



Control Number: 52370



Item Number: 145

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

**APPLICATION OF EAST HOUSTON
UTILITIES INC. FOR AUTHORITY TO
CHANGE RATES**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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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 declines to adopt the agreement and denies the request to change water rates and associated tariff 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, 2022, 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. the 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. the joint notice of stipulation and agreed motion to dismiss filed on May 20, 2024;
- y. the unopposed agreement filed on May 20, 2024;
- z. Commission Staff's memorandum in support of the agreement, filed on May 31, 2024;
- aa. the direct testimony of Mr. Krebs in support of the 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:

Meter Size	Current Minimum Monthly Charge (includes 3,000 gallons)	Requested Minimum Monthly Charge (includes 5,000 gallons)
5/8"	\$23.00	\$215.00
3/4"	\$23.00	\$215.00
Gallage Rate	Current Gallage Rate (per 1,000 gallons)	Requested Gallage Rate (per 1,000 gallons)
	\$2.00	\$5.00

38. The parties agreed that East Houston Utilities' minimum monthly charges and gallage 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
Gallage Rate (per 1,000 gallons)	\$1.79

39. The agreement did not identify the revenue requirement for the utility.
40. The agreement did not identify the components of invested capital or a rate of return for the utility.

Affiliate Expenses

41. 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.
42. There is insufficient evidence to determine the affiliated interests of East Houston Utilities.
43. There is insufficient evidence to determine the allocation of costs between East Houston Utilities and its affiliated interests.
44. There is insufficient evidence to determine whether any payments to affiliated interests that would be recovered by the proposed rates or the agreed rates are reasonable and necessary.

Rate-Case Expenses

45. The parties agreed that East Houston Utilities will not recover any rate-case expenses incurred in connection with this docket.
46. 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.

Interim Rates and Effective Date

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

48. 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.
49. On June 16, 2023, Commission Staff filed an unopposed motion for East Houston Utilities to implement interim rates.
50. 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 and to remain in effect until a final rate determination is made or another interim rate is established.
51. On August 29, 2023, Commission Staff filed a clean copy of the tariff reflecting East Houston Utilities' interim rates.
52. 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.
53. East Houston has been charging as interim rates the rates reflected in the corrected tariff filed by Commission Staff on August 29, 2023.

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,¹ the TWC, and Commission rules.
7. East Houston Utilities failed to meet its burden of proof under TWC § 13.184(c) and 16 TAC § 24.12 to show that the proposed rates are just and reasonable.
8. East Houston Utilities provided insufficient evidence for the Commission to fix just and reasonable rates under TWC § 13.182.
9. East Houston Utilities provided insufficient evidence for the Commission to fix East Houston Utilities' overall rates at a level that will permit it a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and preserve its financial integrity under TWC § 13.183(a).
10. East Houston Utilities provided insufficient evidence for the Commission to determine if payments made by East Houston Utilities to affiliated interests met the requirements of TWC § 13.185(e).
11. 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.

III. Ordering Paragraphs

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

1. The Commission denies East Houston Utilities' request to change its water rates and associated tariff.
2. Within 10 days of the date of this Order, Commission Staff must file a request to Central Records to void the tariff reflecting East Houston Utilities' interim rates, effective the date of this Order, to be stamped or marked as *Void* and retained by Central Records.

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

3. Within 10 days of the date of this Order, Commission Staff must file a clean copy of East Houston Utilities' tariff in accordance with this Order, effective the date of this Order, to be stamped *Approved* and retained by Central Records.
4. 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 2nd day of February 2025.

PUBLIC UTILITY COMMISSION OF TEXAS



THOMAS J. GLEESON, CHAIRMAN



KATHLEEN JACKSON, COMMISSIONER



COURTNEY HJALMAN, COMMISSIONER