



Control Number: 47161



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DeAnn T. Walker
Chairman
Arthur C. D'Andrea
Commissioner
Shelly Botkin
Commissioner
John Paul Urban
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter *LB*
Chief Administrative Law Judge

RE: **Open Meeting of December 17, 2020**
PUC Docket No. 47161 – *Application of Kerr County Water Systems, LLC for Authority to Change Rates*

DATE: October 23, 2020

Because of the COVID-19 state of disaster, the Commission has moved to a work at home environment and is working to maintain operations as normally as possible. However, all known challenges have not yet been overcome and the dates provided in this notice are subject to change.

Enclosed is a copy of the Revised Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, December 17, 2020, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Revised Proposed Order on or before Tuesday, December 8, 2020.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

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

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**PUC DOCKET NO. 47161
SOAH DOCKET NO. 473-18-1228.WS**

APPLICATION OF KERR COUNTY WATER SYSTEMS, LLC FOR AUTHORITY TO CHANGE RATES	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS
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REVISED PROPOSED ORDER

This Order addresses the application of Kerr County Water Systems, LLC for authority to increase the rates charged to its ratepayers for water service in Kerr County. Kerr County Water and Commission Staff filed a second amended agreement that resolves certain issues between the parties to this proceeding. The Commission approves the agreed water rates and associated tariff, as modified by the second amended agreement, to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Kerr County Water is a Texas limited liability company registered with the Texas secretary of state under file number 800611297.
2. Kerr County Water operates, maintains, and controls facilities for providing retail water service to 88 connections under certificate of convenience and necessity number 13166 in Kerr County.
3. Kerr County Water owns and operates the Bumblebee Hills System, a public water system registered with the Texas Commission on Environmental Quality under identification number 1330092.

Application

4. On July 3, 2017, Kerr County Water filed the application at issue in this proceeding, in which it sought authority to increase water rates for the metered connections it serves in Kerr County.

5. Using a test year ending December 31, 2016, Kerr County Water requested an annual revenue requirement increase of \$38,521.05, for an overall revenue requirement of \$91,286.
6. In the application, Kerr County Water calculated operations and maintenance expenses of \$57,181, depreciation expenses of \$5,896, federal income tax expenses of \$24,690, and a requested return of \$3,518.
7. In the application, Kerr County Water calculated an original cost for plant in service of \$38,815, accumulated depreciation of \$15,585.46, and net plant in service of \$23,229.54.
8. In the application, Kerr County Water requested a rate of return of 11.58%.
9. Kerr County Water's current rates, and the rates proposed in the application, are as follows:

CURRENT RATES		PROPOSED RATES	
Monthly base rate including 3,000 gallons		Monthly base rate including 0 gallons	
Meter Size: RESIDENTIAL		Meter Size: RESIDENTIAL	
5/8" and 3/4"	\$ 21.75	5/8" and 3/4"	\$ 33.53
1"	\$ 45.38	1"	\$ 83.82
1-1/2"	\$ 84.75	1-1/2"	\$ 167.63
2"	\$ 132.00	2"	\$ 268.22
3"	\$ 242.25	3"	\$ 502.90
Gallonge Charge (per 1,000 gal)	\$3.00	Gallonge Charge (per 1,000 gal)	\$3.02

10. In Order No. 2 filed on August 7, 2017, the administrative law judge (ALJ) deemed the application administratively complete.

Effective Date of Rates

11. The effective date of Kerr County Water's proposed rates stated in its notice was August 1, 2017.
12. In Order No. 3 filed on September 25, 2017, the ALJ suspended the effective date for 265 days.
13. On April 6, 2018, Commission Staff filed an agreement by Kerr County Water to waive the 265-day limit to the suspension period in Texas Water Code (TWC) § 13.1871.
14. In State Office of Administrative Hearings (SOAH) Order No. 3 filed on April 13, 2018, the SOAH ALJ found that Kerr County Water agreed to waive the 265-day limit to the

suspension period in TWC § 13.1871 and, under 16 Texas Administrative Code (TAC) § 24.33(f), suspended the effective date of the proposed rates until the Commission enters a final order in this docket.

Notice

15. Kerr County Water mailed notice of the proposed change in rates to each customer or other affected party on July 1, 2017.
16. On July 3, 2017, Kerr County filed an affidavit attesting that notice was mailed to each customer or other affected party on or about July 1, 2017.

Protests

17. Seven ratepayers filed timely protests, which constitutes 8% of the ratepayers of Kerr County Water.

Referral to SOAH

18. On December 4, 2017, the Commission referred this case to SOAH.
19. On December 5, 2017, Commission Staff requested that the SOAH ALJ abate this proceeding pending settlement discussions.
20. In SOAH Order No. 1 filed on December 7, 2017, the SOAH ALJ granted the motion to abate.
21. On January 12, 2018, the Commission filed a preliminary order which identified the issues to be addressed in this docket.
22. In SOAH Order No. 2 signed on January 31, 2018 but filed on April 12, 2018, the SOAH ALJ continued the abatement of the case.
23. On December 14, 2018, Kerr County Water and Commission Staff filed a unanimous agreement addressing the issues between the parties to this proceeding.
24. On January 16, 2019, Kerr County Water and Commission Staff filed a unanimous agreement replacing the agreement filed on December 14, 2018.
25. In SOAH Order No. 4 filed on January 17, 2019, the SOAH ALJ remanded the proceeding to the Commission and dismissed it from the SOAH docket.

Following Remand

26. At its July 18, 2019 open meeting, the Commission considered Kerr County Water's application and declined to take final action on it at that time.
27. As a result of the Commission's discussion of this matter, the Commission filed an Order Requesting Information on July 19, 2019, directing the parties to file information (a) explaining the basis for Kerr County Water's proposed increase in rate base; and (b) clarifying discrepancies between the proposed tariff and the January 16, 2019 agreement and Commission Staff memoranda supporting those documents.
28. On March 5, 2020, Commission Staff filed a report responding to the Order Requesting Information.
29. At its March 26, 2020 open meeting, the Commission again considered Kerr County Water's application and declined to take final action on it. Instead, the Commission remanded the proceeding to Docket Management for further processing in accordance with the Commissioner memorandum filed on March 24, 2020.
30. In Order No. 4 filed on April 27, 2020, the ALJ directed the parties to jointly file the required answers and clarifications to the March 24, 2020 Commissioner memorandum and move for the admission of any further evidence.
31. On May 18, 2020, the parties jointly filed a response to Order No. 4 and moved for the admission of additional evidence.
32. On June 24, 2020, the parties filed a joint proposed order.
33. In Order No. 6 filed on July 23, 2020, the ALJ declined to admit the new evidence offered by the parties and directed the parties to, by August 13, 2020, file and move for admission of a complete set of exhibits to support issuance of a final order.
34. On August 13, 2020, the parties filed an amended agreement, which replaced the agreement filed on January 16, 2019, moved for the admission of additional evidence, and filed a joint proposed order.
35. In Order No. 7 filed on September 9, 2020, the ALJ declined to admit the new evidence offered by the parties and directed the parties to, by September 30, 2020, move for admission of a complete set of exhibits to support issuance of a final order.

36. On September 30, 2020, the parties filed a second amended agreement, which replaced amended agreement filed on August 13, 2020, moved for the admission of additional evidence, and filed a joint proposed order.
37. In Order No. 8 filed on October 6, 2020, the ALJ identified a problem in the proposed tariff offered by the parties and directed the parties to, by October 20, 2020, address the problem in the proposed tariff and, if necessary, file a correct tariff.
38. On October 20, 2020, the parties filed a corrected proposed tariff.

Interim Rates

39. On April 6, 2018, Commission Staff filed a joint request for interim rates.
40. In SOAH Order No. 3 filed on April 13, 2018, the SOAH ALJ approved the following interim rates:

Interim Rates	
Use for Single Tiered Rates (includes 0 gallons)	
5/8" x 3/4"	\$23.82
3/4"	\$35.73
1"	\$59.55
1.5"	\$119.10
2"	\$190.56
3"	\$357.30
4"	\$595.50
Gallage rate (per 1,000 gallons)	\$3.02

Evidence

41. On December 14, 2018, the parties filed a joint motion to admit evidence and remand the proceeding to the Commission.
42. On January 16, 2019, the signatories filed a supplemental joint motion to correct inconsistencies in the December 14, 2018 joint motion.
43. In SOAH Order No. 4 filed on January 17, 2019, the SOAH ALJ admitted the following into evidence: (a) the application, including proof of notice, filed on July 3, 2017; (a) the

agreement and all attachments filed on January 16, 2019; and (c) the memoranda of Leila Guerrero, Emily Sears, and Jolie Mathis in support of the agreement filed on January 16, 2019.

44. On May 18, 2020, the parties filed a supplemental joint motion to admit evidence.
45. In Order No. 5 filed on June 3, 2020, the ALJ admitted the following into evidence: (a) Commission Staff's report containing requested information and all attachments thereto filed on March 5, 2020, except: (i) the memorandum of Leila Guerrero (pages 3 and 4), (ii) attachment LG-1 (pages 9 and 10), and (iii) attachment LG-1 (page 26) filed on March 5, 2020; (b) the memorandum of Debi Loockerman attached to the parties' joint response to Order No. 4 and supplemental motion to admit evidence filed on May 18, 2020; and (c) the revised attachment LG-1 attached to the parties' joint response to Order No. 4 and supplemental motion to admit evidence filed on May 18, 2020.
46. In Order No. 6 filed on July 23, 2020, the ALJ expressed the belief that a number of exhibits previously admitted in evidence should be struck, and required the parties to move for admission of a new and error-free set of exhibits to support a final order.
47. On August 13, 2020, the parties filed an amended agreement with attachments and a new joint motion to admit evidence.
48. In Order No. 7 filed on September 9, 2020, the ALJ denied the motion to admit new evidence and directed the parties to again attempt to move for admission of a clearly identified and relevant set of exhibits to support issuance of a final order in this matter.
49. On September 30, 2020, the parties filed a second amended agreement, including attachments, and a motion to admit the evidence.
50. In Order No. 8 filed on October 6, 2020, the ALJ identified a problem in the proposed tariff offered by the parties and directed the parties to, by October 20, 2020, address the problem in the proposed tariff and, if necessary, file a correct tariff.
51. On October 20, 2020, the parties filed a corrected proposed tariff.
52. In Order No. 9 filed on October 21, 2020, the ALJ:

(a) admitted the following evidence into the record of this proceeding: (i) the second amended agreement filed on September 30, 2020; (ii) attachment B to the second amended agreement, which contains the revenue proof, Commission Staff schedules, and memoranda supporting the original cost, accumulated depreciation, and net plant in service agreed to by the parties, filed on September 30, 2020; and (iii) attachment A to the clarification in response to Order No. 8 and revised tariff, which is the revised proposed water tariff for Kerr County Water, filed on October 20, 2020; and

(b) struck from the evidentiary record of this proceeding the following documents that had previously been admitted into evidence: (i) the unanimous agreement, including attachments, filed on January 16, 2019; (ii) the memoranda of Leila Guerrero, Emily Sears, and Jolie Mathis of the Commission's Water Utilities Division in support of the unanimous agreement filed on January 16, 2019; (iii) Commission Staff's report containing requested information and all attachments thereto filed on March 5, 2020 except the memorandum of Leila Guerrero (pages 3-4), Attachment LG-1 (pages 9-10), and Attachment LG-1 (page 26) filed on March 5, 2020; (iv) the memorandum of Debi Loockerman attached to the parties' joint response to Order No. 4 and supplemental motion to admit evidence filed on May 18, 2020; and (v) the revised attachment LG-1 attached to the parties' joint response to Order No. 4 and supplemental motion to admit evidence filed on May 18, 2020.

The Second Amended Agreement

53. Under the second amended agreement, the parties agreed to adjustments to the rate filing package that produced a revenue requirement of \$72,942, which consists of \$73,882 less other revenues of \$940.
54. Under the second amended agreement, the signatories agreed to operations and maintenance expenses of \$59,420, depreciation expenses of \$7,111, federal income tax expenses of \$1,168, and a return of \$6,183.
55. Under the second amended agreement, the signatories agreed to the amount of plant in service of \$281,892, accumulated depreciation of \$200,735, and net plant in service of \$81,157.
56. Kerr County Water's overall rate of return under the second amended agreement is 6.98%.

57. Under the second amended agreement, Kerr County Water's annual revenue requirement of \$72,942 results in the following monthly rates:

AGREED RATES	
Meter Size	Minimum Charge (includes 0 gallons)
5/8" x 3/4"	\$23.82
3/4"	\$35.73
1"	\$59.55
1.5"	\$119.10
2"	\$190.56
3"	\$357.30
4"	\$595.50
Volumetric Rate: \$3.02 per 1,000 gallons	

58. Under the second amended agreement, Kerr County Water will implement the retail water utility rates contained in Section 1.0 of the revised tariff included as attachment A to the clarification in response to Order No. 8 and revised tariff filed by the parties on October 20, 2020.
59. Attachment A to the clarification in response to Order No 8 and revised tariff filed by the parties on October 20, 2020, is a tariff containing the water utility rates, terms, treatments, and conditions for each Kerr County Water ratepayer for the public water system and service area specified in the tariff.
60. The Commission Staff schedules and revenue proof supporting the agreed revenue requirement and rates are included as attachment B to the second amended agreement filed on September 30, 2020.
61. Kerr County Water agrees not to seek to recover and will not collect any rate-case expenses that it incurred or will incur regarding this application.
62. The revenue requirement set forth in the second amended agreement permits Kerr County Water a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses.
63. The revenue requirement set forth in the second amended agreement is adequate to preserve the financial integrity of Kerr County Water.

64. The agreed rates identified above are identical to the interim rates approved in SOAH Order No. 3, just and reasonable, and not unreasonably discriminatory, preferential, or prejudicial.

Informal Disposition

65. More than 15 days have passed since completion of the notice provided in this proceeding.
66. No hearing is necessary in this proceeding.
67. Kerr County Water and Commission Staff are the only parties to this proceeding.
68. Commission Staff recommended approval of the application as amended by the second amended agreement.
69. This decision is not adverse to any party to this proceeding.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority to consider Kerr County Water's application under TWC §§ 13.041, 13.181, 13.182, 13.184, and 13.1871.
2. Kerr County Water is a public utility as defined in TWC § 13.002(23).
3. At the time Kerr County Water filed its application, it was a Class C utility as defined in former TWC § 13.002(4-c) and 16 TAC § 24.3(7).
4. Kerr County Water gave proper notice of the application in accordance with TWC § 13.1871 and 16 TAC § 24.27.
5. Less than 10% of the ratepayers of Kerr County Water filed protests with the Commission before the 91st day after the proposed effective date of the rate change, so no hearing is required under TWC § 13.1871(i).
6. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,¹ and Commission rules.

¹ Tex. Gov't Code §§ 2001.001–.903.

7. Kerr County Water met its burden of proof under TWC § 13.184(c) and 16 TAC § 24.12 to show that the proposed rate change is just and reasonable.
8. The rates set forth in the agreement are just and reasonable in accordance with TWC § 13.182(a).
9. The rates set forth in the agreement are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of customers in accordance with TWC § 13.182(b).
10. In compliance with TWC § 13.183, Kerr County Water's overall revenues permit Kerr County Water a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses and preserve the financial integrity of the utility.
11. An overall return of 6.98% will not yield Kerr County Water more than a fair return on the invested capital used and useful in rendering service to the public in accordance with TWC § 13.184.
12. The rates approved in this case are based on original cost, less depreciation, of property used and useful to Kerr County Water's provision of service in accordance with TWC § 13.185.
13. The rates approved in this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
14. The application does not constitute a major rate proceeding as defined by 16 TAC § 22.2(27).
15. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with the findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves Kerr County Water's change in water rates, as modified by the second amended agreement, to the extent provided in this Order.

2. The Commission approves the tariff provided as attachment A to the clarification in response to Order No. 8 and revised tariff filed by the parties on October 20, 2020.
3. The rates and terms included in the tariff provided as Attachment A to the clarification in response to Order No 8 and revised tariff filed by the parties on October 20, 2020 are approved, effective the first day of the month following the date this Order is signed.
4. Within ten days of the date of this Order, Commission Staff must provide a clean copy of the tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff book.
5. Kerr County Water must not seek to recover and must not collect any rate-case expenses that it incurred or will incur related to this docket.
6. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.
7. The Commission denies all other motions and any other requests for general or specific relief not expressly granted.

Signed at Austin, Texas the _____ day of December 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER