



Control Number: 47998



Item Number: 64

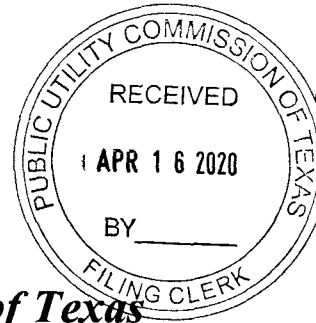
Addendum StartPage: 0

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

All Parties of Record

FROM: Isaac Ta *I.T.*
Administrative Law Judge

RE: **Open Meeting of May 14, 2020**
Docket No. 47998 – *Ratepayers' Appeal of the Decision by Galveston County
Municipal Utility District No. 12 to Change Rates*

DATE: April 16, 2020

Because of the COVID-19 state of disaster, the Commission has moved to a work-at-home environment and is working to maintain operations as normally as possible. However, all known challenges have not yet been overcome and the dates provided in this notice are subject to change.

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, May 14, 2020, 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 Wednesday, May 6, 2020.

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

Q:\CADM\Docket Management\Water\Rate Appeals\47xxx\47998 POMEMO docx

64

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

I. Findings of Fact

The Commission makes the following findings of fact.

The District—16 Texas Administrative 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 (TWC).
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 flat rate for water and sewer services by \$30.00 per month.
5. The increased rates went into effect with the December 2017 billing cycle.

The Appeal—TWC § 13.043(b)–(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, constituting 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 filed 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 filed 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. In SOAH Order No. 1 filed 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 filed on May 1, 2018, the SOAH ALJ adopted a procedural schedule proposed by the parties and gave notice of the convening of a 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.

17. In SOAH Order No. 3 filed 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 filed 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 a rescheduled 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.

Testimony

19. On July 9, 2018, the district filed the direct testimonies of William I. Alcorn, Jr., president of the district, and Lydia Cook, bookkeeper of the district.

Notice—16 TAC § 24.101(c)(6)

20. The district did not provide notice of the SOAH hearing under 16 TAC 24.101(c)(6) because the hearing was cancelled when the SOAH docket was dismissed.

Intervenors and Intervenor Alignment—16 TAC §§ 22.103–22.105

21. No interventions were requested or granted in this proceeding.

The Agreement

22. On July 31, 2018, the parties participated in mediation at SOAH and resolved the dispute.
23. 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.
24. In SOAH Order No. 5 filed on August 6, 2018, the SOAH ALJ abated the procedural schedule until August 20, 2018.
25. On August 13, 2018, Commission Staff filed an unopposed motion to suspend the procedural schedule until August 27, 2018.
26. In SOAH Order No. 6 filed on August 14, 2018, the SOAH ALJ abated the procedural schedule until August 27, 2018.
27. On August 27, 2018, Commission Staff filed a motion to suspend the procedural schedule until September 10, 2018.

28. In SOAH Order No. 7 filed on August 28, 2018, the SOAH ALJ abated the procedural schedule until September 10, 2018.
29. On September 10, 2018, Commission Staff filed a unanimous settlement agreement resolving the issues between the parties. Along with the agreement, Commission Staff filed a joint proposed order and the testimony of Andrew Novak, financial analyst with Commission Staff, in support of the settlement.
30. In May of 2018, a bond was approved by voters 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.
31. 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. Those rates are as follows:

Water Rates

Base rate (fixed monthly charge for all meter sizes) \$20.00

Usage charges (gallons):

0-3,000	included in base rate
3,001-6,000	\$3.50 per thousand
6,001-9,000	\$4.00 per thousand
9,001-12,000	\$4.50 per thousand
12,001-15,000	\$5.00 per thousand
15,001-18,000	\$6.00 per thousand
18,001 or more	\$7.00 per thousand

Sewer Rates

Base rate (fixed monthly charge for all meter sizes) \$20.00

Usage charges (gallons):

0-3,000	included in base rate
3,001-6,000	\$1.00 per thousand
6,001-9,000	\$1.50 per thousand
9,001-12,000	\$1.75 per thousand
12,001-15,000	\$2.00 per thousand
15,001-18,000	\$2.25 per thousand
18,001 or more	\$3.00 per thousand

32. The agreed rates generate a revenue requirement of \$1,199,143, or \$1,665,343 less other revenues of \$466,200.

33. The 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 filed 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 on July 9, 2018; (b) the direct testimonies of Lydia Cook and William I. Alcorn, Jr. filed on July 9, 2018; (c) the unanimous settlement agreement filed on September 10, 2018; (d) the testimony of Commission Staff witness Andrew Novak in support of the settlement filed on September 10, 2018; and (e) the district's response to Commission Staff's first request for information filed on March 27, 2018.
41. On April 3, 2020, the parties filed a motion to admit Attachment C of the amended joint proposed order as additional evidence into the record of this proceeding.
42. In Order No. 11 filed on April 15, 2020, the Commission ALJ admitted Attachment C of the amended joint proposed order into the record of this proceeding.

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

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

Informal Disposition

44. More than 15 days have passed since the completion of any required notice provided in this docket.

45. No person filed a protest or motion to intervene.

46. The ratepayers, the district, and Commission Staff are the only parties to this proceeding.

47. No party requested a hearing and no hearing is needed.

48. This docket does not contain any remaining contested issues of fact or law.

49. Commission Staff recommended approval of the application.

50. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The district is a retail public utility as defined by TWC § 13.002(19).
2. The Commission has authority 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 TWC, the Administrative Procedure Act,¹ and Commission rules.
5. Under 16 TAC § 24.12, the district bears the burden of proof to establish that the contested rates are just and reasonable.
6. 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).
7. 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

¹ Tex. Gov't Code §§ 2001.051–.052.

evidence of reasonable expenses incurred by the retail public utility in the appeal proceedings.

8. 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. The rates are as follows:

Water Rates

Base rate (fixed monthly charge for all meter sizes) \$20.00

Usage charges (gallons):

0-3,000	included in base rate
3,001-6,000	\$3.50 per thousand
6,001-9,000	\$4.00 per thousand
9,001-12,000	\$4.50 per thousand
12,001-15,000	\$5.00 per thousand
15,001-18,000	\$6.00 per thousand
18,001 or more	\$7.00 per thousand

Sewer Rates

Base rate (fixed monthly charge for all meter sizes) \$20.00

Usage charges (gallons):

0-3,000	included in base rate
3,001-6,000	\$1.00 per thousand
6,001-9,000	\$1.50 per thousand
9,001-12,000	\$1.75 per thousand
12,001-15,000	\$2.00 per thousand
15,001-18,000	\$2.25 per thousand
18,001 or more	\$3.00 per thousand

9. In an appeal under TWC § 13.043, the Commission must use a methodology that preserves the financial integrity of the retail public utility.
10. 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.
11. The agreed rates will preserve the financial integrity of the district.
12. 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.
3. The district 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 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 seven-month period in which the refund is in effect, the district must file a report showing the total amount that has been refunded to customers and the balance remaining to be refunded. The reports 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 report. Responses to Commission Staff's recommendation must be filed no later than 15 days after Commission Staff's report is filed.
5. The district must 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. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of _____ 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER