural rules and orders issued in this case. Copies of requests for information (RFIs) and objections and responses to RFIs will not be provided to the ALJ. If a party files a motion to compel responses to discovery, the motion shall include every RFI and objection to which the motion applies. Any affidavits supporting an objection, motion to compel, or response shall be attached to the relevant document. The ALJ will resolve discovery disputes based on the written documents, any sworn affidavits attached thereto, and materials, if any, provided for *in camera* inspection, unless the ALJ concludes that a prehearing conference on the discovery dispute should be held.

If a party seeks *in camera* review of documents in accordance with Commission Procedural Rule § 22.144(g), it will submit the documents to the ALJ at SOAH. Documents submitted for review should not be filed with the Commission filing clerk. If they are filed with the Commission filing clerk, even inadvertently, the documents may not be physically removed from the Commission. Further, any claim to privilege or exemption may be waived by the filing.

**SIGNED February 15, 2019.**

  
CHRISTIAANSIANO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS