

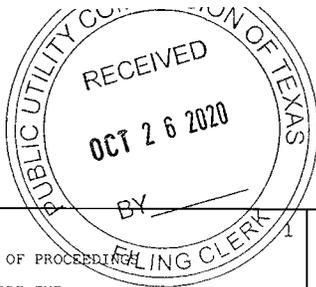


Control Number: 50969



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1 TRANSCRIPT OF PROCEEDINGS
 2 BEFORE THE
 3 PUBLIC UTILITY COMMISSION OF TEXAS
 4 AUSTIN, TEXAS
 5
 6
 7 OPEN MEETING
 8 FRIDAY, OCTOBER 16, 2020
 9 (Via Webcast)
 10
 11
 12
 13
 14
 15 BE IT REMEMBERED THAT AT approximately
 16 9:30 a.m., on Friday, the 16th day of October 2020, the
 17 above-entitled matter came on for hearing at the Public
 18 Utility Commission of Texas, 1701 North Congress Avenue,
 19 William B. Travis Building, Austin, Texas,
 20 Commissioners' Hearing Room, before DeANN T. WALKER,
 21 CHAIRMAN, and ARTHUR C. D'ANDREA and SHELLY BOTKIN,
 22 COMMISSIONERS, and the following proceedings were
 23 reported remotely by computerized stenotype machine by
 24 Janis Simon, Certified Shorthand Reporter.
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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>12</p> <p>AGENDA ITEM NO 21</p> <p>DOCKET NO. 47411, SOAH DOCKET</p> <p>NO 473-18-2888 WS - FORMAL</p> <p>COMPLAINT OF TAMMY BEAN</p> <p>AGAINST WATERCO, OWNERS JIM</p> <p>& GLORIA NELSON, AND THE</p> <p>WATERCO BOARD</p> <p>AGENDA ITEM NO 22</p> <p>DOCKET NO. 49532 - COMMISSION</p> <p>STAFF'S PETITION FOR A</p> <p>DECLARATORY ORDER AGAINST</p> <p>WATERCO</p> <p>AGENDA ITEM NO. 23</p> <p>DOCKET NO 50969 - APPLICATION</p> <p>OF JAMES NELSON D/B/A WATERCO</p> <p>TO OBTAIN A WATER CERTIFICATE</p> <p>OF CONVENIENCE AND NECESSITY</p> <p>IN MONTAGUE COUNTY</p> <p>CHAIRMAN WALKER. I'm going to go out of</p> <p>order, and I'm going to call up Agenda Item No. 21,</p> <p>Docket No 47411, Agenda Item No. 22, Docket No. 49532,</p> <p>and Agenda Item No. 23, Docket No 50969</p> <p>My understanding, Stephen, is that you had</p> <p>a conversation with Mr. Nelson yesterday, and he's</p> <p>supposed to be calling in</p> <p>So, Paul, I need you to give instructions</p> <p>to Mr Nelson on how to join in to the meeting and,</p> <p>then, if you'll allow him in</p> <p>PHONE MODERATOR: Thank you.</p> <p>Mr. Nelson, please identify yourself by</p>

<p style="text-align: right;">13</p> <p>1 pressing 1, then 0 on your telephone keypad. I'll open 2 your line once we get you in the 1, then 0.</p> <p>3 (Brief pause)</p> <p>4 PHONE MODFRATOR If you're on a 5 speakerphone or Polycom of some type, please use the 6 handset prior to entering those numbers. We have not 7 registered a 1, then 0</p> <p>8 (Brief pause)</p> <p>9 PHONE MODERATOR: All right. 10 Please go ahead, Mr. Nelson.</p> <p>11 CHAIRMAN WALKER: Mr. Nelson, are you on? 12 PHONE MODERATOR His line was moved to a 13 separate room. One moment while we get him back here.</p> <p>14 All right. Go ahead, Ms Nelson.</p> <p>15 MR. NELSON: My name is James Nelson I'm 16 the owner of WATERCO in Nocona, Texas, namely Nocona 17 Lake Estates. While we don't live -- while I don't 18 reside in town, we are in an estate located six miles 19 north of Nocona, Texas.</p> <p>20 CHAIRMAN WALKER. Okay. Thank you for 21 joining, Mr. Nelson. I appreciate that.</p> <p>22 Arthur, did you have some -- did one of 23 y'all have something for Mr. Nelson?</p> <p>24 COMM. D'ANDREA: I did -- 25 CHAIRMAN WALKER. Okay.</p>	<p style="text-align: right;">15</p> <p>1 a lady temporarily. And she filed a complaint that I 2 didn't have a license to sell her water. She had no 3 water, and I was just being a good guy.</p> <p>4 However, it did bring attention to 5 WATERCO, which had been in operation for about 18-19 6 years, and I have been servicing a developer's group of 7 fol's that couldn't afford to put in a water well. And, 8 so, I allowed them -- I took over the community well, 9 which at that time had 11 people</p> <p>10 I, then, communicated and talked, called 11 TCEQ in Abilene. And a Jennelle Crane, an investigator, 12 came to my residence, which is WATERCO, here in the 13 Nocoma Lake Estates, and she looked at what I was doing. 14 And the request that I made was that, if I opened a 15 second well because there was need for it on an 16 undeveloped street -- it had no water out here in the 17 estates, but it had about -- it's had several residents 18 that -- and they all -- they needed water. They had no 19 way of getting the water.</p> <p>20 So, I activated a well and hooked up a 21 separate well, which had seven more people tied to it 22 So, I ended up, I believe, with about 18-19 people, if 23 you added the wells together, but I was assured that 24 time that by having less than 15 per well that I was 25 okay and wasn't a public water system. And I asked her</p>
<p style="text-align: right;">14</p> <p>1 COMM D'ANDREA -- but if you want to go 2 first, that's fine</p> <p>3 CHAIRMAN WALKER: No, I'll let you go 4 first because --</p> <p>5 COMM D'ANDREA: Thanks for joining us, 6 Ms. Nelson So, I wanted to -- the reason we asked you 7 to join the Commission today was because I wanted to 8 get, I guess, your side of the story. I heard you 9 talked to Stephen Journeay, and that's great. I'm glad 10 you guys had a productive conversation</p> <p>11 You know, our Staff has some concerns and 12 has brought to us, the three Commissioners, some 13 proposals to -- they're somewhat punitive proposals 14 against you, up to and including criminal violations. 15 And I don't relish a felony indictment. So, I wanted to 16 hear your side of it and see if there's some way we can 17 work together to work this out</p> <p>18 MR. NELSON: I think I understand what 19 you're asking I don't have no problem telling you my 20 side of the story, as you say it. However, this is -- 21 we're talking about a four-year period, from 2017 to 22 current times</p> <p>23 I kind of brought this on myself by being 24 the good guy, and I caught the attention of Public 25 Utility Commission and TCEQ because I put -- I hooked up</p>	<p style="text-align: right;">16</p> <p>1 to put that on paper She did and sent me a memo 2 stating just that</p> <p>3 Well, that was in 2012, and I continued to 4 operate until 2017 when I had a complaint filed on me 5 Well, the complaint escalated for its own reason. I'm 6 not sure what</p> <p>7 Well, I have a chronic complainer 8 customer. And she continues, by her own admission, she 9 says Well, as long as I've got a complaint going, you 10 can't cut off my water. And, then, she quit paying, and 11 it got more involved And, finally, I just didn't worry 12 whether she paid or not because she caused so many 13 problems for me, but I kept trying to work those 14 problems out</p> <p>15 I quit listing the people I was working 16 with because they had become so numerous, between Public 17 Utility Commission and Texas -- and TCEQ, I want to say 18 when it went over 14-15 people, I didn't know where it 19 was all coming from But I did apply for a license to 20 get a CCN, and I did use the reason It's because the 21 laws have changed. The rules have changed And trying 22 to respect that and adhere to those rules and 23 everything, I applied for a license and sent it to 24 Alexander Petak, an attorney there at the PUC offices, I 25 believe</p>

<p style="text-align: right;">17</p> <p>1 There was some confusion, and it didn't 2 get acknowledged. So, I resent it again early 2018. I 3 got a chance to work with some of the farm -- I don't 4 remember exactly what their title was, but they come out 5 to assist me in the paperwork in order to qualify as a 6 public water system. And once we sat down at my desk 7 here in the Nocona Lake Estates, it became apparent to 8 them that I was making a mistake, an error because of 9 the -- such few people I had. He said Mr. Nelson, 10 you -- there's no way you could afford to be a public 11 water supplier because the expense surpasses your income 12 so much. He said: I think you need to take a different 13 approach, and it appeared that it would be better if I 14 had less people and just sold one of the wells because 15 at that time they told me that all of these people added 16 up. I said: No, no, no. I've got two wells. 17 Everything is okay because I'm less than 15 people per 18 well.</p> <p>19 Well, that didn't set good with either 20 TCEQ or the Public Utility Commission. And, then, 21 whenever I began to bring the people into the check and 22 ask them to get on other people's wells, please, I need 23 to have less people. I need to get the whole amount of 24 people that I have on the two wells to less than 15. I 25 had one or two die, and I had one or two move off and</p>	<p style="text-align: right;">19</p> <p>1 stopped that. 2 There's a lot of confusion on my part. 3 I'm not a lawyer. I'm 80 years old. I'm having a tough 4 time settling all of this in 5 Honestly, I think I just almost gave up. 6 It just appeared I bit off more than I could chew. Now, 7 my customers, I think, are the -- going to be the big 8 losers here 9 It appears that TCEQ has explained to me 10 that I'm not charging enough money. I said Well -- and 11 exactly who is supposed to readjust this rate? Because 12 I -- I'm not -- unless I have to pay for these enormous 13 expenses that y'all are generating by asking me to make 14 the test, the rates are perfectly conducive to the 15 amount of dollars and cents I'm spending to service the 16 well, and I've done this for 18-19 years. Well, TCEQ 17 with their enforcement abilities came and started 18 knocking on my customers' doors and scaring them to 19 dickens and everything. So, I had a lot of problem 20 getting that in control. And, finally, my customers 21 began to tell them. We don't want to talk to you. 22 So, it's total chaos, mostly because of 23 confusion on my part, certainly some confusion on TCEQ's 24 part because they have their job to do and I respect 25 that, and my failure to be able to totally communicate</p>
<p style="text-align: right;">18</p> <p>1 abandon their place. But, currently, I'm at 13 people. 2 That's the total I've got on the two wells 3 And, then, I have Tammy, which is the 4 complainer, which is a temporary hookup. She has her 5 own well, but she don't use it because of her own 6 reasons. I don't know. 7 Now, I, again, applied recently for a CCN, 8 which is -- it's either the second or the third time 9 I've applied to the PUC for exempt status. I think I 10 could continue to operate the wells and supply the 11 people with good service and good water, like I have for 12 18-20 years under exempt service. But I can't afford to 13 assume the lab responsibilities, the testing 14 responsibilities that add up to about 5- to \$8,000 a 15 year additional expense. That's times two because I 16 have two wells. 17 And that -- already, I -- at one point I 18 agreed with TCEQ that for the sake of testing I would 19 let them come out and test the wells, and I assumed 20 incorrectly that the wells -- that they would pay for 21 that. Certainly, I didn't have the dollars and cents. 22 And as soon as I let these subcontractors, the well 23 testers, the labs, come in and test, they hit me for 24 78 percent of my total annual income, and I said: Wow 25 Well, I couldn't get that ironed out. So, I simply just</p>	<p style="text-align: right;">20</p> <p>1 with the Public Utility Commission. So, admittedly, I'm 2 kind of lost in the process. I am looking for a 3 solution. 4 I wrote a very involved letter to 5 Alexander Petak back in 2018, and that subject was just 6 that, that I was hunting for a solution and would he 7 advise me this or that. Maybe he would rather be a 8 lawyer than an adviser, but I couldn't get the 9 information back then. I chose to hire an attorney. I 10 did so for about eight to nine months and spent several 11 thousand dollars. 12 He had the same problem that I had. And, 13 finally, he said. In order to do what probably we're 14 thinking about doing right this moment, he said I would 15 need to retain him at a \$5,000 level, which caused me to 16 literally give up about August. I said: Look, you 17 know, this has gotten out of hand. 18 So, I am looking for a solution. I am not 19 the problem. I'm part of the solution. I'm not part of 20 the problem, and I'd appreciate some help. 21 I'll stop now. I would like to hear your 22 viewpoint from what I've said 23 COMM. D'ANDREA: Thank you, Mr. Nelson. 24 You know, we're just trying to help you get right with 25 the law. So, if you're -- you know, I hear that you're</p>

