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APPLICATION OF BOLIVAR §  
UTILITY SERVICES, LLC FOR §  
AUTHORITY TO CHANGE SEWER §  
RATES §

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS AND SUSPENSION OF RATES AND REQUEST FOR REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Supplemental Recommendation on Administrative Completeness and Suspension of Rates and Request for Referral to the State Office of Administrative Hearings in response to Order No. 2. In support thereof, Staff shows the following:

**I. BACKGROUND**

On October 9, 2017, Bolivar Utility Services, LLC (Bolivar) filed an application with the Public Utility Commission of Texas (Commission) for a Class B rate/tariff change under sewer Certificate of Convenience and Necessity (CCN) No. 21026 in Galveston County, Texas pursuant to Tex. Water Code Ann. § 13.1871 (TWC) and 16 Tex. Admin. Code § 24.22 (TAC). The proposed increase had an effective date of December 1, 2017.

On November 9, 2017, Order No. 2 was issued, deeming Bolivar's application administratively incomplete based on deficiencies identified by Staff. Additionally, Order No. 2 effectively suspended the proposed effective date of the rate increase. Order No. 2 set December 14, 2017 as Bolivar's deadline to cure the deficiencies and January 11, 2018 as the deadline for Staff to file a supplemental recommendation on administrative completeness. Therefore, this pleading is timely filed.

On November 16, 2017, Bolivar filed additional information with the Commission.

**II. RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the additional information filed by Bolivar and, as detailed in the attached memorandum from Emily Sears and Sean Scuff of the Commission's Water Utility

Regulation Division, recommends that the application and notice be found administratively complete.

### III. RECOMMENDATION ON SUSPENSION OF RATES

Under TWC § 13.1871(e) and 16 TAC § 24.26(b)(1), if the Commission deems an application filed pursuant to TWC § 13.1871 as administratively incomplete, it may suspend the effective date of the rate change until a properly completed request to change rates is accepted by the Commission. On November 9, 2017, Order No. 2 suspended the proposed effective date of the rate increase pursuant to TWC § 13.1871(e).

In addition, pursuant to TWC § 13.1871(g) and 16 TAC § 24.26(a)(2), the Commission is permitted to suspend the effective date of a rate change, after written notice to the utility, for up to two hundred sixty-five (265) days from the date the proposed rates would otherwise be effective for an application filed pursuant to TWC § 13.1871. Under 16 TAC § 24.21(h), the effective date of a proposed rate increase for an application filed under TWC § 13.1871 is the proposed date on the notice to customers and the Commission, unless suspended by the Commission.

A significant number of protests have already been filed in this docket, and Bolivar's most recent rate change application resulted in a settlement agreement that was approved September 28, 2016.<sup>1</sup> For these reasons, along with the fact that 16 TAC § 24.29(b) provides Bolivar an opportunity to request interim rates if needed, Staff recommends that the effective date of Bolivar's rate increase remain suspended pursuant to 16 TAC § 24.26(a)(2). Bolivar's notice lists an effective date of December 1, 2017 for the proposed rate increase. Order No. 2 suspended the effective date of the rate change due to the application being found administratively incomplete. Therefore, Staff recommends that Bolivar's proposed rates remained suspended until the earlier of the date established under 16 TAC § 24.26(a)(2) or the issuance of an order setting interim or final rates.

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<sup>1</sup> See *Application of Bolivar Utility Services, LLC for a Water or Wastewater Rate/Tariff Change*, Docket No. 44991, Order (Sept. 28, 2016).

#### **IV. REQUEST FOR REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

Under TWC § 13.1871 and 16 TAC § 24.28(c)(2), the Commission shall set an application filed under TWC § 13.1871 for hearing if it receives protests from the lesser of one thousand (1,000) or ten percent (10%) of the affected ratepayers before the 91<sup>st</sup> day after the effective date of the rate change. The effective date of Bolivar's rate change is December 1, 2017, and ninety (90) days after that date is March 1, 2018. Staff has already received over one hundred (100) protests in this case, and Bolivar serves seven hundred twenty (720) active connections.<sup>2</sup> Staff has reviewed the protests and determined that greater than ten percent (10%) of Bolivar's ratepayers affected by the proposed rate increase have timely filed protests. Therefore, Staff requests that the Commission refer the matter to the State Office of Administrative Hearings (SOAH) for an evidentiary hearing pursuant to 16 TAC § 24.28(c)(2).

Alternatively, the Commission may set the matter for hearing on its own motion under 16 TAC § 24.28(c)(1) at any time before one hundred twenty (120) days after the effective date of the rate change. As noted above, the effective date of the rate change is December 1, 2017, unless suspended by the Commission. The deadline to refer to SOAH has not passed, and Staff requests that the matter be referred to SOAH for an evidentiary hearing on the Commission's own motion in the public interest. Accordingly, Staff proposes no procedural schedule at this time.

#### **V. CONCLUSION**

For the reasons detailed above, Staff recommends that the application be found administratively complete. Staff also recommends that the effective date of Bolivar's proposed rate increase remain suspended until the earlier of the date established under 16 TAC § 24.26(a)(2) or the issuance of an order setting interim or final rates. In addition, Staff recommends that the matter be referred to SOAH for an evidentiary hearing, and respectfully requests that an order be issued consistent with the above recommendations.

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<sup>2</sup> See *Application* at BUS0012 (October 9, 2017).

**DATED:** January 11, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney



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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 11, 2018 in accordance with 16 TAC § 22.74.



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Richard A. Nemer

**PUC Interoffice Memorandum**

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**To:** Richard Nemer, Attorney  
Legal Division

**Through:** Debi Loockerman, Manager  
Water Utility Regulation Division

**From:** Sean Scaff, Engineering Specialist  
Emily Sears, Financial Analyst  
Water Utility Regulation Division

**Date:** January 9, 2018

**Subject:** **Docket No. 47680:** *Application of Bolivar Utility Service, LLC for Authority to change sewer rates*

On October 9, 2017, Bolivar Utility Services, LLC filed an application with the Public Utilities Commission (PUC) for a rate/tariff change under Certificate of Convenience and Necessity (CCN) Nos. 21026 in Galveston County. An administrative review of the application and notice has been made pursuant to Texas Water Code §§ 13.13871 (TWC) and 16 Tex. Admin. Code §§ 24.21 through 24.26 (TAC).

Based on a review of the information in the application, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff also recommends that the effective date for all proposed rates remain suspended through the pendency of this case.