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**SOAH DOCKET NO. 473-20-4709.WS
PUC DOCKET NO. 50944**

**APPLICATION OF MONARCH § BEFORE THE STATE OFFICE
UTILITIES I, L.P. TO CHANGE RATES § OF
FOR WATER AND SEWER SERVICE § ADMINISTRATIVE HEARINGS**

**SOAH ORDER NO. 3
APPROVING AGREED INTERIM RATES; UNCONDITIONALLY ADOPTING
PROCEDURAL SCHEDULE SET FORTH IN SOAH ORDER NO. 2;
AND RECOGNIZING EXTENSION OF EFFECTIVE DATE**

I. DESCRIPTION OF JOINT MOTION

On September 28, 2020, Monarch Utilities I L.P. (Monarch), the Staff (Staff) of the Public Utility Commission of Texas (Commission), and the Office of Public Utility Counsel (OPUC) (collectively, Movants) filed a Joint Motion to Set Interim Rates, Extend Effective Date, and Adopt Joint Proposed Procedural Schedule. The joint motion states that, pursuant to Texas Water Code § 13.187(l), the Movants had agreed to interim water and wastewater rates that would be implemented in two phases. The first phase, in which the interim rates would be set at Monarch’s current rates, would be effective September 18, 2020. The second phase would begin on February 1, 2021—the date at which, absent further extension of the effective date, Monarch’s proposed rates would be considered approved by operation of statute—with interim rates set as identified in Exhibit A to the joint motion.

In the joint motion, the Movants agree that, subject to the adoption of these interim rates, Monarch will refund or credit customers in a reasonable number of monthly installments with any amount collected in excess of any final rate adopted by the Commission that is lower than the interim rates, plus interest set by the Commission.¹ And if the final rate adopted by the Commission

¹ The Movants propose that the monthly interest rate for any refund or credit will be 0.194%, which when compounded monthly equates to an effective annual rate of 2.35%, which the Movants state is the Historical Record of Interest Rates set by the Commission for 2020. Joint Motion at 2 (citing *Interest Rates Set under Texas Utilities Code § 183.003 and Set for Overcharges and Undercharges under 16 Texas Administrative Code §§ 25.28, 25.480, and 26 27, Docket No. 45319, Order (Nov. 15, 2019)*).

is higher than the interim rates, the Movants agree that Monarch may surcharge customers for the amount under-collected since September 18, 2020, when the Movants propose the first-phase interim rates take effect.

In the joint motion, subject to the request for interim rates being adopted, Monarch agrees to extend the effective date of its proposed rates from August 19, 2020, to January 1, 2021, so that the statutory 150-day suspension period would end on May 31, 2021, when Monarch's proposed rates would be considered approved if the Commission has not yet issued its order.²

**II. ADOPTING INTERIM RATES,
UNCONDITIONALLY ADOPTING PROCEDURAL SCHEDULE,
AND RECOGNIZING EXTENSION OF EFFECTIVE DATE**

In State Office of Administrative Hearings (SOAH) Order No. 2, the Administrative Law Judges (ALJs) conditionally adopted the proposed procedural schedule, with some modifications, and requested briefing on certain issues related to the request for interim rates, including whether there is authority to set interim rates retroactively, *i.e.*, effective on September 18, 2020, ten days before the joint motion was filed.³

In their responsive briefing, the Movants note that Texas Water Code § 13.187(l) provides that “at any time during the pendency of the rate proceeding the regulatory authority may fix interim rates to remain in effect during the applicable suspension period.” In addition, the Movants point to 16 Texas Administrative Code § 24.37(b), which provides that Staff may petition the Commission to set interim rates “at any time after the filing of a statement of intent to change rates.”

² See Tex. Water Code § 13.187(e).

³ The Movants' briefing, which the ALJs appreciate and found helpful, addressed the specified questions consistently. Though not all briefed issues are addressed in this order, the ALJs expect the Movants' positions on each of these issues to remain consistent throughout this proceeding, including in any proposed findings of fact, conclusions of law, or proposed ordering paragraphs offered by the Movants after the hearing on the merits.

The Movants also cite two recent SOAH orders in water rate cases where interim rates were imposed effective on dates prior to the orders approving them.⁴ While noting that the Commission does not appear to have decided this issue, the ALJs are persuaded that the Movants' interpretation of Texas Water Code § 13.187(l) and 16 Texas Administrative Code § 24.37(b) is reasonable and that, because the joint motion is unopposed and agreed to by both Staff and OPUC, interim rates may be set as requested, effective September 18, 2020. The ALJs further note that Monarch has stated that it will comply with the notice requirements of 16 Texas Administrative Code § 24.37(j) with respect to these interim rates.

Accordingly, the interim rates requested in the joint motion and as set out in Exhibit A to that motion, are **approved** and **the procedural schedule set forth in SOAH Order No. 2 is adopted unconditionally**. Finally, the ALJs acknowledge that Monarch has agreed to extend the effective date of its proposed rates to January 1, 2021. Pursuant to Texas Water Code § 13.187(l), therefore, the effective date of the proposed rates is **suspended** for 150 days, until May 31, 2021.

As it agreed, Monarch **SHALL** provide notice to its customers of the interim rates in compliance with 16 Texas Administrative Code § 24.37(j). Within ten days of the date of this order, Monarch shall provide a clean copy of the approved interim rates (Exhibit A to the joint motion) to Commission Central Records to be marked Approved and filed in the Commission's tariff books.

SIGNED October 14, 2020.



DANIEL WISEMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



METTRA FARHADI
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁴ *Application of Kendall West Utility, LLC for Authority to Change Rates*, SOAH Docket No. 473-20-1116.WS, PUC Docket No. 49887, SOAH Order No. 7 (June 15, 2020) (setting interim rates effective June 1, 2020); *Application of Undine Texas, LLC and Undine Texas Environmental, LLC for Authority to Change Rates*, SOAH Docket No. 473-20-3110.WS, Docket No. 50200, SOAH Order No. 10 (Aug. 21, 2020) (setting interim rates effective Aug. 1, 2020). The Commission has not yet issued a final Order in either of these cases.