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Received - 2021-09-29 02:43:19 PM

Control Number - 50569

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Public Utility Commission of Texas

TO: Stephen Journey
Commission Counsel

All Parties of Record

FROM: Gregory R. Siemankowski 
Administrative Law Judge

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

DATE: September 29, 2021

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Revised Proposed Order by October 14, 2021.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 50569

APPLICATION OF MSEC WASTE WATER, INC. FOR AUTHORITY TO CHANGE RATES § **PUBLIC UTILITY COMMISSION**
 § **OF TEXAS**
 §

PROPOSED ORDER

This Order addresses the application of MSEC Waste Water, Inc. for authority to change its sewer rates and associated tariff under certificate of convenience and necessity (CCN) number 20984. The Commission approves the rates and associated tariff for MSEC to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. MSEC is a Texas corporation registered with the Texas secretary of state under filing number 145205000.
2. MSEC is a wholly owned subsidiary of Mid-South Electric Cooperative Association.
3. MSEC owns and operates for compensation facilities and equipment in Texas for the collection, transportation, treatment, or disposal of sewage for the public.
4. MSEC provides retail sewer utility service in Montgomery County under CCN number 20984.
5. As of September 30, 2019, MSEC served 10 retail sewer connections.

Application

6. On March 9, 2020, MSEC filed an application to change its sewer rates and associated tariff under Texas Water Code (TWC) §§ 13.1871 and 13.1872.
7. The application is based on a historical test year that ended on September 30, 2019.
8. On May 6 and November 24, 2020, and July 20, 2021, MSEC supplemented its application.
9. In Order No. 8 filed on October 23, 2020, the administrative law judge (ALJ) determined that the application should be evaluated for administrative completeness as a Class D utility.

10. In Order No. 11 filed on December 28, 2020, the ALJ found the application, as supplemented, administratively complete.

Notice

11. On January 7, 2021, MSEC filed its notice of proposed rate change, which included the affidavit of Troy Morris, first vice-president of MSEC, attesting that notice was provided to all current customers and affected parties via certified mail on January 7, 2021.
12. On January 21, 2021, MSEC filed its revised notice of proposed rate change, which included the number of protests the Commission must receive to set the matter for hearing, and the affidavit of Mr. Morris attesting that notice was provided to all current customers and affected parties via certified mail on January 21, 2021.
13. In Order No. 12 filed on January 28, 2021, the ALJ found the notice sufficient.
14. On August 31, 2021, MSEC filed the affidavit of Mr. Morris attesting that notice of the proposed rate change was provided to the Office of Public Utility Counsel by e-mail on August 31, 2021.

Interventions and Protests

15. No affected municipality filed a complaint.
16. No ratepayers filed protests.
17. No motions to intervene were filed in this proceeding.

Evidentiary Record

18. On August 26, 2021, MSEC and Commission Staff filed a joint motion to admit evidence.
19. In Order No. 19 filed on September 27, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) MSEC's application filed on March 9, 2020; (b) MSEC's response to Order No. 1 filed on March 19, 2020; (c) MSEC's supplement to the application filed on May 6, 2020; (d) MSEC's response to Commission Staff's first request for information filed on October 9, 2020; (e) MSEC's supplement to the application filed on November 24, 2020; (f) MSEC's notice of proposed rate change filed on January 7, 2021; (g) MSEC's revised notice of proposed rate change filed on January 21, 2021; (h) MSEC's response to Commission Staff's second request for information filed on May 3, 2021; (i) MSEC's response to Commission Staff's third request for information filed on May 3, 2021; (j) MSEC's response to Commission Staff's second request for

information filed on May 4, 2021; (k) MSEC's supplement to the application filed on July 20, 2021; (l) Commission Staff's recommendation on final disposition including all attachments filed on August 4, 2021; (m) affidavit of Jamie L. Mauldin supporting rate case expenses filed on August 26, 2021; and (n) the proposed final tariff attached to the joint motion to admit evidence and proposed notice of approval filed on August 26, 2021.

20. In Order No. 20 filed on September 29, 2021, the ALJ admitted into the record of this proceeding the affidavit of Mr. Morris filed on August 31, 2021.

Revenue Requirement and Rates

21. The parties agreed to MSEC's requested a total revenue requirement of \$377,104, consisting of the following:

Description	Amount
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	\$377,104

22. The parties agreed that MSEC should be allowed to charge its requested minimum charges and gallonage charges based on a customer's meter size as follows:

Meter Size	Minimum Monthly Charge (includes 0 gallons)	Gallonage Charge (per 1,000 gallons)
3/4" or 1" (residential)	\$55.00	\$0.00
1" (commercial)	\$138.50	\$0.00
1 1/2"	\$172.00	\$4.60
2"	\$355.00	\$5.00
3"	\$645.00	\$5.00
4"	\$860.00	\$5.00
6"	\$1,720.00	\$5.00
8"	\$10,378.00	\$7.90
10"	\$16,432.00	\$7.90
12"	\$26,017.00	\$7.90

23. In its application, MSEC did not request changes to its tap fee, reconnection fee for non-payment, late charge, or returned check charge.
24. MSEC's requested rates are just and reasonable.
25. During the test year, MSEC made payments to Mid-South Electric Cooperative Association, MSEC's parent company.
26. The affiliate costs included in MSEC's requested revenue requirement are reasonable and necessary.
27. To the extent that payments to affiliated interests are included in the rates requested by MSEC, the prices charged to MSEC are not higher than the prices charged by the supplying affiliate to its other affiliates or divisions for the same item or to unaffiliated persons or corporations.

Plant in Service and Cash Working Capital

28. In its application, MSEC requested a total original cost for plant in service of \$1,521,555, accumulated depreciation of \$111,318, and net plant in service of \$1,365,960.
29. In its application, MSEC requested cash working capital of \$31,501, which is equal to 1/8 of its operations and maintenance expense of \$252,004.36.
30. It is appropriate for MSEC's cash working capital to equal \$31,501, which represents 1/8 of the utility's operations and maintenance expense.

Return on Invested Capital

31. In its application, MSEC requested a weighted average cost of capital of 4.74%.
32. A 4.74% rate of return will allow 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.

Rate-Case Expenses

33. The parties agree that MSEC may collect rate-case expenses in the amount of \$97,913.64 through a surcharge of \$3.04 per month per meter equivalent based on 537 meter equivalents over a period of 60 consecutive months or until the full amount has been recovered, whichever occurs first. The parties also agree that MSEC may not seek to recover any additional rate-case expenses incurred in connection with this application in a future proceeding.

34. On August 26, 2021, MSEC filed the affidavit of Jamie L. Mauldin, principal attorney with the law firm Lloyd Gosselink Rochelle and Townsend, P.C., counsel for MSEC, attesting to the amount and reasonableness of rate-case expenses incurred.
35. The agreed rate-case expenses in the amount of \$97,913.64 are reasonable and necessary.

Tariff

36. MSEC did not request any changes to the terms and conditions of its tariff.
37. On August 26, 2021, Commission Staff filed a proposed tariff as an attachment to the joint motion to admit evidence and proposed notice of approval.

Effective Date

38. MSEC originally proposed an effective date of July 1, 2020, for the proposed new rates.
39. In Order No. 10 filed on November 17, 2020, the ALJ suspended the effective date until a properly completed application was submitted.
40. MSEC's revised notice of proposed rate change included an effective date of February 25, 2021.
41. In Order No. 12 filed on January 28, 2021, the ALJ adopted Commission Staff's proposed procedural schedule, which included the proposed rate change effective on February 25, 2021. The ALJ stated that the effective date of the rate change remained suspended as previously ordered.

Informal Disposition

42. More than 15 days have passed until the completion of notice provided in this docket.
43. MSEC and Commission Staff are the only parties to this proceeding.
44. No party requested a hearing and no hearing is needed.
45. Commission Staff recommended approval of the application, as supplemented.
46. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. MSEC is a utility, public utility, and sewer utility as those terms are defined in TWC § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(39).
2. MSEC is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. MSEC is a class D utility as defined in TWC § 13.002(4-d) and 16 TAC § 24.3(8).

4. The Commission has authority over this proceeding under TWC §§ 13.041, 13.181, 13.1871, and 13.1872(c)(2).
5. The application was processed in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
6. MSEC complied with the requirement to provide public notice of the application as required by TWC § 13.1871, 16 TAC § 24.27(d)(1), and the Administrative Procedure Act.
7. Under TWC § 13.184(c) and 16 TAC § 24.12, MSEC bears the burden of proof to establish that the proposed rates are just and reasonable.
8. The rates approved in this Order are just and reasonable under TWC § 13.182(a).
9. The rates approved in this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class or customers in accordance with TWC § 13.182(b).
10. As required by TWC § 13.183, the rates approved by this Order will permit MSEC a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public over and above its reasonable and necessary operating expenses and will preserve MSEC's financial integrity.
11. An overall rate of return of 4.74% will not yield MSEC 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).
12. 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.
13. In accordance with TWC § 13.185 and 16 TAC § 24.41(c)(2)(B), the rates approved by this Order are based on original cost, less depreciation, of property used and useful in MSEC's provision of service.
14. The rates approved in this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
15. The Commission was not required to refer this proceeding to the State Office of Administrative Hearings under TWC § 13.1871(i) and 16 TAC § 24.35(c)(2).
16. This requirements for informal disposition under 16 TAC § 22.35 have been met in this

¹ Tex. Gov't Code §§ 2001.001–.903.

proceeding.

IV. Ordering Paragraphs

In accordance with the findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves MSEC's change in sewer rates, to the extent provided in this Order.
2. The Commission approves the rates, terms, and conditions included in the tariff filed by Commission Staff on August 26, 2021, effective the date that this Order is signed.
3. MSEC 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.
4. The Commission authorizes MSEC to collect rate-case expenses of \$97,913.64 over a period not to exceed 60 consecutive months through a surcharge \$3.04 per meter equivalent per month. MSEC may recover no more than \$97,913.64 through the surcharge. MSEC must not seek to recover any additional rate-case expenses incurred in connection with this docket in future proceedings.
5. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the parties' agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underling the parties' agreement.
6. Within ten days of the date of this Order, Commission Staff must supply a clean copy of the tariff approved by this Order to Central Records to be marked *Approved* and filed in the Commission's tariff book.
7. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER