



Control Number: 50721



Item Number: 225

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Commissioner



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2022 APR -1 AM 10:08

## *Public Utility Commission of Texas*

TO: All Parties of Record

FROM: Office of Policy & Docket Management

RE: **PUC Docket No. 50721**  
**SOAH Docket No. 473-21-0946.WS** – *Application of Crystal Clear Water, Inc.*  
*for Authority to Change Rates*

DATE: April 1, 2022

The Commission will consider a proposed order in this docket at a future open meeting. The parties shall file corrections or exceptions to the proposed order on or before Monday, April 11, 2022.

On December 30, 2020, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

**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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**PUC DOCKET NO. 50721**  
**SOAH DOCKET NO. 473-21-0946.WS**

<b>APPLICATION OF CRYSTAL CLEAR</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WATER, INC. FOR AUTHORITY TO</b>	<b>§</b>	
<b>CHANGE RATES</b>	<b>§</b>	<b>OF TEXAS</b>

**PROPOSED ORDER**

This Order addresses the application of Crystal Clear Water, Inc. for authority to change its water rates and associated tariff for water service. Crystal Clear filed an unopposed agreement between the parties to this proceeding. The Commission approves Crystal Clear's changes to its water rates and associated tariff, as modified by the agreement, to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. Crystal Clear is a Texas for-profit corporation registered with the Texas secretary of state under filing number 152991400.
2. Crystal Clear owns for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public in Bosque County.
3. As of December 31, 2019, Crystal Clear served a total of 230 active water connections under water CCN number 12997.
4. The following are the public water systems which Crystal Clear operates and the counties in which those systems are located:

PWS #	Subdivision/Facility Name	County
TX0180025	Lakeline Acres	Bosque
TX0180030	Glenshores	Bosque
TX0180032	Airport	Bosque
TX0180081	Whispering Ridge	Bosque

5. Lakeline Acres, Glenshores, Airport, and Whispering Ridge are substantially similar water systems.

**Application**

6. On April 8, 2020, Crystal Clear filed an application to change its water rates and associated tariff under Texas Water Code (TWC) § 13.1872.
7. Crystal Clear's application was based on a test year ending December 31, 2019, adjusted for known and measurable changes.
8. In its application, Crystal Clear requested a revenue requirement of \$175,506 and a rate of return of 15.00% with a proposed effective date of July 1, 2020.
9. On April 23, 2020, Crystal Clear filed additional information to supplement the application.
10. In Order No. 4 filed on June 4, 2020, the Commission administrative law judge (ALJ) found Crystal Clear's rate application administratively incomplete, established an opportunity to cure the deficiency, and suspended the effective date.
11. On August 19, 2020, Crystal Clear filed a revised application.
12. In the revised application, Crystal Clear requested a revenue requirement of \$258,162 and a rate of return of 15.00% with a proposed effective date of December 1, 2020.
13. In Order No. 8 filed on September 4, 2020, the Commission ALJ found Crystal Clear's revised application administratively complete and suspended the effective date of the rate change for 265 days from the proposed effective date of December 1, 2020 to August 23, 2021.
14. On March 7, 2022, Crystal Clear filed additional information to supplement the application.
15. In its application, as supplemented, Crystal Clear proposes consolidated rates for Lakeline Acres, Glenshores, Airport, and Whispering Ridge.
16. Crystal Clear's proposed consolidated rates for consolidated rates for Lakeline Acres, Glenshores, Airport, and Whispering Ridge promote water conservation.

**Notice of the Application**

17. On April 8, 2020, Crystal Clear filed the affidavit of Robert Payne, the owner of Crystal Clear, who attested that on or about May 5, 2020 Crystal Clear provided notice of the application by mail to each customer or other affected party.
18. In Order No. 4 filed on June 4, 2020, the Commission ALJ found Crystal Clear's notice of the application dated on or about May 5, 2020 was insufficient.
19. On August 19, 2020, Crystal Clear filed a second affidavit of Mr. Payne, who attested that Crystal Clear provided notice of the application by mail to each customer or other affected party on or about August 19, 2020.
20. In Order No. 8 filed on September 4, 2020, the Commission ALJ found notice of the application sufficient.
21. On November 23, 2021, Crystal Clear provided notice of the application to the Office of Public Utility Counsel (OPUC).

