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Public Utility Commission of Texas

TO: All Parties of Record

FROM: Office of Policy & Docket Management

RE: **PUC Docket No. 48697**
SOAH Docket No. 473-20-1117.WS – *Application of Anderson Water Company, Inc. for Authority to Change Rates*

DATE: March 11, 2022

The Commission will consider a proposed order in this docket at a future open meeting. The parties shall file corrections or exceptions to the proposed order on or before Monday, March 21, 2022.

On November 13, 2019, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

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

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PUC DOCKET NO. 48697
SOAH DOCKET NO. 473-20-1117.WS

**APPLICATION OF ANDERSON WATER
COMPANY, INC. FOR AUTHORITY TO
CHANGE RATES**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

PROPOSED ORDER

This Order addresses the application of Anderson Water Company, Inc. for authority to change its water rates and associated tariff under certificate of convenience and necessity (CCN) number 11675. Anderson Water and Commission Staff filed a stipulation and settlement agreement (agreement) on the terms of the rate and tariff changes. The Commission approves the agreed water rates and associated tariff to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Anderson Water is a Texas corporation registered with the Texas secretary of state under filing number 50990400.
2. Anderson Water owns for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public in Texas.
3. As of June 30, 2017, Anderson Water provides potable water service for compensation to approximately 419 connections in Grimes County under CCN number 11675.
4. Anderson Water performs billing services for the sewer service provided by the City of Anderson to its residents.
5. Anderson Water's owner runs a plumbing supply business out of the same building where Anderson Water's offices are located.
6. During the test year, Anderson Water kept a single set of books that included revenues generated by Anderson Water, the plumbing supply business, and the billing services for the City of Anderson.

7. The third-party billing business and plumbing supply business are not separate legal entities from Anderson Water and are operated with the help of some Anderson Water employees.

Application

8. On October 1, 2018, Anderson Water filed an application to change its water rates and associated tariff for its service area in Grimes County.
9. The application was based on a historical test year ending June 30, 2017, adjusted for known and measurable changes.
10. In the application, Anderson Water requested an overall increase of \$86,228 over its adjusted test-year revenues for water service.
11. In Order No. 5 filed on March 13, 2019, the Commission administrative law judge (ALJ) found the application administratively complete.

Notice of the Application

12. On April 17, 2019, Anderson Water filed the affidavit of Rickey Wehmeyer, Anderson Water's authorized representative, attesting to the provision of notice to customers via first class mail on March 15, 2019.
13. In Order No. 7 filed on May 8, 2019, the Commission ALJ found the notice insufficient and requested proof that notice was provided to the Office of Public Utility Counsel.
14. On May 17, 2019, Anderson Water filed proof that a copy of the March 15, 2019 notice was sent to the Office of Public Utility Counsel.
15. Anderson Water's notice of the application is sufficient.

Notice of the Hearing

16. On February 11, 2020, Anderson Water provided notice of the prehearing conference scheduled for March 3, 2020 to customers via first class mail.
17. On February 24, 2020, Anderson Water filed the affidavit of Mr. Wehmeyer attesting to Anderson Water's notice of the prehearing conference..

Referral to the State Office of Administrative Hearings (SOAH)

18. On November 13, 2019, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH).
19. On December 13, 2019, the Commission filed a preliminary order.
20. On March 3, 2020, the SOAH ALJ conducted a prehearing conference via videoconference.
21. In SOAH Order No. 5 filed on March 24, 2020, the SOAH ALJ memorialized the March 3, 2020 prehearing conference and adopted a procedural schedule setting a hearing on the merits to convene on May 5, 2020.
22. In SOAH Order No. 6 filed on April 16, 2020, the SOAH ALJ granted the parties' request to abate the procedural schedule and referred this docket to mediation.
23. On July 17, 2020, Commission Staff and Anderson Water participated in a video conference mediation.
24. On March 17, 2021, Commission Staff and Anderson Water informed the SOAH mediator that they had reached an agreement in principle.
25. On March 24, 2021, the SOAH mediator filed a final mediator's report noting the agreement in principle and returning the case to the presiding SOAH ALJ for disposition.
26. On July 15, 2021, Anderson Water and Commission Staff (collectively, signatories) filed an agreement.
27. In SOAH Order No. 12 filed on August 2, 2021, the SOAH ALJ dismissed the case from SOAH docket and returned the case to the Commission.

