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attached memoranda of Leila Guerrero, Rate Regulation Division, and Stephen Mendoza, Rate Regulation Division, recommends that a hearing is not necessary. Staff's review indicates that MSEC's requested revenue requirement and the resulting rates are based on the original cost of property used by and useful to the utility in providing service;⁴ recover only allowable expenses that are reasonable and necessary;⁵ permit MSEC "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";⁶ preserve MSEC's financial integrity;⁷ are just and reasonable;⁸ and are not unreasonably preferential, prejudicial, or discriminatory.⁹ In addition, Staff recommends that the rate-case expense documentation provided in the application meets the standards of 16 TAC § 24.25, and recommends the approval of MSEC's requested rate-case expense recovery. Staff notes that MSEC is a wholly-owned subsidiary of Mid-South Electric Cooperative Association d/b/a Mid-South Electric Co-op, or Mid-South Synergy (Mid-South Electric Coop). Mid-South Electric Coop owns MSEC Enterprises, and MSEC has entered into a Master Service Agreement with Mid-South Electric Coop that is signed by the same individual on behalf of both entities.¹⁰ Therefore, MSEC's requested revenue requirement includes payments made to an affiliated entity.

The standard for recovery of affiliate expenses is found in TWC § 13.185(e), which reads as follows:

Payment to affiliated interests for costs of any services, or any property, right or thing, or for interest expense may not be allowed either as capital cost or as expense except to the extent that the regulatory authority finds that payment to be reasonable and necessary. A finding of reasonableness and necessity must include specific statements setting forth the cost to the affiliate of each item or class of items in question and a finding that the price to the utility is 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.

⁴ TWC § 13.185(b).

⁵ 16 TAC § 24.41(b).

⁶ TWC § 13.182(a)(1).

⁷ TWC § 13.182(a)(2).

⁸ TWC § 13.1832(a).

⁹ TWC § 13.1832(b).

¹⁰ MSEC's Waste Water, Inc.'s Second Supplement to Application at 009 (Jul. 20, 2021).

Staff initially sought information in this proceeding related to MSEC's ownership, organizational structure, and governance, including board members, executives, employees, and relevant service agreements.¹¹ In Order No. 8, the ALJ held that MSEC's application was appropriate to be evaluated as a Class D utility.¹² Based on that ruling, and the information included in the application and in MSEC's Second Supplement to the Application filed on July 20, 2021, Staff recommends that MSEC's requested affiliate expenses meet the requirements of TWC § 13.185(e). In the event that the ALJ disagrees with Staff's recommendation herein, Staff requests referral to the State Office of Administrative Hearings for a hearing on the merits.

Staff has provided a copy of the proposed tariff as an attachment to this filing. Finally, Staff intends to work with MSEC to prepare and submit a joint proposed notice of approval on or before August 12, 2021 as provided by the procedural schedule established in Order No. 16.

II. CONCLUSION

Staff respectfully requests that the Commission approve MSEC's application as supplemented in the record of this proceeding.

¹¹ See Order No. 8 Granting Motion to Compel and Extending Deadlines (Sep. 25, 2020).

¹² Order No. 8 Granting Request to Abate Discovery and Granting Extension Request (Oct. 23, 2020).

Dated: August 4, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 50569

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on August 4, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz

Public Utility Commission of Texas

Memorandum

TO: Kevin Bartz, Attorney
Legal Division

FROM: Leila Guerrero, Regulatory Accountant
Rate Regulation

DATE: August 4, 2021

RE: **Docket No. 50569** - *Application of MSEC Waste Water, Inc. for Authority to Change Rates*

Background

On March 9, 2020, MSEC Waste Water, Inc. (MSEC WW), a Class D utility with ten active connections, filed a Class C Rate Change Application with the Public Utility Commission of Texas (Commission) for sewer utility service provided in Montgomery County under Certificate of Convenience and Necessity (CCN) No. 20984.

Staff Recommendation

After reviewing the application and subsequent documents, I recommend that the Commission approve the application and find that the rate change complies with the requirements of Texas Water Code (TWC) §§ 13.182, 13.183, and 13.185 and 16 Texas Administrative Code (TAC) § 24.41 for the reasons discussed below.

This is MSEC WW's first rate increase application filed with the Commission. MSEC WW requested a total revenue requirement of \$377,104 and an overall rate of return on its invested capital of 4.74%.¹ The table below provides the composition of MSEC WW's request.

Description	Revenue Requirement²
Operating Expenses	\$ 252,004
Depreciation	\$ 51,275
Taxes Other than Income Taxes	\$ 0
Federal Income Tax	\$ 5,984
Return on Rate Base	\$ 67,841
Total Revenue Requirement	\$ 377,104

¹ Application of MSEC Waste Water, Inc. for Authority to Change Rates at Schedules I-1 and III-1 (Mar. 9, 2020) (Application).

² *Id.*

Based on my review, I believe that the revenue requirement is comprised of expenses permitted under 16 TAC § 24.41(b), that the amounts of the various expenses requested are reasonable, and that the expenses are necessary for the provision of wastewater service.

MSEC WW is a wholly-owned subsidiary of Mid-South Electric Cooperative Association d/b/a Mid-South Electric Co-op or Mid-South Synergy (Mid-South Electric Coop). Mid-South Electric Coop also owns MSEC Enterprises.³ MSEC WW's application includes expenses billed for services performed by affiliates. MSEC WW has entered into a Master Service Agreement with Mid-South Electric Coop. The agreement is signed by the same individual on behalf of both MSEC WW and Mid-South Electric Coop.⁴ Under the agreement, Mid-South Electric Coop provides a variety of goods and services to MSEC WW including Administrative Services; Customer Service and Billing Customer Accounts; Transportation Service; Office Space and Equipment; and Goods, Tools, Equipment, and Supplies.⁵

Based on the administrative law judge's (ALJ) ruling in Order No. 8 in this proceeding relating to Staff's assertion that information concerning the nature of MSEC WW's ownership, organizational structure, and governance (including board members, executives, employees, and relevant service agreements) were necessary to make a determination regarding the appropriate utility classification of MSEC WW, and the determination that MSEC's application be evaluated as a Class D utility, the requested affiliate expenses meet the requirements of TWC § 13.185(e).⁶ Additionally, MSEC WW provided the affidavit of Andrew Dallmeyer, Secretary-Treasurer, ensuring that it complies with the standards of TWC § 13.85(e).⁷ Therefore, I have determined that the affiliate expenses included in MSEC WW's revenue requirement meet the "no higher than" standard and are reasonable and necessary for the provision of wastewater service.

³ *Petition of MSEC Enterprises, Inc. for a Good Cause Extension to Rate Filing Requirement Set in Docket No. 44740, Docket No. 49200, Petition for Additional Extension to Rate Filing Requirement (Jan. 13, 2020).*

⁴ MSEC's Waste Water, Inc.'s Second Supplement to Application at 009 (Jul. 20, 2021).

⁵ *Id.* at 003, 010-11.

⁶ Order No. 8 Granting Motion to Compel and Extending Deadlines (Sep. 25, 2020) and Order No. 8 Granting Request to Abate Discovery and Granting Extension Request (Oct. 23, 2020).

⁷ MSEC's Waste Water, Inc.'s Second Supplement to Application at Attachment A.

Using the information submitted in the application and provided in response to discovery, my calculation of the revenue requirement was only \$140 higher than MSEC WW's request of \$377,104. Therefore, I believe that MSEC WW's requested cost of service is reasonable. In addition, Emily Sears, Financial Analyst in the Rate Regulation Division, calculated the same overall rate of return as requested by MSEC WW, or 4.74%. It is my opinion that MSEC WW's revenue requirement and proposed rates reasonably recover its cost of service, will allow MSEC WW to earn a reasonable return on its invested capital, and will protect MSEC WW's financial integrity. I recommend that the Commission approve the revenue requirement as requested in the application.

MSEC WW requests recovery of rate-case expenses in the amount of \$81,694.14.⁸ This amount consists of legal fees, consulting fees, and other expenses related to rate-case expenses through March 2021. MSEC WW calculates a monthly surcharge equal to \$6.34 per month per meter equivalent based on 537 meter equivalents and a 24-month recovery period. Based on my review of the rate-case expense documentation provided in the application and the standards of 16 TAC § 24.25, I recommend approval of MSEC WW's requested rate-case expense recovery.

Conclusion

Based on Staff's review, I recommend that the Commission:

1. Approve MSEC WW's revenue requirement of \$377,104;
2. Approve the rate-case expense surcharge as calculated by MSEC WW;
3. Approve the rates and the tariff proposed by Stephen Mendoza of Commission Staff; and,
4. Provide a copy of the tariff to MSEC WW.

⁸ Application at Schedule VI-5; MSEC's Response to Staff's Second RFI 2-4 at Bates 63-122 (May 3, 2021).

Public Utility Commission of Texas

Memorandum

TO: Kevin Bartz
Legal Division

FROM: Stephen Mendoza
Rate Regulation Division

DATE: August 4, 2021

RE: Docket No. 50569 – *Application of MSEC Waste Water, Inc. for Authority to Change Rates*

Procedural Background

On March 9, 2020, MSEC Waste Water, Inc. (MSEC), a Class D utility with ten active connections, filed a Class C Rate Change Application with the Public Utility Commission of Texas (Commission) for sewer service provided in Montgomery County under Certificate of Convenience and Necessity (CCN) No. 21070. Subsequent to its Application, MSEC filed a Revised Notice of Proposed Rate Change.¹

Discussion

My review included 1) the split of costs to be recovered through fixed and variable charges, 2) the billing units used to calculate the proposed rates, and 3) the proposed rates.

The base and gallonage charges proposed in MSEC's Revised Notice of Proposed Rate Change are based on the requested revenue requirement of \$377,104 in MSEC's March 9, 2020 application and a split of costs to be recovered through fixed and variable charges of 94% fixed and 6% variable.

Based on: 1) the annual revenue requirement of \$377,104 recommended by Ms. Leila Guerrero of the Commission's Rate Regulation Division, 2) the MSEC-proposed split of costs to be recovered through fixed and variable charges (94% fixed and 6% variable), and 3) the billing determinants provided in MSEC's application, I corroborated that the rates shown in Column A of Table 1 below are correct.

Table 1

¹ MSEC Waste Water Inc.'s Revised Notice of Proposed Rate Change (Jan. 21, 2021).

Staff Recommended (A)	
Revenue Requirement (\$)	\$377,104
<i>Base Rate \$/meter</i>	
3/4" or 1" meter (residential)	\$55.00
1" meter (commercial)	\$138.50
1 1/2" meter	\$172.00
2" meter	\$355.00
3" meter	\$645.00
4" meter	\$860.00
6" meter	\$1,720.00
8" meter	\$10,378.00
10" meter	\$16,432.00
12" meter	\$26,017.00
<i>Volumetric Rate (\$/1,000 gallons)</i>	
3/4" or 1" meter (residential)	\$0.00
1" meter (commercial)	\$0.00
1 1/2" meter	\$4.60
2" meter	\$5.00
3" meter	\$5.00
4" meter	\$5.00
6" meter	\$5.00
8" meter	\$7.90
10" meter	\$7.90
12" meter	\$7.90

Recommendation

Based on my review of MSEC's application, and the Revised Notice of Proposed Rate Change, I recommend that the monthly base rates for each respective meter identified in Column A of Table 1 above be approved. Additionally, I recommend the volumetric charge for each respective meter identified in Column A of Table 1 above also be approved.