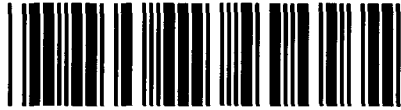




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PROJECT NO. 48937

**RULEMAKING TO AMEND § 24.44 §
RATE-CASE EXPENSES PURSUANT §
TO TEXAS WATER CODE § 13.187 §
AND § 13.1871 §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**
2019 FEB 12 55
PUBLIC UTILITY COMMISSION
CLERK

**JOINT INITIAL COMMENTS OF AQUA TEXAS, CANYON LAKE WATER SERVICE
COMPANY, SOUTHWEST WATER COMPANY, QUADVEST, AND CORIX
UTILITIES (TEXAS) ON STRAWMAN AMENDMENTS TO § 24.44**

These initial comments are jointly filed by the following investor-owned utilities which provide retail water/sewer utility service in Texas: Aqua Texas, Inc., Aqua Utilities, Inc., and Aqua Development, Inc. d/b/a Aqua Texas; SJWTX, Inc. d/b/a Canyon Lake Water Service Company; SouthWest Water Company; Quadvest, L.P., and Corix Utilities (Texas) Inc. (collectively, the “Water IOUs”). The Water IOUs hereby respectfully submit the following joint initial comments regarding the strawman amendments to 16 Texas Administrative Code (“TAC”) §24.44 (Rate-case Expenses Pursuant to Texas Water Code § 13.187 and § 13.1871) offered for public review and comment in Project No. 48937.

The Water IOUs appreciate the Commission Staff’s efforts on this rulemaking project and support the proposed changes to 16 TAC §24.44 reflected in the strawman rule amendments.¹ The strawman revisions to the rate case expense recovery rule applicable to water and sewer utilities would significantly improve the rule. The strawman rule provides appropriate criteria for evaluating the reasonableness and necessity of rate case expenses. Simultaneously, the strawman rule eliminates provisions that have been problematic for Texas water and sewer utilities in rate cases since before economic regulation of those utilities was transferred to the Commission effective September 1, 2014. Specifically, the Water IOUs are pleased to see the strawman rule eliminate provisions that preclude rate case expense recovery of any amount based on a 51% test or a test based on the content of a written settlement offer.

The 51% and settlement offer rule provisions were originally adopted by the Texas Commission on Environmental Quality in 2006 as part of 30 TAC § 291.88, carried over to this

¹ The Water IOUs note that the strawman document presents revisions to 16 TAC § 24.33, but the project filings thus far clarify elsewhere that revisions to 16 TAC § 24.44 (formerly 16 TAC § 24.33) are intended.

Commission as part of 16 TAC § 24.28, moved to 16 TAC § 24.33 without change, and are now found at 16 TAC § 24.44. But these rule provisions contain language that has never been part of Texas Water Code, Chapter 13 or substantively reviewed in a Commission-initiated rulemaking project specific to water/sewer utilities until now.² In contrast, these rule provisions do not exist in 16 TAC § 25.245 applicable to electric utility rate case expense recovery.³ In fact, the Commission specifically rejected efforts to include such language when the electric utility rule was developed and adopted in August 2014 immediately prior to the transfer of water/sewer utility economic regulation.⁴

Reasonable and necessary rate case expenses should be recoverable because they are necessitated by the regulatory compact between utilities and the Commission. Every rate case costs some amount to file and prosecute. Reasonable and necessary expenses required for water and sewer utilities to participate in the regulatory process should not be arbitrarily disallowed.

In sum, the Water IOUs respectfully request the Commission officially propose and adopt a revised 16 TAC § 24.44 in line with the strawman rule. Such a rule will improve the ratemaking process for Texas water and sewer utilities and remove unjust prohibitions on recovery of rate case expenses.

² In past rulemaking projects, some of the Water IOUs participated and requested these changes, but the Commission determined such changes were beyond the scope of those projects. See, e.g., Project No. 43871, *PUC Rulemaking Project to Amend Chapter 24 for the Implementation of Phase II of the Economic Regulation of Water and Sewer Utilities*, Order Adopting Amendments to §§ 24.3, 24.8, 24.14, 24.21, 24.23, 24.31, 24.32, 24.34, 24.41, 24.44, 24.72, 24.73, 24.102, 24.109, 24.111, 24.114, 24.131, 24.150; Repeal of §§ 24.11, 24.22, 24.25, 24.26, 24.27, 24.28; and New §§ 24.11, 24.22, 24.26, 24.28, 24.33, 24.36 as Approved at the August 14, 2015 Open Meeting, at 99-102 (Aug. 24, 2015) (adopting, in pertinent part, 16 TAC § 24.33 addressing rate case expense recovery).

³ 16 TAC § 25.245.

⁴ See Project No. 41622, *Rulemaking to Propose New Subst. R. 25.245, Relating to Recovery of Expenses for Ratemaking Proceedings*; Order Adopting New § 25.245 as Approved at the July 10, 2014 Open Meeting, at 130-133, 138, and 143 (Aug. 6, 2014).

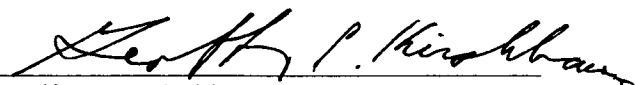
Respectfully submitted,

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UTILITIES (TEXAS) INC.**

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on the Public Utility Commission of Texas on February 19, 2019 in accordance with P.U.C. Procedural Rule 22.74.


Geoffrey P. Kirshbaum