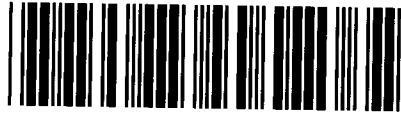




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## OPEN MEETING COVER SHEET

**MEETING DATE:** June 18, 2015

**DATE DELIVERED:** June 11, 2015

**AGENDA ITEM NO.:** 37

**CAPTION:** Docket No. 43078; SOAH Docket No. 473-15-3742.WS - Application of Freemont Water Company for a Water Rate/Tariff Change in Kerr County (37993-R)

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

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**Brandy Marty Marquez**  
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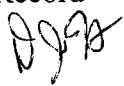
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**Public Utility Commission of Texas**

CLERK OF COMMISSION  
FILING CLERK

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

All Parties of Record

FROM: David Hrnair,   
Commission Advising

RE: June 18, 2015 Open Meeting Agenda Item No. 37  
Draft Preliminary Order; P.U.C. Docket No. 43078, SOAH Docket No. 473-15-3742.WS – *Application of Fremont Water Company for a Water Rate/Tariff Change in Kerr County (37993-R)*

DATE: June 11, 2015

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 June 18, 2015 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 June 18, 2015 open meeting.

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**DOCKET NO. 43078**  
**SOAH DOCKET NO. 473-15-3742.WS**

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**APPLICATION OF FREMONT §**  
**WATER COMPANY FOR A WATER §**  
**RATE/TARIFF CHANGE IN KERR §**  
**COUNTY (37993-R) §**

**PUBLIC UTILITY COMMISSION**

PUBLIC UTILITY COMMISSION  
**OF TEXAS**  
FILING CLERK

**DRAFT PRELIMINARY ORDER**

On July 25, 2014, Fremont Water Company filed an application with the Texas Commission on Environmental Quality (TCEQ) for a rate and tariff change in Kerr County, Texas, with a proposed effective date of September 26, 2014 under 16 Texas Administrative Code (TAC) §§ 24.21 and 24.22. On August 19, 2014, the TCEQ sent Fremont a notice of deficiency, directing Fremont to complete and revise portions of its customer notice. Because Fremont had to re-notice its customers, the effective date of the rate/tariff change was moved to October 31, 2014, which was at least 60 days following the date that the completed application was mailed or delivered to customers and therefore complied with 16 TAC § 24.22(c).

On September 1, 2014, the Public Utility Commission of Texas (Commission) assumed responsibility for the economic regulation of water and sewer utilities, and this case was transferred to the Commission.<sup>1</sup> On November 20, 2014, upon Staff's recommendation, the Administrative Law Judge (ALJ) issued Order No. 5 deeming the amended application and notice for a rate/tariff change administratively complete. In addition, Order No. 5 set January 31, 2015 as the proposed effective date of the proposed rate change and May 1, 2015 as the deadline for ratepayers, any affected municipality, or Commission Staff to request a hearing.

On May 1, 2015, Commission Staff requested referral of this proceeding to the State Office of Administrative Hearings (SOAH) because (a) the Commission had received protests from over 10% of the utility's ratepayers and (b) Staff found a hearing to be in the public interest. Therefore, on May 7, 2015, an order of referral to SOAH was entered and required interested parties to file with the Commission a list of issues to be addressed in this docket. Staff and Fremont each timely filed a list of issues.

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<sup>1</sup> Texas Water Code §§ 13.041, 13.042, 13.181-192 (West 2008 & Supp. 2014).

### I. Issues to be Addressed

The Commission must provide to the administrative law judge a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>2</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. 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 as required by Texas Water Code (TWC) § 13.182?
2. 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 financial integrity of the utility? TWC § 13.183(a) and 16 TAC § 24.32(a).
3. What is the reasonable and necessary cost of providing water service calculated in accordance with 16 TAC § 24.31?
4. What adjustments, if any, should be made to the utility's proposed test-year data? TWC § 13.185(d)(1) and 16 TAC § 24.31(b).
5. What is the appropriate debt-to-equity capital structure of the utility?
6. What is the appropriate overall rate of return, return on equity, and cost of debt for the utility? 16 TAC § 24.31(c)(1).
7. What are the reasonable and necessary components of the utility's invested capital? 16 TAC § 24.31(c)(2).
8. What is the original cost of the property used and useful in providing water service to the public at the time the property was dedicated to public use? TWC § 13.185(b) and 16 TAC § 24.31(c)(2)(A) and (B).

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<sup>2</sup> Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

9. Does the utility have any water and sewer property that was acquired from an affiliate or a developer before September 1, 1976 that is included in rate base? If so, has such property been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities? TWC § 13.185(i).
10. 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)?
11. Has the utility financed any of its plant with developer contributions? If so, how much?
12. Has the utility included any customer contributions or donations in invested capital? If so, how much?
13. What is the proper amount, if any, of accumulated depreciation on the utility's water and sewer property?
14. 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? TWC § 13.185(b) and 16 TAC § 24.31(c)(3)(B).
15. What is the reasonable and necessary working capital allowance for the utility? 16 TAC § 24.31(c)(2)(C).
16. Does the utility have any debt, and, if so, what is the cost of that debt?
17. What are the utility's reasonable and necessary operations and maintenance expenses? 16 TAC § 24.31(b)(1)(A).
18. Were any payments made to an affiliate for expenses? If so, do those payments meet the requirements of TWC § 13.185(e)?
19. What are the utility's reasonable and necessary administrative and general expenses?

20. 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 for depreciation? TWC § 13.185(j) and 16 TAC § 24.31(b)(1)(B).
21. What is the reasonable and necessary amount for assessment and taxes, other than federal income taxes? 16 TAC § 24.31(b)(1)(C).
22. What is the reasonable and necessary amount for the utility's federal income tax expense? 16 TAC § 24.31(b)(1)(D) and, if applicable, TWC § 13.185(f).
  - a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return? TWC § 13.185(f).
  - 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? TWC § 13.185(f).
  - c. If not, has the utility demonstrated that it was reasonable not to consolidate returns? TWC § 13.185(f).
23. Is the utility seeking rates for both water and sewer service? If so, is the revenue requirement properly allocated between water and sewer services?
24. What is the appropriate allocation of the revenue requirement among rate classes?
25. What is the appropriate rate design for each rate class?
26. Did the utility use reasonable meter equivalency factors in setting minimum monthly charges for various meter sizes?
27. What are the utility's reasonable and necessary expenses incurred in this rate proceeding? How should the utility recover its reasonable expenses incurred in this proceeding?
28. If a refund or surcharge results from this proceeding, how and over what period of time should that be made? TWC § 13.187.

29. 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? 16 TAC § 24.29.
30. What is the appropriate effective date of the rates fixed by the Commission in this proceeding? TWC § 13.187.

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 reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

## **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 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 June 2015.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**

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