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SOAH DOCKET NO. 473-20-1674.WS
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APPLICATION OF NORTHTOWN	§	BEFORE THE STATE OFFICE
	§	
ACRES WATER SUPPLY FOR	§	OF
	§	
AUTHORITY TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 18
ALJ MOTION REGARDING NON-UNANIMOUS SETTLEMENT

The mediator’s report states that Commission Staff and the Applicant have reached an agreement on all issues, but that two intervenors are not in agreement.¹ On July 30, 2021, the Applicant filed testimony in support of the non-unanimous settlement (NUS). Commission rules address such situations as follows:

Where some of the parties have reached a settlement of some or all of the issues, each party in the proceeding shall have the right to have a full hearing before a presiding officer on issues that remain in dispute and judicial review of issues than [sic] remain in dispute. An issue of fact raised by a nonsettling party cannot be waived by a settlement or stipulation of the other parties, and the nonsettling party may use the issue of fact raised by that party as the basis for judicial review.²

Commission precedent further provides that

Even where some parties to a proceeding do not agree to a stipulated result, it is reasonable to adopt such a stipulation if:

- (a) The parties opposing the stipulation have notice that the stipulation may be considered by the Commission and an opportunity to be heard on their reasons for opposing the stipulation;
- (b) The matters contained in the stipulation are supported by a preponderance of the credible evidence in the case;
- (c) The stipulation is in accordance with applicable law;
- (d) The stipulation results in just and reasonable rates; and;

¹ Mediator’s Report (July 27, 2021).


² 16 TAC § 22.206.

- (e) The results of the stipulation are in the public interest, including the interest of those customers represented by parties opposing the stipulation.³

A hearing on the merits in this matter is set to begin on August 12, 2021. Given the substantial change in posture of the case, the administrative law judge moves to either (1) convert the scheduled hearing to a prehearing conference to discuss a procedural schedule to litigate the NUS, or (2) address any of the above issues live at the hearing as scheduled.

This motion and any objections will be heard at the beginning of the August 12 hearing. The parties should also be prepared to discuss the potential impact on rate-case expenses should the hearing on the merits be reset.

SIGNED August 9, 2021.


CHRISTIAAN SIANO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

³ *Tex. Public Utils. Comm'n, Application of El Paso Electric Company for Authority to Change Rates*, Docket No. 7460, 14 TEX.P.U.C.BULL. 932, 1202 (June 16, 1988); *City of El Paso v. Pub. Util. Comm'n of Texas*, 883 S.W.2d 179, 183 (Tex. 1994).