**Interventions and Protests**

22. More than 10% of the ratepayers affected by the proposed rate increase filed protests in this proceeding.
23. In Order No. 2 filed on May 18, 2020, the Commission ALJ granted the motions to intervene of ratepayers Kim and Arlettia Sharp, Harold Winnett, Justin Witte, Wayne Barnett, Pete Lohmer, Joy Lohmer, Roy Ince, Jr., Glenn Sommons, Thomas Murdoch, Walter Lane, Karla Lowder, Leonard and Janice McCain, Jeff and Krist Hall, Jasper Fuqua, John Graham, Donald Benda, Billy and Barbara Arnold, Emilie Shipman, Bryan Bronstad, Dale Hulme, Carl Montgomery, Judy Bingaman, James Nawara, Petra Rodriguez, Lance Alsobrook, Tony Hardin, Gerald Longacre, Troy and Jana Spies, Ben Johnson, Stephen Philipp, Dwayne Jackson, Dennis Poe, and James Greenwade.
24. In Order No. 5 filed on June 8, 2020, the Commission ALJ granted the motions to intervene of ratepayers Bill Reitmeyer, Nicholas P. Kuhn, Jr., George Saxon, Kelly Anderson, and Britton Warren.
25. In Order No. 6 filed on July 1, 2020, the Commission ALJ granted the motion to intervene of ratepayer Ms. Anderson.

26. In Order No. 9 filed September 17, 2020, the Commission ALJ granted the motions to intervene of ratepayers Gary Fossett, Patrick and Renee Couley, Glenn Sammons, Leonard and Janice McCain, Joe and Linda Howard, Nicholas P. Kuhn, Jr., Carl Montgomery, Sam Wells, Kristi and Jeffrey Hall, and Troy and Janna Spies.
27. In Order No. 10 filed on October 26, 2020, the Commission ALJ granted the motion to intervene of ratepayers Kirk and Mary Sims.
28. In Order No. 3, the State Office of Administrative Hearings (SOAH) ALJ dismissed Mr. McCain, Ms. McCain, Mr. Hulme, Mr. Poe, and Ms. Anderson as parties and removed them from the service list.
29. In Order No. 12 filed on March 30, 2022, the Commission ALJ granted OPUC's motion to intervene.

**Referral to SOAH for Hearing**

30. On December 30, 2020, the Commission referred this matter to SOAH for a contested case hearing.
31. In SOAH Order No. 1 filed on January 8, 2021, the SOAH ALJ set a prehearing conference for February 9, 2021, and granted the motions to intervene of ratepayers Juanita Cosper, Darrell Winnett, Jimmy and Kristi McElyea, Annelle Wells, and Melissa Boyette.
32. On January 29, 2021, the Commission filed a preliminary order.
33. In SOAH Order No. 2 filed on February 23, 2021, the SOAH ALJ memorialized the prehearing conference held on February 9, 2021, granted the motions to intervene of ratepayers Marion Marshall, Tom Marshall, Linda Johnson, Connie Blenden, and Leslie and Todd Marshall, abated the proceeding, and referred the proceeding to mediation.
34. On September 3, 2021, Crystal Clear, Commission Staff, and intervenors filed a joint motion to admit evidence and remand to the Commission, including the agreement, agreed proposed tariff, a joint proposed final order, and an agreed list of assets.
35. In SOAH Order No. 5 filed on September 7, 2021, the SOAH ALJ admitted evidence, dismissed the case from SOAH docket, and remanded it to the Commission.

**Evidentiary Record**

36. In SOAH Order No. 5 filed on September 7, 2021, the SOAH ALJ admitted the following evidence into the record:
- (a) the application of Crystal Clear filed on April 8, 2020;
  - (b) additional information filed by Crystal Clear on April 23, 2020;
  - (c) Crystal Clear's revised application and attachments filed on August 19, 2020;
  - (d) Crystal Clear's response to Commission Staff's first request for information (RFI) filed on April 15, 2021;
  - (e) Crystal Clear's response to Commission Staff's second RFI filed on April 26, 2021;
  - (f) Crystal Clear's first supplement to response to Commission Staff's second RFI filed on May 12, 2021;
  - (g) Crystal Clear's response to Commission Staff's third RFI filed on May 12, 2021;
  - (h) Agreements appointing intervenors' representatives, attached to the joint motion as exhibit 1, filed on September 3, 2021;
  - (i) Agreement, attached to the joint motion as exhibit 2, filed on September 3, 2021;
  - (j) The agreed joint proposed final order (attachment A to the agreement), the agreed proposed tariff (attachment B to the agreement), and the agreed list of assets (attachment C to the agreement); and
  - (k) Commission Staff's affidavit of Anna Givens, in support of the agreement, filed on September 3, 2021.
37. In Order No. 12 filed on March 30, 2022, the Commission ALJ admitted the following evidence into the record:
- (a) the water systems facilities information, attachment A to Crystal Clear and Commission Staff's response to Commission Counsel's memorandum filed on March 7, 2022;
  - (b) the affidavit of Robert Payne, attachment D to Crystal Clear and Commission Staff's response to Commission Counsel's memorandum filed on March 7, 2022; and

- (c) the revised unanimous stipulation and settlement agreement, exhibit 1 to the joint motion to admit evidence, including the revised joint proposed final order, agreed proposed tariff, and agreed list of assets, attachments A, B, and C to exhibit 1, filed on March 7, 2022.

**Agreement**

- 38. Crystal Clear, Commission Staff, and the intervenors engaged in settlement negotiations and entered into a unanimous agreement, memorializing an agreed schedule of retail water-utility rates and other tariff amendments, as set forth in the tariff included as attachment B to the agreement. The agreement was filed with the Commission on September 3, 2021 with the parties' joint motion to admit evidence and remand to the Commission.
- 39. Crystal Clear's total annual revenue requirement is \$178,512.00.
- 40. It is reasonable and in the public interest to approve Crystal Clear's total invested capital as of December 31, 2019, in the amount of \$155,855, including \$138,404 of net plant in service and \$17,451 of cash working capital. Attachment C to the agreement identifies all of Crystal Clear's net plant in service as of December 31, 2019.
- 41. The signatories agreed that Crystal Clear's overall rate of return will be 6.34%.
- 42. It is appropriate not to specify a return on equity in this proceeding.
- 43. The signatories agreed that Crystal Clear should be allowed to implement the retail water rates located in the tariff attached to the agreement as attachment B.
- 44. Crystal Clear may implement the other tariff provisions included in the agreed proposed tariff in attachment B to the agreement.
- 45. The proposed tariff that is attached to the agreement as attachment B governs the water utility rates, terms, treatments, and conditions for the water systems and service area specified in the tariff.
- 46. The signatories agreed that rates, terms, and conditions of the tariff resulting from the agreement are just and reasonable.



47. The signatories agreed that it is not necessary for Crystal Clear to implement a refund, credit, or surcharge to return or collect amounts recovered under the rates effective August 23, 2021.
48. The signatories acknowledged that Crystal Clear has a loan from Robert Payne with an outstanding balance of \$535,294.42 at the end of the test year.

**Rate-Case Expenses**

49. Crystal Clear is entitled to recover \$28,000.00 in rate-case expenses. These rate-case expenses must be recovered through a surcharge to ratepayers over a period not to exceed 12 months.
50. Crystal may not seek to recover any additional rate-case expenses incurred in connection with this application in a future proceeding.
51. The agreement's treatment of rate-case expenses is appropriate, and the agreed rate-case expense surcharges are reasonable and necessary.

**Affiliates**

52. Crystal Clear does not have any affiliates.

**Effective Date**

53. In the revised application, Crystal Clear requested approval of the proposed water rates and tariff revisions, effective no sooner than December 1, 2020.
54. In Order No. 8 filed on September 4, 2020, the Commission ALJ suspended the effective date of the rate change for 265 days from the proposed effective date of December 1, 2020, until August 23, 2021.

**Interim Rates**

55. On August 27, 2021, Commission Staff filed an unopposed motion for interim rates that would allow Crystal Clear to begin charging the agreed-upon settlement rates beginning on August 23, 2021.
56. In SOAH Order No. 4 filed on August 30, 2021, the SOAH ALJ adopted interim rates as set out in the tariff.

**Good Cause Exception**

57. On November 12, 2021, Commission Counsel filed a memorandum directing the parties to either identify record evidence showing Crystal Clear provided notice of this proceeding to OPUC or to seek a good cause exception to the applicable Commission rule.
58. On March 7, 2022, Crystal Clear filed an unopposed motion for a good cause exception to the notice requirement under 16 Texas Administrative Code (TAC) § 24.27(d)(1)(A) that requires a utility requesting a rate change to file notice of the proposed change to OPUC at least 35 days before the effective date of the proposed change.

**Informal Disposition**

59. More than 15 days have passed since the completion of notice provided in this proceeding.
60. The only parties to this proceeding are Crystal Clear, Commission Staff, and OPUC.
61. All parties signed the agreement.
62. No hearing is necessary.
63. The decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. Crystal Clear is a utility, public utility, and water utility as defined in TWC § 13.002(23) and 16 TAC § 24.3(39).
2. Crystal Clear is a retail public utility as that term is defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Crystal Clear is a class D utility under TWC § 13.002(4-d) and 16 TAC § 24.3(8) because it has fewer than 500 active water connections.
4. The Commission has authority over Crystal Clear's application for a water rate increase under TWC §§ 13.041 and 13.181.

5. The Commission processed this case in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
6. Crystal Clear complied with the requirement to provide notice of the rate application as required by TWC § 13.1872 and 16 TAC § 24.27(d), except that Crystal Clear did not provide timely notice to OPUC.
7. Good cause exists to grant an exception to the requirement under 16 TAC § 24.27(d)(1)(A) to timely provide notice to OPUC.
8. Under TWC § 13.184(c) and 16 TAC § 24.12, Crystal Clear has the burden of proof to establish that the proposed rates are just and reasonable.
9. The rates approved in this Order are just and reasonable under TWC § 13.182(a).
10. The consolidated-system rates and tariff approved by this Order are just and reasonable and comply with TWC § 13.145(a) and 13.182(d) and 16 TAC § 24.25(k) and (l).
11. As required by TWC § 13.182(b), the rates approved in this proceeding are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customers.
12. In accordance with TWC § 13.183(a), the rates approved in this Order will permit Crystal Clear 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 Crystal Clear's financial integrity.
13. An overall rate of return of 6.34% will not yield Crystal Clear more than a fair return on the invested capital used and useful in rendering service in accordance with TWC § 13.184(a) and 16 TAC § 24.41(c)(1).
14. As required by TWC § 13.185(h), the rates approved in 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> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.903.

15. 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 Crystal Clear's provision of service.
16. The rates approved in this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
17. There were no payments to affiliated interests for costs of any services under TWC § 13.185(e).
18. It is not necessary for Crystal Clear to implement a refund, credit, or surcharge to return or collect amounts recovered under the rates effective August 23, 2021, under 16 TAC § 24.37.
19. The rate-case expenses approved in this Order are just, reasonable, necessary, and in the public interest as required under 16 TAC § 24.44(a).
20. 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 Crystal Clear's changes to its water rates, as modified by the agreement, to the extent provided in this Order.
2. The Commission approves Crystal Clear's water rate tariff attached to the agreement filed on September 2, 2021 as attachment B effective on the date this Order is signed.
3. The Commission approves the consolidation of rates for the public water systems of Lakeline Acres, Glenshores, Airport, and Whispering Ridge under the single water-rate tariff approved by this Order.
4. The Commission establishes that the rate base for Crystal Clear as of December 31, 2019 is \$155,855 and includes \$138,404 of net plant in service, as shown in attachment C to the agreement. Crystal Clear must include this specific rate base as of December 31, 2019,

- in determining its rate base in its next filing for a rate increase under TWC § 13.1872(c)(2).
5. The Commission authorizes Crystal Clear to collect rate-case expenses in the amount of \$28,000.00 via a monthly surcharge to the customers over a period not to exceed 12 months.
  6. The Commission grants an exception to the requirement under 16 TAC § 24.27(d)(1)(A) to timely provide notice to OPUC.
  7. Crystal Clear must not seek to recover any additional rate-case expenses incurred in connection with this docket in a future proceeding.
  8. Crystal Clear must file a report documenting the calculation and collection of the rate-case expense surcharge from customers in compliance with this Order. The filing must be made in Compliance Filing for Docket No. 50721 (Application of Crystal Clear Water, Inc. for Authority to Change its Water Rates), Docket No. 53433.
  9. 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.
  10. Within ten days of the date of this Order, Commission Staff must file a clean copy of Crystal Clear's tariff with Central Records to be marked *Approved* and kept in the Commission's tariff book.
  11. 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 \_\_\_\_\_ 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**