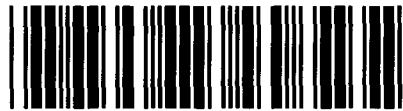


Control Number: 47309



Item Number: 7

Addendum StartPage: 0

2019 JAN 10 AM 9:10

OPEN MEETING COVER SHEET

MEETING DATE: January 17, 2019

DATE DELIVERED: January 10, 2019

AGENDA ITEM NO.: 4

CAPTION: Project No. 47309: RULEMAKING TO AMEND 16 TAC § 24.49(d), (f), AND (g) REGARDING ESTABLISHING A PRICE INDEX UNDER TEXAS WATER CODE § 13.1872(b) FOR CLASS C WATER AND SEWER UTILITIES

ACTION REQUESTED: Discussion and possible action

Distribution List:

Commissioners' Office (6)
Urban, John Paul
Phillips, Michael
Central Records
Rogas, Keith (2)
Pemberton, Margaret (2)
Journeay, Stephen
Burch, Chris
Tietjen, Darryl (2)
Long, Mick (2)
Corona, Connie (2)
Benter, Tammy (4)
OPD Support Team
Gonzales, Adriana

Public Utility Commission of Texas

TO: Chairman DeAnn Walker
Commissioner Arthur D'Andrea
Commissioner Shelly Botkin

FROM: Andrew Novak, Water Utility Regulation Division

DATE: January 10, 2019

RE: **Project No. 47309** – *Rulemaking to Amend 16 TAC § 24.49(d), (f), and (g) Regarding Establishing a Price Index under Texas Water Code § 13.187(b) for Class C Water and Sewer Utilities*

Attached for your review is Staff's draft proposal for adoption for the Commission's consideration at the January 17, 2019, open meeting. The proposal will amend 16 Texas Administrative Code § 24.49(d), (f), and (g).

Please contact Andrew Novak at (512) 936-7016, Debi Loockerman at (512) 936-7384, or Tammy Benter at (512) 936-7165 with any questions.

1

2
3
4

5
6
7
8
9
10
11
12
13
14
15

16
17
18
19

PROJECT NO. 47309

RULEMAKING TO AMEND 16 TAC §	§	PUBLIC UTILITY COMMISSION
24.49(d),(f), AND (g) REGARDING	§	
ESTABLISHING A PRICE INDEX	§	OF TEXAS
UNDER WATER TWC 13.1872(b) FOR	§	
CLASS C WATER AND SEWER	§	
UTILITIES	§	
	§	
	§	
	§	

(STAFF RECOMMENDATION)
ORDER ADOPTING AMENDMENT TO §24.49 FOR CONSIDERATION AT THE
JANUARY 17, 2019 OPEN MEETING

The Public Utility Commission of Texas (commission) adopts amendments to §24.49, relating to application for a rate adjustment by a Class C utility under Texas Water Code §13.1872 with changes to the proposed text as published in the November 23, 2018 issue of the *Texas Register* (43 TexReg 7637). The adopted amendments to §24.49(d) address formatting and stylistic changes to be consistent with the rest of the rules in the subchapter. The adopted amendments to §24.49(f)(2) revise the timelines for when an application may be submitted to the commission for a Class C utility rate adjustment. The adopted amendments to §24.49(g) change the price index to the *Consumer Price Index for All Urban Consumers*, remove the numbering for subsection (g)(1) to combine the language with subsection §24.49(g), and repeal §24.49(g)(2) and (3) because they related to the first year of implementation and are no longer applicable. The amendments are adopted under Project Number 47309.

A public hearing was not requested; therefore, no hearing was held on the proposed changes. Furthermore, no comments were filed regarding the proposed changes.

1 These amendments are adopted under §14.002 of the Public Utility Regulatory Act, Tex. Util.
2 Code Ann. (Supp.) and Texas Water Code §13.041(b), which provide the commission with the
3 authority to make and enforce rules reasonably required in the exercise of its powers and
4 jurisdiction, and Texas Water Code §13.1872, which allows for rate adjustments for Class C
5 utilities.

6

7 Cross reference to statutes: Public Utility Regulatory Act §14.002 and Texas Water Code
8 §13.041(b) and §13.1872.

9

1 **§24.49. Application for a Rate Adjustment by a Class C Utility Under Texas Water Code**

2 **§13.1872.**

3 (a) **Purpose.** This section establishes procedures for a Class C utility to apply for an
4 adjustment to its water or wastewater rates as allowed by TWC §13.1872.

5 (b) **Definitions.** The following words and terms when used in this section have the following
6 meaning unless the context clearly indicates otherwise:

7 (1) **Application** – an application for a rate adjustment filed under this section and
8 TWC §13.1872.

9 (2) **Price index** – a price index established annually by the commission for the
10 purposes of this section.

11 (c) **Requirements for filing of the application.** Subject to the limitations set out in
12 subsection (f) of this section, a Class C utility may file an application with the
13 commission.

14 (1) The utility may request to increase its tariffed monthly fixed customer or meter
15 charges and monthly gallonage charges by the lesser of:

16 (A) five percent; or

17 (B) the percentage increase in the price index between the year preceding the
18 year in which the utility requests the adjustment and the year in which the
19 utility requests the adjustment.

20 (2) The application must be on the commission's form and must include:

21 (A) a proposal for the provision of notice that is consistent with subsection (e)
22 of this section; and

(B) a copy of the relevant pages of the utility's currently approved tariff showing its current monthly fixed customer or meter charges and monthly gallonage charges.

(d) **Processing of the application.** The following criteria apply to the processing of an application.

(1) **Determining whether the application is administratively complete.**

(A) If commission staff requires additional information in order to process the application, commission staff must file a notification to the utility within 10 days of the filing of the application requesting any necessary information.

(B) An application may not be deemed administratively complete as required by §24.8 of this title (relating to Administrative Completeness) until after the utility has responded to commission staff's request under subparagraph (A) of this paragraph.

(2) Within 30 days of the filing of the application, commission staff must file a recommendation stating whether the application should be deemed administratively complete as required by §24.8 of this title. If commission staff recommends that the application be deemed administratively complete, commission staff must also file a recommendation on final disposition, including, if necessary, a proposed tariff sheet reflecting the requested rate change.

(e) **Notice of Approved Rates.** After the utility receives a written order by the commission approving or modifying the utility's application, including the proposed notice of approved rates, and at least 30 days before the effective date of the proposed change established in the commission's order, the utility must send by mail, or by e-mail if the

ratepayer has agreed to receive communications electronically, the approved or modified notice to each ratepayer describing the proposed rate adjustment. The notice must include:

- (1) a statement that the utility requested a rate adjustment based on the commission's approved price index and must state the percentage change in the price index during the previous year; and
- (2) the existing rate;
- (3) the approved rate; and
- (4) a statement that the rate adjustment was requested under TWC §13.1872 and that a hearing will not be held for the request.

(f) **Time between filings.** The following criteria apply to the timing of the filing of an application.

- (1) A Class C utility may adjust its rates under this section not more than once each calendar year and not more than four times between rate proceedings described by TWC §13.1871.

- (2) The filing of applications as allowed by this section is limited to a specific quarter of the calendar year, and is based on the last two digits of a utility's certificate of convenience and necessity (CCN) number as outlined below, unless good cause is shown for filing in a different quarter. For a utility holding multiple CCNs, the utility may file an application in any quarter for which any of its CCN numbers is eligible.

(A) Quarter 1 (January-March): CCNs ending in 00 through 27;

(B) Quarter 2 (April-June): CCNs ending in 28 through 54;

(C) Quarter 3 (July-September): CCNs ending in 55 through 81; and

(D) Quarter 4 (October-December): CCNs ending in 82 through 99.

(g) **Establishing the price index.** The commission must, on or before December 1 of each year, establish a price index as required by TWC §13.1872(b) based on the following criteria. The price index will be established in an informal project to be initiated by commission staff. The price index must be equal to the water and sewerage maintenance expenditure category of the *Consumer Price Index for All Urban Consumers* for the prior 12 months ending on September 30, unless the commission finds that good cause exists to establish a different price index for that year.

1 This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid
2 exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission
3 of Texas to amend §24.49 relating to application for a rate adjustment by a Class C utility with
4 no changes to the text as proposed.

5
6 Signed at Austin, Texas the _____ day of _____ 2019.

7
8 PUBLIC UTILITY COMMISSION OF TEXAS
9

10
11
12 _____
13 DEANN T. WALKER, CHAIRMAN
14

15
16
17 _____
18 ARTHUR C. D'ANDREA, COMMISSIONER
19

20
21
22 _____
23 SHELLY BOTKIN, COMMISSIONER