



Control Number: 49786



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**Peter M. Lake**  
Chairman  
**Will McAdams**  
Commissioner



**Greg Abbott**  
Governor

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PUBLIC UTILITY COMMISSION  
FILING CLERK

**Thomas J. Gleeson**  
Executive Director

## ***Public Utility Commission of Texas***

TO: Peter M. Lake, Chairman  
Will McAdams, Commissioner

All Parties of Record

FROM: Katie Moore Marx for *KMM*  
Hunter Burkhalter  
Chief Administrative Law Judge

RE: **PUC Docket No. 49786**  
**SOAH Docket No. 473-20-4539.WS** – *Application of Cedron Creek Ranch Water Supply for Authority to Change Rates*

DATE: June 16, 2021

The Commission will consider a proposed order in this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, June 24, 2021, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas.

The administrative law judge files this Corrected Proposed Order to correct the style of the docket to reflect the accurate name of the applicant and to reflect the admission into the evidence of this proceeding a revised tariff filed by the parties containing the correct applicant name and a revised late fee charge. Accordingly, the proposed order is revised as follows:

### **Docket Style**

PUC Docket No. 49786  
SOAH Docket No. 473-20-4539.WS – *Application of Cedron Creek Ranch ~~Water Supply~~ Association for Authority to Change Rates*

### **Findings of Fact**

9. In Order No. 9 filed on June 2, 2021, the Commission ALJ amended the docket style to reflect the correct name of the applicant.
29. On June 7, 2021, the parties filed a joint supplemental motion to admit evidence.



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30. In Order No. 11, filed on June 8, 2021, the Commission ALJ entered the following into evidence: (a) the revised tariff attached to the parties' June 7, 2021 joint supplemental motion to admit evidence.
44. The terms and conditions of the tariff are just and reasonable, ~~except that the utility name is incorrect.~~

### Ordering Paragraphs

2. The Commission approves Cedron Creek's revised water rate tariff attached to the parties' June 7, 2021 joint supplemental motion to admit evidence ~~agreement as exhibit B~~ effective the date that this Order is signed, ~~except that the utility name in the tariff is incorrect and must be corrected to Cedron Creek Ranch Association in the water tariff approved by this Order.~~
3. The Commission approves Cedron Creek's revised water rate tariff attached to the parties' June 7, 2021 joint supplemental motion to admit evidence effective the date that this Order is signed.

### Entire Corrected Proposed Order

"Tariff" has been amended to "revised tariff" where appropriate.

**PUC DOCKET NO. 49786**  
**SOAH DOCKET NO. 473-20-4539.WS**

|                                    |          |                                  |
|------------------------------------|----------|----------------------------------|
| <b>APPLICATION OF CEDRON CREEK</b> | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>RANCH ASSOCIATION FOR</b>       | <b>§</b> |                                  |
| <b>AUTHORITY TO CHANGE RATES</b>   | <b>§</b> | <b>OF TEXAS</b>                  |

**CORRECTED PROPOSED ORDER**

This Order addresses the amended application of Cedron Creek Ranch Association for authority to change its tariffed rates for water service. Cedron Creek and Commission Staff filed a unanimous agreement on the terms of the rate and tariff changes. The Commission approves the agreed rates and associated revised tariff to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. Cedron Creek Ranch Association is a domestic nonprofit corporation registered with the Texas secretary of state under filing number 39319301.
2. Cedron Creek owns for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public in Texas.
3. Cedron Creek provides potable water service for compensation to approximately 112 connections in the Cedron Creek Ranch subdivision in Bosque County under water certificate of convenience and necessity (CCN) number 11659.

**Application**

4. On July 24, 2019, Cedron Creek filed an application to change its water rates and associated tariff under Texas Water Code (TWC) § 13.1871.
5. Cedron Creek amended its application on August 15, 2020, September 20, 2019, December 9, 2019, January 13, 2020, and February 18, 2020.
6. The amended application is based on a historical test year ending December 31, 2018.

7. In the amended application, Cedron Creek requested an overall revenue increase of \$15,388 over their test-year revenues, a revenue requirement of \$54,593, and a rate of return of 11.92%.
8. In Order No. 6 filed on April 6, 2020, the Commission administrative law judge (ALJ) found the amended application administratively complete.
9. In Order No. 9 filed on June 2, 2021, the Commission ALJ amended the docket style to reflect the correct name of the applicant.

**Notice of the Application**

10. On November 25, 2019, Cedron Creek provided notice of the application by mail and email to each customer or other affected party. On December 9, 2019, Cedron Creek filed the affidavit of Mary Hennington, vice president of Cedron Creek, who testified that notice of the application had been provided as described in this finding of fact.
11. The November 25, 2019 notice of the application described the process by which a ratepayer could file a complaint under TWC § 13.1871(n) but did not state the number of ratepayers equal to 10% of Cedron Creek's ratepayers.
12. In Order No. 4 filed on January 2, 2020, the Commission ALJ found Cedron Creek's initial notice of the application to be insufficient.
13. On January 2, 2020, Cedron Creek provided supplemental notice of the application by mail and email to each customer or other affected party. On January 8, 2020, Cedron Creek filed the affidavit of Ms. Hennington, who testified that notice of the application has been provided as described in this finding of fact.
14. The January 2, 2020 notice of the application did not provide Cedron Creek's CCN number, provided an incorrect calculation for a billing comparison, and described the proposed gallonage charge for tier 1 customers incorrectly.
15. In Order No. 5 filed on February 4, 2020, the Commission ALJ found Cedron Creek's first supplemental notice of the application to be insufficient.
16. On February 5, 2020, Cedron Creek provided a second supplemental notice of the application by mail and email to each customer or other affected party. On

February 12, 2020, Cedron Creek filed the affidavit of Ann Herndon, secretary-treasurer of Cedron Creek, who testified that notice of the application had been provided as described in this finding of fact.

17. In Order No. 7 filed on April 15, 2020, the Commission ALJ found Cedron Creek's second supplemental notice to be sufficient.

**Interventions and Protests**

18. Less than 10% of the ratepayers affected by the proposed rate increase filed protests in this docket.
19. No motions to intervene were filed in this proceeding.

**Referral to SOAH**

20. On June 25, 2020, Commission Staff filed a request for referral of this proceeding to the State Office of Administrative Hearings (SOAH).
21. On August 13, 2020, the Commission ALJ referred this proceeding to SOAH.
22. On September 10, 2020, the Commission filed a preliminary order.
23. In SOAH Order No. 2 filed on September 23, 2020, the SOAH ALJ memorialized the September 22, 2020 prehearing conference and referred the proceeding to mediation.
24. On November 9, 2020, Cedron Creek and Commission Staff attended a mediation conference, via videoconference.
25. On February 22, 2021, Cedron Creek and Commission Staff jointly filed a unanimous agreement between themselves on all issues with an attached proposed order and proposed tariff; and, simultaneously, filed a joint motion to admit evidence and remand this proceeding to the Commission.
26. On February 22, 2021, Commission Staff filed the direct testimony of Roshan Pokhrel in support of the agreement.
27. In SOAH Order No. 3 filed on February 25, 2021, the SOAH ALJ dismissed the proceeding from SOAH's docket and returned the proceeding to the Commission.

**Evidentiary Record**

28. In SOAH Order No. 3 filed on February 25, 2021, the SOAH ALJ admitted into the evidentiary record the exhibits listed in the parties' joint motion to admit evidence filed on February 22, 2021. Those exhibits were as follows:
- (a) the application of Cedron Creek for authority to change rates filed on July 24, 2019;
  - (b) Cedron Creek's response to Order No. 1 filed on August 15, 2019;
  - (c) Cedron Creek's corrected schedules filed on September 20, 2019;
  - (d) Cedron Creek's notice of proposed rate change filed on December 9, 2019;
  - (e) Cedron Creek's affidavit and notice filed on January 13, 2020;
  - (f) Cedron Creek's notice of proposed rate changes to be provided to customers filed on February 18, 2020;
  - (g) Commission Staff's fourth supplemental recommendation on administrative completeness filed on April 3, 2020;
  - (h) Commission Staff's recommendation on the sufficiency of notice filed on April 13, 2020;
  - (i) Cedron Creek's reply to Commission Staff's first request for information filed on June 15, 2020;
  - (j) Cedron Creek's reply to Commission Staff's second request for information filed on November 23, 2020;
  - (k) the agreement, including exhibits A through C, filed on February 22, 2021; and
  - (l) the direct testimony of Roshan Pokhrel in support of the agreement filed on February 22, 2021.
29. On June 7, 2021, the parties filed a joint supplemental motion to admit evidence.
30. In Order No. 11, filed on June 8, 2021, the Commission ALJ entered the following into evidence: (a) the revised tariff attached to the parties' June 7, 2021 joint supplemental motion to admit evidence.

**Revenue Requirement, Rates, and Pass-Throughs**

31. The parties agreed that Cedron Creek's annual revenue requirement for water CCN number 11659 is \$49,977.

32. The parties agreed that Cedron Creek should be allowed to implement the retail water rates below, which are located in the water tariff attached to the agreement as exhibit B.

| <u>Meter Sizes</u> | <u>Monthly Minimum Charge</u> (Includes 2,000 gallons) | <u>Gallonge Charge</u>                           |
|--------------------|--|--|
| 5/8"               | <u>\$30.00</u>   | <u>\$2.63</u> per 1,000 gallons over the minimum |
| 3/4"               | <u>\$45.00</u>   |  |

33. The parties agreed that the rates shown in exhibit B to the agreement are just and reasonable and are consistent with the public interest.
34. The parties agreed that the rates shown in exhibit B shall be effective on and after January 1, 2021, or the date of the Commission's final order setting rates in this proceeding, whichever is earlier.
35. The parties agreed that the interim rates effective January 1, 2021 are subject to refund or surcharge if the Commission ultimately established different rates.
36. The agreed water rates are just and reasonable.
37. The parties proposed no pass-through provisions.

**Rate Base**

38. The parties agreed that Cedron Creek's rate base is \$57,618 and includes \$52,396 of net plant as shown in exhibit C to the agreement.
39. The parties agreed that Cedron Creek will maintain the original third-party invoices for any assets placed into service after the effective date of the final rates set in this proceeding and for the materials used to perform repairs that are capitalized.
40. The parties agreed that Cedron Creek shall have a working capital allowance that consists of cash working capital of \$5,222.
41. The parties agreed that Cedron Creek shall have a rate of return of 5.9%.
42. The agreement's treatment of the rate base and rate of return is appropriate.

**Tariff**

43. The parties agreed that the terms and conditions of the tariff are just and reasonable.
44. The terms and conditions of the tariff are just and reasonable.



**Rate-Case Expenses**

45. The parties agreed that Cedron Creek neither incurred nor requested to recover any rate-case expenses in this proceeding and as a result shall not seek to recover any additional rate-case expenses incurred due to this docket in a future proceeding.

**Effective Date**

46. In the amended application, Cedron Creek requested approval of the rates and tariff changes proposed in its application to be effective no sooner than March 11, 2020.
47. In Order No. 6 filed on April 6, 2020, the Commission ALJ suspended Cedron Creek's proposed rates for 265 days until December 1, 2020.
48. On December 4, 2020, Cedron Creek filed a waiver of the December 1, 2020 jurisdictional deadline to set its rates and suspended its proposed rates until January 1, 2021.

**Interim Rates**

49. On February 22, 2021, Cedron Creek and Commission Staff filed a joint request for interim rates.
50. The interim rates are identical to the parties' agreed rates and the rates approved in this Order.
51. In SOAH Order No. 3 filed February 25, 2021, the SOAH ALJ ordered that the rates in the parties' joint request be set as interim rates effective the first billing cycle after the date of SOAH Order No. 3.

**Informal Disposition**

52. More than 15 days have passed since the completion of the notice provided in this docket.
53. Cedron Creek and Commission Staff are the only parties to this proceeding.
54. No hearing is necessary for this application.
55. All parties are signatories to the agreement.
56. The decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. Cedron Creek Ranch Association is a utility, public utility, and water utility as those terms are defined in TWC § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(39).
2. Cedron Creek Ranch Association is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. The Commission has authority over Cedron Creek's application for a rate increase under TWC §§ 13.041 and 13.181.
4. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
5. Cedron Creek complied with the requirement to provide notice of the rate application as required by TWC § 13.1871, 16 TAC § 24.27(d)(1), and the Administrative Procedure Act.
6. Under TWC § 13.184(c) and 16 TAC § 24.12, Cedron Creek bears the burden of proof to establish that the proposed rates are just and reasonable.
7. The rates approved in this Order are just and reasonable under TWC § 13.182(a).
8. The rates approved in this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customers in accordance with TWC § 13.182(b).
9. As required by TWC § 13.183, the rates approved in this Order will permit Cedron Creek a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and will preserve Cedron Creek's financial integrity.
10. An overall rate of return of 5.9% will not yield Cedron Creek more than a fair return on the invested capital used and useful in rendering service to the public in accordance with TWC § 13.184(a) and 16 TAC § 24.41(c)(1).
11. As required by TWC § 13.185(h), the rates approved by this Order do not include legislative advocacy expenses, the costs of processing a refund or credit, or any expenditure that is unreasonable, unnecessary, or not in the public interest.

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.903.

12. In accordance with TWC § 13.185 and 16 TAC § 24.41(c)(2)(B), the rates approved in this proceeding are based on original cost, less depreciation, of property used and useful in Cedron Creek's provision of service.
13. The rates approved in this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
14. It is not necessary for Cedron Creek to implement a refund, credit, or surcharge to return or collect amounts recovered under the interim rates approved under 16 TAC § 24.37.
15. The requirements for informal disposition under 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 the rates, terms, and conditions of the agreement to the extent provided in this Order.
2. The Commission approves Cedron Creek's revised water rate tariff attached to the parties' June 7, 2021 joint supplemental motion to admit evidence effective the date that this Order is signed.
3. The Commission approves the rate base schedule attached to the agreement as exhibit C effective the date that this Order is signed.
4. Cedron Creek must not file for an increase in base rates with an effective date that is sooner than 12 months after the date that this Order is signed.
5. In its next filing for a rate increase under TWC § 13.1872(c)(2), Cedron Creek must use exhibit C to the agreement to determine Cedron Creek's aggregate rate base for CCN number 11659 as of December 31, 2018.
6. Cedron Creek must not seek to recover any rate-case expenses incurred in connection with this docket in future proceedings.

7. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.
8. Within ten days of the date of this Order, Commission Staff must file a clean copy of Cedron Creek's tariff with central records to be marked *Approved* and kept in the Commission's tariff book.
9. 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 2021.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**