



Filing Receipt

Received - 2021-09-13 01:56:34 PM
Control Number - 51787
ItemNumber - 20

SOAH DOCKET NO. 473-21-3277.WS
PUC DOCKET NO. 51787

| | | |
|-----------------------------------|----------|--------------------------------|
| COMPLAINT OF NUECES BAY | § | BEFORE THE STATE OFFICE |
| TRACTS, LLC AGAINST RINCON | § | OF |
| WATER SUPPLY CORPORATION | § | ADMINISTRATIVE HEARINGS |

SOAH ORDER NO. 1
FILING DESCRIPTION, NOTICE OF TELEPHONIC PREHEARING CONFERENCE,
E-MAIL SERVICE, AND GENERAL PROCEDURAL REQUIREMENTS

I. FILING DESCRIPTION

On February 3, 2021, Nueces Bay Tracts, LLC (Nueces Bay) filed a formal complaint with the Public Utility Commission of Texas (Commission) against Rincon Water Supply Corporation (Rincon) related to Rincon's alleged refusal to provide Nueces Bay water service. Nueces Bay states that Rincon has effectively refused to provide service by failing to timely act on Nueces Bay's requests for service. Nueces Bay states that it is waiting on two engineering plans to progress with its proposed subdivision. Additionally, Nueces Bay asserts in the course of requesting water service that Rincon has committed multiple violations of its tariff, including failure to provide proper notice; failure to advertise or accept bids for construction; requiring excessive development standards; and requiring Nueces Bay to acquire new easements for water lines. Nueces Bay requests the Commission direct Rincon to provide water service in accordance with its certificate of convenience and necessity without further delay.

Rincon filed a response denying Nueces Bay's assertions and stating its actions have been reasonable and in compliance with its tariff. Rincon asserts Nueces Bay has changed multiple project elements related to its proposed subdivision requiring additional review and approval of Rincon's engineering plans. Finally, Rincon asserts that the project approval standards Nueces Bay seeks Rincon to follow are not in compliance with its tariff. A further dispute concerns Rincon's determination that minimum safety standards for Nueces Bay's proposed subdivision require six-inch water lines for fire protection.

The Public Utility Commission of Texas (Commission) issued an order on August 17, 2021, referring the case to the State Office of Administrative Hearings (SOAH) for assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if necessary. SOAH has jurisdiction over matters relating to the conduct of the hearing in this proceeding pursuant to Texas Government Code § 2003.049. On August 23, 2021, the Commission adopted a preliminary order identifying the issues that must be addressed in this proceeding.

II. NOTICE OF TELEPHONIC PREHEARING CONFERENCE

Due to concerns regarding the coronavirus, SOAH has suspended most non-emergency in person hearings. Accordingly, the prehearing conference in this proceeding will be convened **telephonically at 10:00 a.m. on October 1, 2021**. The parties shall use the following call-in information to access the prehearing conference:

- **Call-in Information:**
 - Austin: (512) 807-0005
 - Or Toll-Free: 1 (855) 999-5357
- **Conference ID: 800-0716**

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

1. Pending motions filed by 3:00 p.m. on September 30, 2021;
2. The burden of proof;
3. Whether this case may be efficiently resolved in whole or in part through procedures such as stipulations or limitation of the scope of the hearing;
4. Whether the parties are interested in mediating this dispute;¹
5. A procedural schedule; and

¹ Information about mediation at SOAH is available at <http://www.soah.texas.gov/Hearings-And-Mediation/mediation.html>.

6. 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 stipulations of uncontested matters, discovery, and prefiled testimony; three alternative dates in different weeks for the hearing on the merits; and deadlines for post-hearing briefs. If the parties are able to agree to a procedural schedule, they may file an agreed schedule **no later than 3:00 p.m. on September 29, 2021**, and request to cancel the prehearing conference.

III. E-MAIL SERVICE REQUIRED

When a party files a document with the Commission, that party is also required to serve (*i.e.*, provide a copy of that document to) every other party. **At this time, due to the coronavirus, service must be accomplished by e-mail.**² Any party to this proceeding who has not previously provided an e-mail address **SHALL, no later than 7 days after the date of this order**, file a notice informing the parties of the e-mail address to be used for service.

IV. GENERAL PROCEDURAL REQUIREMENTS

The parties should be aware that, due to the coronavirus, the Commission has suspended certain rules and is requiring e-mail service and online filings.³ The Commission's order is available at: http://interchange.puc.texas.gov/Documents/50664_3_1055816.PDF.

Commission filings are available for viewing and downloading from the Commission's Interchange at <http://interchange.puc.texas.gov>, by entering the control number 51787 and pressing "search." A list of documents filed in this docket will appear, which (with a few

² See *Issues Related to the State of Disaster for the Coronavirus Disease 2019*, Docket No. 50664, Order Suspending Rules (Mar. 16, 2020), available at: http://interchange.puc.texas.gov/Documents/50664_3_1055816.PDF.

³ *Id.*

exceptions such as confidential documents, if any) can be accessed by clicking on the document number. The Commission's procedural rules are available on the Commission's website at <http://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>. The procedural rules will govern the conduct of this case, and the parties are expected to comply with those rules.

Routine procedural and logistical questions may be directed to the ALJ's Legal Secretary, Nadia Martinez at nadia.martinez@soah.texas.gov. SOAH support personnel may not provide advice or interpret orders or regulations for the parties.

A. Filing

Due to the coronavirus, the Commission is only accepting filings made online through the Commission's Interchange e-file system at <https://interchange.puc.texas.gov/filer>. When making online filings for this case, use the "control number" 51787. The parties should review the Commission's website for the latest information on how the coronavirus is impacting Commission filing requirements. **All pleadings must contain both the SOAH and Commission docket numbers.**

B. Motions

A motion seeking a continuance or extension of time **SHALL** propose a new date or dates and indicate whether the other parties agree to the new date or dates. Because the ALJ may not be available on a given day, proposing a range of dates is advisable. The ALJ will not contact parties to ascertain their position or to negotiate dates. In the absence of a ruling by the ALJ, the motion is not granted and the existing schedule remains in place.

Unless otherwise specified in the Commission's procedural rules or an order issued in this case, any responses to a motion or other pleading shall be filed within **five working days** from receipt of the motion or pleading. If a party does not respond, the ALJ will assume that the party agrees with or does not oppose the requested relief.

C. Discovery

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

SIGNED September 13, 2021.

A handwritten signature in black ink, appearing to read "Daniel Wiseman", written over a horizontal line.

DANIEL WISEMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS