



Control Number: 47897



Item Number: 265

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PUBLIC UTILITY COMMISSION
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OPEN MEETING COVER SHEET

COMMISSIONER MEMORANDUM

MEETING DATE: April 4, 2019

DATE DELIVERED: April 3, 2019


AGENDA ITEM NO.: 1

CAPTION: Docket No. 47897; SOAH Docket No. 473-18-3008.WS -
Application of Forest Glen Utility Company
for Authority to Change Rates

ACTION REQUESTED: Discussion and possible action with respect
to Final Order

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

All Parties of Record (*via electronic transmission*)

FROM: Hannah Turner *HT*
Commission Advising

RE: *Application of Forest Glen Utility Company for Authority to Change Rates,*
Docket No. 47897, April 4, 2019 Open Meeting, Item No. 1.

DATE: April 3, 2019

Please find enclosed a memorandum by Chairman Walker regarding the above-referenced docket. No other commissioner will file a memorandum in this docket.

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Public Utility Commission of Texas

Memorandum

TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker 

DATE: April 3, 2019

RE: Open Meeting of April 4, 2019 – Agenda Item No. 1
Docket No. 47897 – *Application of Forest Glen Utility Company for Authority to Change Rates*

This case raises a number of issues, outlined below, that I would like to discuss with you before we decide how to proceed. If we do decide to adopt the proposed order, I have included suggested modifications to the order.

Revenue Requirement

I am concerned by the agreement's failure to set a revenue requirement. As I wrote in a memorandum issued in Docket No. 47460,

A utility's revenue requirement cannot be separated from the utility's rate. They are, in essence, the same number in a different form. A revenue requirement is the foundation on which rates are based. Rates are simply a disaggregation of the revenue requirement by function, rate class, type of charge (usually fixed or variable), or other criteria divided by a billing determinant. Accordingly, in fixing a sewer utility's rates under the Texas Water Code, the Commission is also required to "fix [the utility's] revenues" at a level that will permit the utility to earn a reasonable return and recover its operating expenses, and preserve its financial integrity.¹

I do not believe that we can set rates for Forest Glen without setting a revenue requirement. Accordingly, if we do decide to adopt the proposed order, I would set the revenue requirement at \$209,820 and make the following modifications to address the proposed change.

¹ *Application of Bolivar Utility Services, LLC for Authority to Change Sewer Rates*, Docket No. 47680, Chairman Walker's Memorandum (Jan. 16, 2019) (citing Texas Water Code § 183(a)).

Finding of fact 84 should be modified to state the revenue requirement.

84. ~~The parties to the settlement agreed that a revenue requirement or rate of return would not be determined in this docket, but that Forest Glen should recover~~
The rates approved in this Order will recover a revenue requirement of \$209,820 at the current customer count of 269 connections.

New conclusions of law should be added to address the statutory requirements.

- COL. The Commission is required in setting rates to establish a revenue requirement. TWC § 13.183(a).

- COL. Forest Glen's overall revenues will permit Forest Glen 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 will preserve Forest Glen's financial integrity.

Conclusion of law 8 should be deleted because it is not a proper conclusion of law.

8. ~~—The revenue requirement set in this Order is \$209,820.~~

Water Reuse Operation

I also have concerns about Forest Glen's water reuse operation, and whether any part of that operation, including the facilities, other assets, costs, and revenues, should be considered part of Forest Glen's sewer utility. This issue was not resolved in the current proceeding, but I believe it should be addressed in Forest Glen's next rate case.

Recording of Contributions in Aid of Construction

Another concern that I have with the agreement is the recording of contributions in aid of construction. The parties' agreement requires Forest Glen to record each connection fee as a contribution in aid of construction in the amount of \$2,950, even if the actual connection fee paid is less. That approach is not appropriate, and I recommend revising the proposed order to require Forest Glen to record each connection fee it receives as a contribution in aid of construction in the actual amount of the fee. Therefore, I propose adding the following ordering paragraph:

- OP. Forest Glen must record each connection fee it receives as a contribution in aid of construction in the amount of the connection fee.

Future Rate Design

The agreement also requires Forest Glen to propose a rate design that includes both a fixed charge and a variable rate in its next rate case. I recommend that the Commission not adopt this proposal, and instead require Forest Glen to propose both a fixed rate and a variable rate with a fixed charge. The Commission can then wait until Forest Glen's next rate case to determine the appropriate rate design for approval. Therefore, I propose deleting finding of fact 73 and adding a new ordering paragraph, as follows:

~~73. The next application for a rate and tariff change that Forest Glen files with the Commission will propose a rate design that includes both a fixed charge and a variable rate.~~

OP. In its next rate-case application, Forest Glen must propose two rate designs. One rate design will include both a fixed charge and a variable rate, and one will include a fixed rate.

Rate-Case Expenses

Conclusion of law 12 is unnecessary and should be deleted:

~~12. Forest Glen may recover rate-case expenses it has incurred in this proceeding; to the extent those expenses were reasonable.~~

The Commission should add the following ordering paragraph requiring a compliance filing from Forest Glen once the rate-case expense surcharge has collected \$46,080:

OP. Within 30 days from the end of the 24-month period in which the surcharge described in findings of fact 93 and 94 is in effect, Forest Glen must file a report showing the total amount that has been collected through the surcharge. The report will be filed in Docket No. . Within 15 days of the filing of the report, Commission Staff must file comments on whether Forest Glen has complied with this Order with respect to the rate-case surcharge.

Requirement to File Rate Case by May 1, 2021

Because of the many unresolved issues in this proceeding, if we adopt the proposed order, I propose that Forest Glen be required to file a new rate case, based on a 2020 test year, no later than May 1, 2021. Therefore, I propose adding the following ordering paragraph:

OP. Forest Glen must file a rate-case application based on a 2020 test year no later than May 1, 2021.

Other Modifications

Because there are provisions of the agreement that I do not believe the Commission should approve, I propose modifying ordering paragraph 3 as follows:

3. All parties to the agreement must comply with the terms of that agreement, except as modified by this Order.

Finally, I propose delegating to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.