



Control Number: 49225



Item Number: 60

Addendum StartPage: 0

SOAH DOCKET NO. 473-20-1554.WS
PUC DOCKET NO. 49225

RECEIVED
2020 FEB -4 PM 2:35

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

§
§
§
§
§
§
§

BEFORE THE STATE OFFICE
PUBLIC UTILITY COMMISSION
FILING CLERK
OF

ADMINISTRATIVE HEARINGS

STAFF’S INITIAL BRIEF ON INTERIM RATES

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files Staff’s Initial Brief on Interim Rates. In support thereof, Staff shows the following:

I. BACKGROUND

On February 14, 2019, Outside City ratepayers (Ratepayers) filed a petition appealing the water rates established by the City of Celina (City) on November 18, 2018, through Ordinance No. 2018-66. On March 15, 2019, ratepayers also filed a first amended petition appealing the City’s water and wastewater rates under Texas Water Code (TWC) § 13.043(b). The Ratepayers amended petition also requested interim rates under TWC § 13.043(h). On April 5, 2019, the City filed a Notice of Corrected Effective Date, correcting a mislabeling that occurred in relation to the year column headers of Ordinance No. 2018-66 and establishing March 19, 2019, as the new effective date for the rate change. On December 6, 2019, the Ratepayers filed a request for referral to the State Office of Administrative Hearings (SOAH) and a request for interim rates. The SOAH administrative law judge (ALJ) held a prehearing conference on January 21, 2020 and set a deadline for parties to file an initial brief on interim rates by February 4, 2020. Therefore, this pleading is timely filed.

II. RATES PRIOR TO ADOPTION OF CITY ORDINANCE 2018-66

The Ratepayers initial petition filed on February 14, 2019, shows the water and wastewater rates charged to residents both within the City and outside of the City prior to the

adoption to Ordinance 2018-66. As shown by the Ratepayers initial petition and amended petition, the rates for water and wastewater include a 50% differential for water and wastewater rates for in-City customers versus Ratepayers even prior to the adoption of Ordinance 2018-66.¹ For example, the monthly minimum charge for water for in-City retail residential customers was \$23.15 and the monthly minimum charge for Ratepayers was \$34.72.²

III. RATES AFTER ADOPTION OF CITY ORDINANCE 2018-66

With the adoption of Ordinance No. 2018-66, the outside City customers rates increased by approximately 3% from their previous rates for water and wastewater. For example, the monthly minimum charge for Ratepayers or water services prior to adoption of Ordinance 2018-66 is \$34.72. After adoption of Ordinance 2018-66, the Ratepayers monthly minimum charge for water services changed to \$35.15.³

IV. STAFF'S RECOMMENDATION ON INTERIM RATES

Staff recommends that the Ratepayers request for interim rates be granted under TWC §13.043(h). However, Staff also recommends that interim rates be set at the rates prior to adoption of Ordinance 2018-66, which include a 50% differential for water and wastewater rates between in city customers and Ratepayers. Staff notes that the Ratepayers in their amended petition requested the Commission to “[s]et interim rates at the same rates that were in effect prior to the effective date of the City’s rates adopted pursuant to City of Celina Ordinance 2018-66 on November 13, 2018, until such time as the Commission makes a final decision on the appeal.”⁴ Once the Commission makes a final decision on the appeal, Staff notes that the Ratepayers could be subject to a refund or a surcharge under TWC §13.043(e) which states:

¹ Petition by Outside City Ratepayers Appealing Water Rates Established by City of Celina, at bates 4 (Feb 14, 2019); First Amended Petition Appealing Water and Wastewater Rates of the City of Celina, at bates 13-19 (Mar. 15, 2019).

² According to the *Notice of Corrected Effective Date* filed by the City, the monthly minimum charge for water for in city residential customers prior to the adoption of the ordinance was \$23.84 and the monthly minimum charge for Ratepayers was \$35.77. *See* Notice of Corrected Effective Date, at 1 (Apr. 5, 2019).

³ According to the *Notice of Corrected Effective Date* filed by the City, the monthly minimum charge for water services for Ratepayers prior to the adoption of Ordinance 2018-66 was \$35.77 and after adoption of the ordinance changed to \$36.84. *See* Notice of Corrected Effective Date, at 1 (Apr. 5, 2019).

⁴ First Amended Petition Appealing Water and Wastewater Rates of the City of Celina and Request for Interim Rates, at 5 (Mar. 15, 2019). Staff notes that the Ratepayers have recently changed their request and now request the ALJ to “[s]et interim rates at the same rates that are charged to the City’s retail residential customers within City limits, until such time as the Commission makes a final decision on the appeal. . . .” *See* Ratepayers’ Motion for Referral to SOAH and Request for Interim Rates, at 4 (Dec. 6, 2019).

[i]n an appeal under Subsection (b) of this section, the utility commission shall hear the appeal de novo and shall fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken. The utility commission may establish the effective date for the utility commission's rates at the original effective date as proposed by the service provider, may order refunds or allow a surcharge to recover lost revenues, and may allow recovery of reasonable expenses incurred by the retail public utility in the appeal proceedings.

V. CONCLUSION

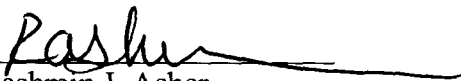
Staff respectfully requests that the ALJ set interim rates for the Ratepayers at the rates just prior to the adoption of Ordinance 2018-66.

Date: February 4, 2020

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Thomas S. Hunter
Division Director


Rachelle Nicolette Robles
Managing Attorney


Rashmin J. Asher
State Bar No. 24092058
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7216
(512) 936-7268 (facsimile)
Rashmin.Asher@puc.texas.gov

**SOAH DOCKET NO. 473-20-1554.WS
PUC DOCKET NO. 49225**

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on February 4, 2020 in accordance with 16 TAC § 22.74.


Rashmin J. Asher