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DOCKET NO. 48342

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

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PUBLIC UTILITY COMMISSION

OF TEXAS

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**ORDER NO. 11
DENYING REQUESTS FOR ABATEMENT AND ORDER REQUIRING A STM
APPLICATION**

This Order addresses Commission Staff's June 18, 2019, response to Order No. 9. Commission Staff recommends that this proceeding "remain open" for 120 days, during which time Gum Island Utility and East Houston Utilities d/b/a Krebs Utilities "be required to" jointly submit an application for sale, transfer, or merger (STM) under Texas Water Code § 13.301. Commission Staff asserts that the STM application is needed for the reasons outlined in the memorandum of Emily Sears, of the Commission's Water Utility Regulation division.

It appears that Commission Staff is effectively asking that this case be abated for 120 days, pending the outcome of the hoped-for STM application to be filed by Gum Island and East Houston. At this preliminary stage, it appears to the administrative law judge (ALJ) that there are serious deficiencies in the application which, absent completion of the STM application described by Commission Staff, might make it impossible for Gum Island's application to be granted in its current state. However, in Order No. 6, the effective date of the rate change proposed in the application was suspended until December 22, 2019. Thus, a final decision in this matter must be reached prior to December 22, 2019. An abatement until mid-October would make it much less likely that a final decision could be reached by mid-December. For this reason, the ALJ declines to abate this case.

Commission Staff next asks that Gum Island and East Houston "be required" to submit an STM application. Commission Staff does not, however, cite to any legal authority giving the administrative law judge (ALJ) the power to impose such a requirement, and the ALJ is not aware of any such authority. Thus, to the extent Commission Staff is requesting an order requiring the applicants to file an STM application, that request is denied.


In its open meeting held on March 13, 2019, the Commission discussed this case and agreed that it should be returned from the State Office of Administrative Hearings (SOAH) so that the

parties could “come up with a plan” to resolve the various problems identified by Commission Staff regarding ownership of the utility and related issues. It is apparent that the parties have not yet resolved those issues.

If they wish to do so, Gum Island and East Houston are free to submit an STM application and pursue that application concurrently with the processing of the application at issue in this proceeding. Alternatively, the parties are free to jointly agree to a further extension of the effective date of the proposed rates, and ask for an abatement accordingly.

Signed at Austin, Texas the 10th day of July 2019.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE