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**SOAH DOCKET NO. 473-20-1117.WS  
PUC DOCKET NO. 48697**



<b>APPLICATION OF ANDERSON</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>WATER COMPANY, INC. FOR</b>	<b>§</b>	<b>OF</b>
<b>AUTHORITY TO CHANGE RATES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**SOAH ORDER NO. 5  
MEMORIALIZING PREHEARING CONFERENCE; ADOPTING PROCEDURAL  
SCHEDULE; REQUESTING STATUS REPORT; NOTICE OF HEARING**

On March 3, 2020, the undersigned Administrative Law Judge (ALJ) convened a prehearing conference in this docket. Representatives for Anderson Water Company, Inc. (Anderson) and Public Utility Commission of Texas (Commission) Staff appeared. No other person appeared or moved to intervene.

As contemplated in State Office of Administrative Hearings (SOAH) Order No. 1,<sup>1</sup> the parties addressed the impact of the expiration of the 265-day rate-suspension period on January 16, 2020, on this proceeding.<sup>2</sup> Neither party offered a substantive argument for how the statute should be interpreted under these circumstances. Staff demurred, noting that this appears to be an open question, and declined to anticipate how the Commission may choose to read the statute. Anderson argued that the question is moot because it is unlikely that the Commission would reject its proposed rate increase in any event. No party argued that the expiration of the suspension period posed any impediment to this proceeding moving forward to a decision on the merits. To that end, the parties submitted an agreed procedural schedule.

Based on agreement of the parties, the ALJ conditionally adopts the parties' proposed procedural schedule. After review, however, it is apparent that confusion remains regarding the expiration of the statutory suspension period and the rates' effective date. While simultaneously agreeing that the suspension period expired on January 16, 2020, the parties have proposed a

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<sup>1</sup> SOAH Order No. 1 (Dec. 6, 2019); *see also* SOAH Order No. 2 (Dec. 18, 2019).

<sup>2</sup> The Commission ALJ suspended the rate for 265-day from the proposed effective date of April 26, 2019. No party disputed that this period ended on January 16, 2020. PUC Order No. 7 (May 8, 2019).

procedural schedule that sets December 1, 2019, as the “agreed upon effective date,” and August 22, 2020—exactly 265 days later—as the “jurisdictional deadline.” Both cannot be true. Either the rates went into effect on January 16, 2020, and are therefore “considered approved” under Texas Water Code § 13.1871(g), *or*, as discussed in SOAH Order No. 2, Anderson has agreed to extend the suspension period to a date certain. Accordingly, **by March 27, 2020, Anderson shall file a report** stating whether its rates went into effect January 16, 2020, as authorized by law, and whether it agrees to extend the effective date, and if so, the date certain to which it agrees to extend it.

In the interim, the ALJ adopts the parties’ proposed schedule, as set out below, removing unnecessary events. Until further order, the following schedule shall govern this proceeding:

Event	Date
Applicant direct testimony	March 20, 2020
Objections to Applicant direct testimony	March 27, 2020 (response due within 7 days)
End of discovery on Applicant direct testimony	April 10, 2020
Staff direct testimony	April 17, 2020
Objections to Staff direct testimony	April 24, 2020 (response due within 7 days)
End of discovery on Staff direct testimony	April 28, 2020
Applicant rebuttal testimony	April 30, 2020
Second Prehearing Conference (if requested by April 21)	May 4, 2020
Hearing on the merits	May 5-6, 2020
Initial Briefs	May 15, 2020
Reply Briefs	May 22, 2020

Any of the foregoing deadlines may be modified by filing a written agreement of all parties, except the dates for the hearing on the merits and second prehearing conference, which may only be modified by order of the ALJ upon proper motion.

The ALJ also cautions that because of the ongoing and rapidly changing situation regarding the coronavirus, the above hearing dates are subject to change.

**NOTICE OF HEARING**

The hearing on the merits will convene at **9:00 a.m. on May 5, 2020, at the State Office of Administrative Hearings, William P. Clements State Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas.** The hearing on the merits will conclude by no later than May 6, 2020. A statement of the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of the statutes and rules involved, and a short, plain statement of the factual matters asserted are included in Anderson's application filed September 18, 2019; SOAH Order No. 1 issued December 5, 2020; and the Commission's Preliminary Order issued December 13, 2020.

**SIGNED March 23, 2020.**



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DANIEL WISEMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS