



Control Number: 45231



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OPEN MEETING COVER SHEET

MEETING DATE: February 11, 2016

DATE DELIVERED: February 4, 2016

AGENDA ITEM NO.: 34

CAPTION: Docket No. 45231; SOAH Docket No. 473-16-1836.WS - Ratepayers' Appeal of the Decision by Trophy Club Municipal Utility District No. 1 to Change Rates

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

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Public Utility Commission of Texas

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PUBLIC UTILITY COMMISSION
FILING CLERK

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

All Parties of Record

FROM: Hannah Turner, Commission Advising HT

RE: February 11, 2016 Open Meeting Agenda Item No. 34
Draft Preliminary Order, P.U.C. Docket No. 45231; SOAH Docket No. 473-16-1836.WS – *Ratepayers' Appeal of the Decision by Trophy Club Municipal Utility District No. 1 to Change Rates*

DATE: February 4, 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 February 11, 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 February 11, 2016 open meeting.

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SOAH DOCKET NO. 473-16-1836.WS
PUC DOCKET NO. 45231

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RATEPAYERS' APPEAL OF THE
DECISION BY TROPHY CLUB
MUNICIPAL UTILITY DISTRICT NO. 1
TO CHANGE RATES

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PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

DRAFT PRELIMINARY ORDER

On October 8, 2015, retail customers of Trophy Club Municipal Utility District No. 1 (MUD) filed a petition pursuant to Texas Water Code § 13.043(b) appealing the decision of the MUD's board of directors to increase water and sewer rates effective September 1, 2015. On November 10, 2015, ratepayers of the Trophy Club Public Improvement District (PID) filed a petition to appeal the decision of the MUD to increase rates in this docket. On November 16, 2015, the MUD filed a motion to sever the PID petition from this docket. The MUD argued that it does not establish retail water or wastewater rates for the residents of the PID, and that the residents of the PID therefore lack standing to appeal the MUD's retail rates under TWC § 13.043(b).¹

On December 21, 2015, the Commission's administrative law judge (ALJ) issued an order requesting that Commission Staff provide a recommendation regarding whether the PID ratepayers' appeal should be severed from this proceeding. On January 22, 2016, Commission Staff filed a response recommending that the PID ratepayers' petition not be severed from this docket, and that the PID ratepayers be granted intervenor status.² On January 28, 2016, the MUD filed a reply to Staff's response, again requesting that the PID petition be severed from this docket.³

¹ Trophy Club Municipal Utility District No. 1's Motion to Sever PID Petition at 2 (Nov. 16, 2015).

² Commission Staff's Response to Order No. 3 at 1 (Jan. 22, 2016).

³ Trophy Club Municipal Utility District No. 1's Reply to Staff's Response to Order No. 3 at 3 (Jan. 28, 2016).

The MUD serves 3,014 connections.⁴ According to the PID ratepayers, there are 1,352 PID ratepayers located within the municipal limits of the town of Trophy Club.⁵

Both the MUD ratepayers' petition, which includes 429 legible signatures, and the PID ratepayers' petition, which includes 143 signatures, assert that the new water rates represent increases as shown below:

WATER		
Meter Size	Old Base Rate	New Base Rate
5/8" or 3/4"	\$12.71	\$12.99
1"	\$16.71	\$20.39
1½ "	\$26.42	\$32.23
2"	\$38.06	\$46.43
3"	\$65.23	\$79.58
4"	\$104.04	\$126.93
6"	\$201.06	\$245.29
Old Volumetric Rates		New Volumetric Rates
0 to 6,000 gallons - \$2.70		0 to 6,000 gallons - \$3.03
6,001 to 17,000 - \$3.14		6,001 to 17,000 - \$3.53
17,001 to 25,000 - \$3.64		17,001 to 25,000 - \$4.09
25,001 to 50,000 - \$4.23		25,001 to 50,000 - \$4.75
50,001+ - \$4.91		50,001+ - \$5.52

According to the petitions, the MUD also increased sewer rates for both residential and commercial customers. The old residential sewer base rate was \$14.58 with a volumetric charge of \$2.50 per 1000 gallons with an 18,000 gallon cap. The old commercial sewer base rate was \$14.58 with a volumetric charge of \$2.50 per 1000 gallons with no cap. The new sewer base rate for both commercial and residential customers is \$15.35. The new volumetric rate is \$2.63 per 1000 gallons with an 18,000 gallon cap for residential customers and no cap for commercial customers.

⁴ Commission Staff's Response to Order No. 1 at 2 (Nov. 9, 2015).

⁵ Trophy Club PID Ratepayers' Response to Commission Staff's First RFI at 1 (Dec. 28, 2015).

On January 11, 2016, the Commission issued an order referring this docket to the State Office of Administrative Hearings (SOAH) and requesting that interested parties file a list of issues to be addressed in this proceeding. The MUD, the MUD ratepayers and Commission Staff timely filed proposed lists of issues.

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.⁶ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Do the ratepayers of the PID have standing to participate in this proceeding as parties? If not, should the PID ratepayers' petition be severed from this docket?
2. If the ratepayers of the PID do have standing to participate in this proceeding, did their petition appealing the rate change follow the requirements of Texas Water Code (TWC) § 13.043(b), (c), and (d); 16 Texas Administrative Code (TAC) § 24.41(b), (c), and (d); and 16 TAC § 24.42(a) and (b)?
 - a. Was the petition filed within 90 days after the effective date of the rate change? TWC § 13.043(c) and 16 TAC § 24.41(b).
 - b. What number of ratepayers had their rates changed? TWC § 13.043(c) and (d) and 16 TAC § 24.41(d).
 - c. Did the lesser of 10,000 or 10% of those ratepayers file valid protests to the MUD's rate change? TWC § 13.043(c) and 16 TAC § 24.41(b).
3. Did the petition appealing the rate change by the MUD follow the requirements of TWC § 13.043(b), (c), and (d); 16 TAC § 24.41(b), (c), and (d); and 16 TAC § 24.42(a) and (b)?

⁶ Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

- a. Was the petition filed within 90 days after the effective date of the rate change? TWC § 13.043(c) and 16 TAC § 24.41(b).
 - b. What number of ratepayers had their rates changed? TWC § 13.043(c) and (d) and 16 TAC § 24.41(d).
 - c. Did the lesser of 10,000 or 10% of those ratepayers file valid protests to the MUD's rate change? TWC § 13.043(c) and 16 TAC § 24.41(b).
4. Considering only the information available to the governing body, what are the just and reasonable rates for the MUD that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory? TWC § 13.043(e) and (j) and 16 TAC § 24.41(e) and (i).
 - a. What is the appropriate methodology to determine just and reasonable rates for the MUD?
 - b. What is the revenue requirement that would give the MUD 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 the MUD's revenue requirement?
5. Should the Commission establish or approve interim rates to be in effect until a final decision is made? TWC § 13.043(h) and 16 TAC § 24.41(e)(6).
6. What are the reasonable expenses incurred by the MUD in this proceeding? TWC § 13.043(e) and 16 TAC § 24.41(e)(2).
 - a. Should the Commission allow recovery of these reasonable expenses?
 - b. If so, what is the appropriate recovery mechanism?

7. What is the appropriate effective date of the rates fixed by the Commission in this proceeding? TWC § 13.043(e) and 16 TAC § 24.41(e)(3).
8. If the Commission establishes rates different than the rates set by the MUD, 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? TWC § 13.043(e) and 16 TAC § 24.41(e)(4).

This list of issues is not intended to be exhaustive. The parties and the SOAH ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the SOAH ALJ, or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the SOAH 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 _____ day of February 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER