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Item Number - 123

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Lori Cobos
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Jimmy Glotfelty
Commissioner



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Governor

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Executive Director

Public Utility Commission of Texas

TO: Interim Chair Kathleen Jackson
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty

All Parties of Record

FROM: Office of Policy and Docket Management

RE: **PUC Docket No. 52365**
SOAH Docket No. 473-23-07816.WS – *Application of Medina Highlands, Inc. for Authority to Change Rates*

DATE: August 24, 2023

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 Wednesday, August 30, 2023.

On December 13, 2022, this 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. 52365
SOAH DOCKET NO. 473-23-07816.WS

APPLICATION OF MEDINA HIGHLANDS, INC. FOR AUTHORITY TO CHANGE RATES	§ § §	PUBLIC UTILITY COMMISSION OF TEXAS
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PROPOSED ORDER

This Order addresses the application of Medina Highlands, Inc. dba Avalon Point Water System, LLC for authority to change its water rates and associated tariff under certificate of convenience and necessity (CCN) number 12043 in Bandera County. The parties filed a unanimous agreement. The Commission approves Medina Highlands’ 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. Medina Highlands is a Texas limited liability company registered with the Texas secretary of state under filing number 800985781.
2. Medina Highlands owns and operates for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public in Texas.
3. As of February 28, 2023, Medina Highlands provides potable water service for compensation to approximately 44 connections in Bandera County under CCN number 12043.

Application

4. On July 29, 2021, Medina Highlands filed an application to change water rates and associated tariff for its service area in Bandera County.
5. The application was based on a historical test year ending December 31, 2020, adjusted for known and measurable changes.

6. In the application, Medina Highlands requested an overall increase of \$38,882.69 over its adjusted test-year revenues for water service.
7. On July 12, 2022, Medina Highlands filed a supplement to its application.
8. In Order No. 9 filed on August 25, 2022, the Commission administrative law judge (ALJ) found the application administratively complete.

Notice of the Application

9. On August 23, 2021, Medina Highlands filed the affidavit of John R. Moore attesting to the provision of notice to customers via first class mail on August 20, 2021.
10. In Order No. 10 filed on September 6, 2022, the Commission ALJ directed Medina Highlands to provide a revised customer notice as proposed by Medina Highlands on August 24, 2022.
11. On September 6, 2022, Medina Highlands filed the affidavit of Mr. Moore attesting to the provision of revised notice to customers via first class mail on September 2, 2022.
12. In Order No. 11 filed on September 19, 2022, the Commission ALJ found Medina Highlands' notice sufficient.

Notice of the Hearing

13. On January 6, 2023, Medina Highlands provided notice of the prehearing conference scheduled for January 31, 2023, to customers via first class mail.
14. On January 19, 2023, Medina Highlands filed the affidavit of Mr. Moore attesting to notice of the prehearing conference provided on January 6, 2023.

Referral to the State Office of Administrative Hearings

15. On December 13, 2022, the Commission referred this proceeding to SOAH.
16. On December 15, 2022, the Commission filed a preliminary order.
17. On January 31, 2023, the SOAH ALJ conducted a prehearing conference via videoconference.

18. In SOAH Order No. 2 filed on February 1, 2023, the SOAH ALJ memorialized the January 31, 2023 prehearing conference and adopted a procedural schedule setting a hearing on the merits to convene on May 17, 2023.
19. In SOAH Order No. 3 filed on February 27, 2023, the SOAH ALJ granted the parties' request to refer the docket to mediation.
20. On March 2 and 7, 2023, Medina Highlands, Commission Staff, OPUC, and the intervenor ratepayers participated in a videoconference mediation during which time the parties conducted negotiations and exchanged additional information facilitated by the SOAH mediator.
21. On March 7, 2023, the parties reached an agreement to settle all disputed issues.
22. On April 5, 2023, the SOAH mediator filed a mediation report noting the agreement and returning the case to the presiding SOAH ALJ for disposition.
23. In SOAH Order No. 6 filed on June 27, 2023, the SOAH ALJ dismissed the case from SOAH's docket and returned the case to the Commission.

Interventions and Protests

24. More than 10% of Medina Highlands' ratepayers affected by the proposed rate increase filed protests in this docket.
25. In SOAH Order No. 2 filed on February 1, 2023, the SOAH ALJ named the following ratepayer-customers as intervenors in this case: Abel Tijerina, Barbara Zaborski, Ronald Bird, Sylvia Farber, James and Terri Frizzell, Joseph Fletcher, Leopoldo and Emilia Flores, Kenneth Harte, Karen Barnes, Bruce Rabalais, Carolyn Newman, Rodney Clyatt, Mary Moore, Anamaria Brannon, Richard Pruitt, and Eric Van Delden (collectively, the intervenor ratepayers) who were aligned under representative Bruce Rabalais.
26. In SOAH Order No. 3 filed on February 27, 2023, the SOAH ALJs granted the Office of Public Utility Counsel's (OPUC's) intervention.

Testimony

27. On June 5, 2023, Commission Staff filed the direct testimony of Joseph Cooper in support of the agreement.

28. On June 22, 2023, Medina Highlands filed the direct testimony of John Moore in support of the agreement and the direct testimonies of Bret Fenner and Stephen Dickman in support of rate-case expenses.

Evidentiary Record

29. On June 5, 2023, the parties jointly filed a motion to admit evidence.

30. In SOAH Order No. 6 filed on June 27, 2023, the SOAH ALJ admitted the following evidence into the record:

- a. Medina Highlands' rate and associated tariff change application and all attachments, filed on July 29, 2021;
- b. Medina Highlands' customer notice and affidavit of proof of notice to customers, filed on August 23, 2021;
- c. Medina Highlands' application schedule III-3 in excel format, filed on August 25, 2021;
- d. the ratepayer protests of Abel Tijerina filed on August 30, 2021 and September 16, 2022; Barbara Zaborski filed on August 31, 2021; Ronald Bird filed on August 31, 2021 and September 22, 2022; Sylvia Farber filed on September 9, 2021 and September 19, 2022; James and Terri Frizzell filed on September 8, 2021; Joseph Fletcher filed on September 8, 2021 and September 19, 2022; Leopoldo and Emilia Flores filed on September 8, 2021; Kenneth Harte filed on September 8, 2021; Karen Barnes filed on September 8, 2021 and September 9, 2022; Bruce Rabalais filed on September 8, 2021; Carolyn Newman filed on September 9, 2021; Rodney Clyatt filed on September 10, 2021; Mary Moore filed on September 14, 2021; Anamaria Brannon filed on September 21, 2021; Richard Pruitt filed on September 12, 2022; and Eric Van Delden filed at the prehearing conference on January 31, 2023;
- e. Medina Highlands' supplement to the application to cure deficiencies cited by Commission Staff, filed on July 12, 2022;

- f. Medina Highlands' responses to Commission Staff's first requests for information (RFIs), filed on August 9, 2022;
- g. Commission Staff's recommendation on administrative completeness and proposed notice, filed on August 22, 2022;
- h. Medina Highlands' revised notice of proposed rate change, filed on August 24, 2022;
- i. Medina Highlands' responses to Commission Staff's second RFIs, filed on August 29, 2022;
- j. Medina Highlands' affidavit of revised customer notice, filed on September 6, 2022;
- k. Medina Highlands' responses to Commission Staff's third RFIs, filed on September 15, 2022;
- l. Commission Staff's recommendation on proposed notice and proposed procedural schedule, filed on September 16, 2022;
- m. Medina Highlands' Supplemental Response to Commission Staff's third RFIs, filed on October 6, 2022;
- n. Medina Highlands' Corrections and Supplemental Responses to Commission Staff's second and third RFIs, filed on October 25, 2022;
- o. Medina Highlands' supplemental responses on financial institution records, filed on October 25, 2022;
- p. Medina Highlands' responses to Commission Staff's fourth RFIs, filed on December 5, 2022;
- q. Medina Highlands' affidavit of notice of preliminary hearing, filed on January 19, 2023;
- r. Medina Highlands' documents in response to Commission Staff's informal RFIs, filed on February 15, 2023;

- s. Medina Highlands' responses to Commission Staff's fifth RFIs, filed on February 23, 2023;
 - t. Medina Highlands' rate-case expense documentation in support of mediated settlement, filed on March 8, 2023;
 - u. Medina Highlands' expense documentation in support of mediated settlement, filed on March 8, 2023;
 - v. Medina Highlands' financial institution statements in support of mediated settlement, filed on March 8, 2023;
 - w. Medina Highlands' agreed motion for establishment of interim rates and abating procedural schedule, filed on March 15, 2023;
 - x. Medina Highlands' interim tariff approved by SOAH Order No. 4, filed on March 27, 2023;
 - y. the stamped-approved tariff from the Commission's central records division, filed on March 28, 2023;
 - z. the SOAH mediation report filed on April 5, 2023;
 - aa. the agreement and all exhibits filed on June 5, 2023;
 - bb. the direct testimony of John Moore, in support of the agreement, filed on June 22, 2023;
 - cc. the direct testimony of Brett Fenner, in support of the agreement, filed on June 22, 2023;
 - dd. the direct testimony of Stephen Dickman, in support of the agreement, filed on June 22, 2023; and
 - ee. the direct testimony of Joseph Cooper, in support of the agreement, filed on June 5, 2023.
31. On August 8, 2023, Commission Counsel filed a memorandum requesting additional evidence from the parties.

32. On August 8, 2023, Medina Highlands filed exhibits A and B to the June 5, 2023 agreement.
33. On August 10, 2023, Medina Highlands filed a motion to admit exhibits A and B to the June 5, 2023 agreement into evidence.
34. In Order No. 13 filed on August 16, 2023, the Commission ALJ admitted exhibits A and B to the June 5, 2023 agreement into evidence.

Revenue Requirement and Rate of Return

35. In its application, Medina Highlands requested an annual revenue requirement, less other revenues, of \$59,238 consisting of the following:

Description	Amount
Operating Expenses	\$48,788
Depreciation	\$2,328
Taxes other than income taxes	\$697
Federal income tax	\$1,635
Return on rate base	\$6,149
Total	\$59,238

36. The parties agreed that Medina Highlands’ annual revenue requirement is \$47,000.
37. The parties agreed that Medina Highlands’ rate of return for ratemaking purposes is 6.10%.

Rates

38. The parties agreed that Medina Highlands is authorized to charge the base rates below, which are shown in exhibit A filed on August 10, 2023.

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonage Charges</u>
5/8" x 3/4"	<u>\$73.32</u>	<u>\$6.82</u> per 1,000 gallons from 0 to 5,000 gallons
1"	<u>\$183.31</u>	<u>\$8.17</u> per 1,000 gallons from 5,001 to 10,000 gallons
1 1/2"	<u>\$366.62</u>	<u>\$10.50</u> per 1,000 gallons over 10,001 gallons
2"	<u>\$586.59</u>	
3"	<u>\$1,099.86</u>	
4"	<u>\$1,833.09</u>	

39. The agreed base rates are designed to recover the agreed annual revenue requirement.

40. The agreed base rates are just and reasonable.

Payments to Affiliated Interests

41. Medina Highlands does not make payments to, or receive payments from, affiliates.

Agreed Tariff Provisions

42. The parties agreed to the provisions of the approved interim tariff filed on March 27, 2023.

43. The parties agreed the terms and conditions of the interim tariff are just and reasonable and should be incorporated into the final tariff approved by the Commission.

Interim Rates

44. On March 15, 2023, the parties filed an agreed motion for interim rates as shown in exhibit A to the motion.

45. In SOAH Order No. 4 filed on March 17, 2023, the SOAH ALJ approved the interim rates requested by the parties, effective April 1, 2023.

46. On March 27, 2023, Medina Highlands filed an interim tariff reflecting the interim rates approved in SOAH Order No. 4.

47. On March 28, 2023, the Commission's central records division date-stamped the interim tariff as *Approved*.

Rate-Case Expenses

48. The parties agreed Medina Highlands may recover \$15,000 in rate-case expenses over a four-year period through a surcharge effective from the first billing after the Commission's order in this proceeding.

Effective Date

49. Medina Highlands' application stated a proposed effective date for its rate change of October 1, 2021.

50. In Order No. 2 filed on August 31, 2021, the Commission ALJ suspended the proposed effective date of October 1, 2021.

51. On September 22, 2022, Medina Highlands issued a revised customer notice with a proposed effective date of October 7, 2022.

52. In SOAH Order No. 1 filed on December 20, 2022, the SOAH ALJ suspended the proposed effective date for 265 days, or until June 29, 2023.
53. Under the parties' agreement, the incremental water service rate revenues that would have been charged under the new rates going back to January 31, 2023, are recoverable via a surcharge that starts from the first billing after the final Commission order approving the surcharge and will be collected over a period of one year.

Informal Disposition

54. More than 15 days have passed since the completion of notice provided in this docket.
55. The only parties to this proceeding are Medina Highlands, Commission Staff, OPUC, and the intervenor ratepayers.
56. All parties signed the agreement.
57. No hearing is necessary.
58. The decision is not adverse to any party.

II. Conclusions of Law

The Commission adopts the following conclusions of law.

1. Medina Highlands is a utility, public utility, and water utility as defined in TWC § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(39).
2. Medina Highlands is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. At the time Medina Highlands filed its application, it was a class D utility as defined in TWC § 13.002(4-d) and 16 TAC § 24.3(8) and Medina Highlands is still a class D utility.
4. The Commission has authority over this proceeding under TWC §§ 13.041, 13.181, 13.1871, and 13.1872(c)(2).
5. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,¹ and Commission rules.

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001- .903.

6. Medina Highlands provided notice of the application in accordance with TWC § 13.1871 and 16 TAC § 24.27(d)(1).
7. Medina Highlands provided notice of its interim rates in accordance with the requirements of 16 TAC § 24.37(j).
8. Medina Highlands met its burden of proof under TWC § 13.184(c) and 16 TAC § 24.12 to show that the rates approved by this Order are just and reasonable.
9. The rates approved by this Order are just and reasonable under TWC § 13.182(a).
10. In accordance with TWC § 13.182(b), the rates approved by this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable and consistent in application to each class of customers.
11. Medina Highlands' operating expenses are reasonable and necessary under 16 TAC § 24.41(b).
12. In accordance with TWC § 13.183(a), the rates approved by this Order will preserve the financial integrity of Medina Highlands and will permit Medina Highlands 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.
13. No affiliate payments are included in the rates approved by this Order; therefore, TWC § 13.185(e) and 16 TAC § 24.41(b) are not implicated in this proceeding.
14. 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.
15. An overall rate of return of 6.10% will not yield Medina Highlands more than a fair return on 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).
16. In accordance with TWC § 13.185 and 16 TAC § 24.41(c)(2)(A), the rates approved by this Order are based on original cost, less depreciation, of property used and useful in Medina Highlands' provision of service.

17. The rates approved by this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
18. The amount of rate-case expenses Medina Highlands will recover is reasonable and necessary as required by 16 TAC § 24.44(a).
19. This proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

III. Ordering Paragraphs

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

1. The Commission approves Medina Highlands' water rates and associated tariff as modified by the agreement to the extent provided in this Order.
2. The Commission approves the rates, terms, and conditions included in the interim tariff filed on March 27, 2023 effective the date of this Order.
3. Medina Highlands must not file for an increase in base rates with an effective date that is sooner than 12 months after the date of this Order.
4. The Commission authorizes Medina Highlands to collect rate-case expenses of \$15,000 over a period not to exceed 48 consecutive months through a monthly surcharge starting from the first customer billing after the date of this Order. Medina Highlands may not recover more than \$15,000 through the surcharge.
5. The incremental water service revenues that would have been charged under the new rates going back to January 31, 2023, are recoverable via a separate surcharge that starts from the first customer billing after the date of issuance of this Order and will be collected over a period of one year.
6. Medina Highlands may not seek to recover any additional rate-case expenses incurred in connection with this docket in a future proceeding.
7. 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.

8. Within ten days of the date this Order is signed, Commission Staff must provide a clean copy of Medina Highland's water tariff, modified to comply with this Order, to be stamped *Approved* and retained by Central Records.
9. 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 _____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

KATHLEEN JACKSON, INTERIM CHAIR

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER