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Received - 2022-03-10 02:21:32 PM

Control Number - 51793

ItemNumber - 34

**PUC DOCKET NO. 51793
SOAH DOCKET NO. 473-21-2058.WS**

PETITION OF THE HAMILTON	§	PUBLIC UTILITY COMMISSION
CREEK RANCHETTES OUT-OF-CITY	§	
LIMITS WATER RATEPAYERS	§	OF TEXAS
APPEALING THE WATER RATES	§	
ESTABLISHED BY THE CITY OF	§	
MARBLE FALLS	§	

**JOINT MOTION TO ADMIT EVIDENCE
AND PROPOSED ORDER**

On February 4, 2021, the environs ratepayers of the City of Marble Falls (City) that reside within the Hamilton Creek Ranchettes community (Ratepayers) filed a petition appealing the decision of the City to increase rates for water services, effective January 17, 2021. The appeal is filed under Texas Water Code (TWC) § 13.043(b)(3) and 16 Texas Administrative Code (TAC) § 24.101(c)(3).

On March 8, 2021, the Staff (Staff) of the Public Utility Commission of Texas requested referral of this proceeding to the State Office of Administrative Hearings. On April 23, 2021, the Commission Counsel filed an Order of Referral requiring the City and the Ratepayers, and allowing Staff, to file a list of issues to be addressed in this docket by April 29, 2021.

On May 26, 2021, the Petitioners filed and on May 28, 2021, the ALJ in SOAH Order No. 2 granted an unopposed motion to abate the requirement, set out in SOAH Order No. 1, to submit a procedural schedule, and to refer this case to mediation. The ALJ requested in the August 19, 2021 Order No. 3 a status report on mediation, which the parties submitted in a joint motion on September 24, 2021. The Petitioners filed another status report on October 26, 2021. The parties participated in mediation on November 19, 2021, which the mediators reported favorably on November 23, 2021. The Petitioners and the City Council approved a settlement agreement on November 24, 2021 and December 7, 2021, respectively. Staff, together with the City and Ratepayers, now files this joint motion to admit evidence and proposed order.

JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following items into the record evidence of this proceeding:

- (a) the petition of the Ratepayers appealing the water rates established by the City and all attachments filed on February 4, 2021 (Interchange Item No. 1);

- (b) The City’s response filed on March, 8, 2021 (Interchange Item No. 2);
- (c) The Ratepayers response to the City’s response filed on March 11, 2021 (Interchange Item No. 9); and
- (d) The Unopposed Joint Motion for Interim Rates and to Remand filed December 17, 2021 (Interchange Item No. 32).
- (e) The Minutes of the December 7, 2021 meeting of the Marble Falls City Council approved at the January 4, 2022 City Council meeting attached to this pleading.

PROPOSED ORDER

The Parties move for adoption of the attached Proposed Order.

CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Order be adopted.

Dated: March 10, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
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/s/ John Harrison
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DOCKET NO. 51793

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 March 10, 2022, in accordance with the Order Suspending Rules, filed in Project No. 50664.

/s/ John Harrison
John Harrison

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PETITION OF THE HAMILTON	§	PUBLIC UTILITY COMMISSION
CREEK RANCHETTES OUT-OF-CITY	§	
LIMITS WATER RATEPAYERS	§	OF TEXAS
APPEALING THE WATER RATES	§	
ESTABLISHED BY THE CITY OF	§	
MARBLE FALLS	§	

PROPOSED ORDER

This Order addresses the appeal of the environs ratepayers of the City of Marble Falls that reside within the Hamilton Creek Ranchettes community (Ratepayers) of the decision of the City of Marble Falls to increase rates for water services, effective January 17, 2021. The City of Marble Falls and the Ratepayers approved a settlement agreement on November 24, 2021, and December 7, 2021, respectively. The Commission approves the terms of the settlement to the extent provided in this order.

I. Findings of Fact

The Commission adopts the following findings of fact and conclusions of law:

Entities

1. The City of Marble Falls is a home rule municipality.
2. The City of Marble Falls owns and operates facilities for providing water service in Burnet County.
3. The City of Marble Falls provides water service under CCN number 11137.
4. The City of Marble Falls provides water service to both customers within the city limits and customers outside the city limits.
5. On December 1, 2020, the Marble Falls City Council passed an ordinance that raised its water and sewer rates.
6. The new rates took effect on January 17, 2021.
7. The Ratepayers, represented by Tim O'Malley, are all out of city limits customers of the City of Marble Falls.

Petition

8. On February 4, 2021, the Ratepayers timely filed an appeal of the new rates under Texas Water Code (TWC) § 13.043(b)(3) and 16 Texas Administrative Code (TAC) § 24.101(c)(3).
9. On March 8, 2021, the City of Marble Falls filed its Preliminary Response, denying all allegations contained in the Ratepayers petition and requesting referral to the State office of Administrative Hearings.
10. On March 8, 2021, Order No. 2 was filed, deeming the petition administratively complete, and establishing a procedural schedule.
11. On April 20, 2021, the Commission issued an Order of Referral referring the matter to the State Office of Administrative Hearings for a hearing on the merits.
12. On May 24, 2021, the Commission issued a Preliminary Order establishing a list of issues to be addressed.

Mediation

13. On May 26, 2021, the Ratepayers filed an unopposed motion to refer the matter to mediation.
14. On May 28, 2021, the State Office of Administrative Hearings referred the matter to mediation.
15. On November 19, 2021, the Staff of the Public Utility Commission, the Ratepayers, and the City of Marble Falls participated in mediation.
16. The Staff of the Public Utility Commission, the Ratepayers, and the City of Marble Falls reached a settlement agreement on November 24, 2021.
17. The Marble Falls City Council approved the settlement agreement on December 7, 2021.

Evidentiary Record

18. On March 10, 2022, the Staff of the Public Utility Commission, the Ratepayers, and the City of Marble Falls filed a motion to admit evidence.
19. In Order No. __, issued on _____, 2022, the administrative law judge admitted the following evidence into the record of this proceeding: (a) the petition of the Ratepayers appealing the water rates established by the City and all attachments filed on February 4,

2021; (b) The City's response filed on March, 8, 2021 (Interchange Item No. 2); (c) the Ratepayers response to the City's response filed on March 11, 2021; (d) the Unopposed Joint Motion for Interim Rates and to Remand filed December 17, 2021; and (e) the Minutes of the December 7, 2021 meeting of the Marble Falls City Council filed on March 10, 2022.

Terms of Settlement Agreement

20. The City of Marble Falls will phase in a rate increase for outside city rates over a four year period starting January 1, 2022.
21. The City of Marble Falls outside residential water city rates in calendar year 2022 will be set to be 1.1 times the inside city rates.
22. Starting on January 1, 2023, the City of Marble Falls outside residential water city rates will increase to be 1.15 times the inside city residential water rates.
23. Starting on January 1, 2024, the City of Marble Falls outside residential water city rates will increase to be 1.2 times the inside city residential water rates.
24. Starting on January 1, 2025, the City of Marble Falls outside residential water city rates will increase to be 1.35 times the inside city residential water rates.
25. The City of Marble Falls will not include its rate case expenses as a surcharge on the outside city ratepayers.
26. There will not be a refund or credit for the payments made by the Ratepayers for 2021.

Interim Rates

27. On December 17, 2021, the Staff of the Public Utility Commission, the Ratepayers, and the City of Marble Falls requested that interim rates be adopted consistent with the settlement agreement.
28. On December 17, 2021, SOAH Order No. 4 was filed adopting interim rates effective January 1, 2022.

Remand to Commission

29. On December 17, 2021, SOAH Order No. 4 was filed remanding the proceeding to the Commission for further processing.

II. Conclusions of Law

The Commission adopts the following conclusions of law:

1. The Commission has jurisdiction over the Ratepayer's appeal of Marble Falls water rates under service under TWC § 13.043(b)(3) and 16 Texas Administrative Code (TAC) § 24.101(c)(3).
2. The City of Marble Falls is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. In accordance with 16 TAC § 22.181(c), the facts of this case are uncontested and no hearing is necessary.
4. This docket was processed in accordance with the requirements of PURA¹ and Commission rules.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The Commission approves the terms of the settlement agreement to the extent discussed in this order.
2. 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 March 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016. (PURA)

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

**STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS**

On this the 7th day of December 2021 the City Council convened in regular session at 6:00 pm in the City Hall Council Chambers located at 800 Third Street, Marble Falls with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

<u>PRESENT:</u>	Richard Westerman	Mayor
	Dave Rhodes	Mayor Pro-Tem
	William (Dee) Haddock	Councilmember
	Craig Magerkurth	Councilmember
	Reed Norman	Councilmember
	Rene Rosales	Councilmember
	Bryan Walker	Councilmember

ABSENT: None

<u>STAFF:</u>	Mike Hodge	City Manager
	Caleb Kraenzel	Assistant City Manager
	Christina McDonald	City Secretary
	Patty Akers	City Attorney
	Jeff Lazenby	Director of Finance
	James Kennedy	Director of Public Works
	Russell Sander	Fire Chief
	Coy Guenter	MFFR - Captain
	Kelly Oestreich	MFFR - Engineer
	Justin Parks	MFFR - Firefighter
	Travis Rabb	MFFR - Firefighter
	Ransen Russel	MFFR - Firefighter
	Kyle Grieser	MFFR - Firefighter
	Tim Pierce	MFFR - Firefighter
	Lynnette Courtney	MFFR Asst. Emergency Mgmt. Coordinator
	Lacey Dingman	Director of Parks and Recreation
	Erin Burks	Downtown Coordinator
	Angel Alvarado	Director of Human Resources
	Mike Ingalsbe	Building Official
	Robert Talmantes	PD – Patrol Captain
	Scarlet Moreno	City Planner
	Sarah Garcia	Parks/Public Works Dept. Admin. Asst.

VISITORS: Curtis Dunn (Firefighter Cancer Support Network), Megan Beaty (Operation Heroes Unite), Connie Swinney (The Highlander), Brigid Cooley (Daily Trib), Tim Olds (Baylor Scott and White Hospital), Martin Starry (KC Engineering), Alan Williams (Highland Lakes Crisis Network)

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** Mayor Westerman called the meeting to order at 6:15 pm and announced the presence of a quorum.
2. **INVOCATION.** Councilmember Norman gave the invocation.
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** Councilmember Magerkurth led the pledges.
4. **UPDATES, PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS**
 - **Presentation Pink Out Donation Checks.** Russell Sander, Fire Chief presented checks in the amount of \$5,775 each to representatives of the Firefighter Cancer Support Network and Operation Heroes Unite.
 - **Update from Waste Management.** Gary Gauci, Operations Manager provided and update on Waste Management services in the City.
5. **CITIZEN COMMENTS.** There were no citizen comments.
6. **CONSENT AGENDA.**
 - (a) Approval of the minutes of the November 16, 2021 regular meeting.
 - (b) Approval of the cancellation of the December 21, 2021 regular City Council Meeting.
 - (c) Approval of Resolution 2021-R-12A affirming a community-wide trust initiative.
 - (d) Approval of First Amendment to the Performance Agreement between the MFEDC and Marble Falls Hotel Group, LLC.
 - (e) Approve the acceptance of a \$9,200 grant from the Leary Firefighters Foundation to Marble Falls Fire Rescue for training equipment.
 - (f) Approval of Resolution 2021-R-12B accepting a petition and setting a public hearing date for the dissolution of the Roper Ranch Public Improvement District (PID) for approximately 661 +/- acres located to the northeast and southeast corners of US Highway 281 and Ranch to Market (RM) 2147.
 - (g) Approval of Resolution 2021-R-12C accepting a petition and setting a public hearing date for the creation of the Roper Ranch Public Improvement District (PID) for approximately 335 acres located to the northeast and predominantly to the southeast of the US Highway 281 and East Ranch to Market (RM) 2147 Intersection.

Councilmember Haddock made a motion to approve the consent agenda. Councilmember Norman seconded the motion. The consent agenda was approved by a vote 7-0.

7. REGULAR AGENDA.

(a) Public Hearing, Discussion, and Action on Ordinance 2021-O-12A regarding a Special Exception request to reconstruct a non-conforming single-family residential use within the Downtown Transition District (DT). Scarlet Moreno, City Planner addressed Council. Mayor Westerman opened the public hearing. There being no discussion, Mayor Westerman closed the public hearing and read the ordinance caption. Mayor Pro-Tem Rhodes made a motion to approve Ordinance 2021-O-12A. The motion was seconded by Councilmember Rosales and carried by a unanimous vote (7-0).

(b) Discussion and Action on the City's allocation of the American Rescue and Recovery Act grant funds. Russell Sander, Fire Chief addressed Council. After some discussion, Councilmember Walker made a motion to approve the allocation of grant funds with the stipulation that the \$250,000 allocated to Baylor Scott and White Hospital be allocated to the broadband project or other city projects as deemed necessary and that staff continue to monitor federal mandates up to the point the grant funds are expended. Councilmember Magerkurth seconded the motion. The motion carried by the following vote:

AYES: Mayor Westerman and Councilmembers Rosales, Magerkurth, Walker and Haddock

NAYS: Councilmember Norman

ABSTAINED: Mayor Pro-Tem Rhodes

It was noted that Mayor Pro-Tem Rhodes filed a Conflict of Interest Affidavit with the City Secretary.

(c) Discussion and Action on Ordinance 2021-O-12B approving a Final Project and Financing Plan for the Tax Increment and Financing Plan for Tax Increment Reinvestment Zone No. 2, City of Marble Falls, Texas. Caleb Kraenzel, Assistant City Manager addressed Council. Mayor Pro-Tem Rhodes made a motion to approve Ordinance 2021-O-12B. The motion was seconded by Councilmember Rosales and carried by a vote of 7-0.

(d) Discussion and Action on the approval of a Chapter 380 Agreement between MM Marble Falls 1070, LLC, the TIRZ No. 2 Board, and the City of Marble Falls for the development of property within TIRZ No. 2. City Attorney Patty Akers addressed Council. Mayor Pro-Tem Rhodes made a motion to approve the Chapter 380 Agreement as presented. The motion was seconded by Councilmember Rosales and carried by a vote of 7-0.

(e) Discussion and Action on Resolution 2021-R-12D approving the State of Texas and Texas Political Subdivisions' Opioid Abatement Fund Council and Settlement Allocation Term Sheet (the "Texas Term Sheet"), the allocation of any and all opioid litigation settlement funds within the State of Texas, and authorizing the Mayor to execute the JNJ Participation Form and the Distributor Participation Form. Patty Akers, City Attorney addressed Council. Councilmember Haddock made a motion to approve Resolution 2021-R-12D. The motion was seconded by Councilmember Norman and carried by a vote of 6-1, with Mayor Pro-Tem Rhodes voting against the Resolution.

8. **CITY MANAGER'S REPORT.** City Manager Mike Hodge provided an update on development activity in the City.

9. **EXECUTIVE SESSION. CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (Private Consultation between the Council and its Attorney) of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to discuss the following:**

- Consultation with the City Attorney regarding the proposed settlement agreement associated with the Hamilton Creek Ranchettes Petition to Appeal Outside City Water Rates

7:31 pm Council convened to Executive Session

7:46 pm Council returned to Open Session

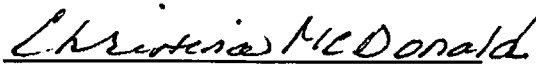
10. **RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION.** Councilmember Haddock made a motion to approve the the mediated rate settlement for residential outside water customers as discussed in Executive Session. Councilmember Rosales seconded the motion. The motion carried by a vote of 7-0.

11. **ANNOUNCEMENTS AND FUTURE AGENDA ITEMS.** The draft agenda for the January 4, 2022 regular meeting was reviewed.

12. **ADJOURNMENT.** There being no further business to discuss, Councilmember Norman made a motion to adjourn. The motion was seconded by Councilmember Rosales and the meeting was adjourned at 7:50 pm.


Richard Westerman, Mayor

ATTEST:


Christina McDonald, TRMC
City Secretary