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Public Utility Commission of Texas
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Docket No. 54617
27 October 2023

Subject: Order Requesting Briefing on Threshold Issues

TO WHOM IT MAY CONCERN

Briefing on issues related to the application of Texas Water Utilities, L.P. and Southern Horizons Development, Inc. for approval of sale, transfer, merger of facilities and certificate right in Liberty and Montgomery Counties.

1. Under Texas Water Code (TWC) 13.3011 the Commission is not required to grant the request. TWC 13.3011 is for the purpose of INITIAL RATES FOR CERTAIN WATER OR SEWER SYSTEMS AFTER PURCHASE OR ACQUISITION. The docket, at hand, is for Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental and therefore should be staffed as such not as a tariff filing. TWC 13.187(p) and TAC 24.29(b)(2) and (c) "to adjust the rates of a newly acquired utility system" specifically provides an exception to the 12-month rule for the purpose of adjusting the tariff after the sale.
2. If TWC 13.3011(a) is after the acquisition, the laws for Sale, Transfer, etc. should apply and all criteria within TWC 13.305(h)(5).
3. The following sections of TWC 13 should be applied to determine the rates. TWC 13.305(h)(5) if applicable, a tariff containing a rate equal to the existing rates of the selling utility at the time of the acquisition. TWC 13.305(j) A tariff submitted under Subsection (h)(5) shall remain in effect until the utility commission approves new

rates as part of a rate base case proceeding. TWC 13.182(a) The regulatory authority shall ensure that every rate made, demanded, or received by any utility or by any two or more utilities jointly shall be just and reasonable. Even under the provisions of the Rate and Tariff laws, 95% increase is hardly just and reasonable. This increase will grant a pure yearly revenue of approximately \$180,000. The below water codes should be applied to set a new tariff after purchase or acquisition. This will assist, the regulatory authority, to comply with TWC 13.182(a).

TWC 13.187 CLASS A UTILITIES: STATEMENT OF INTENT TO CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (P) Except to implement a rate adjustment provision approved by the regulatory authority by rule or ordinance, as applicable, or to adjust the rates of a newly acquired utility system, a utility or two or more utilities under common control and ownership may not file a statement of intent to increase its rates more than once in a 12-month period, unless the regulatory authority determines that a financial hardship exists.

TWC 13.187(c) When the statement of intent is delivered, the utility shall file with the regulatory authority an application to change rates. The application must include information the regulatory authority requires by rule and any appropriate cost and rate schedules and written testimony supporting the requested rate increase. If the utility fails to provide within a reasonable time after the application is filed the necessary documentation or other evidence that supports the cost and expenses that are shown in the application, the regulatory authority may disallow the non-supported costs or expenses.

TWC 13.1872. CLASS D UTILITIES: RATE ADJUSTMENT. (e) (2) provide that an annual rate adjustment described by this section may not result in a rate increase to any class or category of ratepayer of more than five percent. (f) A utility may adjust the utility's rates using the procedures adopted under Subsection (e) not more than once each year and not more than four times between rate proceedings described by Section 13.1871.

4. If TWC 13.3011(a) is after the acquisition and TWC 13.305(h)(5) is applied (rate equal to the existing rate) then no hearing would have been required by the consumers. The intervention is based on the imposed new tariff increase, by the acquiring utility, during a Sale, Transfer, Merger, Consolidation, Acquisition, Lease or Rental procedure which is not covert under the law. If TWC 13.301(e)(1) the application filed with the utility commission or the public notice was improper, the utility commission may hold a hearing for that reason.
 - a. If the current docket is approved, with the increased tariff (95%), this would be a grave concern to all customers and not serve the public interest as covert under TWC 13.301(e)(5) and 16 TAC 24.239(h)(5). We are Veterans, seniors, low/fixed income consumers. This increase will greatly impact us all.
 - b. Southern Horizons Development, Inc. is a fully functioning Class D utility. Our layout is as follows: Southern Crossing Phase 2 has 2 wells in section 1-4. Section 5-6 have their own well system linked to section 1-4 (new water distribution system). Southern Oaks is the oldest stand-alone system with one well. Southern Forest has their own well and distribution system which is new. Most problems are only in the old sections. Relevant to the probable improvement of service or lowering of cost to consumers, our belief is that this acquisition, by TWU, will have no impact on the water distribution system and proposed wording in this docket is only "proposed". As you can see, the cost went up by 95% not lower.

As stated above, the consumers in our subdivisions are not very affluent and are struggling to make ends meet. Going through all TWC and TAC codes was a daunting task. The lack of evidence and justification for this increase, on the tariff rate, and the process of the application of the sale is of great concern. Even when a Class A utility applies for a tariff rate increase, the process is hard to fight. Any assistance to ensure that every rate made, demanded, or received is just and reasonable is welcome.

Anna Miller