



Control Number: 50200



Item Number: 1943

Addendum StartPage: 0



# OPEN MEETING COVER SHEET

## DRAFT PRELIMINARY ORDER

**MEETING DATE:** May 1, 2020

**DATE DELIVERED:** April 24, 2020

**AGENDA ITEM NO.:** 16

**CAPTION:** Docket No. 50200; SOAH Docket No. 473-20-3110.WS – Application of Undine Texas, LLC and Undine Texas Environmental, LLC for Authority to Change Rates

**DESCRIPTION:** Draft Preliminary Order

Distribution List:  
Commissioners' Offices  
Central Records  
Robles, Rachelle  
Journey, Stephen  
Agenda  
Burch, Chris  
Zerwas, Rebecca  
Benter, Tammy  
Pemberton, Corey  
Hovenkamp, Mark  
Cisneros, Shelah

1943

**DeAnn T. Walker**  
Chairman

**Arthur C. D'Andrea**  
Commissioner

**Shelly Botkin**  
Commissioner

**John Paul Urban**  
Executive Director



**Greg Abbott**  
Governor

## *Public Utility Commission of Texas*

---

TO: Chairman DeAnn T. Walker  
Commissioner Arthur C. D'Andrea  
Commissioner Shelly Botkin

All Parties of Record

FROM: Corey Pemberton  
Commission Advising

RE: *Application of Undine Texas, LLC and Undine Texas Environmental, LLC for Authority to Change Rates, Docket No. 50200, SOAH Docket No. 473-20-3110.WS, Draft Preliminary Order, May 1, 2020 Open Meeting, Item No. 16*

DATE: April 24, 2020

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the May 1, 2020 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the May 1, 2020 open meeting.

W2013  
q:\cadm\orders\prelim\50000\50200 dpo memo.docx



**iPUC DOCKET NO. 50200**  
**SOAH DOCKET NO. 473-20-3110.WS**

<b>APPLICATION OF UNDINE TEXAS,</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LLC AND UNDINE TEXAS</b>	<b>§</b>	
<b>ENVIRONMENTAL, LLC FOR</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AUTHORITY TO CHANGE RATES</b>	<b>§</b>	

**DRAFT PRELIMINARY ORDER**

Undine Texas, LLC (Undine Texas) and Undine Texas Environmental, LLC (Undine Texas Environmental) seek to change their water and sewer rates. This preliminary order identifies the issues that must be addressed in this proceeding.

On December 20, 2019, Undine Texas filed a class B application under Texas Water Code (TWC) § 13.1871 to change the water rates for Undine Texas and the sewer rates for Undine Texas Environmental. The application identified a test year ending on September 30, 2019, adjusted for known and measurable changes. In Order No. 3 filed on February 7, 2020, the Commission administrative law judge (ALJ) granted Commission Staff’s request to restyle the proceeding to identify Undine Texas and Undine Texas Environmental as the applicants in this proceeding.<sup>1</sup>

Undine Texas stated that it owns all of the membership units of Undine Texas Environmental, and that it provides water service through Undine Texas and wastewater service through Undine Texas Environmental. At the time the application was filed, Undine asserted that, through its ownership and operation of 73 utility systems, it provides utility service to approximately 6,034 active water connections and 2,011 active wastewater connections in ten counties under water certificate of convenience and necessity (CCN) number 13760 and sewer CCN numbers 20816, 20832, 21019, 21026, and 21106. Following the filing of this application, in Docket No. 49169,<sup>2</sup> the Commission approved Undine Texas Environmental’s purchase of Undine Texas’s sewer system in Brazoria county; approved the transfer of Undine Texas’s sewer service area under CCN number 21106 to Undine Environmental Texas’s CCN number 20816;

---

<sup>1</sup> Commission Staff’s Recommendation on Administrative Completeness of the Application and Notice and Request for Referral (Feb. 4, 2020).

<sup>2</sup> *Application of Undine Texas, LLC and Undine Texas Environmental, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Brazoria County*, Docket No. 49169, Notice of Approval (Jan. 28, 2020).

and cancelled Undine Texas's CCN number 21106. Following the Commission's approval in Docket No. 49169, Undine Texas holds water CCN number 13260 and Undine Texas Environmental holds sewer CCN numbers 20816, 20832, 21019, and 21026. However, the proposed sewer utility tariff in the application identifies CCN numbers 20816, 20832, 21019, and 21106.<sup>3</sup>

In this proceeding, Undine Texas seeks an annual revenue-requirement increase of approximately \$2.63 million for water service, and Undine Texas Environmental seeks an annual revenue-requirement increase of approximately \$1.82 million for sewer service.<sup>4</sup> Undine Texas proposes to combine 64 water systems into one tariff that includes a monthly base rate and a multi-tiered inclining block water rate structure for gallonage charges.<sup>5</sup> Undine Texas Environmental proposes to implement a uniform flat rate for nine wastewater systems.<sup>6</sup> Undine Texas stated that, through Undine Development LLC, it also provides wastewater utility service in Travis County; however, it is not seeking to change rates for the system located in Travis County. Undine Texas and Undine Texas Environmental each request approval of revised tariff fees that would apply the tariff fees uniformly across the applicable systems.<sup>7</sup> Further, Undine Texas requests that the Commission determine its rate-base amount in this proceeding.

Undine Texas filed the application on December 20, 2019 and supplemented the application on January 22 and February 20, 2020. Undine Texas proposed January 24, 2020 as the effective date for the new rates. However, as recommended by Commission Staff, the Commission ALJ suspended the effective date for the new rates until October 15, 2020, in accordance with TWC § 13.1871(g) and 16 Texas Administrative Code (TAC) § 24.33(a)(2).<sup>8</sup>

---

<sup>3</sup> Undine Texas's Application at 404 (Dec. 20, 2019).

<sup>4</sup> Undine Texas's Application at 63, 65–67 (Dec. 20, 2019).

<sup>5</sup> Direct Testimony of Edward R. Wallace, Sr. at 8 (Dec. 20, 2019); Direct Testimony of Donald J. Clayton at 13, 15 (Dec. 20, 2019).

<sup>6</sup> Direct Testimony of Edward R. Wallace, Sr. at 9.

<sup>7</sup> Undine Texas's Statement of Intent to Change Rates for Water and Wastewater Service at 3 (Dec. 20, 2019); Direct Testimony of Edward R. Wallace, Sr. at 17–18.

<sup>8</sup> Order No. 4 Finding Application Complete, Notice Sufficient, and Suspending Effective Date (Feb. 18, 2020).

On January 13, 2020, the ALJ granted the motion to intervene filed by the Office of Public Utility Counsel. On February 4, 2020, Commission Staff requested referral to the State Office of Administrative Hearings (SOAH) in accordance with 16 TAC § 24.35(c)(2).

In Order No. 4 filed on February 18, 2020, the ALJ found the application administratively complete and found the proposed notice and affidavit of notice sufficient. On March 11, 2020, the Country Vista Homeowners Committee filed a motion to intervene and a revised motion to intervene on April 15, 2020. On April 20, 2020, the following filed motions to intervene: Eurice Meeker; the Demi-John Community Residents; the Town of Dennis, Texas; and Gary Blanchat. In addition, on April 21, 2020, the following also filed motions to intervene: Marie Butler; John A. Hall; the Homeowners Association of Tejas Lakes; Brandon Smith, Monica Jones, and Debbie Yancey (jointly and with Brandon Smith as their designated representative); and Britney May. The Riverside Ranch Homeowners Association filed a motion to intervene on April 22, 2020. None of these motions to intervene were ruled upon by the Commission ALJ.

In the order of referral to SOAH filed on March 19, 2020, Undine Texas and Undine Texas Environmental were directed, and Commission Staff and other interested persons were allowed, to file by March 26, 2020 a list of issues to be addressed in this docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed. Undine Texas, Undine Texas Environmental, and Commission Staff each timely filed a list of issues. The Country Vista Homeowners Committee filed a list of issues on April 15, 2020.

### **I. Issues to be Addressed**

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>9</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. What are the legal name and all assumed names, if any, of the applicants in this proceeding?  
If the applicants have assumed names, provide currently valid certificates of assumed names.

---

<sup>9</sup> Tex. Gov't Code § 2003.049(e).

2. What is the corporate form of the applicants making the application in this proceeding (e.g., corporation, partnership, sole proprietorship)?
  - a. What are the charter or authorization numbers, the dates the businesses were formed, and the dates any changes were made?
  - b. What are the applicants' corporate structures and the corporate structure of any parent, affiliate, and subsidiary entities? Please describe the relationship and function, if any, of each parent, affiliate, or subsidiary entity in owning or operating the equipment and facilities used to provide water and sewer service under CCN numbers 13260, 20816, 20832, 21019, and 21026.
3. For water or sewer systems that were acquired after the beginning of the test year, how were the rate base and operations and maintenance expenses determined for each system? In answering this issue, please provide all applicable documentation supporting those determinations.
4. For each proposed tariff, does the tariff:
  - a. Include and identify the applicable CCN numbers?
  - b. Include and identify all applicable systems?

**Water**

5. What is the proper legal name of the utility that provides water service under CCN number 13260? In answering this issue, please identify:
  - a. Which entity or entities own the equipment and facilities used to provide water service under CCN number 13260; and
  - b. What entity or entities operate the equipment and facilities? In answering this question, please identify which entity or entities employ the individuals who perform the day-to-day operations of the utility.
6. If a combination of entities constitutes the utility, which entities should be joined in this proceeding in accordance with 16 TAC § 22.104(a)?
7. Did the utility file its 2019 annual report as required by TWC § 13.136 and 16 TAC § 24.129?

8. Did the utility provide proper notice of the proposed rate change to each customer or other interested party as required by TWC § 13.1871(b), (c) and 16 TAC § 24.27?
9. What is the appropriate methodology to determine just and reasonable rates in this proceeding?
10. What are the just and reasonable rates for the utility that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory under TWC § 13.182 and 16 TAC § 24.35(d)? Do these rates recover the utility's revenue requirement?
11. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses while preserving the utility's financial integrity as required by TWC § 13.183(a)(1) and (2) and 16 TAC § 24.43(a)?
12. Does the utility's request for a consolidated rate meet the criteria under TWC § 13.145?
  - a. Are the systems included in the proposed consolidated tariff substantially similar in terms of facilities, quality of service, and cost of service?
  - b. Does the proposed consolidated tariff include rates that promote water conservation for single-family residences and landscape irrigation?
13. Are the utility's proposed revisions to its tariffs and rate schedules appropriate?
14. What is the reasonable and necessary cost of providing service in accordance with 16 TAC § 24.41?
15. What adjustments, if any, should be made to the utility's proposed test-year data in accordance with TWC § 13.185(d)(1) and 16 TAC § 24.41(b), (c)(5)? Please address whether or not using substituted 2020 annual budget amounts meets the requirements of 16 TAC § 24.41(c)(5).
16. What is the appropriate debt-to-equity capital structure of the utility?
17. What is the appropriate weighted cost of capital (also called the overall rate of return), including return on equity and cost of debt for the utility, in accordance with 16 TAC § 24.41(c)(1)?



18. What are the reasonable and necessary components of the utility's invested capital in accordance with 16 TAC § 24.41(c)(2)?
  - a. Is the invested capital allocated from the utility's affiliates, if any, used and useful in providing service to the utility's customers?
19. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?
20. What is the original cost of the property used and useful in providing water service to the public at the time the property was dedicated to public use under TWC § 13.185(b) and 16 TAC § 24.41(c)(2)(A) and (B)? What is the amount, if any, of accumulated depreciation on that property?
21. Is the utility seeking inclusion of construction work in progress in accordance with TWC § 13.185(b) and 16 TAC § 24.41(c)(4)? If so, what is the amount sought and for what facilities? Additionally, has the utility proven that the inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed?
22. Does the utility have any debt? If so, what is the cost of that debt?
23. What is the reasonable and necessary working capital allowance for the utility under 16 TAC § 24.41(c)(2)(C)?
24. What acquisition adjustments, if any, for plant, property, and equipment acquired by the utility are appropriate under 16 TAC § 24.41(d) and (e)?
25. Does the utility have any water-utility property that was acquired from an affiliate or a developer before September 1, 1976? If so, has that property been included by the utility in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities as required by TWC § 13.185(i)?
26. Has the utility acquired any water property from an affiliate? If so, do the payments for that property, including any interest, meet the requirements of TWC § 13.185(e)?

27. Has the utility financed any of its plant with developer contributions under TWC § 13.185(j) and 16 TAC § 24.41(b)(1)(B)? What is the amount, if any, of accumulated depreciation on that property?
28. Has the utility included any customer contributions or donations in invested capital in accordance with TWC § 13.185(j) and 16 TAC § 24.41(c)(2)(B)(v)? If so, what is the amount of those customer contributions or donations?
29. What are the utility's reasonable and necessary operations and maintenance expenses under 16 TAC § 24.41(b)(1)(A)?
30. What are the utility's reasonable and necessary administrative and general expenses?
31. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations under 16 TAC § 24.41(b)(1)(F)?
32. Are any expenses—including, but not limited to, executive salaries, advertising expenses, rate-case expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines—unreasonable, unnecessary, or not in the public interest in violation of TWC § 13.185(h)(3) and 16 TAC § 24.41(b)(2)(I)?
33. If the utility has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to change that amount? What is the amount of any shortage or surplus for the reserve account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
34. What are the utility's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
35. Has the utility made any payments to affiliates?
  - a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary under TWC § 13.185(e)?
  - b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same

item or items, or to unaffiliated persons or corporations in accordance with TWC § 13.185(e)?

36. Is the method used to allocate costs attributable to the utility's affiliates appropriate and in accordance with the TWC?
- a. Are all the allocated costs attributable to the utility's affiliates reasonable and necessary to provide service to the utility's customers?
  - b. Did the utility provide adequate information regarding the methodology by which it is allocated costs from its affiliates? Did the utility provide adequate information regarding the methodology it uses to allocate costs to its affiliates, if applicable?
  - c. Did the utility provide adequate information regarding the amount of costs allocated to the utility from its affiliates? Did the utility provide adequate information regarding the amount of costs allocated to its affiliates, if applicable? In answering this question, please identify all schedules that address such allocations to or from affiliates.
37. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation in accordance with TWC § 13.185(j) and 16 TAC § 24.41(b)(1)(B)?
38. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are those tax savings apportioned equitably between customers and the utility, and are the interests of present and future customers equitably balanced?
39. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes under 16 TAC § 24.41(b)(1)(C)?
40. What is the reasonable and necessary amount for the utility's federal income tax expense under TWC § 13.185(f) and 16 TAC § 24.41(b)(1)(D)?
- a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return under TWC § 13.185(f)?

- b. If so, have income taxes been computed as though a consolidated return had been filed and the utility had realized its fair share of the savings resulting from the consolidated return as required by TWC § 13.185(f)?
  - c. If not, has the utility demonstrated that it was reasonable not to consolidate returns in accordance with TWC § 13.185(f)?
41. What is the reasonable and necessary amount of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from the utility's rate base?
42. Did the utility properly account for the effects of the Tax Cuts and Jobs Act of 2017?<sup>10</sup>
43. What is the reasonable and necessary amount for municipal franchise fees, if any, to be included in rates?
44. What regulatory assets, if any, are appropriately included in the utility's rate base? If the assets are included in rate base, what is the appropriate treatment of those assets?
45. Is the utility seeking rates for both water and sewer service? If so, is each component of cost of service (each allowable expense and all return on invested capital) properly allocated between water and sewer services?
46. What is the appropriate allocation of costs and revenues among the utility's rate classes?
47. What is the appropriate rate design for each rate class in accordance with 16 TAC § 24.43?
48. In designing rates, should the utility use the current number of connections as of the date of the application as opposed to using the number of connections at the end of the test year?
49. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest under 16 TAC § 24.44? Does that amount include any prospective rate-case expenses to be incurred after the Commission's final order? Should the

---

<sup>10</sup> *Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018*, Pub. L. No. 115-97, 131 Stat. 2054 (Dec. 22, 2017).

utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?

50. If a refund or surcharge results from this proceeding, how and over what period of time should that be made in accordance with TWC § 13.1871?
51. Has the utility met the requirements for a request for interim relief in the form of interim rates? If so, what are the appropriate levels of the interim rates in accordance with 16 TAC § 24.37?
52. What is the appropriate effective date of the rates fixed by the Commission in this proceeding under TWC § 13.1871?

**Sewer**

53. What is the proper legal name of the utility that provides sewer service under CCN numbers 20816, 20832, 21019, 21026, and 21106? In answering this issue, please identify:
  - a. Which entity or entities own the equipment and facilities used to provide sewer service under those CCN numbers; and
  - b. Which entity or entities operate such equipment and facilities? In answering this question, please identify the entity or entities that employ the individuals who perform the day-to-day operations of the utility.
54. If a combination of entities constitutes the utility, which entities should be joined in this proceeding in accordance with 16 TAC § 22.104(a)?
55. Did the utility file its 2019 annual report as required by TWC § 13.136 and 16 TAC § 24.129?
56. Did the utility provide proper notice of the proposed rate change to each customer or other interested party as required by TWC § 13.1871(b), (c) and 16 TAC § 24.27?
57. What is the appropriate methodology to determine just and reasonable rates in this proceeding?
58. What are the just and reasonable rates for the utility that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory under TWC § 13.182 and 16 TAC § 24.35(d)? Do these rates recover the utility's revenue requirement?

59. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses while preserving the utility's financial integrity as required by TWC § 13.183(a)(1) and (2) and 16 TAC § 24.43(a)?
60. Does the utility's request for a consolidated rate meet the criteria under TWC § 13.145?
  - a. Are the systems included in the proposed consolidated tariff substantially similar in terms of facilities, quality of service, and cost of service?
  - b. Does the proposed consolidated tariff include rates that promote water conservation for single-family residences?
61. Are the utility's proposed revisions to its tariffs and rate schedules appropriate?
62. What is the reasonable and necessary cost of providing service in accordance with 16 TAC § 24.41?
63. What adjustments, if any, should be made to the utility's proposed test-year data in accordance with TWC § 13.185(d)(1) and 16 TAC § 24.41(b) and (c)(5)? Please address whether or not using substituted 2020 annual budget amounts meets the requirements of 16 TAC § 24.41(c)(5).
64. What is the appropriate debt-to-equity capital structure of the utility?
65. What is the appropriate weighted cost of capital (also called the overall rate of return), including return on equity and cost of debt for the utility, in accordance with 16 TAC § 24.41(c)(1)?
66. What are the reasonable and necessary components of the utility's invested capital in accordance with 16 TAC § 24.41(c)(2)?
  - a. Is the invested capital allocated from the utility's affiliates, if any, used and useful in providing service to the utility's customers?
67. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?

68. What is the original cost of the property used and useful in providing sewer service to the public at the time the property was dedicated to public use under TWC § 13.185(b) and 16 TAC § 24.41(c)(2)(A) and (B)? What is the amount, if any, of accumulated depreciation on that property?
69. Is the utility seeking inclusion of construction work in progress in accordance with TWC § 13.185(b) and 16 TAC § 24.41(c)(4)? If so, what is the amount sought and for what facilities? Additionally, has the utility proven that the inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed?
70. Does the utility have any debt? If so, what is the cost of that debt?
71. What is the reasonable and necessary working capital allowance for the utility under 16 TAC § 24.41(c)(2)(C)?
72. What acquisition adjustments, if any, for plant, property, and equipment acquired by the utility are appropriate under 16 TAC § 24.41(d) and (e)?
73. Does the utility have any sewer utility property that was acquired from an affiliate or a developer before September 1, 1976? If so, has that property been included by the utility in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities as required by TWC § 13.185(i)?
74. Has the utility acquired any sewer property from an affiliate? If so, do the payments for that property, including any interest, meet the requirements of TWC § 13.185(e)?
75. Has the utility financed any of its plant with developer contributions under TWC § 13.185(j) and 16 TAC § 24.41(b)(1)(B)? What is the amount, if any, of accumulated depreciation on that property?
76. Has the utility included any customer contributions or donations in invested capital in accordance with TWC § 13.185(j) and 16 TAC § 24.41(c)(2)(B)(v)? If so, what is the amount of those customer contributions or donations?
77. What are the utility's reasonable and necessary operations and maintenance expenses under 16 TAC § 24.41(b)(1)(A)?

78. What are the utility's reasonable and necessary administrative and general expenses?
79. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations under 16 TAC § 24.41(b)(1)(F)?
80. Are any expenses—including, but not limited to, executive salaries, advertising expenses, rate-case expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines—unreasonable, unnecessary, or not in the public interest in violation of TWC § 13.185(h)(3) and 16 TAC § 24.41(b)(2)(I)?
81. If the utility has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to change that amount? What is the amount of any shortage or surplus for the reserve account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
82. What are the utility's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
83. Has the utility made any payments to affiliates?
  - a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary under TWC § 13.185(e)?
  - b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations in accordance with TWC § 13.185(e)?
84. Is the method used to allocate costs attributable to the utility's affiliates appropriate and in accordance with the TWC?
  - a. Are all the allocated costs attributable to the utility's affiliates reasonable and necessary to provide service to the utility's customers?



- b. Did the utility provide adequate information regarding the methodology by which it is allocated costs from its affiliates? Did the utility provide adequate information regarding the methodology it uses to allocate costs to its affiliates, if applicable?
  - c. Did the utility provide adequate information regarding the amount of costs allocated to the utility from its affiliates? Did the utility provide adequate information regarding the amount of costs allocated to its affiliates, if applicable? In answering this question, please identify all schedules that address such allocations to or from affiliates.
85. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation in accordance with TWC § 13.185(j) and 16 TAC § 24.41(b)(1)(B)?
86. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are those tax savings apportioned equitably between customers and the utility, and are the interests of present and future customers equitably balanced?
87. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes under 16 TAC § 24.41(b)(1)(C)?
88. What is the reasonable and necessary amount for the utility's federal income tax expense under TWC § 13.185(f) and 16 TAC § 24.41(b)(1)(D)?
- a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return under TWC § 13.185(f)?
  - b. If so, have income taxes been computed as though a consolidated return had been filed and the utility had realized its fair share of the savings resulting from the consolidated return as required by TWC § 13.185(f)?
  - c. If not, has the utility demonstrated that it was reasonable not to consolidate returns in accordance with TWC § 13.185(f)?
89. What is the reasonable and necessary amount of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property

insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from the utility's rate base?

90. Did the utility properly account for the effects of the Tax Cuts and Jobs Act of 2017?<sup>11</sup>
91. What is the reasonable and necessary amount for municipal franchise fees, if any, to be included in rates?
92. What regulatory assets, if any, are appropriately included in the utility's rate base? If the assets are included in rate base, what is the appropriate treatment of those assets?
93. Is the utility seeking rates for both water and sewer service? If so, is each component of cost of service (each allowable expense and all return on invested capital) properly allocated between water and sewer services?
94. What is the appropriate allocation of costs and revenues among the utility's rate classes?
95. What is the appropriate rate design for each rate class in accordance with 16 TAC § 24.43?
96. In designing rates, should the utility use the current number of connections as of the date of the application as opposed to using the number of connections at the end of the test year?
97. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest under 16 TAC § 24.44? Does that amount include any prospective rate-case expenses to be incurred after the Commission's final order? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?
98. If a refund or surcharge results from this proceeding, how should that be made, and over what period of time, in accordance with TWC § 13.1871?
99. Has the utility met the requirements for a request for interim relief in the form of interim rates? If so, what are the appropriate levels of the interim rates in accordance with 16 TAC § 24.37?
100. What is the appropriate effective date of the rates fixed by the Commission in this proceeding under TWC § 13.1871?

---

<sup>11</sup> *Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018*, Pub. L. No. 115-97, 131 Stat. 2054 (Dec. 22, 2017).

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

## **II. Effect of Preliminary Order**

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the \_\_\_\_\_ day of May 2020.

**PUBLIC UTILITY COMMISSION OF TEXAS**

---

**DEANN T. WALKER, CHAIRMAN**

---

**ARTHUR C. D'ANDREA, COMMISSIONER**

---

**SHELLY BOTKIN, COMMISSIONER**