



## **Filing Receipt**

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**Item Number - 142**

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## *Public Utility Commission of Texas*

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TO: Shelah Cisneros  
Commission Counsel

All Parties of Record

FROM: Isaac Ta *I. T.*  
Administrative Law Judge

RE: **Docket No. 52370**  
**SOAH Docket No. 473-22-07686** – *Application of East Houston Utilities Inc. for Authority to Change Rates*

DATE: October 2, 2024

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 Proposed Order by October 16, 2024.

**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.**

/s/eg  
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**PUC DOCKET NO. 52370**  
**SOAH DOCKET NO. 473-22-07686. WS**

<b>APPLICATION OF EAST HOUSTON</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>UTILITIES 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 East Houston Utilities, Inc. for authority to change its water rates and associated tariff. East Houston Utilities, Commission Staff, Lauren Hood, Wesley Francis, Barry Evans, and J.D. and Mona Keller filed an agreement, including an agreed tariff. Gary Lechner, the only remaining party to this proceeding, did not object to the agreement. The Commission approves the agreed rates and associated tariff, attached to the agreement as exhibit A, to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. East Houston Utilities is a Texas corporation registered with the Texas secretary of state under filing number 801457298.
2. East Houston Utilities owns and operates for compensation facilities and equipment in Texas for the transmission, storage, distribution, sale, or provision of potable water to the public in Harris County.
3. East Houston Utilities provides water service for compensation to approximately 23 connections under certificate of convenience and necessity number 12042.

**Application**

4. On July 29, 2021, East Houston Utilities filed an application for authority to change its water rates and associated tariff for its service area in Harris County.
5. East Houston Utilities filed supplemental information on September 21 and 24, October 13, and December 1, 2021, and January 26 and April 5, 2022.

6. The application, as supplemented, is based on a historical test year that ended on December 31, 2020.
7. In Order No. 8 filed on May 3, 2022, the Commission administrative law judge (ALJ) found the application, as supplemented, administratively complete.
8. East Houston Utilities filed additional supplemental information on September 14 and 17, and October 22 and 25, 2023.

**Notice of the Application**

9. On or about May 4, 2022, East Houston Utilities provided via United States mail to each customer of East Houston Utilities, each affected municipality, and the Office of Public Utility Counsel (OPUC) a notice of the proposed rate change.
10. On May 4, 2022, East Houston Utilities filed the affidavit of Hannah Krebs, records coordinator of East Houston Utilities, attesting that the notice of the proposed rate change was provided via United States mail to each customer of East Houston Utilities, each affected municipality, and OPUC.

**Interventions and Protests**

11. More than 10% of East Houston Utilities' total active ratepayers filed a protest in this docket from May 9 to 27, 2022.
12. In Order No. 9 filed on May 31, 2022, the Commission ALJ granted the motions to intervene of Gary Lechner, Lauren Hood, and Wesley Francis.
13. In State Office of Administrative Hearings (SOAH) Order No. 2 filed on September 28, 2022, the SOAH ALJ granted the motions to intervene of Barry Evans and J.D. and Mona Keller.

**Referral to SOAH**

14. On August 3, 2022, the Commission referred this case to SOAH.
15. On August 4, 2022, the Commission filed a preliminary order.
16. In SOAH Order No. 1 filed on August 17, 2022, the SOAH ALJ directed East Houston Utilities to provide notice of the prehearing conference scheduled for September 13, 2022,

- to the governing body of each affected municipality and county and to each ratepayer at least 20 days before the prehearing conference.
17. On August 24, 2022, East Houston Utilities filed the affidavit of Ms. Krebs attesting that notice of the prehearing conference was mailed to all of its customers, each affected municipality, OPUC, and any other affected party on or about August 23, 2022.
  18. In SOAH Order No. 2 filed on September 28, 2022, the SOAH ALJ found notice of the prehearing conference sufficient, memorialized the prehearing conference, and established a hearing date of December 14 through 16, 2022.
  19. On December 5, 2022, Commission Staff filed a motion to abate this proceeding so this matter could be referred for mediation.
  20. In SOAH Order No. 3 filed on December 9, 2024, the SOAH ALJ abated the procedural schedule to allow for mediation.
  21. On January 28, 2023, the parties participated in SOAH mediation.
  22. On April 20, 2023, the SOAH mediators filed a mediation report stating that no resolution was reached and returned the case to the SOAH ALJ.
  23. On May 5, 2023, the SOAH ALJ conducted a prehearing conference and set the hearing on the merits for May 30, 2023.
  24. In SOAH Order No. 6 filed on June 9, 2023, the hearing on the merits was continued until June 12, 2023.
  25. On June 12, 2023, the hearing on the merits was convened. During the hearing, Commission Staff made an oral motion for abatement of the hearing.
  26. In SOAH Order No. 7 filed on June 19, 2023, the SOAH ALJ abated this proceeding.
  27. In SOAH Order No. 9 filed on January 29, 2024, the SOAH ALJ established a hearing date of March 6, 2024.
  28. On February 27, 2024, East Houston Utilities filed a motion to abate.
  29. In SOAH Order No. 10 filed on February 29, 2024, the SOAH ALJ abated this proceeding.

30. On May 20, 2024, East Houston Utilities filed the agreement.
31. In SOAH Order No. 13 filed on July 23, 2024, the SOAH ALJ dismissed this proceeding from SOAH's docket and remanded it to the Commission.

**Testimony**

32. On May 31, 2024, Commission Staff filed the memorandum of Frederick Quijano in support of the agreement.
33. On June 7, 2024, East Houston Utilities filed the direct testimony of Stephen P. Krebs, owner and director of East Houston Utilities, in support of the agreement.

**Evidentiary Record**

34. In SOAH Order No. 12 filed on June 25, 2024, the SOAH ALJ admitted the following evidence into the record of this proceeding:
  - a. The application filed on July 29, 2021;
  - b. East Houston Utilities' supplements to its application filed on September 21 and 24, October 13, and December 1, 2021, and January 26 and April 5, 2022;
  - c. Commission Staff's supplemental recommendation on administrative completeness filed on April 29, 2022;
  - d. East Houston Utilities' affidavit of notice of application filed on May 4, 2022;
  - e. East Houston Utilities' affidavit of hearing notice filed on August 25, 2022;
  - f. East Houston Utilities' direct testimony and all amendments and supplements filed on October 24, 2022;
  - g. The direct testimony and workpapers of Mark Filarowicz filed on November 18, 2022;
  - h. The direct testimony of Mr. Quijano and all amendments and supplements filed on November 18, 2022;
  - i. Amended FQ-1 to Mr. Quijano's direct testimony filed on May 26, 2023;

- j. Commission Staff's first request for information to East Houston Utilities, question numbers 1-1 through 1-11, filed on May 30, 2023;
- k. East Houston Utilities' answers to Commission Staff's requests for information filed on May 31, 2023;
- l. The direct testimony of Mr. Quijano, rate regulation division, filed on June 9, 2023;
- m. Commission Staff's rate design schedules filed on June 9, 2023;
- n. East Houston Utilities' pleading for temporary rates filed on June 15, 2023;
- o. Commission Staff's unopposed motion to set interim rates and motion for abatement filed on June 16, 2023;
- p. Commission Staff's memo with clean copies of tariff filed on August 29, 2023;
- q. East Houston Utilities' supplemental information filed on September 14 and 17, and October 22 and 25, 2023;
- r. Stacy Evans's testimony and recommended rate request filed on September 29, 2023;
- s. Commission Staff's second request for information to East Houston Utilities, question numbers 2-1 through 2-3, filed on January 5, 2024;
- t. East Houston Utilities' answers to Commission Staff's requests for information filed on January 8, 2024;
- u. East Houston Utilities' direct testimony filed on January 16, 2024;
- v. Supplemental direct testimony of Mr. Quijano filed on February 12, 2024;
- w. East Houston Utilities' response to Mr. Quijano's direct testimony filed on February 13, 2024;
- x. Joint notice of stipulation and agreed motion to dismiss filed on May 20, 2024;
- y. Unanimous stipulation and settlement agreement filed on May 20, 2024;
- z. Commission Staff's memorandum in support of unanimous stipulation and settlement agreement filed on May 31, 2024;

- aa. The direct testimony of Mr. Krebs in support of unanimous stipulation and settlement agreement filed on June 7, 2024; and
- bb. The proposed final order filed on June 7, 2024.

**Rate of Return and Revenue Requirement**

35. In the application, East Houston Utilities requested a rate of return of 6% applied to a rate base of \$118,129.
36. In its application, East Houston Utilities requested an annual revenue requirement of \$62,823, consisting of the following amounts:

Operating Expenses	\$35,378
Depreciation	\$12,487
Taxes Other Than Income Taxes	\$0
Federal Income Tax	\$8,971
Return on Rate Base	\$7,087
Other Revenues	(\$500)
Total Revenue Requirement	\$62,823

**Agreed Rates**

37. In its application, as supplemented, East Houston Utilities requested the following:

<b>Meter Size</b>	<b>Current Minimum Monthly Charge (includes 3,000 gallons)</b>	<b>Requested Minimum Monthly Charge (includes 5,000 gallons)</b>
5/8"	\$23.00	\$215.00
3/4"	\$23.00	\$215.00
<b>Gallage Rate</b>	<b>Current Gallage Rate (per 1,000 gallons)</b>	<b>Requested Gallage Rate (per 1,000 gallons)</b>



