



Control Number: 53811



Item Number: 31

**Peter M. Lake**  
Chairman

**Will McAdams**  
Commissioner

**Lori Cobos**  
Commissioner

**Jimmy Glotfelty**  
Commissioner

**Kathleen Jackson**  
Commissioner



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## *Public Utility Commission of Texas*

**TO:** Chairman Peter M. Lake  
Commissioner Will McAdams  
Commissioner Lori Cobos  
Commissioner Jimmy Glotfelty  
Commissioner Kathleen Jackson

All Parties of Record

**FROM:** Stephen Journey, Commission Counsel

**DATE:** 2 March 2023

**RE:** March 9, 2023 Open Meeting – Item No. 6

Docket No. 53811 – *Complaint of Arizona Traders Company Against El Paso Water Utilities Public Service Board*

A proposed order in the above-referenced docket is posted for consideration and action by the Commission. If the Commission approves the proposed order, I recommend the following changes.

Conclusions of law 1 and 8 should be modified for clarity and to apply the law to the facts of this case.

1. The Commission's authority over Arizona Traders' formal complaint against a utility owned and operated by a municipality within its corporate limits is limited to appellate review by Texas Water Code (TWC) § 13.042~~The Commission has authority over the formal complaint under Texas Water Code (TWC) §§ 13.041 and 13.042.~~
8. Under 16 TAC § 22.181(a), Commission Staff was allowed to seek dismissal upon the motion of the presiding officer or the motion of a party,~~the presiding officer may recommend that the Commission dismiss, with or without prejudice, any proceeding~~ for any reason specified in 16 TAC § 22.181.



Conclusions of law 2, 3, 4, 5, and 10 should be deleted because they are unnecessary to support the order.

- ~~2. Under TWC § 13.041(a) the Commission may regulate and supervise the business of each water and sewer utility within its jurisdiction, and under subsection (b) may adopt and enforce rules reasonably required in the exercise of powers, including rules governing practice and procedure before the Commission.~~
- ~~3. Under TWC § 13.042(a), the governing body of each municipality has exclusive original jurisdiction over all water and sewer utility rates, operations and services provided by a water and sewer utility within its corporate limits.~~
- ~~4. Under TWC § 13.042(b), the governing body of a municipality by ordinance may elect to have the Commission exercise original jurisdiction over the utility rates, operations and services of utilities within the incorporated limits of the municipality.~~
- ~~5. Under 16 TAC § 22.242, any affected person may complain to the Commission setting forth any act or thing done or omitted to be done by any person under the jurisdiction of the Commission in violation or claimed violation of any law which the Commission has jurisdiction to administer or of any order, ordinance, rule, or regulation of the Commission.~~
- ~~10. Under 16 TAC § 22.181(d)(6), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for failure to prosecute.~~

Conclusion of law 9 should be modified for accuracy.

9. Under 16 TAC § 22.181(c), dismissal of this case does not require a hearing because the facts necessary to support the dismissal are uncontested or are established as a matter of law.

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