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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

2019 MAY 13 PM 12:35

Public Utility Commission of Texas

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

All Parties of Record

FROM: Mayson Pearson *MP*
Administrative Law Judge

RE: **Open Meeting of June 13, 2019**
Docket No. 48872 – *Application of MSEC Enterprises, Inc. for a Federal Tax Change Credit Rider*

DATE: May 13, 2019

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Thursday, June 13, 2019, 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 June 5, 2019.

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

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DOCKET NO. 48872

**APPLICATION OF MSEC § PUBLIC UTILITY COMMISSION
ENTERPRISES, INC. FOR FEDERAL §
TAX CHANGE CREDIT RIDER § OF TEXAS**

PROPOSED ORDER

This Order addresses the application of MSEC Enterprises, Inc. for approval of two federal tax cut credit (FTCC) riders to pass through estimated tax savings gained as a result of the Tax Cuts and Jobs Act of 2017 (TCJA)¹. The Commission approves the riders as modified.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. MSEC is a for-profit corporation registered with the Texas Secretary of State under file number 145205000.
2. MSEC provides water and sewer service under certificates of convenience and necessity numbers 12887 and 20984 in Montgomery County.

Application

3. On December 14, 2018, MSEC filed an application for approval to implement two new FTCC riders that will be used to provide credits to water and sewer customers. In the application, MSEC requested that the riders commence on January 1, 2019.
4. In a notice issued on January 16, 2019, the administrative law judge (ALJ) deemed MSEC’s application administratively complete.
5. Commission Staff modified the application with MSEC’s consent in its final recommendation filed on March 20, 2019. Among other things, Commission Staff recommended that the riders commence on May 1, 2019.

¹ 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, 113 Stat. 2054 (Dec. 22, 2017).

Notice

6. On February 15, 2019, MSEC issued notice of the application to approve the implementation of the FTCC riders to all affected customers.
7. On February 15, 2019, MSEC filed the affidavit of Andrew Dallmeyer, Senior Vice President of MSEC, attesting to the provision of notice mailed to affected customers on February 15, 2019.

Federal Tax Cut Credit Rider

8. For a 5/8-inch water meter, for the period of May 1, 2019 through December 31, 2019, the monthly FTCC rider will be \$2.54.
9. For a 5/8-inch water meter, commencing January 1, 2020, the monthly meter FTCC rider will be \$1.27.
10. For a one-inch sewer meter, for the period of May 1, 2019 through December 31, 2019, the monthly FTCC rider will be \$3.00.
11. For a one-inch sewer meter, commencing January 1, 2020, the monthly meter FTCC rider will be \$1.50.
12. The proposed FTCC riders reflect the reduction in revenue requirement of \$104,837.52 for water and \$5,115.69 for sewer based on its 2017 actual historical information.
13. The rates established by this Order accurately reflect the federal income tax rate reduction from 35% to 21% on MSEC's annual federal income tax expenses.
14. The FTCC riders do not address the accounting and rate-making treatment of excess accumulated deferred federal income taxes (ADFIT) arising from changes to the federal tax law in the TCJA.

Evidentiary Record

15. In a notice issued on April 16, 2019, the ALJ admitted the following evidence into the record: 1) MSEC's FTCC rider application filed December 14, 2018; 2) Commission Staff's sufficiency recommendation filed January 14, 2019; 3) MSEC's response to Commission Staff's first request for information; 4) affidavit and proof of notice filed February 15, 2019; and 5) Commission Staff's final recommendation with attachments, filed March 20, 2019.

Informal Disposition

16. More than 15 days have passed since the completion of notice provided in this docket.
17. No person filed a protest or motion to intervene.
18. MSEC and Commission Staff are the only parties to this proceeding.
19. No party requested a hearing and no hearing is needed.
20. Commission Staff recommended approval of the amended application.
21. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over the application under TWC §§ 13.041, 13.181, and 13.182.
2. MSEC is a water and sewer utility as defined in Texas Water Code (TWC) § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(51), (75), and (76).
3. MSEC is a class B utility as defined in TWC § 13.002(4-b) and 16 TAC § 24.3(16).
4. The Commission has the authority to approve the FTCC riders under 16 TAC § 24.25(b)(2)(A)(v).
5. The Commission has the authority to implement the approved FTCC riders as a pass-through provision under § 24.25(b)(2)(C).
6. The notice provided to customers complies with 16 TAC § 24.25(b)(2)(F).
7. The application complies with the second Order in Project No. 47945.²
8. The Commission processed the application in accordance with the TWC and Commission rules.
9. The rates established by this Order are just and reasonable under TWC § 13.182(a).

² *Proceeding to Investigate and Address the Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Docket No. 47945, Second Order (Aug. 30, 2018).

10. In accordance with TWC §13.182(b), the rates established by this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customer.
11. The overall revenues produced by the rates established in this Order conform to TWC § 13.183.
12. The requirements for informal disposition in 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 approves MSEC's FTCC riders attached to Commission Staff's final recommendation filed on March 20, 2019.
2. The approved FTCC riders must remain in effect until MSEC's next rate case.
3. MSEC may defer for future regulatory treatment any amortization of the protected and unprotected excess ADFIT that it makes for accounting purposes and reflect such deferred liability amounts in the determination of MSEC's rates in its next base rate application.
4. MSEC must address, with its next rate case, the regulatory liability required by the Order in Docket No. 47945 for the balance of ADFIT that exists because of the decrease in the federal income tax rates.
5. Within 10 days of the date of this Order, Commission Staff must file a clean copy of the approved FTCC riders for Central Records to be marked *Approved* and kept in the Commission's tariff books.
6. 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 June 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

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