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SOAH DOCKET NO. 473-15-2123.WS

PUC DOCKET NO. 44006

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PUBLIC UTILITY COMMISSION
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PETITION OF THE RATEPAYERS OF §
THE RIVER PLACE WATER AND §
WASTEWATER SYSTEMS FOR §
REVIEW OF A DECISION BY THE §
CITY OF AUSTIN TO CHANGE RETAIL §
RATES §

PUBLIC UTILITY COMMISSION
OF TEXAS

PRELIMINARY ORDER

On December 22, 2014, customers of the River Place Water and Wastewater Systems (the petitioners) filed with the Commission a petition for review of a decision by the city of Austin to change retail rates, along with a request for interim rates. The petition was filed under Texas Water Code (TWC) §§ 13.043(b)(3) and 13.043(i) and chapter 24, subchapter C of title 16 of the Texas Administrative Code. The petition challenges the city of Austin's increases in retail rates effective October 1, 2014 and November 1, 2014.

The petitioners state that the increase in rates affected 1,047 water utility customers and 1,035 sewer utility customers, 359 of whom have signed the petition protesting the rate increases.¹ The city of Austin states that the petitioners were formerly served by River Place Municipal Utility District (MUD), and recently became retail customers of Austin's water utility by virtue of a 2009 written agreement for water and wastewater services between the city of Austin and the River Place MUD.² Through that agreement, Austin states, the MUD transferred ownership and operation of its water and wastewater utility system to Austin along with the accounts of customers being served.³ On October 1, 2014, the customers of the transferred system became retail customers of the city of Austin.⁴

¹ Original Petition Appealing Retail Water and Wastewater Rates of the City of Austin and Motion for Interim Rates at 3 (Dec. 22, 2014).

² City of Austin's List of Issues at 1 (Feb. 11, 2015).

³ *Id.*

⁴ *Id.* at 1-2.

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On January 27, 2015, the Commission issued an order referring this docket to the State Office Administrative Hearings (SOAH) and requesting that interested parties file lists of issues to be addressed in this proceeding. By February 11, 2015, Commission Staff, Austin and the petitioners each timely filed proposed lists 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.⁵ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Did the petition appealing the rate change by Austin follow the requirements of Tex. Water Code Ann. § 13.043(b), (c), and (d); 16 Tex. Admin. Code § 24.41(b), (c), and (d); and 16 Tex. Admin. Code § 24.42(a) and (b)?
 - a. Was the petition filed within 90 days after the effective date of the rate change? Tex. Water Code Ann. § 13.043(c) and 16 Tex. Admin. Code § 24.41(b).
 - b. What number of ratepayers had their rates changed? Tex. Water Code Ann. § 13.043(c) and (d) and 16 Tex. Admin. Code § 24.41(d).
 - c. Did the lesser of 10,000 or 10% of those ratepayers file valid protests to Austin's rate change? Tex. Water Code Ann. § 13.043(c) and 16 Tex. Admin. Code § 24.41(b).
2. Considering only the information available to Austin, what are the just and reasonable rates for Austin that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory? Tex. Water Code Ann. § 13.043(e) and (j) and 16 Tex. Admin. Code § 24.41(e) and (i).

⁵ Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

- a. What is the appropriate methodology to determine just and reasonable rates for Austin?
 - b. What is the revenue requirement that would give Austin sufficient funds to provide adequate retail water service?
 - c. What is the appropriate allocation of the revenue to customer classes?
 - d. What is the appropriate design of rates for each class to recover Austin's revenue requirement?
3. What are the reasonable expenses incurred by Austin in this proceeding? Tex. Water Code Ann. § 13.043(e) and 16 Tex. Admin. Code § 24.41(e)(2).
 - a. Should the Commission allow recovery of these reasonable expenses?
 - b. If so, what is the appropriate recovery mechanism?
4. What is the appropriate effective date of the rates fixed by the Commission in this proceeding? Tex. Water Code Ann. § 13.043(e) and 16 Tex. Admin. Code § 24.41(e)(3).
5. If the Commission establishes rates different than the rates set by Austin, should the Commission order refunds or allow surcharges to recover lost revenues? If so, what is the appropriate amount and over what time period should the refund or surcharge be in place? Tex. Water Code Ann. § 13.043(e) and 16 Tex. Admin. Code § 24.41(e)(4).

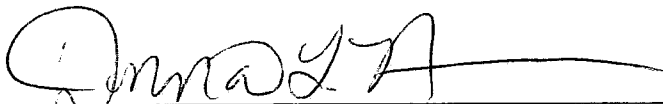
This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under TEX. GOV'T CODE ANN. § 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 10th day of March 2015.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER