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Executive Director

Public Utility Commission of Texas

TO: Shelah Cisneros
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx *KMM*
Administrative Law Judge

RE: **Docket No. 54683**
SOAH Docket No. 473-24-00831 – *Application of Enviro-Management for Authority to Change Rates*

DATE: September 27, 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 11, 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.

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PUC DOCKET NO. 54683
SOAH DOCKET NO. 473-24-00831

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| APPLICATION OF ENVIRO- MANAGEMENT FOR AUTHORITY TO CHANGE RATES | § § § | PUBLIC UTILITY COMMISSION OF TEXAS |
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PROPOSED ORDER

This Order addresses the application of Sheila Agnew dba Enviro-Management for authority to change its water rates and associated tariff. Commission Staff and Enviro-Management (the signatories) filed an agreement, including an agreed tariff that would increase Enviro-Management's flat monthly rate for water service from \$35.21 to \$51.54, flat gallonage charge from \$3.32 per 1,000 gallons to \$6.05 per 1,000 gallons, and the tap fee from \$500 to \$1,200. The Commission approves the agreed rates and associated tariff, attached as exhibit B to the agreement, to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Sheila Agnew dba Enviro-Management operates a water utility in Montgomery County.
2. Enviro-Management owns and operates for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public in Montgomery County.
3. Enviro-Management provides water service for compensation to approximately 137 customer connections under certificate of convenience and necessity number 12625 as of December 31, 2022.
4. Enviro-Management's rates have not changed since October 25, 2013.

Application

5. On February 24, 2023, Enviro-Management filed an application for authority to change its water rates and associated tariff for its service area in Montgomery County.
6. On March 10 and April 11, 2023, Enviro-Management filed supplements to the application.

7. On June 7, 2023, Enviro-Management filed a public, non-confidential version of its application, as supplemented.
8. The application, as supplemented, is based on a historical test year that ended on December 31, 2022, adjusted for known and measurable changes.
9. In Order No. 5 filed on June 2, 2023, the Commission administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

10. On June 2, 2023, Enviro-Management filed the affidavit of Ms. Agnew, owner of Enviro-Management, attesting that notice was mailed to each affected customer, each affected municipality, and Office of Public Utility Council on May 15, 2023. Attached to the affidavit was a representative copy of the notice that was provided.
11. In Order No. 8 filed on June 26, 2023, the Commission ALJ found Enviro-Management's notice sufficient.

Interventions and Protests

12. More than 10% of the ratepayers affected by the proposed rate increase filed protests in this docket.
13. In Order No. 6 filed on June 13, 2023, the Commission ALJ granted the motion to intervene of Mark Newton.
14. At the November 29, 2023 prehearing conference, the State Office of Administrative Hearings (SOAH) ALJs granted the motions to intervene of Rhonda Bynum, Deborah Davis, John Franklin, Louis Goss, and Yvonne Weaver.
15. On April 9, 2024, Mr. Franklin filed a request to withdraw as an intervenor.
16. On April 10, 2024, Ms. Bynum and Ms. Davis each filed requests to withdraw as intervenors.
17. In SOAH Order No. 4 filed on May 23, 2024, Mr. Franklin, Ms. Bynum, and Ms. Davis were dismissed as intervenors.

18. In SOAH Order No. 5 filed on June 25, 2024, the SOAH ALJs provided a final opportunity for the remaining intervenors, Mr. Newton, Ms. Goss, and Ms. Weaver, to file any opposition to the agreement between Enviro-Management and Commission Staff.
19. In SOAH Order No. 6 filed on July 22, 2024, the SOAH ALJs noted that Mr. Newton, Ms. Goss, and Ms. Weaver did not file objections to the agreement.

Referral to SOAH

20. On September 12, 2023, the Commission referred this proceeding to SOAH.
21. On September 14, 2023, the Commission filed a preliminary order.
22. In SOAH Order No. 1 filed on October 17, 2023, the SOAH ALJ directed Enviro-Management to provide notice of the prehearing conference scheduled for November 29, 2023, to each affected municipality and county and to each ratepayer at least 20 days before the prehearing conference.
23. On November 14, 2023, Enviro-Management filed the affidavit of Ms. Agnew, attesting to the provision of notice of the prehearing conference to each customer or affected party on or about October 31, 2023.
24. In SOAH Order No. 2 filed on January 17, 2024, the SOAH ALJ memorialized the prehearing conference, referred the case to mediation, and established a hearing date of March 27, 2024.
25. In SOAH Order No. 3 filed on January 29, 2024, the SOAH ALJ abated the proceeding.
26. On May 31, 2024, the signatories filed an agreement between themselves with exhibits, including a proposed order and a joint motion to remand the proceeding to the Commission.
27. In SOAH Order No. 6 filed on July 22, 2024, the SOAH ALJ dismissed the proceeding from SOAH's docket and remanded the case to the Commission.

Testimony

28. On May 31, 2024, Commission Staff filed the memorandum of James Onyeneke and Gayatri Bitracanti in support of the agreement.

Evidentiary Record

29. In SOAH Order No. 5 filed on June 24, 2024, the SOAH ALJ admitted the following evidence into the record:
- a. Application of Enviro-Management for authority to change rates filed on February 24, 2023;
 - b. Enviro-Management's supplements to the application filed on March 10, 2023;
 - c. Enviro-Management's supplemental response to Order No. 2 filed on April 11, 2023;
 - d. Commission Staff's recommendation on administrative completeness, notice, and procedural schedule filed on May 15, 2023;
 - e. Commission Staff's clarification filed on May 31, 2023;
 - f. Enviro-Management's errata notice letter for proposed rate change, notice to customers of proposed rate change filed on June 2, 2023;
 - g. Enviro-Management's response to Order No. 5's June 8, 2023 deadline filed on June 7, 2023;
 - h. Commission Staff's recommendation on sufficiency of notice filed on June 23, 2023;
 - i. Enviro-Management's response to Commission Staff's first request for information (RFI) numbers Commission Staff 1-1 through Commission Staff 1-9 filed on October 13, 2023;
 - j. Enviro-Management's proof of notice of prehearing conference filed on November 14, 2023;
 - k. Statement of intent to change rates filed on January 12, 2024;
 - l. Enviro-Management's response to Commission Staff's second RFI numbers Commission Staff 2-1 through Commission Staff 2-9 filed on February 9, 2024;
 - m. Enviro-Management's response to Commission Staff's third RFI number Commission Staff 3-2, W-2s, filed on February 14, 2024;

- n. Enviro-Management's response to Commission Staff's third RFI number Commission Staff 3-1 through Commission Staff 3-5 filed on February 15, 2024;
- o. Supporting documentation for schedule II-3 operating expenses filed on February 29, 2024;
- p. Enviro-Management's supplemental response to Commission Staff's RFI number Commission Staff 1-9 filed on March 13, 2024;
- q. Mr. Franklin's motion to withdraw as an intervenor filed on April 9, 2024;
- r. Ms. Bynum's motion to withdraw as an intervenor filed on April 10, 2024;
- s. Ms. Davis's motion to withdraw as an intervenor filed on April 10, 2024;
- t. The agreement, including exhibits A through C, filed on May 31, 2024; and
- u. Commission Staff's memorandum in support of the agreement filed on May 31, 2024.

Revenue Requirement and Rate of Return

- 30. In its application, Enviro-Management requested an overall rate of return of 7.00%.
- 31. In its application, Enviro-Management requested an overall increase of \$49,834 over its adjusted test-year revenue for water service, which represents a 38% increase.
- 32. In its application, Enviro-Management requested an annual revenue requirement of \$130,620, consisting of the following:

| Description | Revenue Requirement |
|-----------------------------|---------------------|
| Operating Expenses | \$116,247 |
| Depreciation | \$7,967 |
| Taxes Other than Income Tax | \$6,772 |
| Federal Income Tax | \$70 |
| Return on Invested Capital | \$5,524 |

| | |
|----------------------------------|------------------|
| Other Revenues | (\$5,960) |
| Total Revenue Requirement | \$130,620 |

33. In its application, Enviro-Management requested a total original cost of plant in service of \$132,474, annual depreciation of \$7,967, accumulated depreciation of \$65,506, and net plant in service of \$41,968.
34. The signatories agreed that Enviro-Management will have a ratio of 50% debt to 50% equity for Enviro-Management's capital structure, and for Enviro-Management to have a 5.03% cost of debt and an 8.50% return on equity. These ratios and percentages result in an overall rate of return of 6.76%.
35. A 6.76% rate of return will allow Enviro-Management 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.
36. The signatories agreed that Enviro-Management's actual total revenue requirement is \$126,470, consisting of the following:

| Description | Revenue Requirement |
|----------------------------------|----------------------------|
| Operating Expenses | \$114,210 |
| Depreciation | \$7,471 |
| Taxes Other than Income Tax | \$6,260 |
| Federal Income Tax | \$643 |
| Return on Invested Capital | \$3,847 |
| Other Revenues | (\$5,961) |
| Total Revenue Requirement | \$126,470 |

37. The agreement's treatment of Enviro-Management's rate base, capital structure, and rate of return is reasonable.
38. The agreement's treatment of Enviro-Management's revenue requirement is appropriate.

Agreed Rates

39. In its proposed notice to ratepayers filed on February 24, 2023, Enviro-Management requested a retail water flat rate of \$59.48 per month, including 1,000 gallons; a flat gallonage charge of \$6.25 per 1,000 gallons; and a tap fee of \$1,200.
40. The signatories agreed that Enviro-Management is authorized to charge the rates shown in the tariff included as exhibit B to the agreement, a retail water flat rate of \$51.54, including zero gallons; a flat gallonage charge of \$6.05 per 1,000 gallons; and a tap fee of \$1,200.
41. The rates requested in Enviro-Management's application are designed to recover its requested revenue requirement.
42. The signatories agreed for the rates shown in exhibit B to the agreement to be effective for usage on and after the date of this Order.
43. The agreed flat rates are just and reasonable.

Agreed Tariff Provisions

44. The signatories agreed on the tariff provisions set forth in exhibit B to the agreement.
45. The terms and conditions of the agreed tariff are just and reasonable.
46. The signatories agreed for the rates shown in exhibit B to the agreement to be effective for usage on and after the date of this Order.

Affiliate Expenses

47. There is no evidence that Enviro-Management has affiliates or has made any affiliate transactions; therefore, no affiliate transactions are included in the revenue requirement.

Agreed Rate Base

48. The signatories agreed that the components of Enviro-Management's invested capital in rate base as of December 31, 2022, as set forth in exhibit C to the agreement, are reasonable and necessary.

49. The signatories agreed that Enviro-Management's net rate base is \$56,901 as of December 31, 2022.
50. The agreed net rate base is appropriate.

Rate-Case Expenses

51. The signatories agreed that Enviro-Management is entitled to recover \$368.29 in rate-case expenses for this proceeding.
52. The signatories agreed that Enviro-Management may recover the agreed rate-case expenses through a surcharge of \$0.45 per month to be recovered over six months.
53. The signatories agreed that \$368.29 represents all rate-case expenses incurred in connection with this docket and that Enviro-Management may not seek to recover any rate-case expenses incurred in connection with this docket in any future proceeding.
54. The agreed rate-case expenses in the amount of \$368.29 are reasonable and necessary.

Informal Disposition

55. More than 15 days have passed since completion of the notice provided in this docket.
56. Enviro-Management, Commission Staff, Mr. Newton, Ms. Goss, and Ms. Weaver are the only parties to this proceeding.
57. All parties signed the agreement or did not object to the agreement.
58. No hearing is needed.
59. 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. Enviro-Management 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. Enviro-Management is a retail public utility defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
4. Enviro-Management is a class D utility as defined by TWC § 13.002(4-d) and 16 TAC § 24.3(8).
5. The Commission processed this docket in accordance with the requirements of the TWC, Texas Administrative Procedure Act,¹ and Commission Rules.
6. Enviro-Management provided notice of the application in accordance with the requirements of TWC § 13.1871 and 16 TAC § 24.27(d)(1).
7. Enviro-Management 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. Enviro-Management's 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 Enviro-Management and will permit Enviro-Management 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. An overall rate of return of 6.76% will not yield Enviro-Management more than a fair return on the 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).

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

13. 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.
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 Enviro-Management's provision of service.
15. The rates approved by this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
16. The rate-case expenses approved by this Order are just, reasonable, necessary, and in the public interest as required under 16 TAC § 24.44(a).
17. The requirements for informal disposition in 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 the rates, terms, and conditions of the agreement to the extent provided in this Order.
2. The Commission approves Enviro-Management's tariff attached to the agreement as exhibit B, effective the date that this Order is signed.
3. The Commission authorizes Enviro-Management to collect rate-case expenses related to this docket in the amount of \$368.29 through a surcharge of \$0.45 per month for six months after the date this Order is signed.
4. Enviro-Management must not seek to recover any additional rate-case expenses incurred in connection with this application in a future proceeding.
5. Enviro-Management must comply with its commitments set forth in the agreement and incorporated in this Order.

6. Enviro-Management must file reports documenting the calculation and collection of the surcharge for rate-case expenses. The reports must be made in a separate docket, *Compliance Filing for Docket No. 54683 (Application of Enviro-Management for Authority to Change Rates)*, Docket No. 57143. The presiding officer in Docket No. 57143 must establish a schedule by which reports must be filed.
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 this Order, Commission Staff must file a clean copy of Enviro-Management's tariff with Central Records to be marked *Approved* and kept in the Commission's tariff book.
9. The Commission denies all other motions and any other requests for general or specific relief that are not expressly granted in this Order.

Signed at Austin, Texas the _____ day of _____ 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

THOMAS J. GLEESON, CHAIRMAN

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER

COURTNEY K. HJALTMAN, COMMISSIONER