

Control Number: 49043



Item Number: 23

Addendum StartPage: 0

SOAH DOCKET NO. 473-19-2805.WS  
PUC DOCKET NO. 49043

2019 MAR -4 PM 2: 57

PETITION OF THE CITIES OF § PUBLIC UTILITY COMMISSION  
GARLAND, MESQUITE, PLANO AND §  
RICHARDSON APPEALING THE § OF TEXAS  
DECISION BY NORTH TEXAS §  
MUNICIPAL WATER DISTRICT §  
AFFECTING WHOLESALE WATER §  
RATES §

**ORDER DEFERRING ISSUANCE OF THE PRELIMINARY ORDER**

In the Commission's order of referral issued on February 19, 2019, the Commission indicated it would consider and possibly adopt a preliminary order in this docket in the open meeting currently scheduled to convene on March 13, 2019. For the reason stated below, the Commission will defer issuing a preliminary order until further notice.

This docket is an appeal under Texas Water Code §§ 12.013 and 13.043(f) of the fiscal-2019 wholesale water rates of the North Texas Municipal Water District. This appeal follows appeals by the same parties arising out of the same wholesale-water-rate contract brought under the same water code provisions, except these appeals are for fiscal-rate years 2017<sup>1</sup> and 2018.<sup>2</sup>

In State Office of Administrative Hearings (SOAH) Order No. 4 issued on April 3, 2018, the SOAH administrative law judges (ALJs) abated the fiscal 2018 appeal under 16 Texas Administrative Code (TAC) § 24.319. This rule provides that if the Commission finds a protested rate adversely affects the public interest and sets rates on a cost-of-service basis, then subsequent appeals will proceed directly to an evidentiary hearing to determine a rate consistent with chapters 12 and 13 of the Texas Water Code, without requiring a public interest determination. On the other hand, if the Commission determines that the protested rates do not adversely affect the public interest the appeal will be dismissed, which would affect how any later-filed appeals

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<sup>1</sup> *Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates*, Docket No. 46662 (pending).

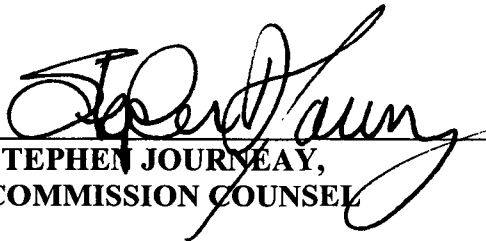
<sup>2</sup> *Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates*, Docket No. 47863 (pending).

proceed. Because the Commission had not yet made the public-interest determination in the fiscal 2017 rate appeal, to comply with 16 TAC § 24.319 and to conserve resources the SOAH ALJs abated the fiscal 2018 appeal until otherwise ordered. In SOAH Order No. 1 issued on February 21, 2019, the SOAH ALJs also abated this docket under 16 TAC § 24.319 for the same reasons they abated the 2018 appeal.

To give effect to 16 TAC § 24.319 and to conserve the resources of SOAH, the parties and the Commission, the Commission defers the issuance of its preliminary order in this docket until further notice.

SIGNED AT AUSTIN, TEXAS the 4<sup>th</sup> day of March 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

  
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