

Control Number: 48640



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PUC DOCKET NO. 48640  
SOAH DOCKET NO. 473-19-4089.WS

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APPLICATION OF W.E. VLASEK FOR § BEFORE THE STATE OFFICE  
AUTHORITY TO CHANGES RATES § OF  
§ ADMINISTRATIVE HEARINGS  
W.E. VLASEK'S RESPONSE TO SOAH ORDER NO. 1 AND  
PROOF OF COMPLIANCE WITH NOTICE REQUIREMENTS

COMES NOW, Applicant W.E. VLASEK, by and through counsel and hereby files this Response to SOAH Order No. 1 and Proof of Compliance with Notice Requirements, and in support would show as follows:

1. In SOAH Order No. 1 the prehearing conference in this case was scheduled for June 4, 2019.

2. In SOAH Order No.1 the Administrative Law Judge required the Applicant to give notice of the prehearing conference at least 20 days before the date of the hearing, and to notify any persons wanting to intervene in this case that they had until May 31, 2019 to file a motion to intervene, or they could orally move to intervene in the prehearing conference scheduled for June 4, 2019.

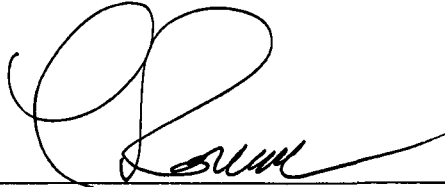
3. As shown by the attached Affidavit of WENDY EMLEY, Bookkeeper for W.E. VLASEK, a copy of SOAH Order No. 1 was mailed to all of the customers of W.E. VLASEK on May 5, 2019. Prior to the Order being sent to the customers as notice, the undersigned consulted with the Staff Attorney handling this case for the Commission, and he said he did not object to the sending of SOAH Order No. 1 to the customers as notice required in the order.

4. Thus notice of the prehearing conference and the required information was mailed to the customers more than twenty (20) days before the prehearing conference.

WHEREFORE, Applicant W.E. VLASEK has complied with 16 T.A.C. §24.22(d)(2)(B), and provided notice of the date and time for the prehearing conference and the deadline for filing

motions to intervene in this case more than twenty (20) days prior to the date of the prehearing conference.

Respectively submitted this 22<sup>nd</sup> day of May, 2019.

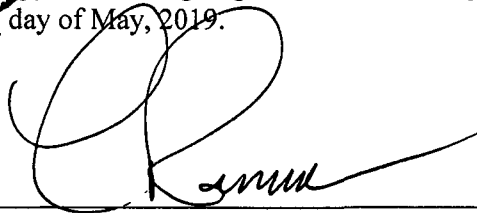


Les Romo  
Law Offices of Les Romo  
102 West Morrow Street, Suite 202  
P.O. Box 447  
Georgetown, Texas 78627  
(512) 868-5600  
Fax: (512) 591-7815  
lesromo.lawoffice@gmail.com  
State Bar No. 17225800

**ATTORNEY FOR W.E. VLASEK**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on all parties on the service list in this proceeding on the 22<sup>nd</sup> day of May, 2019.



Les Romo

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APPLICATION OF W.E. VLASEK FOR     §     BEFORE THE STATE OFFICE  
AUTHORITY TO CHANGES RATES     §                     OF  
   §     ADMINISTRATIVE HEARINGS

AFFIDAVIT

STATE OF TEXAS                     §  
   §  
COUNTY OF KERR                     §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared WENDY EMLEY, Bookkeeper for W.E. VLASEK, who being by me duly sworn, upon oath says that:

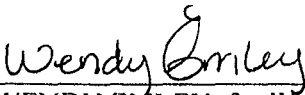
1. My name is WENDY EMLEY. I am over the age of 18 years, and am competent to make this Affidavit, and the facts stated herein are true and correct.

2. I am Bookkeeper for W.E. VLASEK.

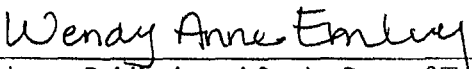
3. Pursuant to SOAH Order No. 1 in this case W.E. VLASEK was to provide notices to its customers about the time and date of the Preliminary Hearing in this case scheduled for June 4, 2019 at least 20 days before the date of the prehearing conference, and informing them that the deadline for filing motions to intervene in this case is set on May 31, 2019 if filed, or orally at the June 4, 2019 prehearing conference.

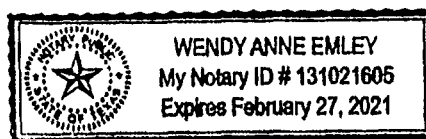
3. On the 5th day of May, 2019 W.E. VLASEK mailed the above-stated required notice to all of its customers as set forth in the attached Order that was mailed to each of W.E. VLASEK's customers which is incorporated herein by reference.

4. Accordingly, W.E. VLASEK has complied with the provisions and requirements of SOAH Order No. 1 in this case.

  
WENDY EMLEY, for W.E. VLASEK

SWORN TO AND SUBSCRIBED BEFORE ME, by WENDY EMLEY on this 22 day of May, 2019.

  
Notary Public, in and for the State of Texas



**SOAH DOCKET NO. 473-19-4089.WS  
PUC DOCKET NO. 48640**

<b>APPLICATION OF W. E. VLASEK</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>FOR AUTHORITY TO CHANGE</b>	<b>§</b>	<b>OF</b>
<b>RATES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

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

**I. DESCRIPTION OF CASE**

On August 29, 2018, W. E. Vlasek (Vlasek 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) Nos. 12685 and 11570 in Kerr County, Texas. Vlasek is a Class C utility, and provides retail water utility service to approximately 386 connections or customers.

On September 5, 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 September 28, 2018, Staff filed its recommendation regarding sufficiency of the Application and found it deficient and recommended suspending the effective date until the Application is administratively complete. On October 2, 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) and ordering the Applicant to amend its rate application by October 26, 2018.

On October 9, 2018, Vlasek provided additional information and on November 26, 2018, Staff recommended finding the Application administratively complete but asked that the suspension of the effective date be continued to complete a financial review. On December 14, 2018, Order No. 4 found the application administratively complete, continued the suspension of the effective date until staff had completed its financial review, and directed the Applicant to provide notice to ratepayers at least 35 days before the effective date of the proposed change, pursuant to 16 Texas Administrative Code § 24.27(d). On February 13, 2019, the Applicant filed affidavits that it mailed notice of intent to its customers on or about

November 26, 2018 with a proposed effective date of February 1, 2019. On March 28, 2019, staff requested that the matter be referred to the State Office of Administrative Hearings (SOAH). Staff did not make a recommendation on the sufficiency of the notice.

On April 22, 2019, the Commission referred this case to 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 May 23, 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 June 4, 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, Vlasek **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, Vlasek must consult Commission Staff regarding

the notice to be provided. Vlasek must file **no later than May 24, 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 May 31, 2019**; or (2) **orally at the June 4, 2019 prehearing conference**. Any motion shall refer to SOAH Docket No. 473-19-4089.WS and PUC Docket No. 48640, 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 of a motion 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 48640 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 April 26, 2019.**

  
CHRISTIAAN SIANO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS