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SOAH DOCKET NO. 473-18-1905.WS
PUC DOCKET NO. 47863

2017-12-15 PM 2:33

PETITION OF THE CITIES OF	§	
GARLAND, MESQUITE, PLANO,	§	PUBLIC UTILITY
AND RICHARDSON APPEALING	§	
THE DECISION BY NORTH	§	
TEXAS MUNICIPAL WATER	§	COMMISSION OF TEXAS
DISTRICT AFFECTING 2018	§	
WHOLESALE WATER RATES	§	

THE PETITIONING CITIES' LIST OF ISSUES

The Cities of Garland, Mesquite, Plano, and Richardson ("*Petitioning Cities*") file this list of issues to assist the Public Utility Commission (the "*Commission*") in drafting a preliminary order setting forth the issues to be addressed in this docket.

I.
BACKGROUND

On December 15, 2017, the Petitioning Cities timely appealed to the Commission a wholesale water rate increase imposed by the North Texas Municipal Water District (the "*District*").¹ The Petitioning Cities filed the appeal pursuant to Sections 12.013 and 13.043(f) of the Texas Water Code. On January 12, 2018, Commission Staff determined that the petition initiating the appeal satisfies the Commission's pleading rules and requested that the Commission refer the appeal to the State Office of Administrative Hearings ("*SOAH*").² After deeming the petition administratively complete on January 19, 2018, the Commission referred the appeal to SOAH on January 22 and ordered the Petitioning Cities to file by February 2 a list of issues to be addressed in this docket.³ The Commission granted the District's motion for a 2-week extension of the filing deadline.⁴ This list of issues is timely filed. This list of issues assumes that P.U.C. SUBST. R. 24.137(a) does not become applicable to this proceeding in the future.

¹ *Original Petition Appealing Wholesale Water Rates*, Docket No. 47863 (Dec. 15, 2017).

² *Commission Staff's Recommendation and Request for Referral*, Docket No. 47863 (Jan. 12, 2018).

³ *Order of Referral* at 1 (Jan. 12, 2018).

⁴ *Order Granting Motion to Extend Deadline for Filing Lists of Issues* at 1 (Feb. 1, 2018).

II.
LIST OF ISSUES TO BE ADDRESSED
IN THE PUBLIC INTEREST PHASE OF THE PROCEEDINGS

The Petitioning Cities have identified the following issues to be addressed in the public interest phase of the proceedings in this docket:

1. Do the facts demonstrate that the Commission has authority under Section 12.013 of the Texas Water Code to hear this appeal?
2. Do the facts demonstrate that the Commission has authority under Section 13.043(f) of the Texas Water Code to hear this appeal?
3. Was the petition filed in accordance with Section 13.043(f) of the Texas Water Code?
4. Was the petition filed in accordance with P.U.C. SUBST. R. 24.44?
5. Was the petition filed in accordance with P.U.C. SUBST. R. 24.130?
6. Do the rates the District charges the Petitioning Cities for water service adversely affect the public interest under the Texas Water Code? *Texas Water Commission v. City of Fort Worth*, 875 S.W.2d 332, 336 (Tex.App. – Austin 1994, writ denied).
 - a. Are the rates the District charges the Petitioning Cities for water service just and reasonable?
 - b. Are the rates unreasonably preferential, prejudicial, or discriminatory?
 - c. Are the rates sufficient, equitable, and consistent in application to each class of customers?
7. Do the rates the District charges the Petitioning Cities for water service adversely affect the public interest under Commission rules? 16 TAC § 24.133
 - a. Do the protested rates impair the District's ability to continue to provide service, based on the District's financial integrity and operational capability?
 - b. Do the protested rates impair the Petitioning Cities' ability to continue to provide service to their retail customers based on each Petitioning City's financial integrity and operational capability?

- c. Do the protested rates evidence the District's abuse of monopoly power in its provision of water to the Petitioning Cities? In answering this issue, please address the applicable factors in P.U.C. SUBST. R. 24.133(a)(3).
- d. Are the protested rates unreasonably preferential, prejudicial, or discriminatory, compared to the wholesale rates the District charges other wholesale customers?

For issues 8 through 23, the applicable time period for the issue is that period that determined the rates being challenged by the Petitioning Cities.

- 8. What is the District's cost of debt?
 - a. What series or issues of bonds of the District are outstanding?
 - b. For each series or issues of outstanding bonds, what are the annual servicing costs?
 - c. What debt service coverage, if any, is required for each series or issues of outstanding bonds?
 - d. For each series or issues of outstanding bonds, what contract or contracts have been pledged as security?
 - e. For each such contract, who are the parties to the contract, and what rate, formula, or methodology is specified in each such contract related to the amount paid for water service and the amount pledged to the bond?
- 9. What are the District's costs to operate and maintain its facilities and systems?
- 10. What is the total cost to run the District's systems (annual requirement)?
- 11. What are the District's annual gross revenues?
- 12. What are the District's net revenues, as that term is defined in Section 10(d) of the District Act?
- 13. Are any of the outstanding bonds of the District payable from or secured by ad valorem taxes in whole or in part?
- 14. What is the total capacity of the District to deliver water?
- 15. What is the capacity of the District to deliver water to its member cities?
- 16. What is the total demand for water for the following:
 - a. On an average basis.
 - b. For the time period for which the challenged rates were set.
 - c. If each customer were to take its minimum requirement.

17. What is the minimum of each of the District's member cities? When was the minimum established?
18. Do member cities have a first right to the District's water?
19. Do customers, other than the member cities, have minimum take requirements? If so, who are those customers?
20. Is there any penalty or rate adjustment if the District cannot deliver all of the water requested by its member cities?
21. What is the annual revenue obligation (proportionate share of the annual requirement) of each of the District's member cities?
22. What entities, if any, other than member cities (parties that are not contracting or additional contracting parties) purchase water from the District?
 - a. Under what terms, including the rate, do any such entities take water from the District?
 - b. What is the gross amount of revenues, if any, received from such entities by the District on an annual basis?
 - c. Is any of such revenue pledged to support any bonds issued by the District? If so, how much is pledged and for which series or issues of bonds?
 - d. How is this revenue accounted for in determining the District's rates for water service?
 - e. Is any such revenue used to offset the member cities' annual payment?
23. How is the costs responsibility to run, operate, and maintain the District allocated, if at all, between the member cities and any other entities that purchase water from the District?

III.
LIST OF ISSUES NOT TO BE ADDRESSED
IN THE PUBLIC INTEREST PHASE OF THE PROCEEDINGS

The Petitioning Cities have identified the following issue not to be addressed in the public interest phase of the proceedings in this docket:

1. Whether public securities issued by the District are valid and enforceable.
2. Whether contracts, the proceeds of which are pledged to secure public securities issued by the District, are valid and enforceable.

3. The authority of the District to issue public securities.
4. The election at which the District authorized issuance of public securities.
5. The validity of the District.
6. The boundaries of the District.
7. The validity of an assessment, a tax, or a tax lien imposed by the District.
8. The District's authority to enter into and execute contracts.
9. The pledge or encumbrance of a tax, revenue, receipts, or property to secure the bonds issued by the District to finance its water system infrastructure needed to serve the Petitioning Cities.
10. The legality and validity of each expenditure or proposed expenditure of money relating to the bonds issued by the District to finance its water system infrastructure needed to serve the Petitioning Cities.
11. The legality and validity of the bonds issued by the District to finance its water system infrastructure needed to serve the Petitioning Cities.
12. Whether the protested rates are no higher or lower than is necessary to match the District's cost of service. (Although the public interest determination cannot depend solely on whether the protested rates match the District's cost of service, the Commission's rules do not preclude admission of evidence on and consideration of the various costs of the District, including its bond servicing costs, and the District's various sources of revenues.)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all parties of record in this proceeding on February 16, 2018, in accordance with 16 Tex. Admin. Code § 22.74.

Taylor Holcomb

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