



Control Number: 45248



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PUC DOCKET NO. 45248
SOAH DOCKET NO. 473-16-2099.WS

RATEPAYERS' APPEAL OF THE
DECISION BY THE CITY OF FRITCH
TO CHANGE RATES

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PUBLIC UTILITY COMMISSION
OF TEXAS

PUBLIC UTILITY COMMISSION
FILING CLERK

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ORDER

This Order addresses the ratepayers' appeal of the decision by the City of Fritch to change rates. A unanimous stipulation and agreement was executed that resolves all issues among the parties. The agreement is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Introduction and Procedural History

1. Fritch is a small municipality that owns and operates a water utility.
2. Fritch's water utility provides service to customers who live within and outside the city limits of Fritch.
3. On September 15, 2015, Fritch adopted Ordinance Nos. 538 and 539, regarding the increase in water rates payable by customers outside and within Fritch, respectively. The relevant portion of each Ordinance is provided in Attachment A to this Order.
4. On October 13, 2015, D.S. Tindall filed a petition to appeal the Fritch increase in water rates.
5. On November 13, 2015, Fritch filed a response to Order No. 1 and motion to dismiss, contending that the Commission does not have jurisdiction to review the rates of customers who reside outside the city limits since the letters on file do not meet the criteria for a valid petition.
6. On November 19, 2015, the Commission issued Order No. 2, granting Commission Staff's request for a 30-day extension to file an administrative completeness review, and ordering a Commission Staff response to Fritch's motion to dismiss.

7. On December 11, 2015, the Commission issued Order No. 3, denying Fritch's motion to dismiss.
8. On December 18, 2015, Russell Grisham filed a petition, including the signatures of affected ratepayers, to appeal Fritch's rate increase.
9. On January 15, 2016, Darla Harriman filed a request to intervene.
10. On January 15, 2016, the Commission issued Order No. 4, finding the petition to appeal the city's rate increase to be administratively complete.
11. On January 26, 2016, the Commission issued Order No. 5, granting Darla Harriman's motion to intervene.
12. On January 27, 2016, the Commission issued an order of referral, referring this proceeding to the State Office Administrative Hearings (SOAH).
13. On February 18, 2016, SOAH issued Order No. 1, providing a case description, noticing a prehearing conference, establishing discovery and filing requirements, and cautioning the parties regarding rate case expenses.
14. On March 7, 2016, the Commission issued a preliminary order.
15. On March 9, 2016, SOAH issued Order No. 2, rescheduling the prehearing conference.
16. On March 22, 2016, SOAH issued Order No. 3, memorializing the prehearing conference, adopting the procedural schedule, and noticing a hearing on the merits.
17. On May 18, 2016, SOAH issued Order No. 4, modifying the procedural schedule and setting a deadline for Fritch to file direct testimony.
18. On May 31, 2016, Fritch filed an answer to the petition by outside city ratepayers.
19. On May 31, 2016, Fritch filed the direct testimony and attachments of Karl J. Nalepa.
20. On June 8, 2016, Darla Harriman filed direct testimony on behalf of petitioners.
21. On July 8, 2016, Patricia Garcia and Andrew Novak filed direct testimony on behalf of Commission Staff.
22. On July 29, 2016, Fritch filed the rebuttal testimony of Karl J. Nalepa.

23. On August 11, 2016, SOAH issued Order No. 5, modifying the start date of the hearing on the merits.
24. On August 16, 2016, SOAH issued Order No. 6, abating the proceeding to allow the parties sufficient time to complete settlement discussions.
25. On October 18, 2016, Fritch filed an agreement that resolves all issues among the parties.
26. The signatories to the agreement are Fritch, Commission Staff, Darla Harriman, and David Tindall.
27. On October 18, 2016, the signatories filed a joint motion to admit evidence and request that the docket be dismissed from SOAH and returned to the Commission.
28. On October 21, 2016, SOAH issued Order No. 7, admitting evidence into the record, dismissing the docket from SOAH, and remanding the case to the Commission.

Description of the Agreement

29. The signatories agreed that Fritch's revenue requirement, as of October 1, 2015, was approximately \$1.715 million.
30. The signatories agreed to include, in Fritch's revenue requirement of approximately \$1.715 million, the payments Fritch made from October 1, 2015 through August 1, 2016 related to past-due debt service and interest owed by Fritch in the amount of approximately \$345,000 and that, excluding past-due amounts, Fritch's debt-service payments, including interest, are approximately \$445,000 per year.
31. Fritch agreed to exclude from its budget for fiscal year 2016-2017 and from rates for its water utility, all debt amounts paid prior to October 1, 2016, and to exclude non-recurring debt service.
32. Fritch agreed to issue a credit of \$2.20 per month to ratepayers receiving service outside the city limits for a period of 12 months beginning the first full month after the Commission approves the agreement by way of a final, non-appealable order.
33. The signatories agreed that Fritch has incurred \$98,682.50 in reasonable rate-case expenses related to this proceeding.

34. The signatories agreed that Fritch shall be allowed to recover \$54,440.63 of its rate-case expenses through a monthly surcharge of \$1.31 per meter for a period of 36 months, or until the \$54,440.63 is recovered.
35. The signatories agreed that within 30 days from the end of each 6-month period in which the surcharge is in effect, Fritch will provide the Commission a report showing the amount of rate-case expenses recovered and the balance remaining to be recovered.

Reasonableness of Agreement

36. Considered in light of the testimony and memorandum of the parties entered into evidence, the agreement is the result of compromise from each party, and these efforts, as well as the overall result of the agreement viewed in light of the record evidence as a whole, support the reasonableness and benefits of the terms of the agreement.
37. The evidence addressed in Finding of Fact Nos. 27, and 28 demonstrates that the rates, terms and conditions resulting from the agreement are just and reasonable when the merits of the issues contested by Commission Staff and petitioners are considered.
38. Fritch's water utility revenue requirement and rates are just and reasonable.
39. Fritch's agreement to issue a credit to ratepayers is reasonable.
40. The parties' agreement related to the treatment of rate-case expenses is reasonable.
41. This docket contains no remaining contested issues of fact or law.

II. Conclusions of Law

1. Fritch is a municipally-owned utility as defined in Texas Water Code § 13.002(13).¹
2. The Commission has jurisdiction over this proceeding under TWC § 13.043(b)(3).
3. This docket was processed in accordance with the requirements of the TWC, Administrative Procedure Act §§ 2001.051-.052,² and Commission rules.
4. The agreement, taken as a whole, is a just and reasonable resolution of all the issues it addresses. The agreement results in just and reasonable rates, terms, and conditions, is

¹ Tex. Water Code Ann. (West 2008 and Supp. 2016) (TWC).

² Tex. Gov't Code Ann. (West 2016).

supported by a preponderance of the credible evidence in the record, and is consistent with TWC, chapter 13.

5. The rates agreed to in the agreement are not unreasonably discriminatory, preferential, or prejudicial.
6. The Commission may consider evidence of reasonable expenses incurred by Fritch in this appeal proceeding under TWC § 13.043(e).
7. Fritch may recover the expenses it has incurred in this proceeding to the extent those expenses were reasonable and necessary under 16 Texas Administrative Code § 24.41(e)(2) (TAC).
8. The requirements for informal disposition under 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. Consistent with the agreement, Fritch's water rates are approved.
2. Beginning the first full month after this Order is issued, Fritch shall issue a credit of \$2.20 per month to ratepayers receiving service outside the city limits for a period of 12 months.
3. A monthly surcharge of \$1.31 per meter for 36 months for Fritch to recover \$54,440.63 of its rate-case expenses is approved.
4. Within 30 days from the end of each 6-month period in which the surcharge is in effect, Fritch shall file a report showing the amount of rate-case expenses recovered and the balance to be recovered. The report shall be filed in Project No. 46563, *Surcharge Collections Report Related to Docket No. 45248 (Ratepayers' Appeal of the Decision by the City of Fritch to Change Rates)*.
5. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order shall not

be regarded as binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.

6. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 1st day of December 2016.

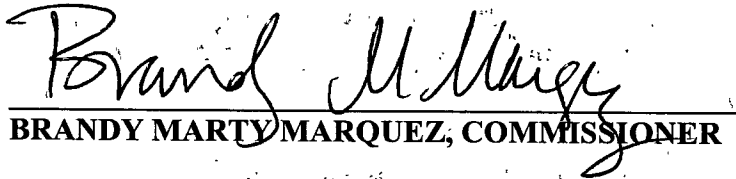
PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER

ATTACHMENT A

(The information in this attachment is taken from the direct testimony of Fritch witness, Karl J. Nalepa filed May 31, 2016).

ORDINANCE NUMBER 538

The proposed rate increases the base rate charge from \$33.00 to \$50.00 per month.

Rate Table

0-2,000 gallons--\$0/thousand	
3,000-12,000 gallons	\$3.68/thousand
13,000 — 50,000 gallons	\$4.13/thousand
51,000 — 80,000 gallons	\$4.43/thousand
81,000 — 9,999,999 gallons	\$4.88/thousand

Current Rate

Outside City Customer using 5,000 gallons of water.
 Base Rate Charge = \$33.00
 2 (thousand gallons) x 0.00 = \$ 0.00
 5 (thousand gallons) x 3.68 = \$18.40
 Total Bill = \$51.40

Proposed Rate

Outside City Customer using 5,000 gallons of water.
 Base Rate Charge = \$50.00
 2 (thousand gallons) x 0.00 = \$ 0.00
 5 (thousand gallons) x 3.68 = \$18.40
 Total Bill = \$68.40

ORDINANCE NUMBER 539

The proposed rate increases the base rate charge from \$14.00 to \$47.00 per month. A \$12 surcharge is repealed

Old Inside City Limits Rate Table

\$14.00 minimum	
\$12.00 water surcharge	
0-2,000 gallons	\$1.95/thousand
3,000-12,000 gallons	\$2.45/thousand
13,000 — 50,000 gallons	\$2.75/thousand
51,000 — 80,000 gallons	\$2.95/thousand
81,000 — 9,999,999 gallons	\$3.25/thousand

New Inside City Limits Rate Table

\$47.00 minimum	
0-2,000 gallons	\$ 0/thousand
3,000-12,000 gallons	\$3.68/thousand
13,000 — 50,000 gallons	\$4.13/thousand
51,000 — 80,000 gallons	\$4.43/thousand
81,000 — 9,999,999 gallons	\$4.88/thousand

Current Rate

Inside City Customer using 5,000 gallons of water.
 Base Rate Charge = \$14.00
 Water Surcharge = \$12.00
 5 (thousand gallons) x 2.45 = \$18.40
 Total Bill = \$44.40

Proposed Rate

Inside City Customer using 5,000 gallons of water.
 Base Rate Charge = \$47.00
 5 (thousand gallons) x 3.68 = \$18.40
 Total Bill = \$65.40