



Control Number: 48836



Item Number: 741

OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM

MEETING DATE: May 15, 2025

DATE DELIVERED: May 14, 2025

AGENDA ITEM NO.: 2

CAPTION: Docket No. 48836; SOAH Docket No. 473-19-1422.WS – Petition of Paloma Lake Municipal Utility District No.1, Paloma Lake Municipal Utility District No. 2, Vista Oaks Municipal Utility District, Williamson County Municipal Utility District No. 10, and Williamson County Municipal Utility District No. 11 Appealing the Wholesale Water and Wastewater Rates Imposed by the City of Round Rock

DESCRIPTION: Commissioner Courtney Hjaltman

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Public Utility Commission of Texas

Commissioner Memorandum

TO: Commissioner Kathleen Jackson

FROM: Commissioner Courtney K. Hjaltman

CKH

DATE: May 14, 2025

RE: May 15, 2025 Open Meeting – Item No. 2

Docket No. 48836; SOAH Docket No. 473-19-1422.WS – *Petition of Paloma Lake Municipal Utility District No. 1, Paloma Lake Municipal Utility District No. 2, Vista Oaks Municipal Utility District, Williamson County Municipal Utility District No. 10, and Williamson County Municipal Utility District No. 11 Appealing the Ratemaking Actions of the City of Round Rock in Travis and Williamson Counties*

Before the Commission is a State Office of Administrative Hearings (SOAH) proposal for decision recommending the Commission deny a TWC § 13.044 appeal of wholesale water and sewer rates set by the City of Round Rock. After reviewing the issues in this proceeding, I recommend that the Commission adopt the proposal for decision but modify, add, or delete certain findings of fact and conclusions of law as provided below.

The latter half of finding of fact 14 should be divided into a new finding of fact for clarity.

14. On January 27, 2022, the City Council of Round Rock enacted Ordinance No. O-2022-0220 amending the City's code of ordinances to establish new retail and wholesale rates (2022 Ordinance). The 2022 Ordinance established new wholesale water and sewer rates effective February 1, 2022 (part of FY 2022); October 1, 2022 (FY 2023); and October 1, 2023 (FY 2024). ~~The 2022 Ordinance decreased wholesale water rates for three of the five Petitioners (Paloma Lake MUD Nos. 1 and 2, and Williamson County MUD No. 11); increased wholesale water rates for two of the Petitioners (Vista Oaks MUD and Williamson County MUD No. 10); and decreased wholesale sewer rates for all five Petitioners.~~

14A. The 2022 Ordinance decreased wholesale water rates for three of the five Petitioners (Paloma Lake MUD Nos. 1 and 2, and Williamson County MUD No. 11); increased wholesale water rates for two of the Petitioners (Vista Oaks MUD and Williamson County MUD No. 10); and decreased wholesale sewer rates for all five Petitioners.

Finding of fact 42 should be modified to clarify that municipalities may use the utility basis method to establish wholesale revenue requirements without prior authorization from a regulatory body.

42. Round Rock is ~~authorized to~~ may use the utility basis method to establish revenue requirements for wholesale customer rates.

Findings of fact 43 and 44 should be deleted because they are unnecessary to support the order.

43. ~~The relationship of non citizens to the City is akin to that of ratepayers to the investors of an IOU, and therefore, the utility basis method is appropriate to set rates for those outside city customers~~DELETED.
44. ~~The American Water Works Association's Manual of Water Supply Practice M1, Principles of Water Rates, Fees, and Charges (the M1 Manual) and the Water Environment Federation's Manual of Practice No. 27, Financing and Charges for Waste Water Systems (the WEF Manual) are appropriate guides in establishing rates for municipal water and sewer utilities~~DELETED.

Finding of fact 53 is overbroad and should be modified to clarify that it is referring to Round Rock's operations and maintenance expenses.

53. Round Rock's operations and maintenance ~~Operations and Maintenance~~ (O&M) costs consists of personnel, including services provided by other departments within the City, materials, supplies, and contractual services to supply, treat, and distribute water to customers, and provide collection and treatment of wastewater.

Finding of fact 59 should be deleted because it is unnecessary to support the order.

59. ~~Budget data are projected data; the terms are interchangeable~~DELETED.

Findings of fact 70 and 71 do not accurately reflect Commission policy and should be revised to reflect the guidance provided by the Commission in its Order on Appeal of SOAH Order No. 17 regarding the application of the just and reasonable standard to TWC § 13.044 appeals

70. Round Rock set the revenue requirements for the appealed rates using budget data and projected budget data ~~The inquiry of whether budget data is reliable must begin with the information available at the time the data is used to set rates.~~
71. To show that the revenue requirements for the appealed rates are just and reasonable, Round Rock must show that the budget data on which the rates were based are a reasonable approximation of the city's actual cost of providing service during the period the appealed rates were effective ~~The proper evaluation is to compare the City's projected expenses to what actually occurred for the years at issue, based on the data the City had available at the time it made its projections and that served as the basis for the rates the City adopted.~~

Six new conclusions of law should be added after conclusion of law 4 and one conclusion of law should be added after conclusion of law 5 to memorialize the Commission's decisions regarding the rates that may be appealed under TWC § 13.044 and the timeliness of appeals under TWC § 13.044.

- 4A. Under TWC § 13.044(b), a district that meets the requirements of TWC § 13.044(a) may appeal the rates imposed by the municipality by filing a petition with the Commission.
- 4B. The term *rates imposed* is not ambiguous in the context of TWC § 13.044 and means *rates established by law*.
- 4C. For purposes of appeals under TWC § 13.044, *rates imposed* includes all rate changes arising out of the same action or ordinance setting those rates that are either in effect at the time the petition is filed or will become effective after the petition is filed.
- 4D. Under 16 TAC § 24.45, a district may appeal the rates charged by the municipality by filing a petition with the Commission.
- 4E. The term *rates charged* in TWC § 13.044 is not ambiguous.
- 4F. TWC § 13.044 and 16 TAC § 24.45 do not prescribe a deadline by which appeals must be filed.
- 5A. The Commission has authority to establish a deadline to file appeals under TWC § 13.044 through a rulemaking.

A second conclusion of law should be added after conclusion of law 5 to establish that equitable defenses do not apply to appeals brought under TWC § 13.044.

- 5B. Equitable defenses, including the doctrines of equitable estoppel and laches, do not apply to appeals brought under TWC § 13.044.

A new conclusion of law should be added after conclusion of law 7 to provide the legal standard a municipality must meet to prove its rates are just and reasonable under TWC § 13.044.

- 7A. The just and reasonable standard is the appropriate legal standard for a municipality to prove its rates are just and reasonable under TWC § 13.044.

Conclusion of law 8 should be modified to accurately state the standard of review applicable to TWC § 13.044 appeals.

- 8. The Commission hears ~~the appeal de novo.~~ TWC § 13.044(b) appeals under TWC § 13.044 under the pure trial de novo standard.^x

^x Quick v. City of Austin, 7 S.W.3d 109, 116 (Tex. 1998); Sw. Bell Tel. Co. v. Pub. Util. Comm'n, 571 S.W.2d 503, 507 (Tex. 1978) (citing Lone Star Gas Co. v. State, 137 Tex. 279, 153 S.W.2d 681, 695 (1941)); Lewis v. Metropolitan Sav. & Loan Ass'n, 550 S.W.2d 11, 13 (Tex. 1977).

Conclusion of law 11 should be deleted because it does not accurately reflect Commission policy.

11. ~~The reasonableness of a municipality's budget data is evaluated based on the facts known at the time the rates are set DELETED.~~

Conclusion of law 12 should be modified for clarity.

12. The Commission will consider whether ~~the~~ appealed rates based on budget data are within a reasonable range of values.

A new conclusion of law should be added after conclusion of law 12 to clarify when rates fixed by the Commission under TWC § 13.044 become effective.

- 12A. The effective date of rates fixed by the Commission under TWC § 13.044 is the date that the petition appealing the rates is filed by the petitioner.

Two new conclusions of law should be added after conclusion of law 17 to address the recoverability of rate-case expenses in appeals under TWC § 13.044.

- 17A. TWC § 13.044 does not authorize a party to recover the attorneys' fees it incurs in an appeal brought under the statute.

- 17B. The Commission's substantive water rule regarding the recovery of rate-case expenses, 16 TAC § 24.44(a), does not apply to municipalities and is only applicable in rate cases brought under TWC §§ 13.187 and 13.1871.

Additionally, I recommend the Commission delegate authority to the Office of Policy and Docket Management 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.