



Control Number: 49351



Item Number: 135

Addendum StartPage: 0

SOAH DOCKET NO. 473-19-5674  
PUC DOCKET NO. 49351

2021 MAY -3 AM 10:11

RATEPAYERS' APPEAL OF THE § BEFORE THE STATE OFFICE  
DECISION BY BEAR CREEK SPECIAL §  
UTILITY DISTRICT TO CHANGE § OF  
RATES §  
§ ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 14  
REOPENING EVIDENTIARY RECORD, ADMITTING BCSUD EXHIBIT 20,  
OVERRULING OBJECTIONS**

In response to SOAH Order No. 13, Commission Staff and Bear Creek Special Utility District (the District) filed a joint motion to reopen the record and admit BCSUD Exhibit 20 pursuant to 16 Tex. Admin. Code § 22.202(c) for the limited purpose of updating rate case expenses. Ratepayers timely filed objections. For the reasons set out below, the motion is GRANTED, the exhibit is ADMITTED into evidence, and ratepayers' objections are OVERRULED.

This appeal was brought under Texas Water Code § 13.043(b), which allows the Commission to consider evidence—and allows for the recovery—of “reasonable expenses incurred by the retail public utility in the appeal proceedings.”<sup>1</sup> Because the District is not under the Commission’s original jurisdiction, it may not have an opportunity to offer such evidence in a future rate proceeding. Commission rules allow for reopening the record “for additional evidence where it is necessary to make the record correct, accurate, and complete.”<sup>2</sup> Both Staff and the District reference in closing briefs an agreed amount of rate case expenses that are not in evidence. The Administrative Law Judges find that reopening the record, and the admission of updated rate case expenses, is necessary to make the record correct, accurate, and complete.

Ratepayers object on grounds that the District is already over-recovering and should be denied any additional recovery. Additionally, Ratepayers request a hearing “on the issue of

<sup>1</sup> Tex. Water Code § 13.043(e).

<sup>2</sup> 16 Tex. Admin. Code § 22.202(c)

reimbursement of case expenses, either to the Ratepayers for the overcharging of the Service Fee, or to the District for case expenses incurred which have already been paid with revenue received from Ratepayers.”

Ratepayers raise no legal objections, and the policy question of whether the District should recover rate case expenses does not go to the admissibility of the exhibit. Accordingly, their objections are OVERRULED. Additionally, ratepayer’s request for a hearing is DENIED. Order No. 13 allowed an objecting party to request a hearing “for the purpose of cross-examination *regarding the exhibit.*” Ratepayer’s request to reopen the hearing to address how the rate case expenses will be collected or reimbursed is beyond the scope the reasonableness of the rate case expenses shown in BCSUD Exhibit 20.

It is ORDERED that, **within five days of this order**, the District shall provide the requisite copies of BCSUD Exhibit 20 to the Court Reporter.

**SIGNED May 3, 2021.**



---

LINDA H. BRITE  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



---

CHRISTIAAN SIANO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS