

Control Number: 44236



Item Number: 108

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PUBLIC UTILITY COMMISSION
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OPEN MEETING COVER SHEET

MEETING DATE: April 14, 2016

DATE DELIVERED: April 8, 2016

AGENDA ITEM NO.: 36 Revised Proposed Order
Memo/Order

CAPTION: Docket No. 44236 - Application of Custom
Water Company, LLC for a Water
Rate/Tariff Change

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

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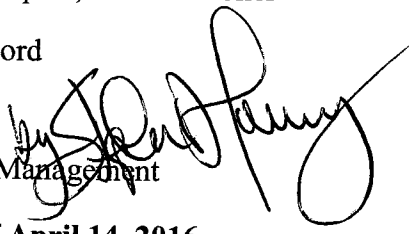
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Public Utility Commission of Texas

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

All Parties of Record

FROM: Irene Montelongo 
Director, Docket Management

RE: **Open Meeting of April 14, 2016**
Docket No. 44236 – *Application of Custom Water Company, LLC for a Water Rate/Tariff Change*

DATE: April 8, 2016

Enclosed is a copy of the Revised Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, April 14, 2016, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas.

The parties shall file corrections or exceptions to the Revised Proposed Order on or before 12:00 p.m., noon, Tuesday, April 12, 2016.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 44236

**APPLICATION OF CUSTOM WATER
COMPANY, LLC FOR A WATER
RATE/TARIFF CHANGE**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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REVISED PROPOSED ORDER

This Order addresses the application of Custom Water Company, LLC to change its water rates and tariff and the refund of interim rates collected from customers in excess of its approved rates. Custom Water withdrew its application to adjust its rates and agreed to a refund if the interim rates. Public Utility Commission of Texas Staff recommended approval of the proposed refunds. The application is dismissed and the proposed refunds are approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. On January 12, 2015, Custom Water filed an application for a rate/tariff change with a proposed effective date of March 20, 2015, for the Montague and Oak Shores water systems. Under Custom Water's proposed rates, the monthly base rate including 1,000 gallons for a residential 5/8" or 3/4" pipe would increase from \$36.00 to \$54.43 and the gallonage charge would increase from \$5.00 to \$7.00 for each additional 1,000 gallons over the minimum.
2. Custom Water serves approximately 250 customers under water certificate of convenience and necessity (CCN) No. 13211 in Montague County.
3. On January 20, 2015, the Commission issued Order No. 1, requiring Commission Staff to file a recommendation on the application or to propose a procedural schedule, if necessary.
4. On February 11, 2015, Commission Staff recommended that the application and notice be found administratively incomplete and deficient.
5. On February 13, 2015, the Commission issued Order No. 2, deeming the application and notice deficient, suspending the effective date of the proposed rate changes, and requiring Custom Water to submit corrections to the application and notice.

6. On February 23, 2015, Commission Staff recommended that the application be found administratively complete, the suspension of the effective date of the rate increase be lifted, effective March 20, 2015, and a proposed procedural schedule for continued processing be established.
7. On February 26, 2015, the Commission issued Order No. 3, deeming the application administratively complete, approving an effective date of March 20, 2015 for the proposed rates, and adopting a procedural schedule.
8. Between March 20 and September 22, 2015, Custom Water charged its customers at the proposed rates.
9. On July 20, 2015, Commission Staff filed a request for a hearing and that the proceeding be referred to the State Office of Administrative Hearings (SOAH).
10. On July 27, 2015, the Order of Referral and Order Setting Prehearing Conference and requiring Notice was issued by the Commission.
11. On August 31, 2015, SOAH issued Order No. 1, memorializing the prehearing conference, setting a procedural schedule, requiring notice of hearing, granting motions to intervene, and establishing filing and service procedures.
12. On September 16, 2015, Commission Staff requested that interim rates be established at the rates previously-approved by the Texas Commission on Environmental Quality for the pendency of this docket.
13. On September 17, 2015, the Commission issued a preliminary order, determining the issues to be addressed and not to be addressed in this proceeding.
14. On September 24, 2015, Custom Water filed its direct case in support of the application.
15. On October 7, 2015, SOAH issued Order No. 2, establishing interim rates back to Custom Water's previously-approved rates. Custom Water's previously-approved rates consist of a base rate of \$36.00 for a residential 5/8" or 3/4" meter size as the monthly base rate including 1,000 gallons, and \$5.00 per 1,000 gallons used over the first 1,000 gallons.
16. On October 23, 2015, Commission Staff filed direct testimonies in support of a decrease to Custom Water's previously-approved rates.

17. On November 2, 2015, Custom Water filed a request to withdraw its application and agreed to issue a refund or credit to customers that were charged higher rates from March 20 to September 22, 2015.
18. On November 17, 2015, SOAH issued Order No. 3, requiring Commission Staff to file a status update, including suggested ordering language to address the refund of rates paid by customers from March 20 to September 22, 2015, that were over and above the rates then in effect under the interim rate order.
19. On November 30, 2015, Commission Staff filed an update on the status of this case, recommended that the SOAH docket be dismissed, and that the proceeding be returned to the Commission for further processing.
20. On December 3, 2015, SOAH issued Order No. 4, dismissing the matter from the SOAH docket based upon Custom Water's request to withdraw and Commission Staff's status update and recommendation, and remanding the matter to the Commission for action on the refund of fees collected.
21. On December 3, 2015, the Commission issued Order No. 4, requiring Commission Staff to file a recommendation regarding final disposition of this docket.
22. On December 8, 2015, Commission Staff filed a recommendation on final disposition, recommending that the Commission issue a final order setting the final rate as those rates previously established by the Texas Commission on Environmental Quality and that Custom Water refund the excess amounts it collected between March 20 and September 22, 2015, plus interest, within 90 days of the date of a final order, and that Custom Water make a compliance filing within 120 days of a final order that attests to the completion of the refunds.
23. On January 8, 2016, Commission Staff filed a request for good cause exception to resolve the issues in this docket and to allow Custom Water to file supplemental information regarding the refunds.
24. On January 12, 2016, the Commission issued Order No. 6, finding good cause to extend the deadline for Custom Water to file supplemental information regarding the refunds and for Commission Staff to propose an updated procedural schedule.

25. On January 25, 2016, Custom Water filed supplemental information regarding the refunds.
26. On February 5, 2016, Commission Staff proposed an updated procedural schedule and recommended that Custom Water refund the excess amounts it collected between March 20 and September 22, 2015, plus interest, within 180 days of the date of a final order, and that Custom Water make a compliance filing within 210 days of the date of a final order that attests to the completion of the refunds.
27. On February 22, 2016, the Commission issued Order No. 8, admitting evidence into the record of this proceeding.

II. Conclusions of Law

1. Custom Water is a public utility as defined in Tex. Water Code Ann. § 13.002(23) (West 2008 and Supp. 2015) (TWC).
2. The Commission has jurisdiction over this application pursuant to TWC § 13.187 and 16 Tex. Admin. Code §§ 24.21 and 24.22 (TAC).
3. This docket was processed in accordance with the requirements of the TWC, the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2015), and Commission rules.
4. The rates and tariff approved by the Texas Commission on Environmental Quality on February 18, 2012, application number 37045-R, remain the approved rates and tariff for Custom Water.
5. The 20-day notice requirement in 16 TAC § 22.35(b)(2) has been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. Custom Water's application is dismissed.
2. Custom Water shall make refunds as described in this Order.
3. Custom Water's existing tariff approved by the Texas Commission on Environmental Quality are included with this Order as Attachment 1 and remains in effect and authorizes

a base rate of \$36.00 for a residential 5/8" or 3/4" meter size as the monthly base rate including 1,000 gallons, and \$5.00 per 1,000 gallons used over the first 1,000 gallons.

4. Within 180 days of the date of this Order, Custom Water shall refund all sums collected in excess of the final rate, plus interest, paid by customers from March 20 to September 22, 2015. All over or under billings shall accrue interest monthly at the Commission-approved interest rate. The 2015 Commission-approved interest rate for overbilling is 0.12%.
5. Within 210 days of the date this Order is signed, Custom Water shall make a compliance filing in this docket attesting to the completion of the refunds.
6. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

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

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

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