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SOAH DOCKET NO. 473-19-5677.WS

PUC DOCKET NO. 49154

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BEFORE THE STATE OFFICE

PUBLIC UTILITY COMMISSION  
FILING CLERK

**RATEPAYERS APPEAL OF THE  
DECISION BY LAGUNA MADRE  
WATER DISTRICT TO CHANGE  
RATES**

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**OF**

**ADMINISTRATIVE HEARINGS**

**SOAH ORDER NO. 1  
FILING DESCRIPTION, NOTICE OF PREHEARING CONFERENCE,  
MEDIATION, AND PROCEDURES**

**I. FILING DESCRIPTION**

On January 29, 2019, South Padre Island Golf Course via the undersigned SPI Golf Homeowners JV, Inc., ratepayers (Petitioner) filed a petition against Laguna Madre Water District (District) to appeal the District's board of directors raw water rates charged for untreated irrigation water. On February 28, 2019, the District filed a motion for summary dismissal for lack of jurisdiction. On March 6, 2019, the staff of the Public Utility Commission of Texas (Staff) filed a second motion to dismiss for lack of jurisdiction, and the Petitioner filed a response to the motions to dismiss on April 16, 2019. On April 23, 2019, the Public Utility Commission of Texas (Commission) Administrative Law Judge (ALJ) issued Order No. 5 denying both motions to dismiss.<sup>1</sup> The Commission issued a referral order on June 21, 2019, referring the case to the State Office of Administrative Hearings (SOAH) for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary. The Commission has jurisdiction over this case under Texas Water Code § 12.013. SOAH has jurisdiction over matters relating to the conduct of the hearing in these proceedings pursuant Texas Government Code § 2003.049. The Commission will consider and possibly adopt a preliminary order in the open meeting currently scheduled to convene on July 18, 2019.

<sup>1</sup> In the Public Utility Commission of Texas (Commission) Order No. 5 the Administrative Law Judge (ALJ) stated that "under Texas Water Code § 12.013(a), the Commission 'shall fix reasonable rates for the furnishing of raw or treated water for any purpose mentioned in Chapter 11 or 12 of this code.' This appears to be a broad delegation of authority." The Commission ALJ also noted that the fact that Petitioner is not a political subdivision does not limit the applicability of Texas Water Code § 12.013.

## II. NOTICE OF PREHEARING CONFERENCE

The undersigned ALJ will convene a **prehearing at 10:00 a.m., July 24, 2019**, at the State Office of Administrative Hearings, William P. Clements State Office Building, **300 West 15th Street, Fourth Floor, in Austin, Texas**. Those attending the prehearing conference are advised that they must check in with building security personnel in the lobby of the William P. Clements Building and be issued visitor badges before proceeding to the hearing room. The parties should allow sufficient time for the check-in procedure.

At the prehearing conference, the following matters will be discussed:

1. Pending motions filed by 3:00 p.m. on July 22, 2019, and hand delivered or sent via e-mail to the ALJ's assistant Erin Hurley<sup>2</sup>;
2. A procedural schedule and date for the hearing on the merits;
3. Applicable deadlines; and
4. Mediation and any other matters that may assist in the disposition of this case in a fair and efficient manner.

The parties may confer before the prehearing conference regarding the procedural schedule that will apply in this case. Any proposed procedural schedule must include, at a minimum, deadlines for discovery and prefiled testimony, and three alternative dates for the hearing on the merits. If the parties are able to agree to a procedural schedule, they may file an agreed schedule no later than 3:00 p.m. July 22, 2019, and file a motion to cancel the prehearing conference. If parties agree to a procedural schedule they must include a status report on whether this matter can be referred to mediation.

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<sup>2</sup> [erin.hurley@soah.texas.gov](mailto:erin.hurley@soah.texas.gov).

### III. MEDIATION

Prior to the prehearing conference, the parties should confer to discuss whether this case can or should be referred to mediation for potential resolution. If this matter should be referred to mediation, SOAH can facilitate the mediation process. At the preliminary hearing parties should be prepared to discuss whether this case should be referred to mediation.

For more information on mediation parties may visit the following link that provides additional information on the mediation processes <http://www.soah.texas.gov/Hearings-And-Mediation/mediation.html>.

### IV. PROCEDURES

#### A. Filing Procedures

Parties are expected to know how to file documents. The rules setting out how to file documents are found in Subchapter E of the Commission's procedural rules, which are available for viewing and downloading from the Commission's website at [www.puc.state.tx.us](http://www.puc.state.tx.us).<sup>3</sup> Pleadings and other documents shall be deemed filed when the proper number of legible copies is presented to the Commission filing clerk for filing. **All pleadings must contain both the SOAH and PUC docket numbers to allow for efficient processing.**

All pleadings shall be filed with the Commission's filing clerk, not with the SOAH filing clerk. The Commission's filing clerk will forward a copy of the pleadings to SOAH. Parties wishing to hand-deliver a file-stamped copy of a pleading to the ALJ should deliver it to Room 504, 5th Floor, Clements Building, 300 W. 15th St., Austin, Texas.

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<sup>3</sup> For those parties who may not be familiar with the Commission's processes, all PUC filings are available for viewing and downloading from the Commission's website at <http://www.puc.texas.gov>. Once there, click on "Filings," then click on "Filings Search," then click on "Filings Search," again. Then type in the control number (PUC Docket No.) and click on "Search." A list of documents filed in this docket will appear and you may access those documents by clicking on the document number.

**B. Service Procedures**

**A copy of any document filed with the Commission must also be served on (given to) all parties.** A copy of the service list, listing all parties, is attached to this order for the parties' convenience. All parties shall provide their current telephone and facsimile number, if available, and email address, if available, to all other parties.

All mail sent to the parties by the ALJ will be sent by first class mail or by fax. However, SOAH has implemented service by email for proposals for decision, orders, and other case-related documents and communications in general docket cases. If you would like to receive service by email from SOAH, please go to SOAH's website, [www.soah.state.tx.us](http://www.soah.state.tx.us), for information and the form to request email service. Click on the "Request Service by Email" link in the Notices box.

**C. Motions**

Motions for continuance shall be governed by 16 Texas Administrative Code § 22.79. If a continuance or extension of time is sought, the motion shall propose a new date or dates and shall 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, a proposed range of dates would be preferable. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, a contested motion for continuance or extension is not granted and the existing schedule remains in place.

Unless otherwise specified in the applicable procedural rules, responses to any motion or other pleading shall be filed within **five working days** from receipt of the motion or pleading. The response shall state the date of receipt of the motion or pleading to which a response is made. If a party does not respond to a motion, the ALJ will assume that the party agrees with the motion or does not oppose the requested relief.

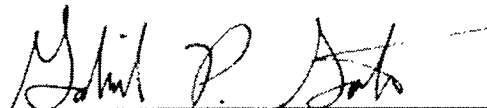
**D. Other Procedural Matters**

Any matters not addressed by this order shall be governed by the procedural rules of the Commission, which are available for viewing and downloading from the Commission's website at [www.puc.state.tx.us](http://www.puc.state.tx.us).

Discovery may begin immediately pursuant to Subchapter H of the Commission's procedural 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.

**SIGNED June 28, 2019.**

A handwritten signature in black ink, appearing to read "Gabriel P. Soto", is written over a horizontal line.

GABRIEL P. SOTO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS