

# TCEQ Interoffice Memorandum

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**To:** Commissioners

**From:** Diane Mazuca, Special Projects Coordinator/OLS

**Date:** August 6, 2014

**Subject:** Implementation of Transfer of TCEQ Programs to the Public Utility Commission of Texas (PUC)

HB 1600, the Sunset bill for the Public Utility Commission of Texas (PUC), was adopted by the 83rd Legislature and became law on September 1, 2013. Included in the legislation is the transfer of the water utility rate and CCN programs from the TCEQ to the PUC. This transfer is effective September 1, 2014.

Since at least July of last year, TCEQ staff have been preparing for the transfer of these programs. The activities associated with executing this transfer vary tremendously and have involved staff from almost every Office at the TCEQ, as well as the Commissioner's Office. TCEQ staff have participated in many internal meetings, as well as meetings and conference calls with the PUC, the Office of Public Utility Counsel (OPUC), State Office of Administrative Hearings (SOAH), the Office of the Attorney General (OAG) and the Governor's Office. As the TCEQ coordinator for the transfer I have been communicating at least once every week with my counterpart at the PUC, Thomas Gleeson.

## **MOU**

Under HB 1600, TCEQ & PUC are required to develop an MOU outlining each agency's role and responsibilities to implement the transfer. The MOU is not required to be adopted by rule but must be signed by the Executive Directors for both agencies. Significant elements addressed in the MOU include:

- Program Details
- Pending Items
- Enforcement
- Information Technology
- Employees
- Records Management
- Funding

The MOU was completed and signed by the August 1, 2014 statutory deadline.

## **FUNDING & EMPLOYEES**

The contingency rider for HB 1600 requires the TCEQ to transfer funds from the Water Resource Management Account #153 in FY '15 to the PUC to support the transferring staff and related activities.

# TCEQ Interoffice Memorandum

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Commissioners

Page 2

August 6, 2014

In addition, on September 1, 2014, TCEQ is required to transfer 20 Full-Time Equivalents (FTES) to the PUC. Based on discussions with the PUC, as well as TCEQ executive management, fourteen current TCEQ staff and six vacant positions will transfer to PUC. The fourteen transferring TCEQ staff currently work in either the Water Supply Division of the Office of Water or the Environmental Law Division of the Office of Legal Services.

## **PENDING APPLICATIONS**

PUC & TCEQ agreed that all applications, orders and other matters associated with the transferring programs which are pending before the TCEQ or SOAH on September 1, 2014 will be transferred to the PUC on that date. Also, any pending litigation matters at the OAG will also be transferred on that date to the PUC. OAG staff have been informed of the upcoming transfer and TCEQ will provide any needed assistance.

## **OUTREACH EFFORTS**

TCEQ has made changes to its homepage providing information on the transfer as well as a link to an appropriate PUC website. When applicable, program staff have taken the opportunity to publically discuss the transfer in various forums, such as at the Small Water System Asset Management Workshops. Other outreach efforts have included notifying subscribers of the transfer via a GovDelivery list, which includes local governments and publishing articles in TCEQ and other periodicals. The Small Business and Environmental Assistance Division (SBEA), Water Supply Division staff, as well as the Rural Ombudsman have been involved in these efforts.

The PUC has been invited to speak about the transfer at TCEQ sponsored events such as the Environmental Trade Fair and the Annual Public Drinking Water Program Conference.

## **INTERAGENCY WORKGROUP**

HB 1600 included language requiring TCEQ & PUC to determine how best for the agencies to cooperate on several issues. To that end the MOU includes the establishment of an interagency workgroup that will meet, as needed, not only to address the issues listed in the legislation, but also to continue to work on transfer-related matters as they arise.

## **ACTIVITIES REMAINING AT TCEQ**

With the transfer of the water utility rates and CCN programs, the Water Supply Division (WSD) will continue to be responsible for:

- implementing the Public Water System Supervision Program (PWSS) under the Safe Drinking Water Act (SDWA) as part of EPA delegated Primacy authority;
- implementing the approved Capacity Development Strategy requirement of the SDWA;

# TCEQ Interoffice Memorandum

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Commissioners

Page 3

August 6, 2014

- reviewing water district bond applications; and
- reviewing applications to create certain water districts (e.g. municipal utility districts, or “MUDs”).

Under HB 1600, TCEQ maintains the authority to review Denial of Water Complaints filed pursuant to Section 11.041 of the Water Code at TCEQ. However, PUC is allowed to intervene in a hearing conducted under this section to present evidence on the price demanded for the available water.