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APPLICATION OF NITSCH & SON §  
UTILITY COMPANY, INC. FOR A §  
RATE/TARIFF CHANGE §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMMISSION STAFF'S LIST OF ISSUES**

Comes Now Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this List of Issues in response to the Order of Referral.

**I. Background**

On June 16, 2016, Nitsch & Son Utility Company, Inc. (Nitsch) applied for a Class B rate/tariff change for water service under Certificate of Convenience and Necessity (CCN) No. 11124 and sewer service under CCN No. 20446. Nitsch proposed an effective date of July 27, 2016. On November 30, 2016, the Commission referred this proceeding to the State Office of Administrative Hearings. The Order of Referral permitted Staff and any other interested party to file a list of issues to be addressed in the docket by December 20, 2016. This List of Issues is therefore timely filed.

**II. Proposed List of Issues**

Staff has identified the following issues to be addressed in this proceeding:

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?<sup>1</sup>
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 its financial integrity?<sup>2</sup>

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<sup>1</sup> See TWC §§ 13.182(a), 13.1871(o); 16 TAC § 24.28(d).

<sup>2</sup> TWC § 13.183(a)(1)-(2); 16 TAC § 24.32(a).

3. What is the reasonable and necessary cost of providing service?<sup>3</sup>
4. What adjustments, if any, should be made to the utility's proposed test-year data?<sup>4</sup>
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?<sup>5</sup>
7. What are the reasonable and necessary components of the utility's invested capital?<sup>6</sup>
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?<sup>7</sup>
  - a. What is the amount, if any, of accumulated depreciation on such property?
9. Does the utility have any water or 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 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?<sup>8</sup>
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?<sup>9</sup>
12. Has the utility included any customer contributions or donations in invested capital?<sup>10</sup>
13. What is the amount, if any, of accumulated depreciation on that 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

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<sup>3</sup> 16 TAC § 24.31.

<sup>4</sup> TWC § 13.185(d)(1); 16 TAC § 24.31(b), (c)(5).

<sup>5</sup> 16 TAC § 24.31(c)(1).

<sup>6</sup> *Id.* § 24.31(c)(2).

<sup>7</sup> TWC § 13.185(b); 16 TAC § 24.31(c)(2)(A)-(B).

<sup>8</sup> TWC § 13.185(i).

<sup>9</sup> *Id.* at 13.185(j); 16 TAC § 24.31(b)(1)(B).

<sup>10</sup> TWC § 13.185(j); 16 TAC § 24.31(c)(2)(B)(v).

is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed?<sup>11</sup>

15. What is the reasonable and necessary working capital allowance for the utility?<sup>12</sup>
16. Does the utility have any debt? If so, what is the cost of that debt?
17. What are the utility's reasonable and necessary operations and maintenance expenses?<sup>13</sup>
18. What are the utility's reasonable and necessary administrative and general expenses?
19. 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?<sup>14</sup>
20. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes?<sup>15</sup>
21. What is the reasonable and necessary amount for the utility's federal income tax expense?<sup>16</sup>
  - a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return?<sup>17</sup>
  - 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?<sup>18</sup>
  - c. If not, has the utility demonstrated that it was reasonable not to consolidate returns?<sup>19</sup>

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<sup>11</sup> TWC § 13.185(b); 16 TAC § 24.31(c)(4).

<sup>12</sup> 16 TAC § 24.31(c)(2)(C).

<sup>13</sup> 16 TAC § 24.31(b)(1)(A).

<sup>14</sup> TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).

<sup>15</sup> 16 TAC § 24.31(b)(1)(C).

<sup>16</sup> TWC § 13.185(f); 16 TAC § 24.31(b)(1)(D).

<sup>17</sup> TWC § 13.185(f).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

22. 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?
23. What is the appropriate allocation of the revenue requirement among the utility's rate classes?
24. What is the appropriate rate design for each class?<sup>20</sup>
25. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, and in the public interest?<sup>21</sup> Does that amount include any anticipated expenses to appeal this docket that are just, reasonable, necessary, and in the public interest? 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?
26. What are the utility's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
27. 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?<sup>22</sup>
28. If a refund or surcharge results from this proceeding, how and over what period of time should that be made?<sup>23</sup>
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?<sup>24</sup>
30. What is the appropriate effective date of the rates fixed by the Commission in this proceeding?<sup>25</sup>

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<sup>20</sup> 16 TAC § 24.32.

<sup>21</sup> 16 TAC § 24.33.

<sup>22</sup> TWC § 13.185(h)(3); 16 TAC § 24.31(b)(2)(I).

<sup>23</sup> TWC § 13.1871.

<sup>24</sup> 16 TAC § 24.29.

<sup>25</sup> TWC § 13.1871.

### III. Conclusion

Staff respectfully requests that the Commission issue a Preliminary Order including the above issues to be addressed.

Dated: December 20, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
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#### CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 20, 2016, in accordance with 16 TAC § 22.74.



Michael Crnich