

**PROJECT NO. 47309**

<b>RULEMAKING TO AMEND 16 TAC §</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>24.49(d), (f), AND (g) REGARDING</b>	<b>§</b>	
<b>ESTABLISHING A PRICE INDEX</b>	<b>§</b>	<b>OF TEXAS</b>
<b>UNDER TEXAS WATER CODE §</b>	<b>§</b>	
<b>13.1872(b) FOR CLASS C WATER AND</b>	<b>§</b>	
<b>SEWER UTILITIES</b>	<b>§</b>	
	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO § 24.49  
APPROVED AT THE NOVEMBER 8, 2018 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §24.49, relating to application for a rate adjustment by a Class C utility pursuant to Texas Water Code §13.1872. The proposed amendments in §24.49(d) will address formatting and stylistic changes to the rule to match the rest of the rules in the subchapter. The proposed amendments to §24.49(f)(2) will revise the timelines for when an application may be submitted to the commission for a Class C utility rate adjustment. The proposed amendments to §24.49(g) will change the price index to the *Consumer Price Index for All Urban Consumers*, will remove the numbering for subsection (g)(1) to combine the language with subsection §24.49(g), and will repeal §24.49(g)(2) and (3) because they related to the first year of implementation and are no longer applicable. Project number 47309 is assigned to this proceeding.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create or eliminate a government program;

- (2) implementation of the proposed rule will not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase or decrease in fees paid to the agency;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing regulation;
- (7) the proposed rule will not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed rule will not positively or adversely affect this state's economy.

#### Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

#### Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

#### Fiscal Impact on State and Local Government

Ms. Tammy Benter, Director, Water Utility Regulation Division, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

#### Public Benefits

Ms. Tammy Benter, Director, Water Utility Regulation Division, has also determined that for each year of the first five years the proposed section is in effect, the anticipated public benefits expected as a result of the adoption of the proposed rule will be to allow a Class C water and sewer utility to increase rates in the amount determined by the new index, which is more closely associated with changing costs in the water and sewer industry than the old index, and that there will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

#### Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

#### Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the Public Utility Commission is expressly excluded under subsection §2001.0045(c)(7).

### Public Hearing

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on December 18, 2018. The request for a public hearing must be received within 30 days after publication.

### Public Comments

Comments on the proposed amendment may be filed with the commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed by 16 Texas Administrative Code §22.71(c). Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. All comments should refer to project number 47309.

### Statutory Authority

These amendments are proposed under §14.002 of the Public Utility Regulatory Act, Tex. Util. Code Ann. (West 2016 and Supp. 2017) and Texas Water Code §13.041(b) (West 2015), which provide the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and Texas Water Code §13.1872 (West 2013), which allows for rate adjustments for Class C utilities.

Cross reference to statutes: Public Utility Regulatory Act §14.002 and Texas Water Code §§13.041(b) and 13.1872.

**§24.49. Application for a Rate Adjustment by a Class C Utility Pursuant to Texas Water Code §13.1872.**

(a)-(c) (No change.)

(d) **Processing of the application.** The following criteria apply to the processing of an application.

(1) (No change.)

(2) Within 30 days of the filing of the application, commission staff ~~Staff~~ shall file a recommendation stating whether the application should be deemed administratively complete pursuant to §24.8 of this title. If commission staff ~~Staff~~ recommends that the application ~~should~~ be deemed ~~to be~~ administratively complete, commission staff ~~Staff~~ shall also file a recommendation on final disposition, including, if necessary, a proposed tariff sheet ~~sheets~~ reflecting the requested rate change.

(e) (No change.)

(f) **Time between filings.** The following criteria apply to the timing of the filing of an application.

(1) A Class C utility may adjust its rates pursuant to this section not more than once each calendar year and not more than four times between rate proceedings described by TWC §13.1871.

(2) ~~The Effective January 1, 2016,~~ the filing of applications pursuant to this section is limited to a specific quarter of the calendar year, and is ~~month~~

based on the last two digits of a utility's certificate of convenience and necessity (CCN) number as outlined below, unless good cause is shown for filing in a different quarter month. For a utility holding multiple CCNs, the utility may file an application in any quarter month for which any of its CCN numbers is eligible.

(A) Quarter 1 (January-March): CCNs ending in 00 through 27;

(B) Quarter 2 (April-June): CCNs ending in 28 through 54;

(C) Quarter 3 (July-September): CCNs ending in 55 through 81; and

(D) Quarter 4 (October-December): CCNs ending in 82 through 99.

~~(A) January: CCNs ending in 00 through 09;~~

~~(B) February: CCNs ending in 10 through 18;~~

~~(C) March: CCNs ending in 19 through 27;~~

~~(D) April: CCNs ending in 28 through 36;~~

~~(E) May: CCNs ending in 37 through 45.~~

~~(F) June: CCNs ending in 46 through 54;~~

~~(G) July: CCNs ending in 55 through 63;~~

~~(H) August: CCNs ending in 64 through 72;~~

~~(I) September: CCNs ending in 73 through 81;~~

~~(J) October: CCNs ending in 82 through 90; and~~

~~(K) November: CCNs ending in 91 through 99.~~

- (g) **Establishing the price index.** The commission shall, on or before December 1 of each year, establish a price index as required by TWC §13.1872(b) based on the following criteria. The price index will be established in an informal project to be initiated by commission staff. (1) — The price index shall be equal to the water and sewerage maintenance expenditure category of the *Consumer Price Index for All Urban Consumers* Gross Domestic Implicit Price Deflator index published by the Bureau of Economic Analysis of the United States Department of Commerce for the prior 12 months ending on September 30, unless the commission finds that good cause exists to establish a different price index for that year.
- ~~(2) — For calendar year 2015, until the commission adopts its first order establishing a price index pursuant to this subsection, applications for an annual rate adjustment will use a price index percentage difference of 1.57%. The percentage difference of 1.57% is calculated using indices set in paragraph (3) of this subsection.~~
- ~~(3) — For the purpose of implementing this section, the initial indices are equal to:~~
- ~~—— (A) — 106.923 for 2014; and~~
- ~~(B) — 108.603 for 2015.~~

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.



**ISSUED IN AUSTIN, TEXAS ON THE 8th DAY OF NOVEMBER 2018 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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