



Control Number: 47998



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# OPEN MEETING COVER SHEET

## COMMISSIONER MEMORANDUM

**MEETING DATE:** April 4, 2019

**DATE DELIVERED:** April 3, 2019

**AGENDA ITEM NO.:** 3

**CAPTION:** 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

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

Distribution List:  
Commissioners' Offices (6)  
Journey, Stephen  
Urban, John Paul  
Margaret Pemberton (5)  
OPD Support Team  
Hovenkamp, Mark  
Central Records (Open Meeting Notebook)

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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*

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

All Parties of Record (*via electronic transmission*)

FROM: Mark Hovenkamp  
Commission Advising

RE: *Ratepayers' Appeal of the Decision by Galveston County Municipal Utility District No. 12 to Change Rates, Docket No. 47998, SOAH Docket No. 473-18-2879.WS, April 4, 2019 Open Meeting, Item No. 3*

DATE: April 3, 2019

Please find enclosed a memorandum by Chairman Walker regarding the above-referenced docket.

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# *Public Utility Commission of Texas*

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## **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, 2018 – Agenda Item No. 3  
Docket No. 47998; SOAH Docket No. 473-18-2079.WS – *Ratepayers' Appeal of the Decision by Galveston County Municipal Utility District No. 12 to Change Rates*

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I propose remanding this proceeding to Docket Management to require the parties to supplement the evidentiary record. In the proposed order, finding of fact 32 and conclusion of law 6 lack specific rates. Additionally, the proposed order lacks a finding of fact for the district's revenue requirement that justifies the agreed rates. After obtaining the necessary information discussed above, I request that the proposed order address the specific rates requested to be approved and the associated revenue requirement.

Additionally, I would find, as reflected below in my proposed changes to finding of fact 20, that under the circumstances of this docket the notice of hearing to all affected customers is not required under 16 Texas Administrative Code § 24.101(c)(6).

Finally, before Docket Management returns the proposed order to the Commission, I also request that the proposed order include the corrections below.

- The reference in the Order's introductory paragraph should be modified for accuracy.

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 dDistrict) to increase water and sewer ~~wastewater~~ rates.

- Findings of fact 4, 5, 16, 18, 20, 31, 45, 46, and 47 should be modified for accuracy.
  4. On November 20, 2017, the dDistrict adopted an amended rate order, increasing the combined flat rate for water and sewer ~~wastewater~~ rates services payable by ~~its customers~~ by \$30.00 per month.
  5. The increased rates went into effect with the December 2017 ~~invoices~~ billing cycle.

16. In SOAH Order No. 2 issued on May 1, 2018, the SOAH ALJ adopted a the procedural schedule proposed by the parties; and gave notice of the convening of the hearing on the merits, which was set for three days beginning at 9:00 a.m., October 2, 2018, at SOAH, 300 West 15th Street, 4th floor, Austin, Texas.
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. The SOAH ALJ cancelled the October 2, 2018 hearing on the merits and gave notice of the convening of the hearing on the merits, which was set for three days beginning at 9:00 a.m., November 5, 2018, at SOAH, 300 West 15th Street, 4th floor, Austin, Texas.
20. The dDistrict did not provide notice of the hearing; under 16 TAC § 24.101(c)(6) because the hearing was cancelled when the SOAH docket was dismissed.
31. In May of 2018, a bond was ~~passed~~approved by the voters that alleviated the dDistrict's need for increased rates. In June of 2018, following passage of the bond, the dDistrict 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.
45. No person filed a protests; or motions to intervene; or requests for hearing were filed that have not been addressed.
46. No party requested a hearing and no hearing is necessary needed in this case.
47. Commission Staff ~~supports the settlement agreement~~ recommended approval of the application.
- Finding of fact 21 should be deleted because it is unnecessary.
21. ~~Commission Staff participated in this proceeding.~~
- A new finding of fact should be added after finding of fact 45 for accuracy.
- 45A. The district and Commission Staff are the only parties to this proceeding.
- New conclusions of law should be added after conclusion of law 5 for completeness.
- 5A. Under TWC § 13.043(e), the Commission may consider only the information that was available to the governing body at the time the governing body made its decision and evidence of reasonable expenses incurred by the retail public utility in the appeal proceedings.
- 5B. Under TWC § 13.043(j), the Commission must ensure that every rate received by a retail public utility must be just and reasonable; not unreasonably preferential, prejudicial, or discriminatory; and sufficient, equitable, and consistent in application to each class of customers.

- 5C. In an appeal under TWC § 13.043, the Commission must use a methodology that preserves the financial integrity of the retail public utility.
- Ordering paragraphs 3, 4, 5, and 7 should be modified for accuracy.
    3. The dDistrict ~~will~~ must 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 dDistrict 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 dDistrict ~~will~~ must file a report showing the total amount that has been refunded to customers and the balance remaining to be refunded. The reports ~~will~~ must be filed in Docket No. 49349, *Compliance Filing of Galveston County Municipal Utility District No. 12 Regarding Refunds from Docket No. 47998*. No later than 15 days after the filing of the district's report, Commission Staff must file its comments regarding the district's report. Responses to Commission Staff's recommendation must be filed no later than 15 days after Commission Staff's report is filed.
    5. The dDistrict ~~will~~ must not seek recovery of rate-case expenses for this proceeding.
    7. The Commission denies ~~a~~All other motions and any other requests for general or specific relief, if not expressly granted, ~~are denied~~.
  - A new conclusion of law should be added after conclusion of law 4 to address other requirements.
    - 4A. Under 16 TAC § 24.12, the district bears the burden of proof to establish that the contested rates are just and reasonable.

*Notice 16 TAC §§ 2422.101(c)(6)*

- The introductory statement under section I in the Findings of Fact should be modified for conformity with standard Commission order language.

The Commission ~~adopts~~ makes the following findings of fact:

- The introductory statement under section II in the Conclusions of Law should be modified for conformity with standard Commission order language.

The Commission ~~adopts~~ makes the following conclusions of law:

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.