<p style="text-align: right;">21</p> <p>1 engaged and looking to figure this out, and that's all I 2 need to hear</p> <p>3 I know that our process can sometimes be 4 hard to navigate if you're not a lawyer I don't think 5 you need one or you shouldn't need one. We should be 6 able to work with you to get you a CCN.</p> <p>7 The TCEQ side, we may have to take that -- 8 I don't know that we can resolve that in an Open 9 Meeting, but I'll -- that's all I have to say. I'll let 10 my fellow Commissioners weigh in, if they'd like to.</p> <p>11 COMM BOTKIN: I don't have anything to 12 add.</p> <p>13 CHAIRMAN WALKER So, well, after hearing 14 that, I'm in a much different place than I was, and 15 Stephen told me I would be. He knows me too well, I 16 guess.</p> <p>17 JP, (laughter) I kept wanting to say 18 Connie, but you don't look like Connie. Is there any 19 way we can have someone -- I mean, Alex is gone He's 20 been gone, and I know we've had a lot of turnover. But 21 is there any way -- and I know we have Tammy's group.</p> <p>22 But they're going to need a lawyer because 23 they're going to have to understand stuff that -- not 24 stuff, the law that Stephen's been explaining even if we 25 get it down to where they're -- don't have to get a CCN,</p>	<p style="text-align: right;">23</p> <p>1 It's not a case of taking sides They're in fear of 2 losing their water privileges, and I have assured them 3 that something will be done.</p> <p>4 Of course, naturally, I'm continuing to 5 serve the water. As to whether it earns capital, money, 6 an investment for me, I'm not so much interested in 7 that. We're kind of like a family out here.</p> <p>8 There are spots available. There's not 9 going to be an influx of houses being built. The land 10 is all sold out, and these are just folks that are 11 elderly and don't have the money to put in a \$10,000 12 well.</p> <p>13 Now, here's what I hear from a rumor from 14 my very customers. Well, if I have to, if they raise 15 the rates -- they, being PUC, if they raise the rates, 16 if they seize the wells and raise the rates, we'll just 17 have to carry water from town and do without the 18 service. That's pretty hard on elderly folks, and I'm 19 just kind of lost at words for reassuring these folks 20 that there won't be a -- something like that happen. I 21 don't think that's the intent. It is -- these are 22 people from the State of Texas, and they're caught in 23 the middle just like I am</p> <p>24 So, if a solution -- if there's a solution 25 out there to be had, I would love to be able to sell</p>
<p style="text-align: right;">22</p> <p>1 they're still going to have to have a tariff and stuff 2 like that. And, so, we're going to need an attorney --</p> <p>3 MR URBAN: Yeah</p> <p>4 CHAIRMAN WALKER -- to walk through with 5 Tammy to try to resolve this</p> <p>6 Because I feel for you, Mr. Nelson, 7 because I think you were trying to help people and get 8 water to them.</p> <p>9 I've looked at the maps There's nothing 10 even close to where he is on the map as far as another 11 water company I think the closest is a water company 12 that I think is probably similar to him. It's only 13 about three streets. And, then, the next closest is the 14 town of Nocona, and that is, I think, seven or eight 15 miles away.</p> <p>16 So, I want to find a solution that works 17 for us because we can't have someone not complying with 18 the statute, but we need to help him through this. And 19 we have people that can --</p> <p>20 MR NELSON: Ma'am?</p> <p>21 (Simultaneous discussion)</p> <p>22 CHAIRMAN WALKER: Yes.</p> <p>23 MR NELSON And I may be taking a wrong 24 approach. But my customers, the very folks that are 25 receiving the water, of course, we're all on good terms.</p>	<p style="text-align: right;">24</p> <p>1 water, have water, provide water to whomever I wish 2 That's how this started out But arguing for the right 3 cause, I've been denied by the Public Utility 4 Commission -- now, this is my understanding -- that I 5 can't sell the wells. I can't shut the wells down. I 6 can't serve water to whomever, whether they pay or not. 7 I can't do -- I have not had any cooperation in four 8 years from your office and, certainly, not from TCEQ. 9 So, it kind of leaves me in a catch-22 situation.</p> <p>10 Now, I still go to the customers' homes 11 And if they have a leak, a major leak, I still go on 12 their property and fix their leak like I always did 13 I'm still, quote, "the water man."</p> <p>14 But these continuous complaints by this 15 one individual, who is just a crusader for the wrong 16 cause, and she's a loose cannon. But she has her 17 rights, too.</p> <p>18 But our problem is there is just water. 19 It's just water. And I can do whatever you folks want 20 me to do, and I'll certainly comply with any of the 21 rules and regulations as long as we can keep it in the 22 dollars and cents column to where I can afford it.</p> <p>23 I'll stop.</p> <p>24 CHAIRMAN WALKER So, Mr. Nelson, what I'm 25 trying to work out with my -- with the Commission Staff</p>

25

1 and the Staff that works here -- and I acknowledge to
 2 you that this has been going on a long time, and we've
 3 had turnover where you've had to deal with different
 4 people and probably getting different answers. And, so,
 5 I'm trying to provide direction to the Staff here to
 6 work with you.

7 And, frankly, it's going to be a
 8 step-by-step process. We're going to have to address
 9 several different things here, but let's take one step
 10 at a time and not jump down the road about what rates we
 11 may set because I don't know that any of us know that.
 12 I think that we can look at what you have and try to
 13 work with you on that.

14 What I can't work on is whether or not
 15 your water needs to be tested because that's a TCEQ
 16 issue, and I'm just -- that's not within our purview
 17 And, so, I can't help you with that.

18 But I'm asking my Staff to work directly
 19 with you to try to step through these concerns and come
 20 up with the most reasonable solution for you and the
 21 customers out there that you have. And, so --

22 MR. NELSON: Uh-huh.

23 CHAIRMAN WALKER -- that's what I'm
 24 asking --
 25 (Simultaneous discussion)

26

1 MR. NELSON: Ma'am, let me make myself
 2 clear: We're not going without testing. The wells have
 3 never gone without testing. It's just that I go to the
 4 Health Department in Wichita Falls, Texas once a month
 5 and submit my test to them on a TCEQ reporting form, and
 6 I've done that for nearly 20 years and, most recently,
 7 on the 13th of this month.

8 I do receive a report back from them in as
 9 much as it has to be done in 24 hours. Now, by "the
 10 water man," I simply -- I used to make copies of these
 11 reports and give to each customer, but I get the tests
 12 and have them here at my desk, the results of the -- of
 13 the test phase. I know the people personally, and
 14 they -- and they'll tell me if I have a problem in the
 15 well.

16 Now, that's not the tests that I'm making
 17 a reference to. The tests that I'm making a reference
 18 to are these enormously expensive -- now, just is my
 19 opinion, mostly being useless where you're looking for
 20 asbestos and things that we've never even -- we can't
 21 even spell half the words in there. And, of course,
 22 these people drive out here in the country, and they
 23 charge me 2- and \$3,000 to run these tests.

24 We've never had sickness. We've never had
 25 illness. We've never had a problem. And I'm drinking

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1 the same water, and I've managed to make it to 80
 2 So, I'm sorry to misconstrue that the
 3 wells are not being tested. Oh, I can certainly undo
 4 that. I pay \$32 a month for the test, which is, to me,
 5 reasonable because I'm asking a lab to test the water.
 6 But it's not the extreme tests that TCEQ has authorized
 7 to bring on the test.

8 Now, I'm not certain that red tape is not
 9 involved here in such that it makes it almost
 10 impossible. Now, I don't know what -- about the people
 11 that live out here. There's a lot of wells out here,
 12 and we don't all run down and have them tested.

13 So, I'm just talking about the aquifer in
 14 this area of Texas, but we have good water. And,
 15 evidently, it must be really good because we've -- to my
 16 knowledge there's been no illnesses or anything. And I
 17 want to say this whole area may be 37 acres, and my area
 18 is just three blocks, three city blocks.

19 CHAIRMAN WALKER: Okay. So --

20 MR. NELSON: I'll stop.

21 CHAIRMAN WALKER: -- okay. So, thank you
 22 for clarifying that. That's helpful to me.

23 But whatever the issue on testing is, is
 24 just not something we handle. That would go through
 25 TCEQ, so as far as your registration, CCN, whatever:

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1 y'all end up working out -- and tariff and things like
 2 that would work through here. And I'm asking people to
 3 work with you to reach a reasonable resolution on that.
 4 And right now I'm just laying it out because y'all are
 5 going to have to agree.

6 So -- and, then, the other thing I would
 7 want Staff to do that's going to work on this with
 8 Mr. Nelson is to be in contact with Ms. Bean. It needs
 9 to be made clear to Ms. Bean she -- just because she's
 10 got this complaint doesn't mean she shouldn't be paying
 11 her bill whatsoever.

12 She alleges that she is paying her bill
 13 and that Mr. Nelson is not accepting that payment. And
 14 we need to work through that. He needs to be paid.

15 I know she's disputing the change from \$30
 16 to \$50, and that's a different issue. But she needs to
 17 pay at least the 30, in my opinion. I don't know how
 18 y'all feel about that.

19 MR. NELSON: That's just -- that's just
 20 the tip of the iceberg, and she's a problem. I'll just
 21 leave it at that.

22 CHAIRMAN WALKER: Well --

23 MR. NELSON: But, then, I'm not the only
 24 utility where she's a problem. (Laughter) She's a
 25 problem with the electrical company and the butane

<p style="text-align: right;">29</p> <p>1 company and anybody else and the person who financed her 2 land and anybody that drives down the road. It's just 3 tough.</p> <p>4 CHAIRMAN WALKER: Well -- well, and I -- 5 MR. NELSON -- but everybody has their -- 6 everybody has their ability to act, and she's just an 7 actor.</p> <p>8 CHAIRMAN WALKER: And I will say that I 9 think part of -- that I'm going to ask part of the Staff 10 working with you is whether or not you actually have an 11 obligation to be providing water to her. And, if you 12 don't, you may want to consider your options there. I'm 13 not going to say --</p> <p>14 MR. NELSON: Oh -- 15 CHAIRMAN WALKER: -- anything -- 16 MR. NELSON: -- we had agreed, Tammy and I 17 did, that she would activate her well in September of 18 2017. She failed to do so. Her statement to me was 19 I -- you don't have a choice but to supply me water. 20 And, then, Alexander Petak at that time 21 really did run front. And, then, I started getting 22 these statements from the Judges that I could not cut 23 her water off. And, finally, she got about a thousand 24 dollars behind, and I finally did manage to get a 25 payment plan from her. And she paid some of that down,</p>	<p style="text-align: right;">31</p> <p>1 But the -- complying with the rules and 2 regulations is what I need to do if I want to stay in 3 the water business. Now, if we can work it out, it sure 4 will work good for me. If we can't work it out, I don't 5 know what we're going to do. I would like to have 6 permission to do -- for you -- I would like for y'all to 7 tell me what am I supposed to do with the customers and 8 the well, you know.</p> <p>9 I'll stop</p> <p>10 CHAIRMAN WALKER: Okay. So, that's what 11 I'm asking the Staff to do, is work with you on those. 12 But I think we do need to address -- although you -- 13 you're not inclined to be concerned about it, we, as a 14 Commission, I think need to address her issues, too.</p> <p>15 So, the last thing I want to add before I 16 turn to the other two Commissioners and get their input 17 is -- and I believe that Stephen talked to you about 18 this, is that whatever works out, we need to make sure 19 that there is a succession plan for this -- whatever is 20 worked out with these wells so that we know, you know, 21 when you -- if and when you ever get really just tired 22 of this and say, I'm not going to do it anymore, then 23 who's -- who will do it and stuff.</p> <p>24 And, so, I'm not saying that for you to 25 respond to. I'm just saying that that's part of what</p>
<p style="text-align: right;">30</p> <p>1 but she stays in the arrear. I just don't worry about 2 her.</p> <p>3 Everybody has to have water. You got to 4 boil your beans and flush your commode. I'm not the 5 hard guy that -- sometimes it happens, it just -- you 6 have to make choices. I would choose to give her free 7 water and just ignore her rather than continue with this 8 deluge of problems, and I want to say that she's seven 9 or eight maybe nine complaints now into it.</p> <p>10 I don't know where that's going. I'm not 11 so interested in Tammy. I would love to just cut her 12 loose and make her hook up her own well. It's just 30 13 feet from her front door and basically is probably the 14 same water that I'm giving her anyway.</p> <p>15 So -- well, that will work itself out. My 16 problem is with WATERCO and PUC and TCEQ, and that's 17 what I would rather address. I don't need Tammy on the 18 well at all because she's a problem to the other 19 customers. More -- she abuses the water usage, 20 et cetera.</p> <p>21 So, that's what I complain about is 22 Tammy, get in line like everybody else. There's not 23 that abundance of water. You need to pull back and quit 24 acting a fool, and there's a lot more to it. But, then, 25 again, she's not the problem.</p>	<p style="text-align: right;">32</p> <p>1 I'd like our Staff to work with you on, also.</p> <p>2 So, Shelly or Arthur, do y'all have -- are 3 y'all okay with what I'm talking about --</p> <p>4 COMM. BOTKIN: Yes.</p> <p>5 CHAIRMAN WALKER: -- or do y'all want to 6 do something different?</p> <p>7 COMM. D'ANDREA: That sounds great to me. 8 I mean, I think this is why DUO exists, and I'm sure 9 them and -- plus our Staff can work something out. We 10 might even be able to work with TCEQ. I don't know, but 11 I would -- I would hope that DUO might explore that. I 12 think it does tie into --</p> <p>13 (Simultaneous discussion)</p> <p>14 CHAIRMAN WALKER: Call Toby.</p> <p>15 MR. URBAN: I'll call Toby. We'll get DUO 16 on it, and we'll put a lawyer on it.</p> <p>17 (Simultaneous discussion)</p> <p>18 CHAIRMAN WALKER: Yeah, we --</p> <p>19 COMM. D'ANDREA: Thank you.</p> <p>20 CHAIRMAN WALKER: Yeah, we really do need 21 an attorney. And I'd like y'all to circle with Stephen 22 to the extent he's comfortable talking to y'all --</p> <p>23 MR. URBAN: Sure.</p> <p>24 CHAIRMAN WALKER: -- about some of this 25 because he's -- he is -- he's a great mind on many, many</p>

<p style="text-align: right;">33</p> <p>1 things, but he knows a lot about these type of 2 licensing-type things.</p> <p>3 MR. URBAN: Yeah, we'll get to work on it.</p> <p>4 CHAIRMAN WALKER. Anything else y'all want 5 to add?</p> <p>6 COMM. D'ANDREA: No</p> <p>7 COMM. BOTKIN: Thank you for joining us.</p> <p>8 That's all</p> <p>9 CHAIRMAN WALKER Yeah.</p> <p>10 Mr. Nelson, we really do appreciate it.</p> <p>11 Do you have anything else? We're going to have some 12 Staff reach out to you. I'm going to commit to you that 13 we will do better in working with you in trying to find 14 solutions to this.</p> <p>15 And, unfortunately, our Commission gets a 16 lot of turnover on people. So, if you get a new name, 17 it's just how it goes for us. We get good employees 18 And, then, they decide to go work somewhere else So, 19 that's why you're going to see some new names on this.</p> <p>20 But, you know, you, I think, have all 21 three of our commitment to try to work this out in a 22 reasonable way.</p> <p>23 MR. NELSON Well, ma'am, I want to say on 24 my behalf to tell you that I sure appreciate y'all's 25 courtesy While this might be the first time I've had</p>	<p style="text-align: right;">35</p> <p>1 vote on this aspect, but we do on Item 22. We need 2 y'all to address the -- which is the declaratory order 3 docket</p> <p>4 CHAIRMAN WALKER Well, I think what we've 5 laid out this morning would resolve that without doing a 6 declaratory order. I don't know that a declaratory 7 order directing him to file a CCN -- he's already filed 8 one, and it's -- whether or not it's deficient is -- I 9 went and read it And -- anyway.</p> <p>10 So, you know, I think the resolution that 11 Staff will be working on, based on what we discussed, 12 should take the place of needing to do a declaratory 13 order Do we have to act on it, or --</p> <p>14 MR. JOURNEAY Well, no. I mean, if -- 15 y'all could, perhaps, not act on it if, for instance, 16 the petition was withdrawn</p> <p>17 CHAIRMAN WALKER Can they do that once it 18 gets to us? I thought that, once it got to us, we had 19 to dismiss it.</p> <p>20 MR. JOURNEAY: Well, it's not really to 21 y'all in that sense because it's sort of like we put all 22 this on to make sure we had all the applicable dockets 23 here that we could have the breadth of discussion 24 that -- I had no idea where this discussion was 25 ultimately going to go to It's in the preliminary</p>
<p style="text-align: right;">34</p> <p>1 the opportunity to have a three-way -- oh, I'm sorry, 2 it's the second time that I've had a three-way 3 conversation, the first time was kind of a lost cause, 4 but this time doesn't appear to be that way. Thank you 5 for your courtesy, and thank you for including me in a 6 pursuit to find an end to this bullshit of a problem</p> <p>7 It has existed a long time I'm one of 8 the taxpayers that's having to pay for it. So, I'm in 9 hopes that we can come to a solution some way some how 10 so that my -- my son would like to continue the 11 operation of the wells But, if it's not to be, we're 12 road folks We can handle it</p> <p>13 CHAIRMAN WALKER Okay.</p> <p>14 MR. NELSON. And thank you for including 15 me this morning in y'all's meeting.</p> <p>16 CHAIRMAN WALKER: Well, thank you very 17 much, and you have a good weekend</p> <p>18 MR. NELSON: Yes, ma'am.</p> <p>19 CHAIRMAN WALKER: Okay. Bye-bye</p> <p>20 MR. NELSON: Bye-bye.</p> <p>21 CHAIRMAN WALKER: We don't have to take 22 any type of vote, do we? Okay.</p> <p>23 MR. JOURNEAY Well --</p> <p>24 CHAIRMAN WALKER: Yes, sir? Oh, we do.</p> <p>25 MR. JOURNEAY We don't have to take a</p>	<p style="text-align: right;">36</p> <p>1 stages here. A petition has been filled. There's been 2 some discovery and some other motions have been filed, 3 but nothing has happened that I think precludes a 4 withdrawal and an action on that by our Docket 5 Management Judge.</p> <p>6 CHAIRMAN WALKER. I would just like -- 7 whatever can go away, go away and to do what we set 8 out --</p> <p>9 (Laughter)</p> <p>10 CHAIRMAN WALKER. -- to be the reasonable 11 path on this And can I just say for the record, if 12 someone files something in a docket that all three 13 Commissioners read and it's public, that is not an 14 ex parte communication. An ex parte communication is 15 coming to my office and having a one-off with me. It's 16 not ex parte to file stuff in a docket and go to the 17 administrative law course to look at that</p> <p>18 So, we can either act on it or -- I'm not 19 interested in issuing a declaratory order in this. I 20 want to give Staff the opportunity to work this out. 21 And I know Staff was doing what they thought would bring 22 this to resolution. It's just, I'm not comfortable with 23 it</p> <p>24 COMM. BOTKIN Uh-hun</p> <p>25 COMM. D'ANDREA Agree.</p>

<p style="text-align: right;">37</p> <p>1 (Laughter)</p> <p>2 CHAIRMAN WALKER Okay Okay Thank</p> <p>3 y'all</p> <p>4 MR. JOURNEY: Yes. And, you know, I</p> <p>5 would be happy for this to be resolved because I -- you</p> <p>6 know, I did pass my cell phone number on to Mr. Nelson.</p> <p>7 CHAIRMAN WALKER: I know, and --</p> <p>8 MR. JOURNEY So, I'm on the hook</p> <p>9 CHAIRMAN WALKER -- and I appreciate</p> <p>10 that, Stephen. I do appreciate the time you took</p> <p>11 talking to him because I think that that was helpful,</p> <p>12 and it helped me in better understanding the -- you</p> <p>13 didn't share with me everything He did, and it was</p> <p>14 very helpful to me to have this conversation.</p> <p>15 So, Arthur, thank you for asking for it.</p> <p>16 And, Stephen, thank you for the time you</p> <p>17 took with him yesterday.</p> <p>18 I acknowledge I think this is going to be</p> <p>19 hard to find a resolution because I know he's down to 13</p> <p>20 because some people died. But if people move in those</p> <p>21 houses, then we're back up. And, so, we need to keep</p> <p>22 all that in mind.</p> <p>23 Okay. Are y'all ready to move to No. 1?</p> <p>24 So, you lost big time on your bet</p> <p>25 MR. URBAN I know. (Indiscernible) 43</p>	<p style="text-align: right;">39</p> <p>1 a motion to adopt the proposal for decision in an order</p> <p>2 consistent with my memo</p> <p>3 COMM. D'ANDREA: You have your motion</p> <p>4 COMM. BOTKIN Second.</p> <p>5 AGENDA ITEM NO. 3</p> <p>6 DOCKET NO 49673 - COMPLAINT</p> <p>7 OF ASPIRE COMMODITIES, LLC</p> <p>8 AGAINST THE ELECTRIC</p> <p>9 RELIABILITY COUNCIL OF</p> <p>10 TEXAS, INC.</p> <p>11 CHAIRMAN WALKER Item No. 3. I'm</p> <p>12 assuming we're just going to extend the deadline, or did</p> <p>13 y'all want to do anything different?</p> <p>14 COMM. BOTKIN No</p> <p>15 CHAIRMAN WALKER: Okay. So, I will</p> <p>16 entertain a motion to extend the time to act on the</p> <p>17 motion for rehearing to the maximum extent allowed by</p> <p>18 law.</p> <p>19 COMM. D'ANDREA: You have your motion.</p> <p>20 COMM. BOTKIN: Second.</p> <p>21 CHAIRMAN WALKER 4, 5, 6, and 7 were</p> <p>22 consented.</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">38</p> <p>1 minutes.</p> <p>2 AGENDA ITEM NO. 1</p> <p>3 DOCKET NO 50277, SOAH DOCKET</p> <p>4 NO. 473-20-2278 - APPLICATION</p> <p>5 OF EL PASO ELECTRIC COMPANY TO</p> <p>6 AMEND ITS CERTIFICATE OF</p> <p>7 CONVENIENCE AND NECESSITY</p> <p>8 GENERATING UNIT AT THE NEWMAN</p> <p>9 GENERATING STATION IN EL PASO</p> <p>10 COUNTY AND THE CITY OF EL PASO</p> <p>11 CHAIRMAN WALKER: Agenda Item No 1,</p> <p>12 Docket No. 50277 I had a memo in that case</p> <p>13 COMM. D'ANDREA: I agree with your memo.</p> <p>14 COMM. BOTKIN: So do I.</p> <p>15 CHAIRMAN WALKER: Okay. So, I will</p> <p>16 entertain a motion to adopt the proposal for decision in</p> <p>17 an order consistent with my memo.</p> <p>18 COMM. D'ANDREA You have your motion</p> <p>19 COMM. BOTKIN Second.</p> <p>20 AGENDA ITEM NO. 2</p> <p>21 DOCKET NO. 50714; SOAH DOCKET</p> <p>22 NO. 473-20-3301 - APPLICATION</p> <p>23 OF ENTERGY TEXAS, INC (ETI)</p> <p>24 TO AMEND ITS DISTRIBUTION COST</p> <p>25 RECOVERY FACTOR</p> <p>26 CHAIRMAN WALKER Item No. 2, Docket</p> <p>27 No 50714. I had a memo in this one.</p> <p>28 COMM. D'ANDREA: Yes. I agree with you.</p> <p>29 COMM. BOTKIN: So do I.</p> <p>30 CHAIRMAN WALKER Okay. I will entertain</p>	<p style="text-align: right;">40</p> <p>1 AGENDA ITEM NO. 8</p> <p>2 DOCKET NO 51050 - AGREED</p> <p>3 NOTICE OF VIOLATION AND</p> <p>4 SETTLEMENT AGREEMENT RELATING</p> <p>5 TO MOZART WIND, LLC'S</p> <p>6 VIOLATION OF ERCOT'S PUBLIC</p> <p>7 UTILITY COMMISSION VOLTAGE</p> <p>8 SUPPORT SERVICE REQUIREMENTS</p> <p>9 CHAIRMAN WALKER Item No. 8, Docket</p> <p>10 No. 50150</p> <p>11 Arthur, you filed a memo in that, and I</p> <p>12 was fine with the memo</p> <p>13 COMM. BOTKIN. As am I</p> <p>14 COMM. D'ANDREA: Great. I would like to</p> <p>15 thank David to get all -- for getting all that stuff in</p> <p>16 It looks good.</p> <p>17 CHAIRMAN WALKER Okay. So, I will</p> <p>18 entertain a motion to adopt an order consistent with</p> <p>19 Arthur's memo.</p> <p>20 COMM. D'ANDREA: You have your motion.</p> <p>21 COMM. BOTKIN Second</p> <p>22 AGENDA ITEM NO 9</p> <p>23 DOCKET NO 51132 - APPLICATION</p> <p>24 OF ENTERGY TEXAS, INC. FOR</p> <p>25 A NON-STANDARD TRUE-UP UNDER</p> <p>26 THE FINANCING ORDER IN</p> <p>27 DOCKET NO. 37247</p> <p>28 CHAIRMAN WALKER Item No 9, Docket</p> <p>29 No. 51132 I had a memo in this.</p> <p>30 COMM. D'ANDREA I agree with your memo.</p>

<p style="text-align: right;">41</p> <p>1 COMM. BOTKIN: So do I. 2 CHAIRMAN WALKER Okay. I will entertain 3 a motion to adopt an order consistent with my memo 4 COMM. D'ANDREA You have your motion. 5 COMM. BOTKIN Second. 6 AGENDA ITEM NO. 10 7 DOCKET 48366 - APPEAL OF CITIES OF BARTLETT, 8 BRIDGEPORT, FARMERSVILLE, GOLDSMITH, HEARNE, ROBSTOWN, 9 SANGER AND SEYMOUR REGARDING A REVISION TO ERCOT'S 10 DEFINITION OF TRANSMISSION OPERATOR 11 12 CHAIRMAN WALKER: Item No 10, Docket 13 No. 48366. I'd like to hear what y'all have to say I 14 have definite -- yeah, that's the one. I have 15 definite -- but I'd like to hear what y'all have to say. 16 COMM. D'ANDREA Okay That's fine. You 17 know, I think that -- on the authority question I think 18 the statute gives the PUC -- orders the PUC that we have 19 complete authority to oversee ERCOT operations. And, 20 so, I think that we have to be able to take appeals on 21 policy questions like this. And while our rules have 22 some ambiguity, I think that that statutory command for 23 me makes me read that rule to say that we do have 24 authority to hear these kind of appeals. And, then, on 25 the merits I would -- I think the board -- the ERCOT</p>	<p style="text-align: right;">43</p> <p>1 will appeal a decision, and I don't want to get it 2 overturned and us be back here in four years having to 3 do this again. 4 MR. JOURNEAY So, we can draft an order 5 to you and bring it back to another -- to the next Open 6 Meeting, or, if we stumble, we'll bring it to the one 7 after that. 8 CHAIRMAN WALKER Okay. 9 Are y'all okay with that? 10 COMM. BOTKIN Uh-huh 11 CHAIRMAN WALKER: I just want to make sure 12 that we have enough findings and conclusions -- 13 COMM. D'ANDREA I agree with you -- 14 (Simultaneous discussion) 15 CHAIRMAN WALKER -- and I'm more -- go -- 16 COMM. D'ANDREA: I'm sorry. I didn't mean 17 to -- I thought you were done I'm sorry. 18 CHAIRMAN WALKER. And I'm just worried 19 about if we just say we agree with the board decision, 20 but I'm fine doing -- 21 MR. JOURNEAY I think we -- we have a 22 draft already prepared. I read through it quickly 23 yesterday. I think I would like to not bring it to you 24 right now. I'd rather study on it a little bit and 25 bring it to the next Open Meeting, but --</p>
<p style="text-align: right;">42</p> <p>1 board's decision was correct. 2 COMM. BOTKIN: Agree. I understand this 3 has been around for a long time and a lot of people have 4 been working on it for a long time, but I'm glad that 5 it's here and we're about to have this discussion 6 CHAIRMAN WALKER So, I had talked to 7 Stephen about what would come out of -- because I agree 8 with what the board did and that we shouldn't overturn 9 it. But I don't know what the order looks like coming 10 out of here, and that's -- I don't know if we want to 11 have that discussion. 12 Or what do you want to do? 13 MR. JOURNEAY: Well, so far, if you're all 14 on the same page, I think the order basically says the 15 Commission believes the ERCOT board made the right 16 decision, and we deny the appeal. We don't have to say 17 anything more than that, if you don't want to, if you 18 don't want to weigh it into any of the issues within 19 this bigger issue There is a -- there is an NOV docket 20 that has been abated for a long time waiting for a 21 decision out of this case. 22 CHAIRMAN WALKER So, I just want to make 23 sure that whatever order comes out is sufficient -- has 24 sufficient enough language in it to hold up on appeal 25 because I -- I always assume that a party such as this</p>	<p style="text-align: right;">44</p> <p>1 CHAIRMAN WALKER: Okay. 2 Are y'all okay with that? 3 COMM. BOTKIN Yes 4 CHAIRMAN WALKER Do we need to take a 5 vote today to get you somewhere or to just bring it back 6 under this direction? 7 MR. JOURNEAY We can take a vote at the 8 next Open Meeting on the order itself -- 9 CHAIRMAN WALKER: Okay. 10 MR. JOURNEAY -- if you would prefer 11 CHAIRMAN WALKER Okay. 12 Is that okay with you two? 13 COMM. BOTKIN Uh-huh 14 COMM. D'ANDREA Sounds good 15 CHAIRMAN WALKER Okay. That was easier 16 than I thought. 17 Item No 11 is not going to be taken up. 18 AGENDA ITEM NO 12 19 PROJECT NO. 50655 - YEAR-END 20 2019 ELECTRIC UTILITY EARNINGS 21 REPORTS IN ACCORDANCE WITH 22 16 TAC § 25 73 23 CHAIRMAN WALKER Item No. 12, Project 24 No 50655. 25 Darryl may need to come up here, JP. And I don't know if y'all saw. But late</p>

<p style="text-align: right;">45</p> <p>1 yesterday, I don't know what time it was, sometime 2 yesterday -- let me put it that way, I don't want to 3 misspeak -- Lambeth Townsend filed a letter asking us to 4 delay the decision to give them time to talk to Staff or 5 to allow him to speak. I am not inclined to delay a 6 decision on this. If y'all are, then I'm happy to have 7 that discussion with y'all and explain why I'm not 8 particularly interested in delaying a decision. 9 Because he requested to talk, I'm fine 10 opening it up for him. I wanted to have Darryl up here. 11 And I'll just kind of give you my thoughts on it, is 12 that this -- the City is not only just over-earning, 13 they're over-earning significantly, and I think they 14 probably have been for a while. And the ratepayers are 15 paying that. And, so, I want to get the process 16 started. 17 If they sit down and work out an agreement 18 with Staff, we've filed a lot of these on utilities 19 every year, and they end up settling with Staff. And 20 they can -- they still have that opportunity. And, 21 then, we -- if they do that, we end up rescinding the 22 order requirement. 23 But I don't think -- my memory is, and 24 I've got it in a motion, is that they wouldn't even file 25 it until about a year from now. And, so, they have</p>	<p style="text-align: right;">47</p> <p>1 (Brief pause) 2 PHONE MODERATOR. It will be just one more 3 moment. 4 (Brief pause) 5 PHONE MODERATOR. And that will be Cody 6 Faulk on behalf of Lambeth Townsend. 7 Please go ahead. 8 MR. FAULK: Good morning, Commissioners. 9 Thank you for taking time to hear from us today. I 10 think our letter was probably a little bit confusing 11 because we were trying to get it out yesterday before 12 the meeting. 13 But we have available Terry Naulty from 14 DME who would like to speak to the Commissioners and 15 address some of the things that the Commission Staff 16 brought up in their memo and for the Commission to 17 consider prior to ruling today. So, if the Commission 18 is agreeable, we'd like to have Mr. Naulty just raise a 19 few points, if that's okay. 20 CHAIRMAN WALKER. Okay. 21 PHONE MODERATOR. Thank you. 22 Terrance Naulty, your line is open. 23 MR. NAULTY. Good morning, Chairwoman 24 Walker and Members of the Commission. My name is Terry 25 Naulty, and I'm the Assistant General Manager for Denton</p>
<p style="text-align: right;">46</p> <p>1 plenty of time to work that out, and I'm not interested 2 in delaying it for those reasons. But I don't know. 3 Have you had -- did anyone reach out to 4 you, or did you just see this letter? 5 MR. TIETJEN: Good morning, Commissioners. 6 Darryl Tietjen on behalf of Staff. I -- last -- 7 yesterday evening and, actually again this morning, I 8 did receive a call from Karl Nalepa, who is a consultant 9 who works on behalf of Denton. I have not had the 10 occasion to call him or talk to him, but I did hear from 11 him. 12 CHAIRMAN WALKER. Okay. So, because 13 Mr. Townsend asked to speak, I was going to let him 14 speak, if that's okay with y'all. 15 COMM. BOTKIN: Sure. 16 COMM. D'ANDREA: Yeah. 17 CHAIRMAN WALKER. So, Paul, if you will 18 give Mr. Townsend instructions on how to get let into 19 the meeting. 20 And, then, Lambeth, if you're on the phone 21 and want to speak, then follow Paul's directions. 22 (Laughter) 23 PHONE MODERATOR. Thank you. 24 Mr. Townsend, please press 1, then 0 to 25 identify your line.</p>	<p style="text-align: right;">48</p> <p>1 Municipal Electric. Thank you and the Staff for an 2 opportunity to discuss this agenda item in public and to 3 provide you some context to Staff's memorandum 4 Denton's 2004 filing was necessary to 5 establish the rate for TCOS applicable to the City of 6 Denton. At that time the population of Denton was 7 approximately 60 percent of the current population, and 8 the highest transmission voltage owned and operated by 9 DME was 69 kV. Rapid growth over the last 15 years, and 10 especially in the last 7 to 10 years, has required DME 11 to upgrade almost all of its 69 kV systems to 138 kV in 12 order to maintain transmission grid reliability and, 13 importantly, to facilitate power flows from West Texas 14 into the DFW -- sorry, into the DFW Metroplex area and 15 the McKinney to Denton corridor. These investments were 16 necessary to ensure that first contingency events did 17 not impact reliability in the fast growing area of the 18 northern DFW Metro. 19 Denton's decision to construct the Denton 20 Energy Center and bring much needed quick starting 21 natural gas generation to the DFW Metroplex required 22 transmission infrastructure to maximize flexibility of 23 the grid and to allow West Texas wind energy to flow in 24 addition to the 225 megawatts of this new installed 25 capacity during peak demand periods. The entire ERCOT</p>

<p style="text-align: right;">49</p> <p>1 North Zone is the beneficiary of these investments that 2 have reduced congestion and made the system more 3 reliable. Additional investments are needed to complete 4 the 69 to 138 conversion along with rapid and continuing 5 load growth from Denton eastward towards McKinney 6 7 Denton believes that its investments in 8 the ERCOT transmission grid, which were predominately 9 made from 2014 to 2019, were prudent and necessary, and 10 the improvements to the system reliability increased 11 import capacity into the DFW Metroplex -- the avoided 12 congestion expense to ratepayers of not only Denton but 13 by regional cooperatives, retail choice market 14 participants -- warrant the investments. The cash flow 15 method and, importantly, the interim filings that have 16 been reviewed by Staff have justified the returns as it 17 permits Denton to fully recover the revenue requirements 18 to support these prudent investments. 19 20 If it not for profit municipal, who does 21 not provide a return to shareholders, an additional 22 expense for all non-MOU market participants, our 23 objective is to keep rates low while at the same time 24 providing the most reliable power to our customers. 25 Further, the 100 percent renewable energy supplied city in Texas, Denton believes a continued investment in the transmission grid to facilitate these deliveries of wind</p>	<p style="text-align: right;">51</p> <p>1 component, cross components that are not included in the 2 methods used by non-MOU transmission owners. Analysis 3 prepared by Denton's rate consultants, who levelized 4 these different methods, indicate that Denton's approved 5 rate of return use a comparable IOU method and basis 6 would result in allowable returns that are in the single 7 digits. 8 9 We do not dispute the reported returns in 10 the memorandum and believe that Staff is warranted in 11 asking questions. However, Denton respectfully requests 12 the Commission delay action on this item until such time 13 as Staff and Denton have had time to confer on the 14 matter and consider how the relative returns can be put 15 in terms that are more directly comparable. I thank you 16 for your consideration and your time and, again, 17 respectfully request that you table this agenda item for 18 a later Commission meeting. 19 20 CHAIRMAN WALKER Okay. Thank you 21 Darryl, do you have any response? I can 22 see it in your eyes 23 24 (Laughter) 25 MR. TIETJEN Maybe I should cover my eyes. Actually, there's a lot there, just being completely honest. Pretty much -- CHAIRMAN WALKER Well, I wouldn't want</p>
<p style="text-align: right;">50</p> <p>1 and solar energy to the load centers in Texas should be 2 fully supported by the Commission. And Denton is 3 prepared to make the necessary investments to achieve 4 the societal benefits associated with the more -- with 5 more renewable energy supply in the future of Texas 6 7 Since 2004 Denton has utilized the cash 8 flow method in each of its interim filings, and our EMRs 9 have consistently reported returns that are well below 10 the maximum allowed rate of return. Staff's Memorandum 11 compares the reported Denton returns against EDUs, 12 transmission-only, and vertically integrated IOUs. And 13 those returns are significantly lower 14 15 Denton believes that none of these 16 entities use the cash flow method. Denton believes that 17 this comparison skews the analysis to appear that 18 Denton's returns are above the rest of the market. 19 Denton does not believe that to be -- we do not believe 20 that to be the case because of the different reporting 21 methods used by the non-MOU market participants as 22 compared to Denton. 23 24 Notable differences in reporting methods 25 that make the return comparisons dubious include differences in capital structure, MOUs, use of revenue-funded capital and, importantly, the inclusion of debt service and franchise fees in the return</p>	<p style="text-align: right;">52</p> <p>1 you lying to us. 2 3 (Laughter) 4 CHAIRMAN WALKER: Go ahead 5 MR. TIETJEN: Pretty much everything he 6 said to me simply further underscores and further -- 7 much more even -- even much more clearly indicates that, 8 yes, they need a comprehensive rate case. As -- I, at 9 least, stand by everything that's in the memo. I think 10 the memo stands for -- it stands on its own merits. 11 12 It's been 15 years. They have been 13 growing quit considerably. And, just to be clear, it 14 was not -- and I don't think, in my view, that the memo 15 suggests this -- that there is a comparison between the 16 IOU rates of return that are included in the memo and 17 what Denton's 28 percent is. As I think each of the 18 Commissioners knows, in briefing I made a point, I 19 believe, to point out that the rates of return for 20 non-investor owned utilities are very different and are 21 not comparable to those four IOUs. 22 23 That really is only one piece of the 24 reason, I think -- again, the points in the e-mail lay 25 out, in my mind, quite persuasively that it is simply time for Denton to file a comprehensive rate case. Everything I heard in those comments just now, to me, simply even more clearly underscore that recommendation.</p>

<p style="text-align: right;">53</p> <p>1 CHAIRMAN WALKER I'm prepared to go ahead 2 and move forward.</p> <p>3 COMM. D'ANDREA I am, too, for --</p> <p>4 COMM. BOTKIN: I agree</p> <p>5 COMM. D'ANDREA -- for many reasons. I 6 think it's time. I think there's -- you know, we've 7 seen this coming from years away. There's -- and it's 8 going to take a year more. So, there's no reason to 9 slow it down now.</p> <p>10 CHAIRMAN WALKER: Okay.</p> <p>11 So, I'm going to read a very -- do you 12 want to say something?</p> <p>13 MR. JOURNEY: Not until you're ready to 14 make a motion.</p> <p>15 CHAIRMAN WALKER. Okay.</p> <p>16 So, I'm going to read a really long 17 mention here that I took out of Darryl's memo 18 (Laughter)</p> <p>19 CHAIRMAN WALKER. And I had asked Stephen 20 to go ahead and prepare an order just in case I will 21 entertain a motion to issue an order requiring Denton 22 Municipal Electric to file an application for a 23 comprehensive transmission rate proceeding between the 24 dates of September 30th, 2021 and December 31st, 2021 25 In addition, the Commission should require Denton to</p>	<p style="text-align: right;">55</p> <p>1 open-ended You are, I think, agreeing that it should 2 be the last quarter of 2021, just that a specific day 3 needs to be specified</p> <p>4 MR. JOURNEY: Yes, sir. November 1st 5 would be the Monday.</p> <p>6 CHAIRMAN WALKER: Are y'all okay with that 7 as modifying the motion and y'all just --</p> <p>8 (Laughter)</p> <p>9 COMM. D'ANDREA. I am.</p> <p>10 CHAIRMAN WALKER Can we do it that way?</p> <p>11 MR. JOURNEY. Yes.</p> <p>12 CHAIRMAN WALKER Okay</p> <p>13 MR. JOURNEY But you need to vote on the 14 modified motion</p> <p>15 CHAIRMAN WALKER Okay.</p> <p>16 I will entertain a motion to adopt the 17 modified motion</p> <p>18 COMM D'ANDREA You have your motion</p> <p>19 COMM BOTKIN: Second</p> <p>20 (Laughter)</p> <p>21 CHAIRMAN WALKER Why didn't you do that 22 before?</p> <p>23 MR. JOURNEY I didn't know what you were 24 going to say I didn't want to interrupt your flow</p> <p>25 CHAIRMAN WALKER Before we move on, I do</p>
<p style="text-align: right;">54</p> <p>1 base its filing on a test year coincident with Denton's 2 fiscal year ending September 30th, 2020.</p> <p>3 Did I get close?</p> <p>4 MR TIETJEN I think you got it right on 5 the money.</p> <p>6 COMM. D'ANDREA: You have your motion.</p> <p>7 COMM BOTKIN: Second.</p> <p>8 CHAIRMAN WALKER: Okay.</p> <p>9 Yes, sir?</p> <p>10 MR. JOURNEY Well, I think we need an 11 order that doesn't tell them to file between dates.</p> <p>12 CHAIRMAN WALKER. Okay.</p> <p>13 (Simultaneous discussion)</p> <p>14 MR. JOURNEY I think we should 15 specify -- the draft order right now has got November -- 16 I think it's whatever the first Monday is, and I can't 17 remember if it's the 1st or the 2nd just because it 18 seemed like that would fit in well with our holiday --</p> <p>19 CHAIRMAN WALKER So, you're giving them a 20 deadline to file by?</p> <p>21 MR. JOURNEY Yeah, because there's 22 triggers in the statute by when things have to be filed, 23 and we need a specific date that they file.</p> <p>24 MR. TIETJEN: If I'm understanding you, 25 Mr. Journey, you're not saying that it should be</p>	<p style="text-align: right;">56</p> <p>1 want to raise one more issue, is -- and I know you're 2 not recommending that we bring any of the 3 transmission-only companies in. But we continue to see 4 them at higher levels than the integrated and the TDUs, 5 and it has always been my belief that the 6 transmission-only companies actually have less risk.</p> <p>7 And, so, while I'm not going to tell you to bring four 8 utilities in for a review, because I know y'all have a 9 lot to do, I am concerned with the level that they're 10 at.</p> <p>11 And I don't want to go with that unsaid 12 because some way or another, when we don't say we're 13 concerned about something, it becomes that we agreed 14 with what (laughter) -- what they had And, so, I 15 wanted to raise that and say that I do have concerns 16 about that, and it's something we need to continue 17 working on and trying to address that. Okay?</p> <p>18 COMM. D'ANDREA: I agree.</p> <p>19 CHAIRMAN WALKER: Okay. Thank you, 20 Darryl You want to say something?</p> <p>21 MR. TIETJEN I was just going to say, 22 Madam Chairman, that I wholeheartedly echo your comments 23 and your sentiment in that regard as -- not in this 24 particular memo for this year but in prior year's memos, 25 I think we have talked about how -- unless a</p>

<p style="text-align: right;">57</p> <p>1 transmission-only provider adds investment and adds rate 2 base, sort of, theoretically from the second day on 3 after rates are set, they are over-earning. 4 CHAIRMAN WALKER. Uh-huh 5 MR. TIETJEN: And I think that unavoidable 6 fact is reflected in the rates of return that you just 7 discussed. 8 CHAIRMAN WALKER: I agree with you. 9 Okay 13 and 14 -- well, 13 is not taken 10 up. 11 Do you have anything on MISO? 12 COMM. D'ANDREA: I do not. 13 CHAIRMAN WALKER: Okay 14, 15, 16, 17, 14 and 18 aren't taken up. 15 AGENDA ITEM NO. 19 16 DOCKET NO. 48680; SOAH DOCKET NO. 473-19-6298.WS - 17 APPLICATION OF BLUEBONNET HILLS WATER SUPPLY CORPORATION 18 AND THE CITY OF CRESSON FOR SALE, TRANSFER, OR MERGER OF 19 FACILITIES AND CERTIFICATE RIGHTS IN PARKER AND JOHNSON 20 COUNTY 21 CHAIRMAN WALKER That gets us to 19, 22 Docket No. 48680. I had a memo in that case. 23 COMM. D'ANDREA. I agree with your memo. 24 COMM. BOTKIN: So do I. 25 CHAIRMAN WALKER I will entertain a</p>	<p style="text-align: right;">59</p> <p>1 COMM. BOTKIN: So do I. 2 CHAIRMAN WALKER I will entertain a 3 motion to adopt an order consistent with my memo. 4 COMM. D'ANDREA you have your motion. 5 COMM. BOTKIN: Second. 6 CHAIRMAN WALKER: 26 isn't taken up 7 AGENDA ITEM NO. 27 8 DOCKET NO. 50570 - APPLICATION OF VALLEY TELEPHONE COOPERATIVE, 9 INC. FOR TRUE-UP OF 2017 FEDERAL UNIVERSAL SERVICE FUND 10 IMPACTS TO THE TEXAS UNIVERSAL FUND 11 12 CHAIRMAN WALKER. Item No. 27, Docket 13 No. 5070 -- did I get that right? 5057 -- I'm getting a 14 little tired. 50570 15 Arthur, you had a memo in here, and I 16 acknowledge where we are in this. 17 I want to raise with y'all -- I dug a 18 little bit deeper in this one because, you know, we've 19 paid out 2 -- 2 million -- almost \$2 million in -- 20 before out -- to cover these federal funds that weren't 21 paid, and now we're paying almost a million again to 22 cover funds that the federal government has decided this 23 company shouldn't get. And, so, this part of the issue 24 I want addressed in the Legislature because that's \$3 25 million of citizen money going to cover something the</p>
<p style="text-align: right;">58</p> <p>1 motion to grant the motion for rehearing and adopt an 2 order consistent with my memo 3 COMM. D'ANDREA: You have your motion. 4 COMM. BOTKIN: Second. 5 CHAIRMAN WALKER: We are not taking up 20, 6 21, 22, and 23 were already addressed. 7 AGENDA ITEM NO. 24 8 DOCKET NO. 49891 - APPLICATION OF MUSTANG SPECIAL UTILITY 9 DISTRICT TO AMEND ITS CERTIFICATE OF CONVENIENCE AND 10 NECESSITY IN DENTON COUNTY 11 CHAIRMAN WALKER: Item No. 24, Docket 12 No. 49891 I had a memo in that one. 13 COMM. D'ANDREA: I agree with your memo 14 COMM. BOTKIN: So do I. 15 CHAIRMAN WALKER: Okay. I will entertain 16 a motion to adopt an order consistent with my memo 17 COMM. D'ANDREA: You have your motion 18 COMM. BOTKIN: Second. 19 AGENDA ITEM NO. 25 20 DOCKET NO. 50405 - PETITION OF SANCTUARY TEXAS, LLC TO AMEND 21 AQUA TEXAS, INC.'S CERTIFICATE OF CONVENIENCE AND NECESSITY 22 IN DENTON COUNTY BY EXPEDITED RELEASE 23 CHAIRMAN WALKER: Item No. 25, Docket 24 No. 50405. I had a memo on that one 25 COMM. D'ANDREA: I agree.</p>	<p style="text-align: right;">60</p> <p>1 federal government didn't think should be covered. And, 2 so, I want to raise that. 3 The other thing I want to raise is I 4 looked up this telephone company -- because the 3 5 million just hit me because that's just on the 6 federal -- making up the federal fund. I don't even 7 know what they've received as a -- whatever they qualify 8 as, small rural is my bet. I didn't go look at that, 9 but I did go look at their Website because in all of the 10 last 10 months of dealing with USF it's just fascinated 11 me more and more what people will say. 12 So, I went and looked at their Website, 13 and it is very difficult to find on their Website even a 14 telephone plan. The banner is about broadband or 15 television, cable, and I believe their biggest package 16 is \$260 a month for their complete package of broadband, 17 telecommunication, and cable. If you scroll down to the 18 very bottom of the sheet, which you have to go pretty 19 far down to get to, there are two telephone plans: One 20 is \$26 if you are only calling within your area code, 21 it's -- or something. It's some limiting factor. I 22 don't know if it's your town or your area code, or it's 23 \$30 if you want to call anywhere in the United States 24 And I think this raises for me the very 25 issue of why we are needing to look at what is going on</p>

<p style="text-align: right;">61</p> <p>1 with these companies and how these funds are being used 2 And I know in the last meeting in July we talked to 3 Staff.</p> <p>4 So, I think you're going to have to let 5 Thomas up.</p> <p>6 We talked to Staff about sending out some 7 questions to try to get to the heart of the concerns I 8 now have with this company, and those questions still 9 haven't gone out</p> <p>10 So, Thomas, I know we've been working on 11 them I know Anna has done -- what a great job Anna's 12 done trying to dig in and learn all of this stuff and 13 come up with the questions, but we really need to get 14 these questions out and get this done So, if it needs 15 to come back to a Commission meeting for us three to 16 work out a problem, let us do that But I need this 17 moving forward, and this case is the poster child for it 18 for me.</p> <p>19 MR. GLEESON. Yes, ma'am. At this point 20 all -- and it's been incorporated, and Staff's plan is 21 to open the project today and file the RFIs in that 22 project on Monday because we're going to give the 23 companies 45 days. So, we want to file it on a Monday 24 so 2 of the 45 days aren't eaten up by the weekend.</p> <p>25 CHAIRMAN WALKER Okay</p>	<p style="text-align: right;">63</p> <p>1 a motion to adopt an order consistent with my memo 2 COMM. D'ANDREA: You have your motion 3 COMM. BOTKIN Second 4 AGENDA ITEM NO. 32 5 PROJECT NO 50475 - AGENCY 6 REPORT TO THE 87TH LEGISLATURE 7 CHAIRMAN WALKER Item No 29, 30, 31 8 aren't taken up, which gets us to Item No. 32. It's the 9 report to the Legislature.</p> <p>10 I, first of all, want to thank Staff for 11 all the hard work they've done. I know that these 12 reports really take a lot of time, and Connie and Pai 13 took it on themselves to totally restructure how we do 14 them, and I think it's better to have one report than 15 three And, so, I really appreciate all the time and 16 effort they've spent trying to get us to this</p> <p>17 I will -- I know y'all won't be shocked 18 when you hear this, as I did finish reviewing it 19 Wednesday and did have some non-substantive changes. I 20 didn't change any of the substantive things, but I did 21 have some grammatical changes and stuff that I sent to 22 them. So, I don't know if y'all have any other input or 23 any discussion y'all want to have on this</p> <p>24 COMM. BOTKIN: We gave some feedback, and 25 we appreciate Staff working with us on that. But I</p>
<p style="text-align: right;">62</p> <p>1 MR. GLEESON So, that's the current plan 2 CHAIRMAN WALKER: Okay. And I would like 3 to try to get some type of an idea on these things 4 before the Legislature because we are asking the 5 Legislature to weigh in, and I think these are important 6 facts that we're going to be able to provide them So, 7 okay. Thank you.</p> <p>8 So, with that, are you okay with his memo? 9 COMM. BOTKIN I am. 10 CHAIRMAN WALKER: Okay 11 With that, I will entertain a motion to 12 adopt an order consistent with Arthur's memo.</p> <p>13 COMM. D'ANDREA. You have your motion. 14 COMM. BOTKIN. Second. 15 AGENDA ITEM NO 28 16 DOCKET NO. 50571 - APPLICATION OF 17 XIT RURAL TELEPHONE COOPERATIVE, 18 INC. FOR TRUE UP OF 2017 FEDERAL 19 UNIVERSAL SERVICE FUND IMPACTS 20 TO THE TEXAS UNIVERSAL SERVICE 21 FUND 22 CHAIRMAN WALKER. Okay. Docket number -- 23 Item No. 28, Docket No. 50571. I filed a memo in that 24 case 25 COMM. D'ANDREA: I agree. 26 COMM. BOTKIN So do I. 27 CHAIRMAN WALKER Okay I will entertain</p>	<p style="text-align: right;">64</p> <p>1 think this process works really well where it's filed, 2 and everybody can look at it again and, you know, 3 receive feedback. And, so, I'm comfortable, you know, 4 moving forward the way we are</p> <p>5 COMM D'ANDREA Yeah. Same. Our office 6 gave them some feedback. I thought they did a really 7 great job So -- and I like the new report, as well</p> <p>8 CHAIRMAN WALKER. So -- 9 MR URBAN: We're working on a very 10 attractive cover, as well.</p> <p>11 (Laughter) 12 CHAIRMAN WALKER: So, do y'all -- y'all 13 need to bring that back at another Open Meeting once we 14 have the recommendations. Correct? 15 Okay. Were there any -- from either one 16 of you -- substantive issues that need to be -- or 17 were -- was most of it -- I'm just trying to figure out 18 if I need to read it again. (Laughter) 19 COMM. BOTKIN: Oh, no, I didn't have 20 anything to add. They covered the topics that I 21 expected And, so, yeah, I appreciate that.</p> <p>22 CHAIRMAN WALKER. Okay. 23 COMM. D'ANDREA Agree. 24 CHAIRMAN WALKER Okay 25 So, y'all just bring that back with the</p>

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1 recommendations. Okay
 2 Okay. Item No. 33 is not taken up Item
 3 34 and 35 were consented.
 4 AGENDA ITEM NO 36
 5 FISCAL YEAR 2021 ANNUAL
 INTERNAL AUDIT PLAN
 6
 7 CHAIRMAN WALKER: Item No. 36. Were y'all
 8 fine with the audit plan?
 9 COMM. BOTKIN. Yes.
 10 COMM. D'ANDREA Yes.
 11 CHAIRMAN WALKER. Okay. I will entertain
 12 a motion to approve the 2021 Annual Internal Audit Plan
 13 COMM. D'ANDREA: You have your motion.
 14 COMM. BOTKIN Second.
 15 CHAIRMAN WALKER. Item No 37, 38, and 39
 16 aren't going to be taken up.
 17 We do have a Closed Session today. So,
 18 I'm going to go ahead and take Public Comment now
 19 because I don't want the public to have to hold on if --
 20 for us to go into Executive Session.
 21 So, Paul, if you will open it for Public
 22 Comment
 23 PUBLIC COMMENT
 24 PHONE MODERATOR: Thank you. In addition
 25 to the two that are in the queue from earlier, I

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1 don't -- if you have public comment, it's 1, then 0 on
 2 your telephone keypad. Repeating the 1, 0 command will
 3 remove you from the comment queue. So, once again, for
 4 public comment, it's 1, then 0 at this time.
 5 From the first agenda item, and has been
 6 waiting, Tammy Bean, your line is open.
 7 MS BEAN. Hi, this is Tammy Bean I am
 8 the one that complained with -- filed the complaint with
 9 WATERCO and Nocona Lake Estates. And, first of all, I
 10 would like to request a meeting with you-all, as you had
 11 suggested that an in-person meeting would be good to
 12 handle this situation, and I was wondering if that is
 13 possible.
 14 CHAIRMAN WALKER: So, you would need to
 15 meet with the Staff You wouldn't -- while we have
 16 pending cases before us, such as your complaint, you are
 17 unable to meet with the three Commissioners, but --
 18 MS BEAN. Okay.
 19 CHAIRMAN WALKER -- you would be able to
 20 meet --
 21 MS. BEAN Okay.
 22 CHAIRMAN WALKER: -- with the Staff.
 23 MS. BEAN: Okay Well, then, I would like
 24 to set up that meeting, and I will set that up with the
 25 Staff But, first of all, I would like to speak on my

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1 behalf and have had to do so throughout the many years
 2 that this complaint has been open But Nelson -- I am
 3 just in disbelief of all the many false accusations that
 4 he has made and has represented in this community, in
 5 this call that he has just made
 6 First of all, my agreement with Nelson on
 7 January 23rd, 2017 was not a temporary agreement. The
 8 owner prior to me had water service, and that water
 9 service was never disconnected from this residence. The
 10 water well that he mentions is not finished out. And,
 11 yes, I did say that I was going to get that done in
 12 September 2017
 13 However, my son and his family lost their
 14 home in Hurricane Harvey, and that's where my
 15 expenditures have been going for the past several years.
 16 They finally just got their home rebuilt and moved in
 17 January 2020 That expense has been ongoing taking care
 18 of many grandchildren and families in this process and
 19 grandparents
 20 And, so, as anyone that I have told that
 21 to -- I have not told that to Nelson. He twists the
 22 truth on everything I say. So, I choose not to talk to
 23 him without putting it in writing. Anyone could
 24 understand how I would put my family first than putting
 25 a water well at my property first.

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1 The other thing is that he asks that -- he
 2 said acquisitions that I have a problem with everybody,
 3 the electric company, the butane I've never
 4 purchased -- or never had to purchase butane out here at
 5 this property. I may have to do that in a couple
 6 months, but not now. My electric bill is always -- and
 7 for the past year has been in a credit to pay -- to pay
 8 my electric bill while I am being deployed during this
 9 COVID-19 crisis here in Texas
 10 The problems that Nelson has talked about
 11 with the people here in this community is him forcing
 12 them on me when they come at my house and yell at me, or
 13 his son stands out and meets me and greets me in the
 14 morning or he laughs at me or he drinks his coffee
 15 watching me and my every move. He's threatened to fuck
 16 me up. He's threatened to make the rest of my life his
 17 game.
 18 Therefore, he landed him back -- he was on
 19 parole, the one that Nelson says that wants to take over
 20 the water company here in Nocona Lake Estates. That
 21 threat -- to make all these threats, it was handled by
 22 the Texas Parole Division. And, so, that's on file
 23 there. I can't imagine any other water consumer here in
 24 the State of Texas having to deal with the intimidation
 25 tactics that I have had to deal with and the threats and

<p style="text-align: right;">69</p> <p>1 the criminal harassment, the verbal harassment It's 2 unbelievable.</p> <p>3 And to dismiss that lightly with PUC, I 4 understand -- it is really hurtful. However, I 5 understand by talking and working with PUC and TCEQ, 6 there are no rules and regulations that you have that 7 can stop this type of retaliation, but I've had to 8 endure it. It has cost me a lot of money but has also 9 given me a lot of grief, a lot of -- and I even have 10 PTSD because of it. Anyone would; anybody would have 11 that if they had the water company stalking you each 12 morning.</p> <p>13 And as far as my bill, my bill is 14 currently paid up. I believe it was in Item No 69, 70, 15 and 71 where the arrears were addressed where Nelson 16 would refuse my payment. And when ne requested a 17 payment, he requested a late fee, as well.</p> <p>18 And I -- in my conversation with Alex 19 Petak at the time was, you know PUC is going to have 20 to talk with him about accepting my payments instead of 21 rejecting them And in that agreement, we -- I -- 22 Nelson sent me a piece of paper saying that there would 23 be three payments needed, and I paid it in two. I paid 24 it off in two. And, then, I got a letter saying Who 25 gave you the authority to make it two payments instead</p>	<p style="text-align: right;">71</p> <p>1 addressed. His subject issues have been addressed and 2 gone unaddressed.</p> <p>3 The title company that sold me the 4 property or helped assist in selling the property told 5 me what a horrible man he was, but that was after I 6 purchased the property The County Commissioner told me 7 about how his son put a metal pipe along the rear end of 8 my property, which separates Nelson's property from 9 mine, and he did it because he was encroaching on 10 property And maybe that would stop him come traveling 11 on his -- with his four-wheeler through (indiscernible). 12 But Nelson uses an easement that he has with WATERCO to 13 be able to travel freely on my property, and that's not 14 true.</p> <p>15 So, all I suggest and ask is to take our 16 future in consideration, to take these facts in 17 consideration. I have no reason to lie to you. I have 18 over five years of rural economic development experience 19 in infrastructure, and I'm not anyone that's a chronic 20 complainer. In fact, I wish this away, as well, but 21 it's not going away until something is done about this 22 management that -- this management and management style 23 that's here</p> <p>24 And Nelson has said over and over again, 25 he can't afford it. He can't afford it. I'll do</p>
<p style="text-align: right;">70</p> <p>1 of three?</p> <p>2 So, anything I do Nelson twists it, and he 3 lies and he slanders me every day He has a son yell at 4 me across the street, and I have videos Pay your water 5 bill. And he has the -- his tenants come by my house: 6 Pay your water bill. Well, my water bill is paid, and I 7 can provide you with those documents.</p> <p>8 One of the things that really concerns me 9 about this conversation today is about his exempt 10 status, if he has 13, 14, 15 -- if he can apply for an 11 exempt status, but we have -- the ruling says, 12 "potential consumers." And we have many vacant lots 13 here in our neighborhood, and all I ask is that you -- 14 again, for our future needs and not just our immediate 15 needs.</p> <p>16 The other thing is that both Nelson and 17 his son are career criminals. Nelson has also been 18 arrested for operating a pawnshop here in Texas without 19 a license, and he turned that over to his daughter 20 Nelson told me this story himself, when I first got 21 here. And, now, he's wanting to turn it over to his 22 son, who has also had many run-ins with the law</p> <p>23 I think character needs to be addressed in 24 this situation. It wasn't just me that has a problem 25 There have been many horrible stories. He's been</p>	<p style="text-align: right;">72</p> <p>1 anything as long as it fits my budget.</p> <p>2 Well, this has fit his budget for so long. 3 He said 18 to 19 years he's been doing this. And, yet, 4 he doesn't have the money to bring it to CCN compliance 5 and, yet -- and he will continue to pursue that exempt 6 status when, yet, we have a county rule that says people 7 without two acres cannot drill a well And, yet, our 8 lots are 150 by 75 foot.</p> <p>9 These things are big picture items that 10 need to be addressed by the PUC when they make their 11 decision, and I would just appreciate if all of these 12 things be taken in consideration It says, "potential 13 consumers," not just our current ones, and our 14 neighborhood has many vacant lots without wells. And 15 that is all I have to say</p> <p>16 CHAIRMAN WALKER Okay. Thank you very, 17 very much. And, you know, my intention is that the 18 Staff work not only with Mr. Nelson but with you, 19 Ms. Bean, to try to resolve all this. And they're going 20 to -- they're going to take all of the facts that are 21 out there and hard facts to come up with how we need to 22 resolve this. So, thank you.</p> <p>23 PHONE MODERATOR: Thank you</p> <p>24 Then, before going on to Barry Hammonc, if 25 anyone has Public Comment on the agenda items, please</p>

<p style="text-align: right;">73</p> <p>1 press 1, then 0.</p> <p>2 Mr. Hammond, your line is open.</p> <p>3 MR. HAMMOND Thank you very much.</p> <p>4 And thank you to the Commission for</p> <p>5 hosting this meeting today My name is Barry Hammond.</p> <p>6 I am the attorney for Aspire Commodities, and I am here</p> <p>7 to speak about Item No. 3, which is Docket No. 49673</p> <p>8 CHAIRMAN WALKER: Okay.</p> <p>9 MR. HAMMOND: May I proceed?</p> <p>10 CHAIRMAN WALKER: Do you understand that</p> <p>11 all we did was extend the deadline for us to rule on the</p> <p>12 motion for rehearing?</p> <p>13 MR. HAMMOND. I understand that But,</p> <p>14 based on the filings in the docket, it seems that there</p> <p>15 is a massive misunderstanding over what is presented to</p> <p>16 the Commission. And, so, I would like the opportunity</p> <p>17 to explain the position, and you guys can take whatever</p> <p>18 time you would like to make your ruling on the motion</p> <p>19 for rehearing.</p> <p>20 CHAIRMAN WALKER: Okay. Go ahead.</p> <p>21 MR. HAMMOND: First of all, I was</p> <p>22 surprised because I have never watched one of these</p> <p>23 meetings before, and I was actually appreciative of the</p> <p>24 Commission's compassion with the issues that they've</p> <p>25 taken up today And I was surprised because my</p>	<p style="text-align: right;">75</p> <p>1 Court precedent The Commission has exceeded its</p> <p>2 authority by replacing the unambiguous plain language of</p> <p>3 a rule with its own convenient incorrect interpretation</p> <p>4 The trick used is by saying that the word invalid or</p> <p>5 that the phrase is invalid market or invalid price are</p> <p>6 ambiguous. They're not, and the subsequent analysis</p> <p>7 that you provide after that doesn't make much sense</p> <p>8 either.</p> <p>9 You know, we filed our complaint, and we</p> <p>10 filed the complaint based on ERCOT Nodal Protocol 6.3(4)</p> <p>11 that says that ERCOT shall correct prices when a market</p> <p>12 solution is determined to be invalid or invalid prices</p> <p>13 are identified in an otherwise valid market solution and</p> <p>14 other things And, then, as the proceedings went on, we</p> <p>15 filed a motion for summary decision that was based on</p> <p>16 6.3(4). It was also based on Protocol 6.3(5), and it</p> <p>17 was also based on Protocol 6.3(6).</p> <p>18 And I hear the common refrain from</p> <p>19 Commission Staff and ERCOT Counsel that, well, we can't</p> <p>20 make a decision on 6.3(5), and we can't make a decision</p> <p>21 on 6.3(6) because they weren't in the original</p> <p>22 complaint. But, then, I go back to the Commission</p> <p>23 rules, you know, specifically, 22.242(e)(2) that says</p> <p>24 the Commission can waive any deficiencies for good</p> <p>25 cause. So, if it was deficient for us not to file</p>
<p style="text-align: right;">74</p> <p>1 experience with the Commission has not been like this.</p> <p>2 You know, every day, like most lawyers, I</p> <p>3 wake up thinking: What could go wrong today? And,</p> <p>4 usually, when I have something in front of the</p> <p>5 Commission, the thing that's going to go wrong is a</p> <p>6 Commission decision And I'm proud to be a Texan every</p> <p>7 day, except on the days that I depend on this Commission</p> <p>8 to deliver an honest and fair ruling. I expect better</p> <p>9 of the Commission.</p> <p>10 As I understand it, your purpose is to</p> <p>11 protect one of Texas' most vital assets or several of</p> <p>12 Texas' most vital assets. As I understand it, you're</p> <p>13 here to protect the interests of people whose energy</p> <p>14 bills skyrocketed in 2019 because of mistakes like the</p> <p>15 one that is -- that is the heart of Docket No 49673.</p> <p>16 Your job isn't to protect the large companies who cause</p> <p>17 mistakes like this, and either I'm wrong or you are</p> <p>18 Your previous decision on this does not</p> <p>19 protect every day Texans in any way, shape, or form.</p> <p>20 Your misguided ruling appeals to the public policy of</p> <p>21 price certainty for -- only for one group of Texans</p> <p>22 Those that are buying and selling on ERCOT but doesn't</p> <p>23 appeal to the price certainty for regular folks at home</p> <p>24 Your ruling does one other unforgivable</p> <p>25 thing It contravenes clearly established Texas Supreme</p>	<p style="text-align: right;">76</p> <p>1 complaints based on those other two, you guys could</p> <p>2 waive it.</p> <p>3 But, then, I go back to the Rule 22 251</p> <p>4 Subsection (d) that says that the complaint has to --</p> <p>5 that we have to specify the conduct complained of, not</p> <p>6 that we have to necessarily elucidate every single</p> <p>7 protocol that the conduct may have violated. And, so, I</p> <p>8 think that that's a -- it's an unreasonable standard,</p> <p>9 and it's not in the rules.</p> <p>10 And, then, I go to Rule 22 182 for motion</p> <p>11 for summary -- summary decision that the fact finders</p> <p>12 can rule on a motion for summary decision on all issues.</p> <p>13 It doesn't have to be the issues in the complaint It</p> <p>14 doesn't have to be the rules or the protocols listed in</p> <p>15 the complaint And, so, I think that that procedural</p> <p>16 rule basis for not taking up the issues specified in the</p> <p>17 complaint is misguided.</p> <p>18 CHAIRMAN WALKER. Okay. Mr --</p> <p>19 (Simultaneous discussion)</p> <p>20 MR. HAMMOND And, then, you get into</p> <p>21 the --</p> <p>22 CHAIRMAN WALKER: Mr. -- Mr. Hammond?</p> <p>23 MR HAMMOND Yes?</p> <p>24 (Simultaneous discussion)</p> <p>25 CHAIRMAN WALKER Mr Hammond, you've been</p>

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1 speaking for over five minutes now. We -- if you had
 2 asked for oral argument, which you did not, you would
 3 have been limited to probably three minutes.
 4 And, so, I don't know if the other two
 5 Commissioners want to continue. If you want to have
 6 oral argument on this case, you need to ask for it for
 7 the Open Meeting in which we consider this.
 8 COMM. D'ANDREA: The Chair gave you about
 9 5 minutes and 20 seconds longer that I would have
 10 COMM. BOTKIN: Uh-huh And I believe the
 11 purpose of this comment period is for the public. To
 12 me, it was surprising that this attorney would take this
 13 opportunity to address the Commission that way.
 14 CHAIRMAN WALKER: It's not surprising to
 15 me that this attorney would do that.
 16 So, I'm going to cut you off at that
 17 point.
 18 Paul, is there anyone else that needs --
 19 that is queued up?
 20 PHONE MODERATOR There is no Public
 21 Comment in the question -- in the queue at this time.
 22 CHAIRMAN WALKER Okay Thank you very
 23 much, Paul.
 24
 25

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1 AGENDA ITEM NO. 40
 2 CLOSED SESSION
 3 CHAIRMAN WALKER Having convened in a
 4 duly noticed Open Meeting, the Commission will now at
 5 10:54 a.m. on October 16th, 2020 hold a Closed Session
 6 pursuant to Chapter 551 of the Texas Government Code.
 7 It will consult with its attorneys pursuant to Section
 8 551.071 of the Code, deliberate personnel matters
 9 pursuant to Section 551.074 of the Code, and deliberate
 10 security matters pursuant to Section 551.076 of the
 11 Code.
 12 (Closed Session: 10 54 a.m. to
 13 11:12 a.m.)
 14 CHAIRMAN WALKER: The Closed Session is
 15 concluded at 11:12 a.m. on October 16th, 2020, and the
 16 Commission will resume its Public Meeting. The
 17 Commission is not going to take any action out of the
 18 Closed Session.
 19 And, so, with that, unless either one of
 20 y'all have -- yes?
 21 MR. JOURNEAY: Do we care what time we
 22 recess? I don't, but --
 23 (Laughter)
 24 CHAIRMAN WALKER I am not getting paid
 25 off by anyone on this one.

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1 (Laughter)
 2 CHAIRMAN WALKER: So, with that, I believe
 3 we have a cake and some cookies in celebration of both
 4 of your birthdays in October.
 5 COMM. BOTKIN: Oh.
 6 CHAIRMAN WALKER And, so, happy birthday.
 7 COMM. BOTKIN. Thank you
 8 When is yours, Arthur?
 9 COMM. D'ANDREA: The 28th.
 10 COMM. BOTKIN: All right.
 11 CHAIRMAN WALKER. Yeah.
 12 COMM. BOTKIN: Happy birthday to us.
 13 (Laughter)
 14 COMM. D'ANDREA. Yeah.
 15 CHAIRMAN WALKER Yeah --
 16 COMM. D'ANDREA: When is yours?
 17 (Simultaneous discussion)
 18 CHAIRMAN WALKER: So, happy birthday on
 19 the record.
 20 And, then -- so, the meeting -- this
 21 meeting of the Public Utility Commission of Texas is
 22 adjourned.
 23 (Proceedings adjourned 11 12 a.m.)
 24
 25

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1 C E R T I F I C A T E
 2
 3 STATE OF TEXAS)
 4 COUNTY OF TRAVIS)
 5
 6 I, Janis Simon, Certified Shorthand Reporter in
 7 and for the State of Texas, do hereby certify that the
 8 above-mentioned matter occurred as hereinbefore set out.
 9 I further certify that I am neither counsel
 10 for, related to, nor employed by any of the parties or
 11 attorneys in the action in which this proceeding was
 12 taken, and further that I am not financially or
 13 otherwise interested in the outcome of the action.
 14 Certified to by me this 19th day of October,
 15 2020.
 16
 17 
 18
 19 Janis Simon
 20 Certified Shorthand Reporter
 21 CSR No. 7076 - Expires 7/31/22
 22 Firm Registration No. 276
 23 Kennedy Reporting Service, Inc.
 24 555 Round Rock West Drive
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 www.kennedyreporting.com

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