



## **Filing Receipt**

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<b>APPLICATION OF TEXAS WATER UTILITIES, L.P. FOR AUTHORITY TO CHANGE RATES</b>	§ § §	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**TEXAS WATER UTILITIES, L.P.’S OBJECTION TO AND MOTION TO STRIKE  
PORTIONS OF THE DIRECT TESTIMONY OF ADRIAN NARVAEZ**

Texas Water Utilities, L.P. (TWU) objects to and moves to strike portions of the Direct Testimony of Adrian Narvaez filed on behalf of the Public Utility Commission of Texas (Commission) Staff on November 25, 2024. TWU timely files its objection on or before December 2, 2024, under State Office of Administrative Hearings (SOAH) Order No. 2.<sup>1</sup>

**I. OBJECTION**

TWU objects to and moves to strike the portion of the direct testimony of Commission Staff witness Adrian Narvaez described below and provided as Attachment A to this pleading.

- Page 4, line 16 through page 5, line 4
- Page 6 line 14 through page 9, line 7

TWU objects to these portions of the testimony because they discuss the cost of serving TWU’s wholesale customers, which is not relevant to this proceeding as it is outside the Commission’s jurisdiction.

Under Texas Rule of Evidence 401, “evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” The Commission does not have jurisdiction over the rates TWU charges to its wholesale customers.<sup>2</sup> Therefore, any reference to “rate class” or rate classes” in the Commission’s preliminary order in this proceeding is not properly construed to apply to wholesale customers.<sup>3</sup> Further, there is no statute or Commission rule that requires a

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<sup>1</sup> SOAH Order No. 2 Memorializing Prehearing Conference; Adopting Procedural Schedule; Setting Hearing on the Merits at 2 (Oct. 2, 2024).

<sup>2</sup> See Tex. Water Code (TWC) §§ 13.041–.043.

<sup>3</sup> Preliminary Order at 8 (Sept. 12, 2024).

class cost of service study (CCOSS) in a proceeding under TWC § 13.187, and a CCOSS is not a required component of the rate filing package for Class A water utilities.<sup>4</sup>

Despite the foregoing, Commission Staff recommends that TWU provide a CCOSS demonstrating the costs to serve TWU's wholesale customers.<sup>5</sup> This information is not relevant to this proceeding because it would in effect grant the Commission jurisdiction over reviewing and determining which costs are properly allocated to wholesale customers and properly recovered in wholesale rates. Allocation and recovery of wholesale costs is beyond the scope of this proceeding and is of no consequence in determining the retail rates that will allow TWU to recover its retail revenue requirement.

## II. CONCLUSION

TWU respectfully requests the entry of an order granting its objections to the above-cited portions of the Direct Testimony of Adrian Narvaez. Additionally, TWU requests any further relief to which it has shown itself entitled.

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<sup>4</sup> Class A Water/Sewer Utility Rate Filing Package, available at <https://www.puc.texas.gov/industry/water/forms/forms.aspx> (last visited Dec. 2, 2024).

<sup>5</sup> Direct Testimony of Adrian Narvaez at 6:14–7:2 (Nov. 25, 2024).

Respectfully submitted,

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**ATTORNEYS FOR TEXAS WATER  
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**CERTIFICATE OF SERVICE**

I hereby 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 December 2, 2024, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ William A. Faulk, III

William A. Faulk, III

# **ATTACHMENT A**

**II. PURPOSE AND SCOPE OF TESTIMONY**

**Q. What is the purpose of your testimony in this proceeding?**

A. My testimony regarding Texas Water Utilities L.P. (TWU)'s application will address rate design issues. It will address in whole or in part, the following issues from the Commission's Preliminary Order issued on September 12, 2024:

48. What are the just and reasonable rates for water service and for sewer 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? Do these rates recover the utility's revenue requirement for each type of service?

56. How should rate-case expenses be allocated between customers?

**III. SUMMARY OF RECOMMENDATIONS**

**Q. What is your recommendation?**

A. I recommend that:

- The billing determinants used to set base service fees and gallonage rates be adjusted to account for TWU's error in calculating water meter equivalents and to account for the water and wastewater systems to which TWU provides wholesale service, because TWU failed to account for in the proposed cost allocation and rate design calculations. Failure to account for wholesale test year billing determinants in setting rates would result in rates that are not sufficient or equitable and that are unreasonably preferential, prejudicial, or discriminatory.

- The Commission requires TWU to provide a cost-of-service study that properly allocates costs to a separate wholesale customer class for both water and sewer functions in TWU's next rate case, or to include actual test-year gallons sold and actual end-of-test-year meter equivalents for each wholesale customer.
- Rate case expenses should be allocated to the water and wastewater based on test-year meter equivalents functionalization factors that TWU used to functionalize costs to the water and wastewater function.

**Q. What material did you use to prepare your testimony?**

A. In preparation for my testimony, I reviewed the application submitted by TWU to the Commission, the testimony of Company witnesses, certain discovery responses, and testimony filed by other Staff witnesses in this case.

#### **IV. BILLING DETERMINANT ERRORS**

**Q. Did TWU confirm that they committed an error in determining the meter equivalents used to set TWU's proposed service fees?**

A. Yes. In response to Staff's discovery request TWU confirmed that it understates the water meter equivalents used to calculate TWU's proposed water service fees by 600 because TWU failed to include the meter equivalents in one of TWU's systems.<sup>1</sup>

**Q. Should TWU's billing determinants be adjusted to correct this error?**

A. Yes. It is important that billing determinants reflect actual billing determinants for all of TWU's systems in order to ensure the calculation of just and reasonable rates that are sufficient and that do not result in an over collection of costs.

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<sup>1</sup> Texas Water Utilities, L.P.'s Response to Commission Staff's Seventh Request for Information, Staff 7-1 (Oct. 28, 2024).

**V. WHOLESALE CUSTOMERS ADJUSTMENT**

**Q. Did TWU properly account for all its wholesale customers when setting its proposed base rates?**

A. No. TWU admitted in discovery that there are four water systems and three wastewater systems whose billing determinants were not included in the calculation of TWU's proposed base rates.<sup>2</sup>

**Q. Did TWU provide actual end-of-test-year meter equivalents for each wholesale water and wastewater system?**

A. No. TWU did not provide their wholesale customer's meter equivalent or usage data in TWU's application. In response to Staff's discovery request, TWU did not provide the actual end-of-test-year meter equivalents for each wholesale system.<sup>3</sup> TWU only provided information on the master meters that connect the wholesale customers to TWU.<sup>4</sup>

**Q. Did TWU provide the cost of service for the wholesale customers whose billing determinants were not included in the calculation of TWU's proposed base rates in order to ensure that TWU's retail customers do not pay more than the cost to serve TWU's retail customers?**

A. No. Although TWU admitted that its requested water and wastewater revenue requirements included costs that were used to provide service to its wholesale customers TWU did not

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<sup>2</sup> Texas Water Utilities, L.P.'s Response to Commission Staff's Seventh Request for Information, Staff 7-7; Texas Water Utilities, L.P.'s Response to Commission Staff's Tenth Request for Information, Staff 10-1 & 10-2 (Oct. 31, 2024).

<sup>3</sup> *Id.*

<sup>4</sup> Texas Water Utilities, L.P.'s Response to Commission Staff's Seventh Request for Information, Staff 7-7; Texas Water Utilities, L.P.'s Response to Commission Staff's Tenth Request for Information, Staff 10-3 and 10-4.



provide a cost-of-service study that allocates costs to wholesale customers in order to determine the cost to serve these wholesale customers.<sup>5</sup>

**Q. Did TWU provide any relevant data that could be used by Commission Staff and intervenors in developing a cost-of-service study that can determine the cost to serve TWU's wholesale customers?**

A. No. As stated above TWU did not provide the wholesale customers' meter equivalent data that would be necessary in order to allocate costs to wholesale customers. In response to Staff's discovery request TWU stated that they are unable to determine which cost components in their requested revenue requirement are used to provide service to their wholesale customers.<sup>6</sup>

**Q. How did TWU account for its wholesale customers when calculating its proposed base water and wastewater rates?**

A. In calculating its proposed retail base rates, TWU subtracted from its total cost of service a portion of the test year revenues it received from the wholesale customers.<sup>7</sup> However, this approach is unreasonable for two reasons: first, the wholesale revenues that were subtracted from TWU's requested cost of service only includes gallonage charges and excludes base revenues;<sup>8</sup> and second, this approach unreasonably presumes, without supporting evidence, that the wholesale rates and revenues are set at cost in a manner consistent and equitable as regards TWU's proposed retail rates.

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<sup>5</sup> Texas Water Utilities, L.P.'s Response to Commission Staff's Seventh Request for Information, Staff 7-4.

<sup>6</sup> Water Utilities, L.P.'s Response to Commission Staff's Seventh Request for Information, Staff 7-5.

<sup>7</sup> *Id.*, Staff 7-4.

<sup>8</sup> Schedule II-G.2 (W) and Schedule II-G.2 (S).

1 **Q. Is TWU's proposal to exclude revenues it received from wholesale customers**  
2 **sufficient in order to properly account for its costs to serve wholesale customers and**  
3 **to ensure that TWU's retail customers do not pay more than their reasonable cost of**  
4 **service?**

5 A. No. TWU only excluded a portion of the revenues that it receives from wholesale customers  
6 instead of the full amount of base revenues it receives from wholesale customers. However,  
7 even if the full amount of base revenues it received from wholesale customers was excluded  
8 from the revenue requirement used to calculate base rates, TWU's proposed methodology  
9 does not ensure that TWU's retail base rates are based on cost. TWU's test-year wholesale  
10 revenues are based on old wholesale rates, calculated using a different test year, and not  
11 approved by the Commission. It is not possible for Commission Staff and intervenors to  
12 determine if these wholesale rates were based on cost.

13 In order to accurately determine the cost of service for a class in a rate case  
14 proceeding, it is imperative that each cost component of a utility's revenue requirement is  
15 assigned or allocated to each rate class or group of customers in a manner that is consistent  
16 with the cost drivers that cause the utility to incur that cost. In order to properly exclude  
17 costs attributable to wholesale customers from TWU's requested retail revenue  
18 requirement, TWU would need to allocate or assign test-year costs to the wholesale  
19 customers in order to determine the test-year cost to serve wholesale customers. Without a  
20 cost-of-service study it is not possible for Commission Staff and intervenors to properly  
21 assess if the wholesale revenues TWU received accurately reflect the cost to serve  
22 wholesale customers.

1 **Q. Can TWU's proposed rates be just and reasonable if it is impossible to ensure that**  
2 **TWU's retail customers do not pay more than their cost of service?**

3 No. If it cannot be determined that the test year wholesale rates and revenues reasonably  
4 reflect the costs to serve wholesale customers, then TWU's approach of subtracting these  
5 revenues from its total cost of service to arrive at its costs to serve retail customers cannot  
6 be shown to be sufficient, equitable, and not unreasonably preferential, prejudicial, or  
7 discriminatory as required by TWC §§ 13.182.

8 **Q. Is there another methodology that can be used to set rates that is just and reasonable**  
9 **for TWU's retail customers?**

10 A. Yes. Given that TWU does not allocate costs and set rates for separate retail rate classes  
11 and that TWU's base service fees and gallonage rates apply to all retail customers, a  
12 reasonable alternative to account for wholesale customers when setting retail base rates is  
13 to include actual test year wholesale billing determinants in the billing determinants used  
14 to set rates in this case. As stated above, ensuring that actual test-year billing determinants  
15 are used to set rates is vital in setting rates that are sufficient and that do not result in an  
16 over recovery of costs. This adjustment to the billing determinants would treat retail and  
17 wholesale customers in an equitable manner and ensure that the billing determinants reflect  
18 the actual usage in TWU's system and the actual amount of meter equivalents taking  
19 service from TWU's system.

20 **Q. What wholesale billing determinants should be used to set rates?**

21 A. With regards to the billing determinants used to set gallonage fees, TWU provided actual  
22 test-year gallons sold for each of its wholesale customers. I recommend that the billing