

CAUSE NO. D-1-GN-09-001199

CITY OF GARLAND, TEXAS

Plaintiffs

v.

PUBLIC UTILITY COMMISSION OF TEXAS

Defendant.

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IN THE DISTRICT COURT

200<sup>th</sup> JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**DEFENDANT'S NOTICE OF APPEAL**

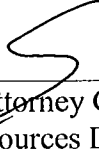
Defendant Public Utility Commission of Texas files this notice of its desire to appeal the final judgment signed on January 15, 2010, by the District Court of the 200th Judicial District, Travis County, Texas in Cause Number D-1-GN-001199 (Exhibit A) .

This appeal is taken to the Third Court of Appeals at Austin.

Respectfully submitted,

ATTORNEY GENERAL OF TEXAS

By:

  
\_\_\_\_\_  
Assistant Attorney General  
Natural Resources Division  
Austin, Texas  
(512) 555-1212

ATTORNEYS FOR DEFENDANT PUBLIC  
UTILITY COMMISSION OF TEXAS

**CERTIFICATE OF SERVICE**

I certify that on February 9, 2010 a copy of the foregoing instrument was electronically served on counsel for Plaintiff, the City of Garland.

  
\_\_\_\_\_  
Assistant Attorney General

Notice sent: Final Interlocutory None

Disp Parties: PLI, DFL-4

DC BK10020 PG145

Disp code: CVD / CLS 41018

Redact pgs: -

Judge SAY Clerk MS

CAUSE NO. D-1-GV-09-001199

CITY OF GARLAND, TEXAS  
Plaintiff

v.

PUBLIC UTILITY COMMISSION OF  
TEXAS  
Defendant

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IN THE DISTRICT COURT

OF TRAVIS COUNTY

200<sup>th</sup> JUDICIAL DISTRICT

Filed in The District Court  
of Travis County, Texas

JAN 15 2010 BP  
At 201 M.  
Amalia Rodriguez-Mendoza, Clerk

**FINAL JUDGMENT**

On December 15, 2009 the court considered the City of Garland's ("Garland") suit for review of the Order on Rehearing in Docket No. 35665 (the "Order") of the Public Utility Commission of Texas ("Commission").

The Court reverses and remands the agency decision because it is in excess of the agency's statutory authority, not reasonably supported by substantial evidence, and arbitrary and capricious. Specifically,

- 1) The factors set forth in Finding of Fact No 64 d, e, f, and h are legally irrelevant factors that the Commission should not have considered in making its ultimate finding.
- 2) The Commission's findings set forth in Finding of Fact No 64 d, e, f, and h are not supported by substantial evidence.
- 3) The Commission's ultimate finding, Finding of Fact 76, relies upon the irrelevant factors listed above and the findings listed above not supported by substantial evidence.

It is therefore ORDERED that the Commission's Order on Rehearing in Docket No. 35665 shall be and is hereby reversed and that this matter is remanded to the Commission for further proceedings not inconsistent with this Order.



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It is further ORDERED that all of Garland's requests for declaratory and injunctive relief shall be and are hereby severed from this administrative appeal, and the clerk of this court is directed to establish a new file with a new cause number, which shall proceed to final judgment on all of Garland's claims for declaratory and injunctive relief that were previously asserted herein. **D-1-GV-10-000068** 98<sup>th</sup> Judicial District

This is a final judgment that disposes of all issues as to all parties in the case and is appealable.

SIGNED this 15 day of JANUARY, 2010.

  
STEPHEN YELENOSKY,  
PRESIDING JUDGE