	\$2.00	\$5.00
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38. The parties agreed that East Houston Utilities' minimum monthly charges and gallonage rate for water service should be changed to the following rates, as shown in the tariff filed as exhibit A to the agreement:

Meter Size	Minimum Monthly Charge (includes 3,000 gallons)
5/8"	\$55.95
3/4"	\$55.95
Gallonage Rate (per 1,000 gallons)	\$1.79

39. The agreed minimum monthly charges and gallonage rate are just and reasonable.

**Affiliate Expenses**

40. The parties agreed that in East Houston Utilities' next comprehensive rate case, East Houston Utilities will produce its affiliate service agreements, if any, and an organization chart showing the relationship of East Houston Utilities to its affiliates, if any.

**Rate-Case Expenses**

41. The parties agreed that East Houston Utilities will not recover any rate-case expenses incurred in connection with this docket.
42. The parties agreed that in a future proceeding, East Houston Utilities may not seek to recover any rate-case expenses incurred in connection with this docket.
43. The agreement's treatment of rate-case expenses is appropriate.

**Interim Rates and Effective Date**

44. In the application, East Houston Utilities proposed an effective date of June 1, 2022, for the rate increase.

45. In Order No. 8 filed on May 3, 2022, the Commission ALJ suspended the effective date of the proposed rate increase and established February 21, 2023, as an effective date.
46. On June 16, 2023, Commission Staff filed an unopposed motion for East Houston Utilities to implement interim rates.
47. In SOAH Order No. 7 filed on June 19, 2023, the SOAH ALJ granted the motion for interim rates, effective on the first billing cycle following the date of SOAH Order No. 7.
48. On August 29, 2023, Commission Staff filed a clean copy of the tariff reflecting East Houston Utilities' interim rates.
49. On September 27, 2024, East Houston Utilities clarified that the tariff attached to Commission Staff's June 16, 2023 unopposed motion for interim rates included an error, which was corrected in the tariff filed by Commission Staff on August 29, 2023.
50. East Houston has been charging as interim rates the rates reflected in the corrected tariff filed by Commission Staff on August 29, 2023.
51. The rates approved in this Order are identical to the corrected tariff filed by Commission Staff on August 29, 2023.

**Informal Disposition**

52. More than 15 days have passed since completion of the notice provided in this docket.
53. East Houston Utilities, Commission Staff, Lauren Hood, Wesley Francis, Barry Evans, and J.D. and Mona Keller, and Gary Lechner are the only parties to this proceeding.
54. All parties signed the agreement or did not object to the agreement.
55. No hearing is necessary.
56. This decision is not adverse to any party in this proceeding.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.181, 13.1871, and 13.1872.

2. East Houston Utilities is a utility, public utility, and water utility as those terms are defined in TWC § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(38).
3. East Houston Utilities is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
4. East Houston Utilities is a class D utility as defined in TWC § 13.002(4-d) and 16 TAC § 24.3(8).
5. East Houston Utilities provided notice of the application in accordance with the requirements of TWC § 13.1871 and 16 TAC § 24.27(d)(1).
6. The Commission processed this docket in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> the TWC, and Commission rules.
7. East Houston Utilities 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.
8. The rates approved by this Order are just and reasonable as required by TWC § 13.182(a).
9. 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.
10. East Houston Utilities' operating expenses are reasonable and necessary under 16 TAC § 24.41(b).
11. In accordance with TWC § 13.183(a), the rates approved by this Order will preserve the financial integrity of East Houston Utilities and will permit East Houston Utilities 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.
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.

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<sup>1</sup> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001—,903.

13. East Houston Utilities' rate will not yield 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).
14. 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 East Houston Utilities' provision of service.
15. The rates approved by this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
16. It is not necessary for East Houston Utilities to implement a refund, credit, or surcharge to return or collect amounts recovered under the interim rate effective on the first billing cycle following June 19, 2023, under 16 TAC § 24.37.
17. 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 East Houston Utilities' water rates and associated tariff to the extent provided in this Order.
2. The Commission approves the rates and terms included in the water tariff attached to the agreement as exhibit A, effective the first day of the month following the date of this Order.
3. East Houston Utilities may not seek to recover any rate-case expenses incurred in connection with this docket in a future proceeding.
4. East Houston Utilities must comply with its commitments set forth in the agreement and incorporated in this Order.
5. 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 underling the agreement.

6. Within ten days of the date of this Order, Commission Staff must provide the Commission with a clean copy of East Houston Utilities' water tariff to be stamped *Approved* and retained by Central Records.
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 \_\_\_\_\_ 2024.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**THOMAS J. GLEESON, CHAIRMAN**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**

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**COURTNEY HJALTMAN, COMMISSIONER**