Return from SOAH

28. On December 9, 2021, Commission Counsel filed a memorandum directing the parties to file additional evidence to support notice of interim rate changes, the proposed tap fee and other miscellaneous fees, the proposed reconnection fee for non-payment, cash working capital, and amounts collected by Anderson Water between May 2019 and January 2020.

29. On February 7, 2022, Commission Counsel filed a memorandum stating that, after further consideration, the Office of Policy and Docket Management had determined additional evidence supporting cash working capital to be unnecessary in this docket
30. On February 28, 2022, Commission Staff and Anderson Water filed a joint response and attachments addressing notice of interim rate changes, the proposed tap fee and other miscellaneous fees, the proposed reconnection fee for non-payment, and amounts collected by Anderson Water between May 2019 and January 2020. Commission Staff and Anderson Water requested that the joint response and its attachments be admitted into the evidentiary record.

Interventions and Protests

31. Less than 10% of Anderson Water's ratepayers affected by the proposed rate increase filed protests in this docket.
32. No motions to intervene were filed in this proceeding.

Testimony

33. On April 6, 2020, Anderson Water filed the direct testimony of Jessica Sechelski, account manager for Anderson Water.
34. On July 15, 2021, Commission Staff filed the testimony of Kathryn Eiland in support of the agreement.

Evidentiary Record

35. On July 15, 2021, Anderson Water and Commission Staff jointly filed a motion to admit evidence.
36. In SOAH Order No. 12 filed on August 2, 2021, the SOAH ALJ admitted the following evidence into the record:
 - a. the application of Anderson Water Company, Inc. for authority to change rates, filed on October 1, 2018;
 - b. Anderson Water's response to Order No. 2, filed on December 17, 2018;
 - c. Anderson Water's updated proposal of rate change and affidavit, filed on April 30, 2019;

- d. Anderson Water's supplemental proof of notice to the Office of Public Utility Counsel, filed on May 17, 2019;
 - e. Anderson Water's letter requesting an extension of the effective date of rate change, filed on December 13, 2019;
 - f. the joint status report and request to cancel prehearing conference, filed on January 10, 2020;
 - g. Anderson Water's proof of notice of prehearing conference, filed on February 24, 2020;
 - h. the direct testimony of Ms. Sechelski, filed on April 6, 2020;
 - i. the agreement and all exhibits, filed on July 15, 2021; and
 - j. the testimony of Kathryn Eiland in support of the agreement, filed on July 15, 2021.
37. In Order No. 12 filed on March 10, 2022, the Commission ALJ admitted into the evidentiary record the following attachments to Commission Staff's and Anderson Water's joint response and attachments filed on February 28, 2022:
- a. the one-page notice of water rates increase letter dated March 15, 2019;
 - b. the one-page notice of proposed rate change – water chart;
 - c. the one-page notice posted online for customers of Anderson Water Company; and
 - d. the two pages of sample copies of bills from Anderson Water.

Effective Date

38. Anderson Water's application filed on October 1, 2018, included a proposed effective date for its rate change of November 28, 2018.
39. In Order No. 2 filed on November 1, 2018, the Commission ALJ suspended Anderson Water's proposed effective date until an administratively complete application was accepted for filing.
40. Anderson Water filed updated notices on March 5 and 6, 2019, and April 17 and 30, 2019. The final version of the notice included a proposed effective date of April 26, 2019.

41. In Order No. 7 filed on May 8, 2019, the Commission ALJ suspended the proposed effective date for no more than 265 days from April 26, 2019, or until January 16, 2020.
42. On December 13, 2019, Anderson Water filed a letter requesting to extend its proposed effective date by an unspecified amount of time.
43. On January 10, 2020, Commission Staff and Anderson Water filed a joint status report that included a request for a new proposed effective date of December 1, 2019, which, if granted, would have extended the suspension period until August 24, 2020.
44. In SOAH Order No. 5 filed on March 24, 2020, the SOAH ALJ denied the joint motion and requested that Anderson Water file a report by March 27, 2020 clarifying whether its rates went into effect on January 16, 2020 as authorized by law or whether it agreed to the extension of the effective date.
45. On April 6, 2020, Anderson Water filed a letter accompanying the direct testimony of Ms. Sechelski restating that Anderson Water agreed to extend the effective date to December 1, 2019.
46. The SOAH ALJ did not file an order addressing Anderson Water's request.

Interim Rates

47. On March 15, 2019, Anderson Water provided to customers, via written letter, notice that it would begin charging the rates proposed in its application beginning May 2019.
48. In May 2019, Anderson Water began charging the rates proposed in its application despite the suspension of the effective date until January 16, 2020.
49. On September 29, 2020, Commission Staff and Anderson Water jointly filed a motion to requesting interim rates that were identical to the rates under Anderson Water's existing tariff and agreeing that the interim rates would not be subject to refund or surcharge.
50. In SOAH Order No. 9 filed on October 5, 2020, the SOAH ALJ adopted Anderson Water's existing rates as interim rates effective October 5, 2020. The SOAH ALJ held that these interim rates are not subject to refund or surcharge upon the filing of this Order.
51. On September 6, 2020, Anderson Water published notice of the interim rates effective October 5, 2020 on the *News & Notices* page of its website.

52. On March 24, 2021, Commission Staff and Anderson Water jointly filed a motion for interim rates at the agreed rates.
53. In Order No. 10 filed on May 5, 2021, the SOAH ALJ adopted the agreed rates as interim rates effective the first billing period after they were granted. The SOAH ALJ held that these interim rates are subject to refund or surcharge upon the filing of this Order.
54. On May 6, 2021, Anderson Water published notice of the interim rates effective May 5, 2021 on the *News & Notices* page of its website.

Revenue Requirement and Rates

55. In its application, Anderson Water requested a total revenue requirement of \$260,183, consisting of the following:

Description	Amount
Operating Expenses	\$198,855
Depreciation	\$31,757
Taxes other than income taxes	\$0
Federal income tax	\$0
Return on rate base	\$37,177
Total	\$260,183

56. The signatories agreed that Anderson Water's total revenue requirement for water CCN number 11675 is \$243,183. This amount is equal to \$250,789 less other revenues of \$7,606.
57. The signatories agreed that the total revenue requirement includes 88% of the total amount Anderson Water requested for employee labor expense to reflect that some employees spend time working on tasks related to the plumbing business.
58. During the test year, Anderson Water made payments to Rick Wehmeyer, owner of Anderson Water. Mr. Wehmeyer owns more than a 5% interest in Anderson Water.
59. The affiliate costs included in the rates agreed to by the signatories are reasonable and necessary.

60. To the extent that payments to affiliated interests are included in the rates agreed to by the signatories, the prices charged to Anderson Water are not higher than the prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items or to unaffiliated persons or corporations.
61. The signatories agreed that Anderson Water is authorized to charge the rates shown in exhibit B to the agreement to be effective for usage on and after the date of this Order. These rates are as follows:

<u>Meter Size</u>	<u>Monthly Minimum Charge</u> (includes 2,500 gallons)	<u>Gallonage Charge</u>
5/8"	<u>\$16.67</u>	<u>\$4.85</u> per 1,000 gallons, 2,501 to 10,000 gallons
3/4"	<u>\$25.00</u>	<u>\$5.10</u> per 1,000 gallons, 10,001 to 20,000 gallons
1"	<u>\$41.67</u>	<u>\$5.35</u> per 1,000 gallons, 20,001 to 50,000 gallons
1 1/2"	<u>\$83.33</u>	<u>\$5.60</u> per 1,000 gallons, 50,001 to 100,000 gallons
2"	<u>\$133.33</u>	<u>\$5.85</u> per 1,000 gallons over 100,001 gallons
3"	<u>\$250.00</u>	
4"	<u>\$416.67</u>	

62. The agreed rates are designed to recover the agreed total revenue requirement.
63. The agreed rates are just and reasonable.
64. In its application, Anderson Water requested to increase its tap fee from \$300 to \$1,200, its reconnection fee for non-payment from \$25 to \$50, and its late charge from \$3 to \$5.
65. The signatories agreed that Anderson Water may change its tap fee to \$1,200, its reconnection fee for non-payment to \$50, and its late charge to \$5.
66. The agreed miscellaneous fees are just and reasonable.

Rate Base

67. In its application, Anderson Water requested a total original cost for plant in service of \$611,805 and accumulated depreciation of \$311,722.98, resulting in a net plant in service of \$300,082.02, as shown in exhibit D to the agreement.
68. The signatories agreed that Anderson Water's total original cost for plant in service is \$613,845.05 and that Anderson Water's accumulated depreciation is \$274,521.43, resulting in an agreed net plant in service of \$339,323.62.

69. The signatories agreed, and it is appropriate for, Anderson Water to maintain the original invoices it receives for third-party work related to any assets placed into service after the effective date of the rates approved in this case and for any third-party invoices it receives to perform repairs that are capitalized.
70. In its application, Anderson Water requested cash working capital of \$24,260.39, which was less than 1/8 of its requested operation and maintenance expense of \$198,855.
71. In its application, Anderson Water requested a weighted average cost of capital of 11.44%.
72. The signatories agreed that Anderson Water's weighted average cost of capital is 6.71%.
73. A 6.71% rate of return will allow Anderson Water a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses.
74. The components of Anderson Water's net plant in service as shown in exhibit D are reasonable and necessary.

Agreed Tariff Provisions

75. The signatories agreed on the tariff provisions set forth in exhibit B to the agreement.
76. The terms and conditions of the agreed tariff are just and reasonable.

Rate-Case Expenses

77. The signatories agreed that Anderson Water may collect rate-case expenses in the amount of \$13,668 through a surcharge of \$2.74 per connection per month over a period of 12 consecutive months or until the full amount has been recovered, whichever occurs first.
78. The signatories agreed that Anderson Water may not seek to recover any additional rate-case expenses incurred in connection with this docket in a future proceeding.
79. The agreed rate-case expenses in the amount of \$13,668 are reasonable and necessary.

Separation of Business Entities

80. The signatories agreed that Anderson Water will create a separate business entity for the plumbing supply portion of its business.

81. The signatories agreed that the financial books and records of Anderson Water and the new entity for the plumbing supply business will be maintained separately.
82. The signatories agreed that separate income tax returns will be filed for Anderson Water and the new entity for the plumbing supply business.
83. The signatories agreed that all employees of Anderson Water who also perform duties to support the plumbing supply business or any third-party billing contracts executed by Anderson Water, will keep separate time sheets to track the hours spent working on tasks related to the plumbing supply business or third-party billing so payroll and other expenses can be direct-billed to each business function.
84. The signatories agreed that Anderson Water will maintain contracts and other records for all billing it performs for the City of Anderson for sewer services, and for any other existing or future third-party billing agreements. These records will indicate the services performed by Anderson Water, the amount of revenues collected, and the amount of expenses Anderson Water incurred in performing the services.

Request for Good-Cause Exception

85. Commission rules require public utilities to provide notice to customers of interim rates with the first billing at the interim rates with the following wording: “The Commission (or presiding officer) has established the following interim rates to be in effect until the final decision on the requested rate change (appeal) or until another interim rate has been established.”¹
86. Anderson Water did not provide to customers notice of the interim rates effective October 5, 2020 with the first billing at the interim rates.
87. Anderson Water did not provide to customers notice of the interim rates effective May 5, 2021 with the first billing at the interim rates.
88. Anderson Water’s notice for the rates implemented in May 2019 and notices for the interim rates effective October 5, 2020 and May 5, 2021 did not include the language required by the Commission’s rules.

¹ 16 Tex. Admin. Code § 24.37(j).

89. On February 28, 2022, Commission Staff and Anderson Water requested a good-cause exception to the Commission's rule regarding notice of interim rates to the extent that the language in Anderson Water's notices of interim rates do not contain the precise language required the rule.
90. There is good cause to grant an exception to the requirements of the Commission's rule regarding notice of interim rates.

Informal Disposition

91. More than 15 days have passed since the completion of notice provided in this docket.
92. Anderson Water and Commission Staff are the only parties to this proceeding.
93. The agreement resolves all issues in this proceeding and no hearing is necessary.
94. The decision is not adverse to any party.
95. All parties are signatories to the agreement.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Anderson Water is a utility, public utility, and water utility as those terms are defined in Texas Water Code (TWC) § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(39).
2. Anderson Water is a retail public utility as that term is defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. At the time Anderson Water filed its application, it was a class D utility as defined in TWC § 13.002(4-d) and 16 TAC § 24.3(8).
4. The Commission has authority over this proceeding under TWC §§ 13.041, 13.181, 13.1871, and 13.1872(c)(2).
5. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,² and Commission rules.

² Tex. Gov't Code. §§ 2001.001–.903.

6. Anderson Water gave proper notice of the application as required by TWC § 13.1871, 16 TAC § 24.27(d)(1), and the Administrative Procedure Act.
7. Anderson Water did not provide proper notice of its interim rates in accordance with the requirements of 16 TAC § 24.37(j).
8. Under 16 TAC § 24.2(b), the Commission may make exceptions to its substantive rules for good cause.
9. There is good cause to except Anderson Water from the requirements regarding notice of interim rates under 16 TAC § 24.37(j).
10. The establishment of interim rates does not preclude the Commission from establishing, as final rates, different rates than the interim rates in accordance with 16 TAC § 24.37(g).
11. Anderson Water must refund or credit against future bills all sums collected in excess of the rates approved by this Order in accordance with 16 TAC § 24.37(h) except for sums collected under the interim rates in effect between October 5, 2020 and the first billing period following May 5, 2021.
12. Anderson Water met its burden of proof under TWC § 13.184(c) and 16 TAC § 24.12 to show that the rates approved by this Order are just and reasonable.
13. The rates approved by this Order are just and reasonable under TWC § 13.182(a).
14. The rates approved by this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customers in accordance with TWC § 13.182(b).
15. Anderson Water's operating expenses are reasonable and necessary under 16 TAC § 24.41(b).
16. As required by TWC § 13.183, the rates approved by this Order will permit Anderson Water 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 Anderson Water's financial integrity.

17. The affiliate payments included in the rates approved by this Order are reasonable and necessary, as required by TWC § 13.185(e) and 16 TAC § 24.41(b).
18. As required by TWC § 13.185(h), the rates approved by this Order do not include legislative advocacy expenses, the costs of processing a refund or credit, or any expenditure that is unreasonable, unnecessary, or not in the public interest.
19. An overall rate of return of 6.71% will not yield Anderson Water more than a fair return on the invested capital used and useful in rendering service to the public in accordance with TWC § 13.184(a) and 16 TAC § 24.41(c)(1).
20. In accordance with TWC § 13.185 and 16 TAC § 24.41(c)(2)(A), the rates approved by this Order are based on original cost, less depreciation, of property used and useful in Anderson Water's provision of service.
21. The rates approved by this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
22. The amount of rate-case expenses Anderson Water will recover is reasonable and necessary as required by 16 TAC § 24.44(a).
23. This proceeding meets the requirements for informal disposition in 16 TAC § 22.35.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves Anderson Water's water rates and associated tariff, as modified by the agreement, to the extent provided in this Order.
2. The Commission approves the rates, terms, and conditions included in the tariffs attached to the agreement as exhibit B, effective the date of this Order.
3. The Commission grants a good-cause exception to the requirements of 16 TAC § 24.37(j), regarding Anderson Water's notice of interim rates.
4. Anderson Water must not file for an increase in base rates with an effective date that is sooner than 12 months after the date of this Order.

5. In the application for its next base-rate proceeding, Anderson Water must use exhibit D to the agreement to determine Anderson Water's net plant in service for CCN number 11675 as of June 30, 2017.
6. Anderson Water must fulfill its commitments regarding business restructuring to separate its utility from the plumbing supply business as set forth in this Order.
7. Anderson Water must maintain the original invoices it receives for third-party work related to any assets placed into service after the effective date of the rates approved by this Order and for any third-party invoices it receives to perform repairs that are capitalized.
8. Anderson Water must refund or credit against future bills all sums collected in excess of the rates approved by this Order in accordance with 16 TAC § 24.37(h) except for sums collected under the interim rates in effect between October 5, 2020 and the first billing period following May 5, 2021. Anderson Water must file in *Docket No. 53341, Compliance Filing for Docket No. 48697 (Application of Anderson Water Company, Inc. for Authority to Change Rates)*, documentation to identify any sums collected from the approved interim rates that are in excess of the rates approved in this Order, identify the amount to be refunded to customers through billing credits, and identify a reasonable number of monthly installments for credits to customers.
9. The Commission authorizes Anderson Water to collect rate-case expenses in the amount of \$13,668 through a surcharge of \$2.74 per connection per month to be collected for 12 months or until the full \$13,668 is collected, whichever occurs first. Anderson Water must adjust the surcharge to be collected in the final month to be less than \$2.74 per connection if such an adjustment is necessary to prevent an overcollection.
10. Anderson Water must not seek to recover any additional rate-case expenses incurred in connection with this docket in a future proceeding.
11. The surcharge for rate-case expenses must be implemented in *Docket No. 53341, Compliance Filing for Docket No. 48697 (Application of Anderson Water Company, Inc. for Authority to Change Rates)*.

12. 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.
13. Within ten days of the date of this Order, Commission Staff must provide a clean copy of the tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff book.
14. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER