



Control Number: 49225



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2019 DEC 13 PM 1:56

PETITION BY OUTSIDE CITY
RATEPAYERS APPEALING THE
WATER RATES ESTABLISHED BY
THE CITY OF CELINA

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PUBLIC UTILITY COMMISSION
FILING CLERK

OF TEXAS

**CITY OF CELINA'S RESPONSE TO MOTION FOR REFERRAL TO SOAH AND
OPPOSITION TO REQUEST FOR INTERIM RATES**

NOW COMES, the City of Celina ("City" or "Celina") and files this Response to Petitioners' Motion for Referral to SOAH and Request for Interim Rates and would respectfully show as follows:

Petitioners' Motion for Referral to SOAH and Opposition to Request for Interim Rates was filed on December 6, 2019. In accordance with 16 Texas Administrative Code (TAC) § 22.78 (a), this response is timely filed.

I. REQUEST TO TRANSFER TO SOAH

The Commission has entered its Order of Referral in this case, so this issue is now moot.

II. OPPOSITION TO INTERIM RATES; REQUEST FOR HEARING

The Petitioners request interim rates in their motion. In support of this request, the Petitioners paraphrase 16 TAC § 24.37 (d). That section reads as follows:

"Interim rates may be established by the commission in those cases under the commission's original or appellate jurisdiction where the proposed increase in rates could result in an unreasonable economic hardship on the utility's customers, unjust or unreasonable rates, or failure to set interim rates could result in an unreasonable economic hardship on the utility."

A. A 3% Increase in Rates Does Not Impose Economic Hardship

In this case, the rates in question reflect an overall average increase of 3% over the prior rates.¹ This is a minor increase that could not result in an economic hardship to ratepayers sufficient to justify interim rates. Furthermore, those rates do not fully recover the City's costs until after the third year after the scheduled rate increases have taken effect. Because imposing interim rates would require the City to either reduce its current rates or set aside some amount of money during the pendency of this case, it would also lower the City's debt coverage, which would either increase the risk of issuing new debt or increase debt costs to the City.

B. The Rate Study Shows the Outside City Rates Are Cost-Based

The Petitioners wrongly refer to the City's rate structure as "an arbitrary 1.5" "multiplier" of the rates for the customers outside the City, concluding that the rates are unreasonable.² In fact, the rate differentials are based on the true costs of providing service to customers outside the City. The City has provided its rate studies in discovery responses that clearly show the rates for customers outside the City are cost-based and are just and reasonable. The imposition of interim rates would mean that residential customers living outside the City would pay even less than their cost of service than they are paying now, which would increase the subsidy they are receiving from other customers, including those living inside the City.

¹ 16 TAC § 24.37 (e)(1) ("In making a determination under subsection (d) of this section, the commission may limit its consideration of the matter to oral arguments of the affected parties and may: (1) set interim rates not lower than the authorized rates prior to the proposed increase nor higher than the requested rates"). This would appear to prohibit the Commission from setting interim rates any lower than the authorized rate prior to the increased rate, contrary to the Petitioners' request for some interim rate lower than that.

² Motion for Referral to SOAH and Request for Interim Rates at 2 (Dec. 6, 2019).

C. The City Already Seeks Just and Reasonable Rates

In this case, the City is a governmental body with no profit motive. Its goals are more aligned with the Commission, seeking just and reasonable, cost-based rates with good quality, reliable service for all customers. To impose interim rates on the City would impose an unnecessary financial burden on this governmental entity during the pendency of this case.

D. Interim Rates Would Be Contrary to the Public Interest

Interim rates would be contrary to the public interest based on the facts of this case. The only factual information adduced to date shows that the current rate structure is cost-based and is just and reasonable. The Petitioners rely on unsubstantiated and false assertions in their pleadings to support their request for interim rates. The Petitioners' request for interim rates is unreasonable, would violate the public interest, would unreasonably harm the City's access to debt, and would increase the subsidy paid to residential customers living outside the City.

The City has been unopposed in its requests for referral of this matter to the State Office of Administrative Hearings for nearly eight months.³ Accordingly, after five rounds of discovery with thousands of pages of responses, the City is prepared to proceed expeditiously to a hearing in this case, ameliorating the effects of further administrative delay and obviating the need for interim rates. The Petitioners' request for interim rates is unnecessary and should be denied. In the alternative, the City requests a hearing on interim rates pursuant to 16 TAC § 24.37 (f).⁴

³ See e.g., City of Celina' Response to Order No. 3 at 1 (April 16, 2019).

⁴ 16 TAC § 24.37 (f) (which reads as follows: "(f) The commission may also remand the request for interim rates to the State Office of Administrative Hearings for an evidentiary hearing on interim rates. The presiding officer shall issue a nonappealable interlocutory ruling setting interim rates to remain in effect until a final rate determination is made by the commission.")

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the City respectfully requests that the Petitioners' request for interim rates be denied, or in the alternative, that a hearing on interim rates be scheduled at a date and time that is mutually agreeable to the parties and such other and further relief to which the City may be justly entitled.

Respectfully submitted,

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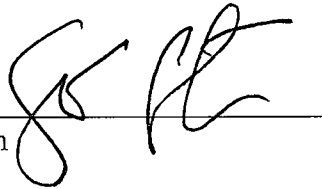
II. CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on all parties of record on this 13th day of December, 2019, in accordance with 16 Tex. Admin. Code § 22.74.

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A handwritten signature in black ink, appearing to be 'SS' followed by a stylized flourish, written over a horizontal line.