

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.

Subchapter C. ALTERNATIVE RATE METHODS.

§24.76. System Improvement Charge.

- (a) **Purpose.** This section establishes the requirements for a system improvement charge to ensure timely recovery of infrastructure investment.
- (b) **Definitions.** In this section, the following words and terms have the following meanings unless the context indicates otherwise.
- (1) Eligible plant -- Plant properly recorded in the National Association of Regulatory Utility Commissioners System of Accounts, accounts 304 through 339 for water utility service or accounts 354 through 389 for sewer utility service.
 - (2) System improvement charge – A charge for recovery of the portion of the cost of a utility’s eligible plant that is not already included in the utility’s rates.
- (c) **System improvement charge.**
- (1) A utility must have only one system improvement charge in effect for water and one system improvement charge in effect for sewer for each of its rate schedules at any time.
 - (2) A utility may apply to establish or amend one or more system improvement charges in accordance with the requirements of this section. A utility must not adjust its rates under this section more than once each calendar year. A utility that is applying to establish or amend multiple system improvement charges in a calendar year must do so in a single application.
 - (3) A utility may not apply to establish or amend a system improvement charge while it has a comprehensive rate proceeding under TWC §13.187, 13.1871, 13.18715, or 13.1872 pending before the commission.
 - (4) If a utility with a pending application to establish or amend a system improvement charge files an application to change rates under TWC §13.187, 13.1871, 13.18715, or 13.1872, or the commission initiates a rate change review under TWC §13.186, the utility will be deemed to have withdrawn its application to establish or amend a system improvement charge and the presiding officer must dismiss the application.
 - (5) The filing of applications as allowed by this section is limited to a specific quarter of the calendar year, and is 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. For a utility holding multiple CCNs, the utility may file an application in any quarter 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.
- (d) **Application for a system improvement charge.** An application to establish or amend a system improvement charge must include the following:
- (1) a description of the eligible plant for which cost recovery is sought through the system improvement charge, including the project or projects included in the request and an explanation of how each project has improved or will improve service;
 - (2) a calculation of the system improvement charge in accordance with subsection (f) of this section and all supporting calculations and assumptions for each component of the system improvement charge;
 - (3) information that sufficiently supports the eligible cost, such as invoices, receipts, and direct testimony, and that sufficiently addresses the exclusion of costs for plant provided by explicit customer agreements or funded by customer contributions in aid of construction;
 - (4) a copy of the utility’s most recent annual report filed with the commission, which must be the annual report most recently due for filing; and
 - (5) an affidavit confirming that the application meets the requirements of this section.

- (e) **Calculation of the system improvement charge.** The revenue requirement for the system improvement charge must be calculated using the following formula: $SIC\ RR = (Reconcilable\ Cost * ROR) + Federal\ Income\ Taxes + Depreciation + ad\ valorem\ taxes + other\ revenue\ related\ taxes$. Where:
- (1) **SIC** = the system improvement charge.
 - (2) **SIC RR** = system improvement charge revenue requirement.
 - (3) **Reconcilable Cost** = the original costs of eligible plant installed after the later of the ending date of the 2019 reporting period reflected in the utility's annual report filed under §24.19 (relating to Water and Sewer Utilities Annual Report) or the end of the test year used in the utility's most recent base-rate proceeding, less:
 - (A) accumulated depreciation; and
 - (B) any costs for plant provided by explicit customer agreements or funded by customer contributions in aid of construction.
 - (4) **Accumulated depreciation** = depreciation accumulated for eligible plant after the date the eligible plant was placed in service.
 - (5) **ROR** = after-tax overall rate of return as defined in paragraph (10) of this subsection.
 - (6) **Federal Income Taxes** = current annual federal income tax, as related to eligible costs.
 - (7) **Depreciation** = current annual depreciation expense for the eligible plant.
 - (8) **Ad Valorem Taxes** = current annual amount of taxes based on the assessed value of the eligible cost.
 - (9) **Other Revenue Related Taxes** = current annual amount of any additional taxes resulting from the utility's increased revenues related to the SIC.
 - (10) The after-tax overall rate of return is one of the following:
 - (A) if the final order approving the utility's overall rate of return (i.e., the company's weighted-average cost of capital) was filed less than three years before the date that the utility files an application for a SIC, the after-tax rate overall of return is the one approved by the commission in the utility's last base-rate case; or
 - (B) if the final order approving the utility's overall rate of return (i.e., the company's weighted-average cost of capital) was filed three years or more before the date that the utility files an application for a SIC, the after-tax overall rate of return is the average of the commission's approved rates of return for water and sewer utilities in settled and fully litigated cases over the three years immediately preceding the filing of the SIC.
 - (11) The SIC must be calculated based on annualized meter equivalents, derived using the most recent month's total customer meter equivalents multiplied by 12. The base SIC must be calculated as the SIC RR divided by annual meter equivalents. The SIC for each meter size must be calculated as the base SIC multiplied by the multiplier for that meter size.

Meter Size	Multiplier
5/8"	1.00
3/4"	1.50
1"	2.50
1 1/2"	5.00
2"	8.00
3"	15.00

- (f) **Notice.** By the first business day after it files its application, the utility must send notice of its SIC application to all affected ratepayers by first class mail, e-mail (if the customer has agreed to receive communications electronically), bill insert, or hand delivery. The utility must include in the notice the docket number for the utility's SIC proceeding, the intervention deadline, and a brief explanation of how an affected ratepayer can intervene in the SIC proceeding and how intervention differs from protesting a rate increase. The intervention deadline is 25 days from the date service of notice is complete.

- (g) **Commission processing of application.** Upon the filing of an application to establish a SIC, the presiding officer must set a procedural schedule that will enable the commission to issue a final order within 120 days after the application is determined to be sufficient if no hearing is requested.

- (1) For good cause or by agreement of the parties, the presiding officer may set a schedule that will not enable issuance of a final order within 120 days after the application is determined to be sufficient. The deadlines established by the presiding officer will be extended as provided in this subsection.
 - (2) After an application is determined to be sufficient, the applicant must respond to requests for information within 10 days. An applicant's failure to timely respond to requests for information constitutes good cause for extending the deadline for final action one day for each day that a response exceeds 10 days.
 - (3) A request by an intervenor for hearing must be filed within 25 days after the application is determined to be sufficient. A request for hearing must state with specificity the issues to be addressed.
 - (4) Unless an intervenor requests a hearing, commission staff must submit a recommendation on the application or request a hearing not later than 45 days after the application is determined to be sufficient unless commission staff requests additional time, not to exceed another 15 days unless good cause exists for a later date. If commission staff is granted additional time, the deadline for final action is extended day for day for each day of additional time.
 - (5) If a hearing on the application is requested, the application will be referred to the State Office of Administrative Hearings (SOAH) for an evidentiary hearing. The presiding officer must set a procedural schedule that will enable the commission to issue a final order within 120 days after the application is referred to SOAH. For good cause, the presiding officer may set a procedural schedule that will not enable the commission to issue a final order within 120 days after the application is determined to be sufficient.
- (h) **Scope of proceeding.** The issue of whether eligible costs included in an application for a SIC or an amendment to a SIC are prudent, reasonable, or necessary, will not be addressed in a proceeding under this section unless the presiding officer finds that good cause exists to address these issues.
- (i) **System improvement charge reconciliation.** Costs recovered through a SIC are subject to reconciliation in the utility's next comprehensive rate case. Any amounts recovered through the SIC that are found to have been unreasonable, unnecessary, or imprudent, plus the corresponding return and taxes, must be refunded with carrying costs. The utility must pay to its customers carrying costs on these amounts calculated using the same rate of return that was applied to the recovered costs in establishing the SIC until the date the rates approved in the utility's next comprehensive rate case are effective. Thereafter, carrying costs must be calculated using the utility's rate of return authorized in the comprehensive rate case.
- (j) **Rate case expenses.** Recovery of rate case expenses may be requested and must be reviewed in the utility's next comprehensive base rate case and in accordance with §24.44 of this chapter (relating to Rate-case Expenses Pursuant to Texas Water Code §13.187 and §13.1871).
- (k) **Requirement to file a rate case.** A utility must file a comprehensive rate case under TWC §13.187, 13.1871, 13.18715, or 13.1872 within the following times from the date the commission files an order approving the SIC.
- (1) Four years for a utility that was a Class A utility at the time of the order.
 - (2) Six years for a utility that was a Class B utility at the time of the order.
 - (3) Eight years for a utility that was a Class C or Class D utility at the time of the order.