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| APPLICATION OF TEXAS WATER UTILITIES, LP AND SOUTHERN HORIZONS DEVELOPMENT, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN LIBERTY AND MONTGOMERY COUNTIES | § | PUBLIC UTILITY COMMISSION |
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COMMISSION STAFF’S REPLY TO TEXAS WATER UTILITIES’ RESPONSE TO REQUESTS FOR HEARING

I. INTRODUCTION

On February 2, 2023, Texas Water Utilities, LP (Texas Water) and Southern Horizons Development, Inc. filed an application for the sale, transfer, or merger of facilities and certificate rights in Liberty and Montgomery counties. Texas Water filed supplemental information on February 16, March 15, April 6, and June 23, 2023.

On August 28, 2023, the administrative law judge (ALJ) filed Order No. 11, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a reply to TWU’s response to the requests for hearing by September 11, 2023. Therefore, this pleading is timely filed.

II. RESPONSE TO TEXAS WATER UTILITIES’ RESPONSE TO REQUESTS FOR HEARING

Staff has reviewed the three requests for hearing, as well as Texas Water’s response to the requests for hearing, and recommends that the requests for hearing be denied. Specifically, Order No. 10 provided a deadline of August 25, 2023, to request a hearing. The only hearing request that was timely filed was the request for a hearing filed by Anna Miller. The other requests for hearing were filed after 3:00 p.m. on August 25, 2023, and are therefore untimely under 16 Texas Administrative Code (TAC) § 22.71(h).¹

In Ms. Miller’s request for hearing, she states that she request a hearing “for the purpose of contesting the unjustly imposed new tariff rates.”² Under Texas Water Code § 13.3011, a

¹ Under 16 Texas Administrative Code (TAC) § 22.71(h), “all documents shall be filed by 3:00 p.m. on the date due, unless otherwise ordered by the presiding officer.”

² Ms. Miller’s Request for Hearing at 1 (Aug. 23, 2023).

request for a hearing for the purpose of contesting the new tariff rates is not an appropriate reason to request a hearing in this proceeding. Specifically, TWC § 13.3011(a) permits an acquiring utility to request that the Commission authorize the utility to charge initial rates for service that are shown in a tariff filed with the Commission for another water or wastewater system. Further, TWC § 13.3011(b) prevents the acquiring utility who makes a request under TWC § 13.3011(a) to initiate a rate proceeding to establish the initial rates for service the acquiring utility will provide to the customers of the purchased or acquired system. Therefore, Ms. Miller's request for hearing for the purpose of contesting the new tariff rates is impermissible under TWC § 13.3011 and should be denied.

III. CONCLUSION

For the reasons stated above, Staff respectfully recommends that Ms. Miller's hearing request was the only timely hearing request filed in this proceeding and that it should be denied because it is not a proper request under TWC § 13.3011.

Date: September 11, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 11, 2023 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Margaux Fox
Margaux Fox