



Control Number: 43069



Item Number: 50

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OPEN MEETING COVER SHEET

MEETING DATE: May 4, 2016

DATE DELIVERED: April 27, 2016

AGENDA ITEM NO.: 24

CAPTION: Docket No. 43069; SOAH Docket No. 473-16-3408.WS - Application of Inline Development, LLC for a Rate/Tariff Change

ACTION REQUESTED: Discussion and possible action with respect to Preliminary Order

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Public Utility Commission of Texas

TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

All Parties of Record

FROM: David Hrnair, *DJH*
Commission Advising

RE: May 4, 2016 Open Meeting Agenda Item No. 24
Draft Preliminary Order; P.U.C. Docket No. 43069, SOAH Docket No. 473-16-3408.WS – *Application of Inline Development, LLC for a Rate/Tariff Change*

DATE: April 27, 2016

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the May 4, 2016 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the May 4, 2016 open meeting.

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PUC DOCKET NO. 43069
SOAH DOCKET NO. 473-16-3408.WS

APPLICATION OF INLINE	§	PUBLIC UTILITY COMMISSION
DEVELOPMENT LLC FOR A	§	
RATE/TARIFF CHANGE	§	OF TEXAS

DRAFT PRELIMINARY ORDER

Inline Development LLC filed an application to change its rates and tariff. This preliminary order identifies the issues that must be addressed.

The applicant seeks approval of changes to its rates and tariff for its water certificate of convenience and necessity (CCN) number 12946 and sewer CCN number 20879. The applicant has 669 water customers and 1,084 sewer customers. Inline currently charges its water customers approximately \$40 per month for 10,000 gallons and \$80 per month for 30,000 gallons and proposes to charge approximately \$63.90 per month for 10,000 gallons and \$135.70 per month for 30,000 gallons. For its sewer customers, Inline currently charges approximately \$40 per month for 10,000 gallons and proposes to charge \$60.90 per month.

Inline first applied for a rate and tariff change on September 9, 2014. It filed a supplement to its application on October 29, 2014, and on December 12, 2014, the application and notice were deemed administratively complete. However, on February 23, 2015, the Commission's administrative law judge (ALJ) found Inline's proof of notice deficient, and Inline subsequently corrected the deficiency. Numerous extensions and an abatement followed because of discussions between Commission Staff and Inline regarding what additional information was needed. On February 2, 2016, Inline filed additional materials supplementing its application, and Commission Staff filed a joint procedural schedule, which the Commission ALJ approved. On March 25, 2016, Commission Staff requested referral of the docket to the State Office of Administrative Hearings (SOAH), and on March 29, 2016, the docket was referred to SOAH.

The applicant was directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed. Commission Staff

timely filed a list of issues. The applicant filed a motion opposing referral of the docket to SOAH and requesting another abatement but did not file a list of issues.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.¹ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket.

Inline is seeking changes to both its water and sewer rates. For the sake of efficiency, most of the below questions do not separately address water and sewer rates. However, question 27 addresses proper allocation between water and sewer rates. Each component of cost of service (each allowable expense and all return on invested capital) must be properly allocated between water and sewer rates.

1. What is the appropriate methodology to determine just and reasonable rates in this docket?
2. What are the just and reasonable rates for the utility that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory?²
3. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses while preserving the utility's financial integrity?³
4. Are the utility's proposed revisions to its tariffs and rate schedules, if any, appropriate?
5. What is the reasonable and necessary cost of providing service?⁴

¹ Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2015).

² TWC § 13.182.

³ TWC § 13.183(a); 16 TAC § 24.32(a). Note: All rule citations are to the rules in effect when the application was deemed administratively complete.

⁴ 16 TAC § 24.31.

6. What adjustments, if any, should be made to the utility's proposed test-year data?⁵
7. What is the appropriate debt-to-equity capital structure of the utility?
8. What is the appropriate overall rate of return, return on equity, and cost of debt for the utility?⁶
9. What are the reasonable and necessary components of the utility's invested capital?⁷
10. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?
11. What is the original cost of the property used and useful in providing service to the public at the time the property was dedicated to public use?⁸
 - a. What is the amount, if any, of the accumulated depreciation on such property?
12. Is the utility seeking the inclusion of construction work in progress? If so, what is the amount sought and for what facilities? Additionally, has the utility proven that the inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed?⁹
13. Does the utility have any debt? If so, what is the cost of that debt?
14. What is the reasonable and necessary working capital allowance for the utility?¹⁰
15. Does the utility have any water and sewer property that was acquired from an affiliate or a developer before September 1, 1976? If so, has such property been included by the utility

⁵ TWC § 13.185(d)(1); 16 TAC § 24.31(b).

⁶ 16 TAC § 24.31(c)(1).

⁷ 16 TAC § 24.31(c)(2).

⁸ TWC § 13.185(b); TWC § 24.31(c)(2)(A)-(B).

⁹ TWC § 13.185(b); 16 TAC § 24.31(c)(3)(B).

¹⁰ 16 TAC § 24.31(c)(2)(C).

in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities?¹¹

16. Has the utility acquired any water or sewer property from an affiliate? If so, do the payments for that property meet the requirements of TWC § 13.185(e)?
17. Has the utility financed any of its plant with developer contributions?¹² What is the amount, if any, of accumulated depreciation on that property?
18. Has the utility included any customer contributions or donations in invested capital?¹³
19. Are the utility's proposed pro forma rate-base and expense adjustments consistent with the requirements of 16 TAC § 24.31?
20. What are the utility's reasonable and necessary operations and maintenance expenses?¹⁴
21. What are the utility's reasonable and necessary administrative and general expenses?
22. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?¹⁵
23. Are any expenses, including but not limited to, executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines, unreasonable, unnecessary, or not in the public interest?¹⁶
24. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation?¹⁷

¹¹ TWC § 13.185(i).

¹² TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).

¹³ TWC § 13.185(j); 16 TAC §§ 24.31(c)(2)(B)(iv).

¹⁴ 16 TAC § 24.31(b)(1)(A).

¹⁵ 16 TAC § 24.31(b)(1)(E).

¹⁶ TWC § 13.185(h)(3); 16 TAC § 24.31(b)(2)(I).

¹⁷ TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).

25. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes?¹⁸
26. What is the reasonable and necessary amount for the utility's federal income tax expense?¹⁹
- a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return?²⁰
- b. If so, have income taxes been computed as though a consolidated return had been filed and the utility realized its fair share of the savings resulting from the consolidated return?²¹
- c. If not, has the utility demonstrated that it was reasonable not to consolidate returns?²²
27. Is the utility seeking rates for both water and sewer service? If so, is each component of cost of service (each allowable expense and all return on invested capital) properly allocated between water and sewer services?
28. What is the appropriate allocation of the revenue requirement among rate classes?
29. What is the appropriate rate design for each rate class?²³
30. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest? Does that amount include any anticipated expenses to appeal this docket? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?
31. What are the intervening cities' reasonable rate-case expenses?²⁴
32. Has the utility made any payments to affiliates?

¹⁸ 16 TAC § 24.31(b)(1)(C).

¹⁹ 16 TAC § 24.31(b)(1)(D); TWC § 13.185(f).

²⁰ TWC § 13.185(f).

²¹ *Id.*

²² *Id.*

²³ 16 TAC § 24.32.

²⁴ TWC § 13.084.

- a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary?²⁵
 - b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations?²⁶
33. If a refund or surcharge results from this proceeding, how and over what period of time should that be made?²⁷
 34. Has the utility met the requirements for a request for interim relief in the form of interim rates? If so, what are the appropriate levels of the interim rates?
 35. What is the appropriate effective date of the rates fixed by the Commission in this proceeding?²⁸

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed.²⁹

II. Effect of Preliminary Order

This order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this order

²⁵ TWC § 13.185(e).

²⁶ *Id.*

²⁷ TWC § 13.187.

²⁸ *Id.*

²⁹ Tex. Gov't Code Ann. § 2003.049(e).

may be appealed to the Commission. The Commission will not address whether this order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the _____ day of May 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

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