



Control Number: 47680



Item Number: 145

Addendum StartPage: 0

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



Greg Abbott
Governor

2018 SEP 20 PM 3: 11

PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

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

All Parties of Record

FROM: Office of Policy & Docket Management

RE: **Open Meeting of October 12, 2018**
PUC Docket No. 47680
SOAH Docket No. 473-18-1906.WS – *Application of Bolivar Utility Services, LLC for Authority to Change Sewer Rates*

DATE: September 20, 2018

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Friday, October 12, 2018, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Thursday, October 4, 2018.

On January 22, 2018, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

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

/lsw
q:\cadm\orders\soah settled\47000\47680pomemo.docx



Printed on recycled paper

An Equal Opportunity Employer

1701 N. Congress Avenue PO Box 13326 Austin, TX 78711 512/936-7000 Fax: 512/936-7003 web site: www.puc.texas.gov

000001

145

**PUC DOCKET NO. 47680
SOAH DOCKET NO. 473-18-1906.WS**

APPLICATION OF BOLIVAR UTILITY SERVICES, LLC FOR AUTHORITY TO CHANGE SEWER RATES	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS
---	-------------	--

PROPOSED ORDER

This Order addresses the application of Bolivar Utility Services, LLC for authority to increase the rates charged to its ratepayers for sewer service in Galveston County. Bolivar filed an unopposed agreement that resolves all of the issues between the parties to the proceeding. The Commission approves Bolivar’s change in sewer rates, as modified by the agreement to the extent provided in this Order.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Applicant

1. Bolivar is a limited liability corporation that is wholly-owned by Texas LLC.
2. Bolivar holds an active franchise tax account with the Texas Comptroller.
3. Bolivar provides sewer service to 720 connections under certificate of convenience and necessity (CCN) number 21026 in Galveston County.
4. Although Bolivar’s service area under CCN number 21026 extends into Chambers County, Bolivar only provides service in Galveston County.
5. Bolivar constructs and owns facilities used to collect, transport, and treat sewage.
6. Galveston County requested that Bolivar provide sewer service to the entire 20-mile-long Bolivar Peninsula following Hurricane Ike in 2008.

Application

7. On October 9, 2017, Bolivar filed an application for authority to increase sewer rates and revise the associated sewer tariff for areas its serves in Galveston County.

8. Bolivar requested approval of an overall revenue requirement of \$608,774, an annual increase of \$58,925 or 12.71%, based on a test year ending December 31, 2016.
9. Bolivar's sewer rates are based on customers' water meter size and water usage. Under the proposed rate increase, the rate for a sewer service customer with a 5/8" or 3/4" meter using 5,000 gallons per month would increase approximately 15%, from \$56.00 to \$64.00 per month. For a customer using 10,000 gallons per month, sewer rates would increase approximately 24%, from \$76.00 to \$94.00 per month.
10. Bolivar proposes to increase only its gallonage charges; the fixed, monthly base rate and miscellaneous charges would not change.
11. In Commission Order No. 1 issued on October 10, 2017, the administrative law judge (ALJ) required comments on administrative completeness and addressed filing and service procedures.
12. On November 9, 2017, Commission Staff recommended that the ALJ find the application deficient because Bolivar failed to (a) provide notice of the application to the Office of Public Utility Counsel; (b) file a completed Schedule II-1, Water Production, as wastewater charges are based on actual water usage, which is used for billing; and (c) file a corrected alternative rate design page because it reflects a current fixed rate charge of an unapproved amount of \$50.00 per month. Commission Staff also recommended suspension of the effective date of rates until the Commission finds the application administratively complete.
13. In Commission Order No. 2 issued on November 9, 2017, the ALJ found the application administratively incomplete and established deadlines for Bolivar to cure the deficiencies and for Commission Staff to file a supplemental recommendation on administrative completeness.
14. On November 16, 2017, Bolivar filed supplemental information to cure the deficiencies, including (a) an explanation that Schedule II-1 was not included because it does not purchase or sell water; and (b) a corrected alternative rate design page to reflect a fixed rate charge of \$40 rather than \$50.

15. On January 11, 2018, Commission Staff filed a supplemental recommendation that the ALJ find the application and notice administratively complete; that Bolivar's proposed rates remain suspended; and that the Commission should refer this matter to SOAH based upon more than 10% of the affected ratepayers objecting to the rate increase.
16. In Commission Order No. 3 issued on January 22, 2018, the ALJ found the application administrative complete and suspended the effective date of the proposed rates for no more than 265 days from the date the proposed rates would otherwise be effective under TWC § 13.1871.

Notice

17. On October 27, 2017, Bolivar placed a notice of the proposed rate change in the United States mail addressed to each customer or affected party of Bolivar. The only revision to the notice was inclusion of the Commission's docket number for this proceeding.
18. On November 2, 2017, Bolivar filed an affidavit of Michael P. Lege, Bolivar's authorized representative, attesting that revised notice of the proposed rate change was mailed by United States mail to each customer or affected party of Bolivar on or about October 27, 2017.
19. On February 1, 2018, Bolivar filed an affidavit Michael P. Lege, Bolivar's authorized representative, attesting that notice of the prehearing conference to be conducted by the State Office of Administrative Hearings (SOAH) on February 21, 2018, was mailed by United States Mail to each customer or affected party of Bolivar on or about February 1, 2018.

Prefiled Testimony

20. On April 2, 2018, Bolivar prefiled the direct testimonies and exhibits of Michael P. Lege and Charles E. Loy.

Agreement

21. On June 26, 2018, Bolivar and Commission Staff filed an agreement with an attached proposed order and an agreed tariff. On the same date, Commission Staff filed an affidavit of Sean Scaff of the Commission's Water Utility Regulation Division in support of the agreement.

22. Under the agreement, Bolivar's revenue requirement and rate of return are not determined, but the parties agreed that Bolivar's cost of service exceeds the maximum revenue generated by the agreed rates.
23. Under the agreement, Bolivar will charge the retail sewer rates contained in the tariff included as exhibit B to the agreement in Galveston County.
24. Bolivar will maintain the \$40.00 minimum sewer charge (including 999 gallons) for 5/8" or 3/4" residential meters under the agreement.
25. Under the agreement, Bolivar will increase its gallonage or fixed charge rate to \$6.00 for each additional 1,000 gallons over the minimum.
26. The existing rates for miscellaneous fees, including but not limited to, its tap fee, reconnect fee due to non-payment, transfer fee, late charge, returned check charge, deposit, and meter test fee will remain unchanged under the agreement.
27. Under the agreement, Bolivar will not seek to recover and will not collect any rate-case expenses that it incurred or will incur regarding this application.
28. Under the agreement, the effective date of the new sewer rates will be the first day of the month following the date of this Order.

Evidence

29. In SOAH Order No. 6 issued on June 27, 2018, the SOAH ALJ admitted the following evidence into the record:
 - a. Bolivar's application and attachments filed October 9, 2017;
 - b. Copy of the notice of proposed rate change sent to Bolivar's ratepayers filed November 2, 2017;
 - c. Affidavit of proof of notice of Michael P. Lege related to the proposed rate change filed November 2, 2017;
 - d. Direct testimony and exhibits of Bolivar witness Michael P. Lege filed April 2, 2018;
 - e. Direct testimony and exhibits of Bolivar witness Charles E. Loy filed April 2, 2018;

- f. Agreement and attachments filed June 26, 2018; and
- g. Affidavit of Sean Scaff of the Commission's Water Utility Regulation Division in support of the agreement filed June 26, 2018.

Informal Disposition

- 30. More than 15 days have passed since completion of the notice provided in this docket.
- 31. This docket does not contain any remaining contested issues of fact or law.
- 32. No request for a hearing was filed.

Referral to SOAH

- 33. On January 22, 2018, the Commission referred this proceeding to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary.
- 34. In SOAH Order No. 1 issued on January 24, 2018, the SOAH ALJ described the case, set a prehearing conference for February 21, 2018, established a deadline to intervene, and provided general procedural requirements, including suspension of the effective date of the rate increase for 265 days, or until October 14, 2018.
- 35. On January 31, 2018, Commission Staff filed a list of issues.
- 36. On February 1, 2018, Bolivar filed a list of issues.
- 37. On February 15, 2018, the Commission issued a preliminary order.
- 38. In SOAH Order No. 2 issued on February 21, 2018, the SOAH ALJ memorialized the prehearing conference, denied Bolivar's request to remand the proceeding to the Commission, adopted a procedural schedule, and scheduled a hearing on the merits to convene on May 31, 2018.
- 39. On April 5, 2018, Commission Staff and Bolivar filed an agreed motion to abate the procedural schedule to allow the parties time to finalize a settlement or provide a report regarding the status of settlement.
- 40. In SOAH Order No. 3 issued on April 6, 2018, the SOAH ALJ granted the agreed motion and set a deadline of May 7, 2018, for the parties to file a joint proposed order or a status report.

41. On May 4, 2018, Commission Staff filed a status update and reported that the parties were still in the process of finalizing a settlement agreement and requested a deadline of June 4, 2018, to file a proposed order or a status report.
42. In SOAH Order No. 4 issued on May 7, 2018, the SOAH ALJ ordered the abatement to continue until June 4, 2018, and required the filing of a joint proposed order or a status report.
43. On June 1, 2018, Commission Staff filed a status update and reported that the parties were continuing to finalize a settlement agreement and requested a deadline of July 2, 2018, to file a status update or an agreement, proposed order, and supporting evidence.
44. In SOAH Order No. 5 issued on June 4, 2018, the SOAH ALJ ordered the abatement to continue until July 2, 2018, and required the filing of a joint proposed order or a status report.
45. On June 26, 2018, Bolivar and Commission Staff jointly filed the agreement with attachments, a motion to admit evidence, approve the proposed order, and remand the proceeding to the Commission. Commission Staff also filed the affidavit of Sean Scaff in support of the agreement.
46. In SOAH Order No. 6 issued on June 27, 2018, the SOAH ALJ admitted evidence, remanded the case to the Commission, and dismissed the SOAH docket.

II. Conclusions of Law

1. The Commission has jurisdiction to consider Bolivar's application for a sewer rate increase under TWC §§ 13.041, 13.181 through 13.185, and 13.1871 and 16 Texas Administrative Code (TAC) §§ 24.12 through 24.36.
2. Bolivar is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(59).
3. Bolivar is a class B utility as defined in TWC § 13.002(4-b) and 16 TAC § 24.3(16).
4. Bolivar gave notice of the application in accordance with the requirements of TWC § 13.1871 and 16 TAC § 24.22 and 24.28.

5. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. The rates approved in this proceeding are just and reasonable.
7. The rates established by this Order are not unreasonably discriminatory, preferential, or prejudicial as required by TWC § 13.182.
8. This application does not constitute a major rate proceeding, as defined by 16 TAC § 22.2(27).
9. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves Bolivar's change in sewer rates, as modified by the agreement to the extent provided in this Order.
2. The Commission approves the rates and terms included in the tariff attached to the agreement as exhibit B, effective the first day of the month following the date this Order is signed.
3. Bolivar may not seek to recover or collect any rate-case expenses that it incurred or will incur related to this docket.
4. 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.
5. All other motions, and any other requests for general or specific relief, if not expressly granted in this Order, are denied.

¹ Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 & Supp. 2017).

Signed at Austin, Texas the _____ day of October 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

W2013
q:\cadm\orders\soah settled\47000\47680po.docx