



## Filing Receipt

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**DOCKET NO. 52370**

**APPLICATIONS OF EAST HOUSTON UTILITIES INC. FOR AUTHORITY TO CHANGE RATES**      §  
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   §      **PUBLIC UTILITY COMMISSION OF TEXAS**

**COMMISSION STAFF’S REQUEST FOR REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

On July 29, 2021, East Houston Utilities Inc. (East Houston) filed an application for authority to change rates under Texas Water Code (TWC) §§ 13.1871 and 13.1872(c)(2) for its certificate of convenience and necessity (CCN) number 12042.

On June 2, 2022, the administrative law judge (ALJ) filed an order setting a deadline of June 20, 2022 for the Staff (Staff) of the Public Utility Commission (Commission) and East Houston to file a list of issues for this proceeding. The Commission was closed in observance of a holiday on June 20, 2022, making June 21, 2022 the deadline for Staff to file its list of issues. Therefore, this pleading is timely filed.

**I. LIST OF ISSUES TO BE ADDRESSED**

Staff has identified the following issues in this proceeding:

**Applicant**

1. What is the legal name and all assumed names, if any, of the applicant in this proceeding?
2. If the utility has an assumed name, what are any valid certificates of assumed names?
  - a. Which entity or entities own the equipment and facilities used to provide water service?
  - b. What entity or entities operate the equipment and facilities? In answering this question, which entity or entities employ the individuals who perform the day-to-day operations of the utility?

**Notice**

3. Did the utility provide proper notice of the proposed rate change under TWC § 13.1871(b) and (c), and 16 Texas Administrative Code (TAC) § 24.43(a)?

**Revenue Requirement**

4. What revenue requirement will give the utility an opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its

reasonable and necessary operating expenses while preserving the utility's financial integrity as required by TWC § 13.183(a)(1) and (2), and 16 TAC § 24.43(a)?

5. Does the revenue requirement properly offset from the utility's cost of service any revenue that is properly recognized for ratemaking-purposes?

#### **Cost of Service**

6. What is the utility's cost of service for providing water service based on its test year?
7. What adjustments, if any, should be made to the utility's proposed test-year data in accordance with TWC § 13.185(d)(1) and 16 TAC § 24.41(b) and (c)(5)?

#### **Allowable Expenses**

8. What are the reasonable and necessary allowable expenses for water service under 16 TAC § 24.41(b)?
9. What is the utility's reasonable and necessary operations and maintenance expense?
10. What is the reasonable and necessary depreciation expense?
  - a. For each class of property, what are the proper and adequate depreciation rates and methods of depreciation, including service lives and salvage values?
  - b. Does this expense item contain any amounts related to property provided by explicit customer agreements or funded by customer contributions in aid of construction? If so, what are those amounts?
  - c. Does this expense item contain any amounts related to property contributed by a developer or governmental entity? If so, what are those amounts?
11. What is the reasonable and necessary expense for franchise fees, assessments, and taxes other than federal income taxes?
12. What is the reasonable and necessary amount for the utility's federal income tax expense?
  - a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return under TWC § 13.185(f)?
  - b. If so, have income taxes been computed as though a consolidated return had been filed and the utility had realized its fair share of the savings resulted from the consolidated return as required by TWC § 13.185(f)?
  - c. If not, has the utility demonstrated that it was reasonable not to consolidate returns consistent with TWC § 13.185(f)?

13. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are such tax savings apportioned equitably between customers and the utility and are the interests of present and future customers equitably balanced?
14. What is the reasonable and necessary amount for the utility's professional or trade association expense?
15. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?
16. If the utility has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to change that amount? What is the amount of any shortage or surplus for the reserve account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
17. What are the utility's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
18. Has the utility made any payments to affiliates for any expense item? If so, please address the following items:
  - a. Is the payment for each expense item reasonable and necessary?
  - b. What were the costs to the affiliate of each item or class of items in question?
  - c. Is the price to the utility for each item or class of items no higher than prices charged by the supplying affiliate to its other affiliates or divisions or unaffiliated entities for the same item or items?
  - d. If the payment to the utility is for an allocated expense, is the method used to allocate costs attributable to the utility and the utility's affiliates appropriate to ensure just and reasonable rates?
19. Are any requested expenses not allowed under 16 TAC § 24.41(b)(2)?

**Capital Structure and Total Return**

20. What is the appropriate debt-to-equity capital structure for the utility for the purpose of setting rates?
21. Does the utility have any debt? If so, what is the cost of that debt?

22. What is the appropriate overall rate of return (weighted cost of capital), including return on equity and cost of debt for the utility, consistent with 16 TAC (1)?

**Rate Base (Invested Capital)**

23. What are the reasonable and necessary components of the utility's rate base in accordance with 16 TAC § 24.41(c)?
24. Has any rate-base item been acquired from an affiliated interest? If so, then address the following:
- a. Is each such item used and useful in providing service to the utility's customers?
  - b. Is the payment for each item reasonable and necessary?
  - c. What were the costs to the affiliate of each item or class of items in question?  
Is the price to the utility for each item or class of items no higher than prices charged by the supplying affiliate to its other affiliates or divisions or unaffiliated entities for the same item or items?
  - d. If the payment to the utility is for an allocated share of the cost, is the method used to allocate costs attributable to the utility and the utility's affiliates appropriate to ensure just and reasonable rates?
25. What is the original cost of the property used and useful in providing service to the public at the time the property was dedicated to public use under TWC § 13.185(b) and 16 TAC § 24.41(c)(2)(A) and (B)?
26. What is the amount, if any, of accumulated depreciation on such property and the resulting net cost?
27. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and when was each facility placed into service? At what rate did the allowance for funds used during construction accrue?
28. Is the utility seeking inclusion of construction work in progress? If so, what is the amount sought and for what facilities? Additionally, as the utility proven that the inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed as required by 16 TAC § 24.41(c)(4)?

29. What is the reasonable and necessary working capital allowance for the utility under 16 TAC § 24.41(c)(2)(C)?
30. Does the utility have any utility property that was acquired from an affiliate or a developer before September 1, 1976? If so, has such property been included by the utility in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities as required by TWC § 13.185(i)?
31. Has the utility financed any of its plant with developer contributions? What is the amounts, if any, of accumulated depreciation on that property?
32. Has the utility included any customer contributions or donations in invested capital? If so, what is the amount of those customer contributions or donations?
33. What is the reasonable and necessary amount of the utility's accumulated reserve for deferred federal income taxes, excess deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from the utility's rate base?
34. What regulatory assets, if any, are appropriately included in the utility's rate base? If such assets are included in rate base, what is the appropriate treatment of such assets?

#### **Allocation and Rate Design**

35. What is the appropriate allocation of costs and revenues among the utility's rate classes for water service?
36. What is the appropriate rate design for water service for each rate class consistent with 16 TAC § 24.43?
37. In designing rates for water service, should the utility use the current number of connections as of the date of the application or the number of test-year-end connections?

#### **Rates**

38. What are the just and reasonable rates for water service that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory under TWC §§ 13.182 and 13.187(h) and 16 TAC § 24.35(d)? Do these rates recover the utility's revenue requirement for each type of service?

39. What is the appropriate effective date of the rates fixed by the Commission in this proceeding?

**Tariff**

40. Are the utility's proposed revisions to its tariff and rate schedules appropriate?
41. For the proposed tariff, does the tariff include and identify all applicable systems?

**Interim Rates**

42. Did the utility request interim rates? If so, has the utility met the requirements for interim rates? If so, what are the appropriate levels of the interim rates under 16 TAC § 24.37?
43. If a refund or surcharge results from this proceeding, how and over what period of time should the refund or surcharge be made?

**Rate Case Expenses**

44. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest under 16 TAC § 24.44? Does that amount include any prospective rate-case expenses to be incurred after the Commission's final order? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?
45. How should rate-case expenses be allocated between customers?

**Pass-through Rates**

46. Has the utility requested to include costs in its pass-through rates for an entity for which it has also requested to recover costs through its base rates? If so, please identify the entity, the amount of costs, and what products or services the costs cover.
47. Do the utility's proposed pass-through rates include only the actual costs charged to the utility?
48. Do the proposed pass-through rates exclude any charges that are included in the utility's requested cost of service in this docket?
49. Does the utility's pass-through provision in its tariffs conform to Commission rules and is it appropriately worded?

## **II. CONCLUSION**

For the reasons discussed above, Staff respectfully recommends that the above proposed list of issues be included in the issuance of a preliminary order.

Dated: June 21, 2022

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

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**DOCKET NO. 52370**

### **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 June 21, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz

Kevin R. Bartz