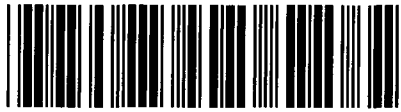


Control Number: 46674



Item Number: 303

Addendum StartPage: 0

OPEN MEETING COVER SHEET

MEETING DATE: March 9, 2017
DATE DELIVERED: March 2, 2017
AGENDA ITEM NO.: 7
CAPTION: Docket No. 46674; SOAH Docket No. 473-17-2457
Application of Suburban Utility Company
ACTION REQUESTED: Discussion and possible action with respect
to Draft Preliminary Order.

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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: March 9, 2017 Open Meeting Agenda Item No. 7
Draft Preliminary Order, Docket No. 46674, SOAH Docket No. 473-17-
2457.WS – *Application of Suburban Utility Company for Authority to Change
Rates*

DATE: March 2, 2017

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 March 9, 2017 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 March 9, 2017 open meeting.

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PUC DOCKET NO. 46674
SOAH DOCKET NO. 473-17-2457.WS

APPLICATION OF SUBURBAN § PUBLIC UTILITY COMMISSION
UTILITY COMPANY FOR §
AUTHORITY TO CHANGE RATES § OF TEXAS

DRAFT PRELIMINARY ORDER

On December 29, 2016, Suburban Utility Company, Inc. applied for a rate and tariff change for water service provided within the service area for certificate of convenience and necessity number 10835. Suburban currently provides retail water service to approximately 1,350 customers in Harris County, Texas through four public water systems.¹ Three of Suburban's public water systems—Cypress Bend, Beaumont Place, and Reservoir Acres—are included in this rate change application.² The fourth system, Castlewood Subdivision, which serves 346 customers, is not included.³ Suburban filed its application under Texas Water Code § 13.1871, which is applicable for a Class B utility.

In its application, Suburban requests approval of an annual revenue increase of \$121,834 for water service.⁴ In addition to the increased rates, Suburban proposes to charge each customer a capital-improvement surcharge of \$20.00 per month for 60 months.⁵ Suburban provided a billing comparison showing that under its proposed rate increase for Beaumont Place and Reservoir Acres, the monthly cost for 5,000 gallons of water for a customer with a 5/8" or 3/4" meter would increase from \$33.75 to \$62.30 (\$82.30 including the surcharge).⁶ For customers in the Cypress Bend system, the cost of 5,000 gallons would increase from \$46.05 to \$74.60 (\$94.60 including the surcharge).⁷ The base rates and gallonage charges for all three systems are the same. The

¹ Commission Staff's Comments, Interoffice Memorandum at 1 (Jan. 27, 2017).

² *Id.*

³ *Id.*

⁴ Application at 1 (Dec. 29, 2016).

⁵ Commission Staff's Comments, Interoffice Memorandum at 1.

⁶ Application, Final Attachment, Notice of Proposed Rate Change for Beaumont Place and Reservoir Acres Subdivisions.

⁷ Application, Final Attachment, Notice of Proposed Rate Change for Cypress Bend Subdivision.

higher cost for Cypress Bend ratepayers is due to a \$2.46 per 1000 gallon pass-through charge for North Harris County Regional Water Authority.⁸ Ratepayers from Beaumont Place and Reservoir Acres are not subject to this pass-through charge.⁹ For all three systems, Suburban is proposing to increase fees for transfers, late charges and returned checks.¹⁰

Suburban requested that the proposed rates become effective on February 3, 2017.¹¹ At Commission Staff's recommendation, the Commission administrative law judge suspended the proposed effective date for no more than 265 days from February 3, 2017.¹²

On February 1, 2017, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH). Suburban was directed and Commission Staff and other persons were allowed to file a list of issues to be addressed in the docket. Suburban, Commission Staff, the Office of Public Utility Counsel, and the ratepayers of Beaumont Place and Reservoir Acres subdivisions 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 the SOAH.¹³ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Why was the Castlewood subdivision not included in this application?
2. Has the Castlewood system previously been consolidated with one or more of the three public water systems included in this application?

⁸ *Id.*

⁹ Application, Final Attachment, Notice of Proposed Rate Change for Beaumont Place and Reservoir Acres Subdivisions.

¹⁰ *Id.*

¹¹ *Id.*

¹² Order No. 4 (Jan. 31, 2017).

¹³ Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

3. If the Castlewood system was previously consolidated, can Suburban unilaterally exclude Castlewood subdivision from this application for a rate increase under the Texas Water code?
4. Will excluding the Castlewood subdivision from this proceeding create unreasonably preferential, prejudicial, or discriminatory rates in violation of Texas Water Code (TWC) § 13.182(b)? If so, what is the remedy?
5. Will any of the capital improvements funded by the customer surcharge be made to the Castlewood system?
6. When will the Castlewood system facilities need to be substantially repaired or replaced?
7. What is the appropriate methodology to determine just and reasonable rates in this proceeding?
8. What are the just and reasonable rates for Suburban that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory? TWC § 13.182, 13.1871(o); 16 TAC § 24.28(d).
9. What revenue requirement will give Suburban 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 Suburban's financial integrity? TWC § 13.183(a)(1)-(2); 16 TAC § 24.32(a).
10. Are Suburban's proposed revisions to its tariffs and rate schedules appropriate?
11. What is the reasonable and necessary cost of providing service? 16 TAC § 24.31.
12. What adjustments, if any, should be made to Suburban's proposed test-year data? TWC § 13.185(d)(1); 16 TAC § 24.31(b), (c)(5).
13. What is the appropriate debt-to-equity capital structure of Suburban?
14. What is the appropriate weighted cost of capital (also called the overall rate of return), including return on equity and cost of debt for Suburban? 16 TAC § 24.31(c)(1).

15. What are the reasonable and necessary components of Suburban's invested capital?
16 TAC § 24.31(c)(2).
16. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?
17. 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); 16 TAC § 24.31(c)(2)(A)-(B). What is the amount, if any, of accumulated depreciation on such property?
18. Is Suburban seeking inclusion of construction work in progress? If so, what is the amount sought and for what facilities? Additionally, has Suburban 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); 16 TAC § 24.31(c)(4).
19. Does Suburban have any debt? If so, what is the cost of that debt?
20. What is the reasonable and necessary working capital allowance for Suburban?
16 TAC § 24.31(c)(2)(C).
21. Does Suburban 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 Suburban 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? TWC § 13.185(i).
22. Has Suburban acquired any water property from an affiliate? If so, do the payments for that property meet the requirements of TWC § 13.185(e)?
23. Has Suburban financed any of its plant with developer contributions? TWC § 13.185(j), 16 TAC § 24.31(b)(1)(B). What is the amount, if any, of accumulated depreciation on that property?

24. Has Suburban included any customer contributions or donations in invested capital?
TWC § 13.185(j), 16 TAC § 24.31(c)(2)(B)(v).
25. What are Suburban's reasonable and necessary operations and maintenance expenses?
16 TAC § 24.31(b)(1)(A).
26. What are Suburban's reasonable and necessary administrative and general expenses?
27. What is the reasonable and necessary amount for Suburban's advertising expense, contributions, and donations? 16 TAC § 24.31(b)(1)(F).
28. Are any expenses, including but not limited to, executive salaries, advertising expenses, rate-case 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?
TWC § 13.185(h)(3); 16 TAC § 24.31(b)(2)(I).
29. If Suburban has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to charge that amount? What is the amount of any shortage or surplus for the reserve account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
30. What are Suburban's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
31. Has Suburban made any payments to affiliates?
 - a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary? TWC § 13.185(e).
 - b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations?
TWC § 13.185(e).

32. 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? TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).
33. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are such tax savings apportioned equitably between customers and Suburban, and are the interests of present and future customers equitably balanced?
34. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes? 16 TAC § 24.31(b)(1)(C).
35. What is the reasonable and necessary amount for Suburban's federal income tax expense? 16 TAC § 24.31(b)(1)(D); TWC § 13.185(f).
 - a. Is Suburban 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 Suburban had realized its fair share of the savings resulting from the consolidated return? TWC § 13.185(f).
 - c. If not, has Suburban demonstrated that it was reasonable not to consolidate returns? TWC § 13.185(f).
36. What is the reasonable and necessary amount of Suburban's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from Suburban's rate base?
37. What is the reasonable and necessary amount for municipal franchise fees, if any, to be included in rates?
38. What regulatory assets are appropriately included in Suburban's rate base? If such assets are included in rate base, what is the appropriate treatment of such assets?

39. Is Suburban 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?
40. What is the appropriate allocation of costs and revenues among Suburban's rate classes?
41. What is the appropriate rate design for each rate class? 16 TAC § 24.32.
42. Should Suburban use the current number of connections as of the date of the application as opposed to using the number of test-year-end connections in designing rates?
43. What are Suburban's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest? 16 TAC § 24.33. Does that amount include any anticipated expenses to appeal this docket that are just, reasonable, necessary and in the public interest? Should Suburban be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by Suburban?
44. If a refund or surcharge results from this proceeding, how and over what period of time should that be made? TWC § 13.1871.
45. 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.
46. What is the appropriate effective date of the rates fixed by the Commission in this proceeding? TWC § 13.1871.
47. What is being pledged as collateral for the \$955,000 loan sought by Suburban? Are Suburban's receivables being pledged as collateral?
48. Is Suburban's proposed capital improvement surcharge of \$20 per connection for 60 months reasonable and necessary to provide facilities capable of providing continuous and adequate service?
49. What is the level of customer turnover in the Suburban service area? If the level of customer turnover is high, should any capital improvement surcharge be collected over a period of time

longer than 60 months? What time period would ensure an equitable distribution of system-improvement costs across current and future customers?

50. Does the surcharge result in rates that are just and reasonable?
51. Has Suburban diligently pursued alternative sources of capital before seeking the proposed surcharge?
52. Has Suburban diligently and prudently pursued a grant or loan from the Texas Water Development Board?

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 Section II of this Order, by the ALJ, or by the Commission in future orders issued in this docket. The Commission may 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. Issues Not to be Addressed

The Commission takes the position that the following issues need not be addressed in this proceeding for the reasons stated.

1. **Whether the Texas Water Code allows a utility to collect, and the Commission to authorize, rates for a system the owner or owners acquired without following the requirements of Texas Water Code § 13.301.**

Whether the current owners of Suburban complied with TWC § 13.301 at the time they acquired the utility is beyond the scope of this proceeding.

III. Effect of Preliminary Order

The Commission's discussion and conclusions in this order regarding issues that are not to be addressed should be considered dispositive of those matters. Questions, if any, regarding issues that are not to be addressed may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, 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 the non-dispositive rulings of 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 March 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

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