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**PUC DOCKET NO. 48640**  
**SOAH DOCKET NO. 473-19-4089**

**APPLICATION OF W. E. VLASEK DBA §**  
**SHALAKO ESTATES, CANYON §**  
**SPRINGS, MARY MEADE, RUSTIC §**  
**HILLS, AND VILLAGE WEST FOR §**  
**AUTHORITY TO CHANGE WATER §**  
**RATES §**

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**PRELIMINARY ORDER**

W. E. Vlashek doing business as Shalako Estates, Canyon Springs, Mary Meade, Rustic Hills, and Village West filed an application to change water rates. This preliminary order identifies the issues that must be addressed in this docket.

Vlashek is applying under Texas Water Code (TWC) § 13.1871 (through TWC §13.1872(c)(2)) to change its water rates based on a test year ending on December 31, 2017, adjusted for known and measurable changes. Vlashek filed its application under the water utility name of W. E. Vlashek doing business as Shalako Estates, Canyon Springs, Mary Meade, Rustic Hills, and Village West. Vlashek provides water service to approximately 386 active connections in Kerr County under certificate of convenience and necessity (CCN) numbers 12685 and 11579. The holder of CCN number 12685 is Shalako Estates and Canyon Springs Water Systems and the holder of CCN number 11570 is Mary Meade Water. Vlashek is seeking an increase in annual revenues of \$34,668 which is a 11.46% increase for its water service.

Vlashek filed its application on August 29, 2018, providing November 3, 2018 as the effective date of its proposed rate change. On October 2, 2018, the Commission administrative law judge (ALJ) found the application administratively incomplete because of deficient notice and incomplete financial information, and suspended the effective date of the proposed rate change. On October 8, 2018, Vlashek filed information supplemental to its original application. In Order No. 4 issued on December 14, 2018, the Commission ALJ found the application administratively complete, continued the suspension of the effective date of the requested rate change until Commission Staff can complete a full financial review, and directed Vlashek to provide

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notice to ratepayers at least 35 days before the effective date of the proposed rate change, pursuant to 16 Texas Administrative Code (TAC) § 24.27(d).

The docket was referred to the State Office of Administrative Hearings (SOAH) on March 28, 2019. In the order of referral issued on April 4, 2018, Vlasek was directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed by May 2, 2018. Vlasek and Commission Staff each timely filed a list of issues.

### **I. Issues to be Addressed**

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>1</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. What is the legal name and all assumed names, if any, of the applicant in this docket? If Vlasek has an assumed name, provide a currently valid certificate of assumed names.
2. What is the corporate form of the utility making the application in this docket (e.g., corporation, partnership, sole proprietorship)? What is the charter or authorization number, the date the business was formed, and the date any change was made?
3. What is the legal name of the parent company, if any, and a description of its primary business interest and the name of any companies affiliated with Vlasek with which it does any business? When was the parent company registered, and in what state?
4. Is Shalako Estates and Canyon Springs Water Systems a water utility under TWC § 13.002(23)?
5. What is the proper legal name of the utility that currently holds CCN number 12685? In answering this issue, please identify who owned the equipment and facilities used to provide water service under CCN number 12685.
6. Is Mary Meade, Rustic Hills, and Village West a water utility under TWC § 13.002(23)?

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<sup>1</sup> Tex. Gov't Code Ann. § 2003.049(e).

7. What is the proper legal name of the utility that currently holds CCN number 11570? In answering this issue, please identify who owned the equipment and facilities used to provide water service under CCN number 11570.
8. Did the utility provide proper notice of the proposed rate change to each customer or other interested party? TWC § 13.1871(b), (c); 16 TAC § 24.27.
9. Which entity (or entities) own the assets used in providing water service to the customers for which the rate change is requested in this docket?
10. Which entity (or entities) performs the day-to-day operations used in providing water service to the customers for which the rate change is requested in this docket?
11. If a combination of entities constitutes the utility seeking the water rate change, which entities should be joined in this proceeding? 16 TAC § 22.104(a).
12. Did the utility seeking the rate increase file its 2018 annual report? TWC § 13.136; 16 TAC § 24.129
13. What is the appropriate methodology to determine just and reasonable rates in this proceeding?
14. What are the just and reasonable rates for the utility that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory? TWC §§ 13.182, 13.1871(o); 16 TAC § 24.28(d).
15. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses while preserving the utility's financial integrity? TWC § 13.183(a)(1) and (2); 16 TAC § 24.32(a).
16. Are the utility's proposed revisions to its tariffs and rate schedules appropriate?
17. What is the reasonable and necessary cost of providing service? 16 TAC § 24.31.
18. What adjustments, if any, should be made to the utility's proposed test-year data? TWC § 13.185(d)(1); 16 TAC § 24.31(b), (c)(5).
19. What is the appropriate debt-to-equity capital structure of the utility?

20. What is the appropriate weighted cost of capital (also called the overall rate of return), including return on equity and cost of debt for the utility? 16 TAC § 24.31(c)(1).
21. What are the reasonable and necessary components of the utility's invested capital? 16 TAC § 24.31(c)(2).
  - a. Is the invested capital allocated from the utility's affiliates, if any, used and useful in providing service to the utility's customers?
22. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?
23. What is the original cost of the property used and useful in providing water service to the public at the time the property was dedicated to public use? TWC § 13.185(b); 16 TAC § 24.31(c)(2)(A) and (B). What is the amount, if any, of accumulated depreciation on such property?
24. Is the utility seeking inclusion of construction work in progress? If so, what is the amount sought, and for what facilities is it being sought? Additionally, has the utility proven that the inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed? TWC § 13.185(b); 16 TAC § 24.31(c)(4).
25. Does the utility have any debt? If so, what is the cost of that debt?
26. What is the reasonable and necessary working capital allowance for the utility? 16 TAC § 24.31(c)(2)(C).
27. Does the utility have any water- or sewer-utility property that was acquired from an affiliate or a developer before September 1, 1976? If so, has such property been included by the utility in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities? TWC § 13.185(i).
28. Has the utility acquired any water utility property from an affiliate? If so, do the payments, including any interest, for that property meet the requirements of TWC § 13.185(e)?

29. Has the utility financed any of its plant with developer contributions? TWC § 13.185(j), 16 TAC § 24.31(b)(1)(B). What is the amount, if any, of accumulated depreciation on that property?
30. Has the utility included any customer contributions or donations in invested capital? TWC § 13.185(j), 16 TAC § 24.31(c)(2)(B)(v). If so, what is the amount of those customer contributions or donations?
31. What are the utility's reasonable and necessary operations and maintenance expenses? 16 TAC § 24.31(b)(1)(A).
32. What are the utility's reasonable and necessary administrative and general expenses?
33. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations? 16 TAC § 24.31(b)(1)(F).
34. Are any expenses, including but not limited to, executive salaries, advertising expenses, rate-case expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines, unreasonable, unnecessary, or not in the public interest? TWC § 13.185(h)(3); 16 TAC § 24.31(b)(2)(I).
35. If the utility has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to change that amount? What is the amount of any shortage or surplus for the reserve account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
36. What are the utility's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
37. Has the utility made any payments to affiliates?
- a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary? TWC § 13.185(e).
  - b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher

than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations? TWC § 13.185(e).

38. Is the method used to allocate costs attributable to the utility's affiliates appropriate and in accordance with the TWC?
- a. Are all of the allocated costs attributable to the utility's affiliates reasonable and necessary to provide service to the utility's customers?
39. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation? TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).
40. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are such tax savings apportioned equitably between customers and the utility, and are the interests of present and future customers equitably balanced?
41. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes? 16 TAC § 24.31(b)(1)(C).
42. What is the reasonable and necessary amount for the utility's federal income tax expense? TWC § 13.185(f); 16 TAC § 24.31(b)(1)(D).
- a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return? TWC § 13.185(f).
- b. If so, have income taxes been computed as though a consolidated return had been filed and the utility had realized its fair share of the savings resulting from the consolidated return? TWC § 13.185(f).
- c. If not, has the utility demonstrated that it was reasonable not to consolidate returns? TWC § 13.185(f).
43. What is the reasonable and necessary amount of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from the utility's rate base?

44. Did the utility properly account for the effects of the Tax Cuts and Jobs Act of 2017? *Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018*, Pub. L. No. 115-97, 131 Stat. 2054 (Dec. 22, 2017).
45. What is the reasonable and necessary amount for municipal franchise fees, if any, to be included in rates?
46. What regulatory assets, if any, are appropriately included in the utility's rate base? If such assets are included in rate base, what is the appropriate treatment of such assets?
47. Is the utility seeking rates for both water and sewer service? If so, is each component of cost of service (each allowable expense and all return on invested capital) properly allocated between water and sewer services?
48. What is the appropriate allocation of costs and revenues among the utility's rate classes?
49. What is the appropriate rate design for each rate class? 16 TAC § 24.32.
50. Should the utility use the current number of connections as of the date of the application as opposed to using the number of test-year-end connections in designing rates?
51. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest? 16 TAC § 24.33. Does that amount include any prospective rate-case expenses to be incurred after the Commission's final order? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?
52. If a refund or surcharge results from this proceeding, how and over what period of time should that be made? TWC § 13.1871.
53. Has the utility met the requirements for a request for interim relief in the form of interim rates? If so, what are the appropriate levels of the interim rates? 16 TAC § 24.29.
54. What is the appropriate effective date of the rates fixed by the Commission in this proceeding? TWC § 13.1871.

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations

imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code Annotated § 2003.049(e).

## II. Effect of Preliminary Order

This order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this order may be appealed to the Commission. The Commission will not address whether this order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the 24<sup>th</sup> day of May 2019.

### PUBLIC UTILITY COMMISSION OF TEXAS

  
DEANN T. WALKER, CHAIRMAN

  
ARTHUR C. D'ANDREA, COMMISSIONER

  
SHELLY BOTKIN, COMMISSIONER