



Control Number: 47998



Item Number: 38

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



Greg Abbott
Governor

2019 MAR 16 PM 3:55

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 April 4, 2019**
PUC Docket No. 47998
SOAH Docket No. 473-18-2879.WS –Ratepayers' Appeal of the Decision by Galveston County Municipal Utility District No. 12 to Change Rates

DATE: March 18, 2019

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 Thursday, April 4, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Proposed Order on or before Tuesday, April 2, 2019.

On March 26, 2018, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

The requirements for informal disposition under 16 Texas Administrative Code (TAC) § 22.35 have been met in this proceeding except for the requirement of subsection (b) that the proposed order be served on all parties no less than 20 days before the Commission is scheduled to consider the application in open meeting. Under 16 TAC § 22.5(b), there is good cause to waive the 20-day requirement of 16 TAC § 22.35(b)(2).

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

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PUC DOCKET NO. 47998
SOAH DOCKET NO. 473-18-2879.WS

RATEPAYERS' APPEAL OF THE	§	PUBLIC UTILITY COMMISSION
DECISION BY GALVESTON COUNTY	§	
MUNICIPAL UTILITY DISTRICT	§	OF TEXAS
NO. 12 TO CHANGE RATES	§	

PROPOSED ORDER

This Order addresses the appeal of 207 ratepayers, represented by Omega Bay Improvement Committee, of the decision of Galveston County Municipal Utility District No. 12 (the District) to increase water and wastewater rates. Commission Staff filed a unanimous agreement that resolves all of the issues between the parties to this proceeding. The Commission grants the ratepayers' appeal, as modified by the agreement, to the extent provided in this Order.

I. Findings of Fact

The Commission adopts the following findings of fact:

The District *16 Tex. Admin. Code (TAC) § 22.102*

1. The District was created by order of the Texas Water Commission, now known as the Texas Commission on Environmental Quality, on September 1, 1981. It operates under chapters 49 and 54 of the Texas Water Code.
2. The District provides retail water and sewer service to two subdivisions: the Omega Bay subdivision located in the city of La Marque and the Bayou Vista subdivision located in the city of Hitchcock.
3. The District has 1,514 service connections.
4. On November 20, 2017, the District adopted an amended rate order, increasing the combined water and wastewater rates payable by its customers by \$30.00 per month.
5. The increased rates went into effect with the December 2017 invoices.

The Appeal *Texas Water Code (TWC) § 13.043(b), (c), (d); 16 TAC §§ 24.101, 24.103*

6. On January 30, 2018, a petition was timely filed to appeal the increase in water and sewer rates adopted by the District that went into effect with the December 2017 billing cycle.

The petition included 207 ratepayer signatures, 197 of which Commission Staff determined to be valid.

7. On July 9, 2018, the District filed the official record of the November 20, 2017 regular meeting of its board of directors.
8. The District has 1,514 ratepayers and 197 of them, representing more than 10% of the affected ratepayers, signed the appeal petition.
9. The ratepayers designated John K. Houston and the Omega Bay Improvement Committee to represent them in this proceeding. Beginning July 16, 2018, Gwen Megale replaced John K. Houston as the ratepayers' representative.
10. In Order No. 1 issued on February 1, 2018, the Commission Administrative Law Judge (ALJ) required Commission Staff to file comments addressing whether the petition was administratively complete. The ALJ also instructed the parties to propose a procedural schedule.
11. On March 1, 2018, Commission Staff recommended that the petition be found administratively complete and that it be referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
12. In Order No. 2 issued on March 5, 2018, the Commission ALJ found the petition administratively complete.

Referral to SOAH for Hearing

13. On March 26, 2018, the Commission referred this proceeding to SOAH.
14. On SOAH Order No. 1 issued on April 2, 2018, the SOAH ALJ required the parties to confer and submit a proposed procedural schedule.
15. On April 27, 2018, the Commission issued a preliminary order in this docket, identifying issues to be addressed in the proceeding.
16. In SOAH Order No. 2 issued on May 1, 2018, the SOAH ALJ adopted a procedural schedule proposed by the parties.

17. In SOAH Order No. 3 issued on May 16, 2018, the SOAH ALJ referred this case to SOAH's alternative dispute resolution team leader, Howard Seitzman, for mediation evaluation.
18. In SOAH Order No. 4 issued on July 5, 2018, the SOAH ALJ granted the parties' agreed motion to continue the hearing date and to amend the procedural schedule.

Testimony

19. On July 9, 2018, the District filed the direct testimonies of William I. Alcorn and Lydia Cook.

Notice 16 TAC §§ 22.101(c)(6)

20. The District did not provide notice of the hearing.

Intervenors and Intervenor Alignment 16 TAC §§ 22.103–22.105

21. Commission Staff participated in this proceeding.
22. No interventions were requested or granted in this proceeding.

The Agreement

23. On July 31, 2018, the parties participated in mediation at SOAH and resolved the dispute.
24. On August 2, 2018, Commission Staff filed an unopposed motion to suspend the procedural schedule until August 20, 2018 in order to give the parties time to finalize the terms of their agreement.
25. In SOAH Order No. 5 issued on August 6, 2018, the SOAH ALJ abated the procedural schedule until August 20, 2018.
26. On August 13, 2018, Commission Staff filed an unopposed motion to suspend the procedural schedule until August 27, 2018.
27. In SOAH Order No. 6 issued on August 14, 2018, the SOAH ALJ abated the procedural schedule until August 27, 2018.
28. On August 27, 2018, Commission Staff filed a motion to suspend the procedural schedule until September 10, 2018.

29. In SOAH Order No. 7 issued on August 28, 2018, the SOAH ALJ abated the procedural schedule until September 10, 2018.
30. On September 10, 2018, Commission Staff filed a unanimous settlement agreement resolving the issues raised among the parties. Along with the agreement, Commission Staff filed a joint proposed order and the testimony of Andrew Novak in support of the settlement.
31. In May of 2018, a bond was passed that alleviated the District's need for increased rates. In June of 2018, following passage of the bond, the District voted to decrease water and sewer rates by eliminating the \$30.00 per month increase that went into effect with the December 2017 billing cycle.
32. Under the agreement, the District's water and sewer rates will be the same as the rates that were in effect prior to \$30.00 per month increase that went into effect with the December 2017 billing cycle.
33. The agreed rates are just and reasonable and are not unreasonably discriminatory, preferential, or prejudicial. The agreed rates are sufficient, equitable, and consistent in application to each class of customers.
34. The agreed rates will preserve the financial integrity of the District.

Refund or Surcharge *TWC § 13.043(e); 16 TAC § 24.101(e)(4)*

35. The parties agree that the District will credit \$10.00 per month to each customer for a period of 21 months, for a total refund of \$210.00 per customer.
36. The parties agree that the District may accelerate the refund credits.

Rate-Case Expenses *TWC § 13.043(e); 16 TAC § 24.101(e)(2)*

37. The parties agree that each party will be responsible for its own costs and attorney fees related to this proceeding.
38. The District agrees not to seek recovery of its attorney fees or other expenses associated with this proceeding.

Evidentiary Record

39. On September 10, 2018, Commission Staff filed a request to admit evidence and to dismiss the case from the SOAH docket and return it to the Commission.
40. In SOAH Order No. 8 issued on September 13, 2018, the SOAH ALJ dismissed this case from the SOAH docket, remanded it to the Commission, and admitted the following evidence into the record: (a) the official record of the November 20, 2017 meeting of the District's board of directors, filed July 9, 2018; (b) the direct testimonies of Lydia Cook and William Alcorn, filed July 9, 2018; (c) the unanimous settlement agreement, filed September 10, 2018; (d) the testimony of Commission Staff witness Andrew Novak in support of the settlement, filed September 10, 2018; and (e) the District's response to Commission Staff's first request for information, filed March 27, 2018.

Interim Rates *TWC §§ 13.041(c-1), 13.043(h), 12.013; 16 TAC §§ 24.37, 24.75, 24.101(e)(6)*

41. The Commission did not establish interim rates in this proceeding.

Good Cause Exception *16 TAC § 22.5(b)*

42. No party sought a good cause exception.
43. It is appropriate to consider this Order at the earliest open meeting available; therefore, good cause exists to waive the requirement in 16 TAC § 22.35(b)(2) that a proposed order be served on parties 20 days before the Commission is scheduled to consider the application in an open meeting.

Informal Disposition *16 TAC § 22.35(a)*

44. More than 15 days have passed since the completion of any required notice provided in this docket.
45. No protests, motions to intervene, or requests for hearing were filed that have not been addressed.
46. No hearing is necessary in this case.
47. Commission Staff supports the settlement agreement.
48. This decision is not adverse to any party.

II. Conclusions of Law

The Commission adopts the following conclusions of law:

1. The District is a retail public utility as defined by TWC § 13.002(19).
2. The Commission has jurisdiction over this proceeding under TWC § 13.043(b)(4).
3. SOAH had authority over this proceeding under Texas Government Code § 2003.049.
4. This docket was processed in accordance with the requirements of the Texas Water Code, the Administrative Procedure Act,¹ and Commission rules.
5. The ratepayers' petition was timely filed under TWC § 13.043(c) and 16 TAC § 24.101(b) and meets the 10% ratepayer-signature threshold established under TWC § 13.043(c) and 16 TAC §§ 24.101(d) and 24.103(b).
6. The agreed rates are just and reasonable and are not unreasonably discriminatory, preferential, or prejudicial. The agreed rates are sufficient, equitable, and consistent in application to each class of customers.
7. The agreed rates will preserve the financial integrity of the District.
8. Under 16 TAC § 22.5(b), there is good cause to waive the 20-day notice requirement in 16 TAC § 22.35(b)(2).
9. The requirements for informal disposition under 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 grants the ratepayers' appeal, as modified by the agreement, to the extent provided in this Order.
2. The water and sewer rates charged by the District will be the same as the rates that were in effect prior to the December 2017 billing cycle.

¹ Tex. Gov't Code §§ 2001.051–.052.

3. The District will refund \$10.00 per month to each customer with a water and sewer connection for a period of 21 months, for a total refund of \$210.00 per customer. The refunds will be in the form of bill credits. The District may accelerate the refund payments so long as each customer is credited at least \$210.00 within 21 months of the first credits being issued.
4. Within 30 days from the end of each 7-month period in which the refund is in effect, the District will file a report showing the total amount that has been refunded to customers and the balance remaining to be refunded. The reports will be filed in Docket No. 49349, *Compliance Filing of Galveston County Municipal Utility District No. 12 Regarding Refunds from Docket No. 47998*.
5. The District will not seek recovery of rate-case expenses for this proceeding.
6. 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.
7. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of April 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

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