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SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189

APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE
AUSTIN DBA AUSTIN WATER FOR §
AUTHORITY TO CHANGE WATER § OF
AND WASTEWATER RATES §
§ ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 10
DENYING MOTION TO ABATE;
SETTING THIRD PREHEARING CONFERENCE

On November 4, 2019, the Districts¹ filed a motion to abate the procedural schedule pending the Commission's decision on their Joint Appeal of Interim Order No. 7, set to be heard on November 14, 2019. Of particular concern to the Districts is their November 7, 2019, deadline to file direct testimony. On November 5, 2019, Austin Water² filed a response opposing the abatement. Austin Water argues that the Districts failed to show good cause for a stay under 16 Texas Administrative Code § 22.123(a)(5). That section refers to staying *the* interim order, which the ALJs construe to be the order subject to appeal, not the procedural schedule, and which the Districts have not asked to stay. Nevertheless, for the reasons set out in its response, the ALJs agree with Austin Water that the Districts have failed to show good cause for the extension "not caused by the neglect, indifference, or lack of diligence of the party making the motion."³

Austin Water observes that the intent to file the pending appeal was announced at the October 21, 2019 prehearing conference, and thus contemplated when the Districts agreed to the existing deadline. The only change in circumstances is that the Commission set the appeal to be heard at the Commission's November 14, 2019, Open Meeting, an eventuality also contemplated at the prehearing conference. Accordingly, the Districts' motion is **DENIED**.

¹ North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control & Improvement District No. 10, and Wells Branch Municipal Utility District (collectively, Districts).

² City of Austin d/b/a Austin Water (Austin Water).

³ 16 Tex. Admin. Code § 22.4(b).

Austin Water states that if Commission grants the appeal, then it will request the ability to supplement its testimony on this discrete issue, on which the parties – including the Districts – would then have the opportunity to conduct discovery and file testimony.

The undersigned ALJs will convene a prehearing conference at **9:00 a.m., November 19, 2019**, at the State Office of Administrative Hearings, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. The purpose of this prehearing conference will be to determine whether any further revisions to the procedural schedule are necessary, including additional discovery and supplemental direct testimony if the Commission grants the appeal, any pending motions, and any other matters as may assist in the disposition of the proceeding in a fair and efficient manner. **The ALJs may cancel this prehearing conference in the event the Commission denies the appeal.**

SIGNED November 6, 2019.



CHRISTA ANSIANO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



ELIZABETH DREWS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS