PROJECT NO. 50322

ALTERNATIVE RATEMAKING MECHANISMS FOR WATER AND SEWER UTILITIES	**§ § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER REPEALING EXISTING §24.75 AND ADOPTING NEW §24.75 AND §24.76 AS APPROVED AT THE NOVEMBER 30, 2021, WORK SESSION

The Public Utility Commission of Texas (commission) repeals existing 16 Texas Administrative Code (TAC) §24.75 and adopts new 16 TAC §24.75, relating to Alternative Ratemaking Methodologies. The commission also adopts new 16 TAC §24.76, relating to System Improvement Charge. Both rules are adopted with changes to the proposed text as published in the June 4, 2021, issue of the *Texas Register* (46 TexReg 3481). These rules implement Texas Water Code (TWC) §13.183(c) enacted by the 86th Texas Legislature by establishing alternative ratemaking methodologies for water and sewer utility rates and establishing the requirements for a system improvement charge (SIC).

No party requested a public hearing; therefore, a public hearing was not held.

The commission received comments and reply comments on the proposed amendments from CSWR Texas Utility Operating Company, LLC (CSWR), Texas Association of Water Companies, Inc., and National Association of Water Companies (jointly TAWC/NAWC), and Office of Public Utility Council (OPUC).

§24.75(c) – Cash needs method

Under proposed §24.75(c), a Class C or Class D utility is allowed to use the cash needs method, if necessary, to establish the utility's revenue requirement in a comprehensive rate proceeding for

the utility to provide continuous and adequate service or if other good cause exists to support the use of the cash needs method.

TAWC/NAWC stated that Class A and Class B utilities should be allowed to use the cash needs method "as there appears to be no justification for [the] limitation" to Class C and Class D utilities.

OPUC supported the limitation to Class C and Class D utilities.

Commission Response

The commission declines to allow Class A and Class B utilities to use the cash needs method. The use of the cash needs method is generally more suitable for the operating and financial aspects of smaller companies such as Class C and Class D utilities. Class A and Class B utilities most commonly use the rate base rate of return method but can apply for a good cause exception to use the cash needs method if necessary.

§24.75(c)(3)(A) – Inclusion of an additional margin

Under proposed §24.75(c)(3)(A), a utility may request an operating margin in addition to operations and maintenance expenses if the utility's most recent annual report included net plant of less than 25 percent of its related original cost. The proposed rule provides that an operating margin of up to five percent of operating expenses will be considered reasonable and may be included in the utility's revenue requirement.

TAWC/NAWC recommended that the operating margin presumed reasonable should be raised to ten percent or eliminated entirely.

Commission Response

The commission declines to adopt TAWC/NAWC's recommendation. A utility is not limited to five percent of operating expenses. Rather, the five percent limit only applies to what will be presumed reasonable. A utility may request a coverage amount above five percent of its operating expenses with appropriate evidentiary support.

§24.75(d)(1) – Form of application

Under proposed §24.75(d), a utility may request the addition of a new customer class or classes without filing a base rate case. Proposed paragraph (d)(1) outlines the application requirements for requesting a new customer class.

Commission Action

The commission amends §24.75(d)(1)(A) to clarify that a cost-of-service and rate design study must be submitted for each new proposed customer class.

§24.75(d)(3)(A) – Rate case requirement

Under proposed §24.75(d)(3)(A), a utility that has received commission approval for the creation of a new customer class or classes must file a comprehensive rate case not later than 18 months from the date service begins unless the utility can demonstrate that each new customer class represents less than ten percent of the utility's total annual revenue.

TAWC/NAWC requested clarification that the exception from filing a new rate case under proposed §24.75(d)(3)(A) applies when each new customer class individually represents less than ten percent of the utility's total annual revenue.

Commission Response

The commission declines to modify the language of this section. The proposed language clearly articulates that "each new customer class" must represent less than ten percent of the utility's total annual revenue. The addition of "individually" would be superfluous.

§24.75(d)(3)(B) and (C) – Exception to filing and required filing

Under proposed §24.75(d)(3)(B), if the utility fails to show in its annual report that each new customer class remains less than ten percent of the utility's total annual revenue, a utility is not required to submit a comprehensive rate case until a maximum of five years after the date service begins if it demonstrates to the commission that each new customer class represents less than ten percent of the utility's total annual revenue requirement. The utility is required to report the amount of revenues each customer class represents in its annual report. Under proposed §24.75(d)(3)(C), a utility is required to file a comprehensive rate case within the earlier of six months from the date its annual report is due under §24.129(a) or five years from the date service to the new customer class or classes began.

TAWC/NAWC commented that language should be added to clarify that after the comprehensive rate case is filed, the amount of revenues each class represents is no longer required in its annual report.

Commission Response

The commission declines to adopt TAWC/NAWC's recommendation. The act of filing a rate case is insufficient to relieve a utility of its obligation to continue to provide demonstrations that the new customer class remains less than ten percent of the utility's total annual revenue.

Merely filing a rate case does not guarantee that new rates will be approved by the commission. This would create a compliance loophole that would allow a utility to defer initiating a rate case for longer than intended. Accordingly, the utility must continue to provide demonstrations as a part of its annual report until a final order is issued in the utility's next comprehensive base rate case or upon the triggering of one of the conditions in the rule that requires the utility to file a comprehensive base rate case under (B) and (C). For example, if the revenues from a new customer class increase above ten percent of the utility's total annual revenues or five years have passed since service to the new customer class has begun, the utility is no longer required to provide demonstrations as part of its annual report, because one of the requirements to initiate a rate case has already been triggered.

§24.76 – System improvement charge

Under proposed §24.76, the requirements for a SIC are established.

TAWC/NAWC stated that the SIC should be part of the commission's minor tariff change procedures found in §24.25(b)(2) (relating to Form and Filing of Tariffs), and that the applications should not be referred to the State Office of Administrative Hearings (SOAH) for hearing, as the goal is for the process to be streamlined. TAWC/NAWC further commented that allowing parties to intervene and allowing for referrals to SOAH makes the SIC process expensive, complicated, and may lead to more rate case expenses.

Commission Response

The commission declines to adopt TAWC/NAWC's recommendations. The minor tariff change provisions of §24.25 are outside of the scope of this proceeding. Moreover, a request for a SIC is a rate proceeding, not a minor tariff change.

The commission finds that allowing the proceeding to be sent to SOAH is necessary to provide ratepayers an opportunity to participate in the SIC proceeding. Further, allowing this participation is consistent with similar substantive rules regarding electric rate proceedings such as §25.193 (relating to Distribution Service Provider Transmission Cost Recovery Factors (TCRF)) and §25.243 (relating to Distribution Cost Recovery Factor (DCRF)). Both rules are intended to provide for administratively streamlined proceedings that result in expedited implementation of updated rates, but which may contain certain circumstances that require referral to SOAH.

TAWC/NAWC and CSWR stated that §24.76 should explicitly include a provision for rate case expense recovery. CSWR commented that recovery of rate case expenses should be allowed because related costs may be relatively high, which could result in some smaller utilities incurring litigation expenses that are greater than the amount of additional revenues provided by implementation of the SIC. CSWR further opined that a cost recovery proceeding is necessary because significant litigation expenses incurred pursuant to a SIC may disincentivize the use of the proceeding by utilities if such costs are not reimbursable. Alternatively, CSWR recommended the initiation of a new rulemaking to address the recovery of expenses associated with filing and litigating rate proceedings

OPUC agreed with TAWC/NAWC and CSWR on modifying §24.76 to provide for SIC rate case expense recovery but stated that such recovery should be addressed in the utility's next comprehensive base rate case proceeding to allow for thorough review of the expenses while keeping the SIC proceeding streamlined. OPUC also argued that inclusion of SIC rate case expense recovery in a base rate proceeding allows for the examination of the prudence of expenses.

Commission Response

The commission agrees that the rule should explicitly state that a utility may request recovery of rate case. The commission agrees with OPUC that rate case expenses should be reviewed in the utility's next comprehensive base rate case to allow for an examination of the prudence of expenses without further delaying the SIC proceeding. The commission adds the following language: "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."

§24.76(b)(1) – Eligible plant

Under proposed §24.76(b)(1), "eligible plant" is defined as, "[p]lant 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."

OPUC noted that "eligible plant," as proposed, is not limited to one discrete water or sewer facility. OPUC argued that the definition of "eligible plant" should be limited to preclude utilities from using the SIC as a catch-all mechanism for all interim plant investment between comprehensive rate cases. OPUC recommended including "a single plant" at the beginning of the definition.

OPUC referenced the Generation Cost Recovery Rider (GCRR), codified as 16 TAC §25.248 (relating to Generation Cost Recovery Rider), as an example where the commission specifically limited the application to a single discrete power generation facility.

TAWC/NAWC and CSWR opposed OPUC's proposed definition for "eligible plant." TAWC/NAWC and CSWR argued that, unlike electric generation plants, water and sewer systems are not composed of a single discrete facility, and it is impractical to require a separate SIC application for each component of the water or sewer system. CSWR argued that, because only one SIC can be in effect at one time, utilities that operate multiple systems would be precluded from using the mechanism to recover investments made in all but one of its systems.

TAWC/NAWC argued that TWC §13.183(a) and (c) do not confine the definition of "eligible plant" to a single plant and that all of a utility's invested capital used and useful without restriction should be included in a utility's rates. Therefore, in TAWC/NAWC's view, the SIC should allow for inclusion of a utility's capital improvements recordable in the listed accounts within the proposed rule. TAWC/NAWC also stated that "eligible plant" should be broadly defined to maximize a utility's ability to use a SIC for invested capital recovery.

Commission Response

The commission declines to change the definition of eligible plant to "a single plant" as water and wastewater systems are not discrete facilities. The commission also clarifies, in response to CSWR's reply comment, that under (c)(1), a utility must have only one SIC in effect for each of its rate schedules at any time. Because each system would have its own rate schedules, a utility with multiple systems is not prohibited from having a SIC in effect for each system.

§24.76(c)(4) –Timing of application with final rate case

Under proposed §24.76(c)(4), a utility cannot apply to establish or amend a SIC until 12 months after a commission order establishing rates is final and appealable.

TAWC/NAWC and CSWR asserted that the 12-month restriction creates a maximum waiting period of 45 months to file a SIC case, citing a 12-month test year period prior to filing, plus the time it takes to assemble a rate filing package, plus "up to a year or two after an application is filed and accepted to [be] complete," plus the 12-month waiting period, plus up to nine additional months depending on the "[Certificate of Convenience and Necessity]-specific time periods to file in proposed §24.76(c)(6)." TAWC/NAWC also stated that the SIC rules should reflect the timelines and processes of the generation cost recovery rider under §25.248, and interim Transmission Cost of Service (TCOS) proceedings under §25.192(h) (relating to Transmission Service Requirements).

Commission Response

The commission does not agree with the commenters that the proposed rule creates a 45-month waiting period. However, the commission does agree that the 12-month waiting period creates an unnecessary delay in implementing a SIC and removes this requirement from the adopted rule.

§24.76(c)(6) –Timing of application to calendar quarter

Under proposed §24.76(c)(6), a utility may apply to establish or amend a SIC, limited to filing in a specific quarter of the calendar year based on the last two digits of a utility's certificate of convenience and necessity CCN number, unless good cause is shown for filing in a different

quarter. For a utility holding multiple CCNs, the utility can file in any quarter for which any of its CCNs is eligible.

TAWC/NAWC opposed the requirement in §24.76(c)(6) limiting SIC filings to certain months based on the utility's CCN number as in practice this could increase the waiting period for filing a SIC application to 21 months after a comprehensive rate case is finalized. TAWC/NAWC stated that they do not expect that adding a SIC process would create the type of workload that would necessitate CCN-specific filing time windows, particularly if the SIC process is streamlined as intended. TAWC/NAWC also stated that, in its view, there will not be many utilities filing and SIC cases do not need to be spread out. Lastly, TAWC/NAWC stated that the GCRR proceedings under §25.248 and interim TCOS proceedings under §25.192(h) do not have a similar CCN-based time-to-file limitation as §24.76(c)(6) imposes and therefore the limitation should be removed.

Commission Response

Because establishment of a SIC is a new process, it is difficult to predict how many requests will be filed. Without a schedule, the number of requests could potentially create an administrative burden on the commission and delay the processing of requests, contrary to the streamlined method intended by the rule. In addition, there are significantly more water utilities eligible for SIC than there are electric utilities eligible for GCRR and interim TCOS. Therefore, the commission declines to remove the schedule.

§24.76(c)(7) – Multi-step implementation

Under proposed §24.76(c)(7), the commission, either on its own motion, at the request of the utility seeking the SIC, or at the request of any other interested party, may approve a SIC charge as a

multi-step rate increase if such a rate increase is already in effect or to limit the utility's annual total revenue increase to no more than ten percent. This mirrors the parties that are eligible to request a multi-step rate increase as part of a base rate case under §24.75(b)(2).

TAWC/NAWC stated that the language "any other interested party" would complicate what should be a streamlined process. TAWC/NAWC further requested that the commission eliminate the wording "or if necessary to limit the utility's annual total revenue increase to no more than 10 percent," or at least add the wording "unless there is good cause to exceed that limit." TAWC/NAWC argued that the revenue increase limitation should be determined on a case-by-case basis and that the described limit may be too restrictive.

Commission Response

The commission agrees with TAWC/NAWC that allowing any interested party to request a multi-step implementation of a SIC could complicate what is intended to be a streamlined process. Further, the commission may approve the multi-step implementation at its discretion, without explicit language in the rule. Therefore, the commission deletes proposed §24.76(c)(7).

§24.76(d)(4) – Annual report

Under proposed §24.76(d)(4), an application for a SIC must include the utility's most recent annual report filed with the commission, which must be the annual report most recently due for filing.

TAWC/NAWC proposed eliminating this requirement, stating that a utility filing a SIC application should be allowed to refer to a publicly available report that it has already filed with the

commission pursuant to a utility's obligation under §24.129, and that it should not have to re-file the report as part of the SIC application.

Commission Response

The commission declines to remove the requirement to include the annual report in a SIC application. Submitting the annual report with the SIC application ensures that all relevant information to the SIC determination is readily available in the SIC docket. The commission has recently switched to e-filing and, therefore, attaching the annual report to the SIC application is not burdensome.

§24.76(e)(10)(B) – After-tax rate of return

Proposed §24.76(e)(9), adopted as §24.76(e)(10)(B), determines the after-tax rate of return used in calculating a utility's SIC. Under subparagraph (B), if the final order for a utility's last comprehensive base rate case was issued three or more years before the date the SIC application is filed, the after-tax rate of return is computed by using the average rate of return for settled and fully litigated approved rates of return for water and sewer utilities over the three years immediately preceding the filing of the SIC application.

OPUC agreed with the after-tax rate of return limitations of the proposed rule and further recommended limiting the increase in rate of return, over the utility's last commission-approved rate of return, to ten percent. OPUC stated that in the same way a utility's annual revenues are limited to a ten percent increase in §24.27(c)(7) (relating to Notice of Intent and Application to Change Rates Pursuant to TWC §13.187 or §13.1871), the authorized return should also be limited to a ten percent increase.

TAWC/NAWC opposed OPUC's proposed limitation, arguing that revenue growth resulting from a SIC does not equate to return. TAWC/NAWC requested clarification on whether the term "return" used in §24.76(e)(9) adopted as §24.76(e)(10), refers to the return on equity or the overall return.

CSWR argued that the commission should remove §24.76(e)(9)(B), adopted as §24.76(e)(10)(B), and instead use the utility's approved rate of return in lieu of the after-tax rate of return as the rule currently states. CSWR argued that each utility has its own capital structure and financing needs and, therefore, may have a different overall rate of return than the average of the commission's recently approved rates of return. CSWR opined that a case-by-case approach utilizing an individual utility's approved rate of return is more favorable to smaller utilities from a financing and cost-recovery risk perspective than the average rate of return provided in the proposed rule. CSWR argued that imputing an average rate of return based on rate cases filed by other utilities would entirely decouple a utility's commission-approved reasonable and necessary rate of return from its actual capital structure, cost of debt, risk profile, and financing needs. CSWR stated that if the commission finds that a utility's return that was approved three years prior is too high, it can require the utility to file a comprehensive rate case at any time where utility-specific evidence can be presented to justify any modification to the rate of return. CSWR argued that the commission should remove §24.76(e)(9)(B), adopted as §24.76(e)(10)(B), entirely, but that if the commission keeps the provision, OPUC's proposed changes to §24.76(e)(9)(B), adopted as §24.76(e)(10), should be denied. CSWR commented that, if §24.76(e)(9)(B), adopted as §24.76(e)(10), is not deleted and the commission does not reject OPUC's proposed limitation, the commission should apply the ten percent limitation to both increases and decreases to the rate of return.

Commission Response

The commission declines to remove §24.76(e)(9)(B), adopted as §24.76(e)(10)(B), as requested by CSWR. If a utility decides to use a company-specific return, it may file a rate case on its own motion, or it can use the average of the most recent three years of commission-approved rates. While a rate of return for water and sewer utilities that was approved three or more years ago may not cause a utility to over-earn, it is not current, and should not be applied to a SIC, because a SIC consists of plant financed under current market conditions.

The commission also declines to limit a company's rate of return to a ten percent increase over the rate approved by the commission in the utility's last comprehensive rate case, as proposed by OPUC. Applying a ten percent increase limitation to a rate of return approved more than three years prior may not appropriately reflect current market conditions.

The commission does, however, clarify which return is being referenced, as requested by TAWC/NAWC. The commission adds the language "weighed average cost of capital" or "overall" as appropriate.

§24.76(f) – Notice

Under §24.76(f), the intervention deadline in SIC proceedings is 25 days from the date service of notice is complete.

CSWR argued that if the commission accepts its proposal to reduce the deadline for the commission to issue a final order in SIC proceedings from 120 to 60 days, as discussed in heading §24.76(g) below, the commission should also reduce the intervention deadline from 25 to 21 days.

Commission Response

As previously discussed, the commission has declined to implement CSWR's recommendation to reduce the deadline for the commission to issue a final order in SIC proceedings from 120 to 60 days. Accordingly, the CSWR's comments regarding the intervention deadline are moot.

§24.76(g) – Processing of application

Under proposed §24.76(g), 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.

CSWR stated that the SIC should be streamlined similar to proceedings for interim TCOS proceedings under §25.192(h) and GCRR applications under §25.248, both of which are mechanisms for expedited cost recovery for electric companies with significantly shorter timelines. CSWR contended that there is no reason a SIC would be more complex or take longer to review than an interim TCOS proceeding or GCRR application. CSWR recommended a timeline of 60 days after a materially sufficient application is filed similar to an interim TCOS proceeding under §25.192, or 60 days after an application is deemed sufficient consistent with the GCRR application under §25.248.

Commission Response

The commission declines to change the schedule as proposed by CSWR. The commission anticipates that, for some utilities, SIC application reviews may be complex and require significant review of detailed company-specific information. The commission also notes that

a distribution cost recovery factor (DCRF) proceeding under §25.243—a similar cost-recovery mechanism for electric companies that has well-established administrative procedures—is processed on a 150-day schedule.

§24.76(g)(2) – Requests for information

Under proposed §24.76(g)(2), after an application is deemed sufficient, the applicant must respond to requests for information within ten 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 ten days.

TAWC/NAWC and CSWR opposed linking the deadline for final approval to the timeliness of discovery responses. CSWR recommended removing this provision. CSWR stated that tying the deadline for final approval to the timing of the applicant's discovery responses is unnecessary and potentially confusing. CSWR additionally commented that parties that fail to comply with discovery deadlines are already subject to sanctions under the commission's rules, and parties can request a hearing if they believe there are controversial issues that cannot be resolved through the discovery process that necessitate further delay of the proceeding. CSWR also opined that this requirement means the deadline for final action is in constant flux.

In the alternative, CSWR recommended that the ten-day discovery deadline be changed to ten working days and should only affect the deadline if requested by a party through a motion filed pursuant to §22.77 (relating to Motions).

If neither of its prior proposals for §24.76(g)(2) are adopted, CSWR alternatively recommended adding language to clarify that the extension does not apply in situations where a timely filed

discovery response is updated or supplemented, or where a discovery request is subject to an objection that extends the deadline for filing the response.

Commission Response

The commission declines to remove or otherwise modify paragraph (g)(2) as requested by TAWC/NAWC and CSWR. Late responses must undergo the same review as timely responses, with identical deadlines, and commission staff must be able to request an extension of time if necessary, to properly evaluate an application. Moreover, an extension of the deadline serves as an incentive for utilities to timely response to requests for information. The commission disagrees with CSWR's contention that the risk of sanctions for untimely responses to requests for information or the ability of a party to request a hearing to extend the discovery process mitigates the need for this provision. Asking the commission to impose sanctions is an extreme remedy and requesting a hearing to extend the discovery process is significantly less efficient than merely extending the deadline for final action by a few days.

The commission agrees with CSWR that a party must file a motion for a final deadline to be extended for late discovery responses. Under paragraph (g)(2), failure to respond to a discovery request does not automatically extend the deadline for final action. Rather, it "constitutes good cause" for extending the deadline. The commission intends this remedy to be used only when necessary to properly evaluate an application. Therefore, the commission does not believe that the additional language requested by CSWR is required to effectuate the intent of §24.76(g)(2).

§24.76(g)(3) – Request for hearing by intervenor

Under proposed §24.76(g)(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.

TAWC/NAWC opposed §24.76(g)(3) as too restrictive but made no specific recommendation for the rule.

CSWR argued that if the commission accepts its proposal for §24.76(g) to reduce the 120-day deadline for final order to 60 days, then proposed §24.76(g)(3) should also be amended by reducing the intervention deadline from 25 days to 21 days.

Commission Response

As stated above, the commission has declined to adopt CSWR's proposal to reduce the deadline for final action from 120 days to 60 days under heading. Accordingly, CSWR's comments regarding §24.76(g)(3) are moot.

§24.76(g)(4) – Processing of application

Under proposed §24.76(g)(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.

CSWR argued that if the commission accepts its proposal to reduce the 120-day deadline for final order under §24.76(g) to 60 days, proposed §24.76(g)(3) should also be amended by reducing the deadline for commission staff to file its final recommendation from 45 days to 30 days.

Commission Response

The commission has declined to accept CSWR's proposal to reduce the deadline for final action from 120 days to 60 days under heading §24.76(g). Accordingly, CSWR's comments regarding the deadline for commission staff to issue its final recommendation are moot.

§24.76(g)(5) – Evidentiary hearing and schedule

Under proposed §24.76(g)(5), if a hearing on the application is requested, the application will be referred to 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.

TAWC/NAWC and CSWR both argued that SICs should be eligible for informal disposition under §22.35(b)(1) (relating to Informal Disposition). CSWR requested that, if the requirements for informal disposition are met, the presiding officer be required to issue a notice of approval within 60 days of the date a materially sufficient application is filed.

CSWR further requested that the commission direct commission staff to work with utilities to "develop a standardized set of schedules to be used in these filings." CSWR argued that a standard set of schedules will streamline the submission and review of rate filing packages, "giving all utilities more clarity as to what should be included in the filing package and how it is presented," and facilitate commission staff review within a 60-day procedural schedule.

Commission Response

The commission declines to add language clarifying that SIC proceedings are eligible for informal disposition under §22.35(b)(1). The commission at this time does not have

experience with SIC proceedings, the frequency with which they will be filed, or the range of issues that processing them will present. Accordingly, the commission is not prepared to fully delegate authority to resolve these decisions to an administrative law judge. However, the commission may revisit this decision at a future date and provide the necessary delegation by commission order to resolve SIC proceedings via notice of approval.

The commission also declines to direct staff to develop a standardized set of schedules at this time, but may elect to do so after additional experience with SIC proceedings.

§24.76(h) – Scope of proceeding

Under proposed §24.76(h), whether a cost is "prudent" and "reasonable and necessary" will not be addressed in a SIC proceeding unless the presiding officer finds good cause exists to do so. This provision effectively defers consideration of these standards to the utility's next comprehensive rate proceeding.

TAWC/NAWC stated there is no reason to address "prudent" costs in the SIC, therefore the rule language "unless the presiding officer finds good cause exists to address those issues" should be removed. CSWR recommended that the proposed rule explicitly preclude the consideration of prudence, similar to §25.248(g)(1) of the GCRR rule. CSWR argued that the provision allowing the presiding officer to consider prudence is ambiguous and is not included in other interim rate adjustment proceedings. Finally, CSWR argued that discovery on prudence would self-generate "good cause," and that prudence review is best deferred to the utility's next base rate case.

Commission Response

The commission finds that circumstances may exist that warrant consideration of whether issues of prudence, reasonableness, and necessity of costs may be appropriate in a particular SIC proceeding and declines to remove the language. A similar provision exists under §25.243(e)(5) of the DCRF rule.

§24.76(i) - Reconciliation

Under proposed §24.76(i), costs recovered through a SIC are subject to reconciliation in a utility's next comprehensive rate case. Any amounts recovered through the SIC found not to be prudent, reasonable, or necessary are subject to refund.

TAWC/NAWC's proposed adding the following clarifying language: "[n]either system improvement charge revenues nor plant costs paid for with such revenues shall be considered contributions in aid of construction."

Commission Response

The commission declines to add the clarifying language suggested by TAWC/NAWC because it is unnecessary. There is no instance in which SIC revenues might be considered contributions in aid to construction.

TAWC/NAWC identified a typographical error in §24.76(i) that should read, "…approved in the utility's next comprehensive rate case are effective."

Commission Response

The commission agrees with TAWC/NAWC and amends the rule accordingly.

§24.76(j) – Requirement to file a rate case

Under proposed §24.76(k), adopted as §24.76(j), utility must file a comprehensive base rate case within certain timelines following the date the commission files an order approving a SIC. Class A utilities must file within four years, Class B utilities must file within six years, and Class C and Class D utilities must file within eight years.

§24.76(j) – Good cause exception

TAWC/NAWC argued that §24.76(k), adopted as §24.76(j), should include a good cause exception for a utility failing to file a comprehensive rate case according to the rule schedule. TAWC/NAWC contended that the annual report may show it is not timely for the utility to file a rate case based on its earning levels, or that a utility may have gained or lost enough connections while the SIC was in effect to change the utility's rate class. Therefore, the utility may not need to file for comprehensive rate proceeding within the timeframes prescribed by the rule.

CSWR stated that §24.76(k), adopted as §24.76(j), appears to be in response to language in TWC §13.183(c) that directs the commission to "establish a schedule that requires all utilities that have implemented a system improvement charge approved by the utility commission to make periodic filings with the utility commission to modify or review base rates charged by the utility." CSWR stated that TWC §13.183(c) does not require that utilities file a comprehensive rate case but only that the utility make periodic filings to modify or review base rates; CSWR further stated that review of a utility's rates can be accomplished through the commission's evaluation of a utility's mandatory annual reports to determine if a utility is over- or under-earning, and the commission can require a utility to file a comprehensive base rate case at any time, making this provision unnecessary. CSWR alternatively recommended that the commission should allow a good cause

exception to §24.76(k), adopted as §24.76(j), the utility is earning less than 50 basis points above its approved rate of return, similar to §25.247 (relating to Rate Review Schedule).

Commission Response

The commission declines to include an explicit allowance for a good cause exception to §25.76(k), adopted as §25.75(j), because the utility can request a good cause exception on its own motion. Furthermore, earnings are not the only consideration in the requirement to file a rate case. The commission is also obligated to timely ensure that the costs included in a SIC meet "prudence" and "reasonable and necessary" standards. Regulated electric utilities in Texas are subject to schedules requiring periodic applications for comprehensive base rate cases. However, water and sewer utilities do not have a mandatory date by which they file a comprehensive base rate case and, absent specific commission action, are not required to file for a rate case. A comprehensive base rate case allows the commission to conduct a thorough and detailed review of a utility's current financial position and level of regulated earnings.

Finally, for utilities that have changed class because of a gain or loss in connections, the rule specifically states that the filing deadline for a comprehensive base rate case is based on the utility's class at the time of the SIC application filing.

§24.76(j) – Cost trigger

OPUC proposed that the commission use an invested capital cost trigger to require a comprehensive base rate case filing on a shorter timeframe when a water and sewer utility's invested capital costs exceed a certain amount, similar to the requirements of a GCRR application under §25.248. OPUC recommended that the invested capital cost trigger not be a flat or a specific

amount but instead should be determined on a case-by-case basis. Such a determination might depend on the size of utility or be based on a SIC amount relative to a water and sewer utility's annual revenue. OPUC provided an example of a utility with SIC revenues that are greater than 30 percent of its total annual revenues and specified it would be required to file a comprehensive rate case within 18 months of the date the SIC takes effect.

TAWC/NAWC opposed OPUC's recommendation for an invested capital cost trigger to be included in §24.76(k), adopted as §24.76(j), as, in its view, such a change would not reduce the goal of the SIC rule to reduce the frequency of comprehensive rate case filings.

Commission Response

The commission declines to add an invested capital cost trigger, because the schedule for requiring the utility to file a comprehensive base rate case fulfills the same purpose as an invested capital cost trigger without overburdening utilities with frequent, required rate cases.

§24.76(j) – Time frames

OPUC agreed with the intent of proposed §24.76(k), adopted as §24.76(j), requiring a water and sewer utility that is granted a SIC to file a comprehensive base rate case within a specified timeframe based on utility class and further recommended that the timeframes in the proposed rule should be reduced, not increased. OPUC stated that the comprehensive base rate case filing requirements allowed in the rule are too long, especially for the large Class A and Class B water and sewer utilities that should have the expertise and resources to file a comprehensive base rate case. The inclusion of carrying costs in a SIC, which are not subject to a prudence review, could

result in a water and sewer utility including carrying costs in a SIC for a minimum of four years, after which the SIC costs could be deemed imprudent in a comprehensive base rate case. OPUC stated that, therefore, the proposed required timelines for filing a comprehensive base rate case should be shortened to lessen the impact of potential over-recoveries and to mitigate against the recovery of imprudent costs in a SIC. If the commission declines to implement an invested capital cost trigger in §24.76(k), adopted as §24.76(j), OPUC recommended adjusting the schedule so that Class A utilities file in two years instead of four, Class B utilities file in four years instead of six, Class C utilities file in six years instead of eight, and Class D utilities file in eight years. OPUC stated this would lessen the impact of potential over recoveries and hedge against the recovery of imprudent costs in a SIC. In its reply to TAWC/NAWC and CSWR, OPUC opposed increasing the time to file deadlines and recommended that the time requirements of the rule remain as initially proposed if its own proposals, discussed above, were rejected.

TAWC/NAWC and CSWR opposed OPUC's recommendation to reduce the rate case filing deadlines in §24.76(j) and replied that the goal of a SIC is to decrease the number of comprehensive base rate cases. TAWC/NAWC and CSWR contended that OPUC's recommendation would in fact increase the number of such rate cases. CSWR explained TWC §13.183(c) does not require a utility to file a comprehensive rate case, and the commission can already order a utility to file a rate case via an audit of a utility's annual report to determine if a utility is over- or under-earning. thus making §24.76(k), adopted as §24.76(j), unnecessary. CSWR further argued that OPUC's suggestion would discourage the use of the SIC mechanism. Therefore, CSWR recommended removing §24.76(k), adopted as §24.76(j), entirely, or in the alternative, urged the commission to decline OPUC's recommendations to reduce the timeframes to file a comprehensive base rate case.

Similarly, TAWC/NAWC recommend that the rate case deadlines described in §24.76(k), adopted as §24.76(j), be extended.

Commission Response

The commission declines to amend or eliminate the schedule as recommended by commenters. The schedule as proposed strikes an appropriate balance between a timely, thorough review of a utility's costs and minimizing litigation expenses.

These new rules are adopted under Texas Water Code §13.041(b), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically, § 13.183(c), which allows the commission to adopt rules related to specific alternative ratemaking methodologies for water and sewer rates.

Cross reference to statutes: Texas Water Code §§ 13.041(b) and 13.184(c).

§24.75. Alternative Ratemaking Methodologies. (REPEAL)

§24.75. Alternative Ratemaking Methodologies.

(a) **Purpose and application.** This section establishes alternative ratemaking methodologies for utilities that provide water or sewer service. The commission may prescribe modified rate filing packages for these alternative ratemaking methodologies.

(b) **Multi-step rates.** Multi-step rates allow a utility to implement one or more rates over time without filing multiple rate applications. Multi-step rates must be established in accordance with this subsection.

(1) Multi-step rates must be established in a comprehensive rate proceeding under Texas Water Code (TWC) §13.187, 13.1871, 13.18715, or 13.1872.

(2) The commission may establish multi-step rates on its own motion or at the request of a utility or any other interested party.

(3) Rates established in a comprehensive rate case under TWC §13.187, 13.1871, 13.18715, or 13.1872 will replace any multi-step rates already in effect or previously approved by the commission to go into effect for that utility.

(4) Multi-step rates may be established when a utility transitions from use of flat rates for unmetered service to use of volumetric rates for metered service.

(A) Multi-step rates for a utility's transition to metered service must not be effective before the date that meters are installed and in operation for all of the utility's connections.

(B) If the utility is seeking multi-step rates to transition to the use of volumetric rates for metered service, the utility must state in its notice of_intent to

change rates that it is seeking permission to use multi-step rates to transition to metered service with volumetric usage rates.

(C) The utility must provide notice to its customers at least 30 days before the utility begins charging its volumetric usage rate for metered service and at least 30 days before implementation of each step of its commission-approved multi-step rate.

(5) Multi-step rates may be established when a utility transitions from multiple rate schedules for different systems or service areas to consolidated rate schedules for regional or system-wide rates.

(A) Different rates and a different timeline may be established for each step in the multi-step rates of each system or service area that is transitioning to a consolidated rate schedule provided that the final step for each system or service area is the same consolidated rate.

(B) If the utility is seeking multi-step rates to transition to consolidated rate schedules, the utility must state in its notice of intent to change rates that it is seeking permission to use multi-step rates to transition from multiple rate schedules for different systems or service areas to consolidated rate schedules for regional or system-wide rates.

(C) The utility must provide notice to its customers at least 30 days before implementation of each step of its commission-approved multi-step rate.

(6) Multi-step rates may be established to moderate the effects of a rate increase on customers or if other good cause exists.

(A) Different rates and a different timeline may be established for each step in the multi-step rates for each of a utility's systems or service areas provided that the final step for each system or service area is the same final rate.

(B) If the utility is seeking multi-step rates under this paragraph, the utility must state in its notice of intent to change rates that it is seeking permission to use multi-step rates.

(C) The utility must provide notice to its customers at least 30 days before implementation of each step of its commission-approved multi-step rate.

(7) The notice requirements in paragraphs (4)-(6) of this subsection do not replace the standard statement of intent notice requirements under TWC §13.187, 13.1871, 13.18715. or 13.1872.

(8) The commission may place conditions on the implementation of a multi-step rate or on any step of a multi-step rate. For the purpose of ensuring just and reasonable rates, the commission may terminate a multi-step rate in a rate proceeding before completion of all steps of the multi-step rate.

(c) **Cash needs method.** The commission may approve use of the cash needs method to establish a utility's revenue requirement in a comprehensive rate proceeding for a Class C or Class D utility under TWC §13.18715 or 13.1872 if use of the method is necessary for the utility to provide continuous and adequate service or other good cause exists to support the use of the cash needs method. Under the cash needs method, the allowable components of cost of service are operating expenses, debt service costs, and an additional margin consisting of either an operating margin or an incremental revenue amount.

(1) **Operating expenses**. Only those operating expenses that are reasonable and necessary to provide service may be recovered, and these amounts must be based on the utility's test year expenses, adjusted for known and measurable changes.

(2) **Debt-service costs.** Debt service costs include principal and interest payments on the utility's debt.

(A) The debt must have reasonable terms and must finance facilities that will be used and useful in the provision of utility service.

(B) If required by the commission, Texas Water Development Board, other state or federal agency, or financial institution, debt-service costs may include amounts placed in a debt-service reserve account or an escrow account.

(C) Debt-service costs may include owner-financed assets. Debt-service costs related to these assets must include debt repayments using a reasonable amortization schedule and must use the prime interest rate in effect at the time the application is filed.

(3) **Additional margin.** An additional margin consists of either an operating margin or an incremental revenue amount. A utility requesting an additional margin must provide an explanation for the magnitude of the additional margin it requests.

(A) If a utility requesting an additional margin in the form of an operating margin has filed its most recent required annual report and has a net plant (original cost of plant in service less accumulated depreciation) of less than 25 percent of the original cost of plant, an operating margin of up to five percent of operating expenses approved by the commission will be

presumed reasonable and may be included in the utility's revenue requirement.

(B) An additional margin consisting of an incremental revenue amount is calculated by adding an incremental amount to the debt service costs described in paragraph (c)(2)(A) of this section to achieve a reasonable total debt service coverage level above 1.0.

(4) **Restrictions.** Rates established using the cash needs method under this subsection may not be subsequently set using cost of service calculated under §24.41 of this title (related to Cost of Service) for any comprehensive rate change application filed within five years after the date of the commission's order establishing rates using the cash needs method. If, after this five-year period, the utility has a comprehensive rate change proceeding based on a cost of service calculated under §24.41 of this title, the utility's rate base must exclude an amount equal to the principal paid on the debt service during the time that rates based on the cash needs method were in effect.

(5) **Subsequent acquisition.** If a utility with rates established using the cash needs method is acquired by another utility while such rates are in effect, the acquiring utility is not subject to the restriction in paragraph (4) of this subsection on calculating cost of service. If the acquiring utility files a comprehensive rate change application based on a cost of service calculated under §24.41 of this title, the acquiring utility must exclude from rate base an amount equal to the principal paid on the debt service that was related to the acquired utility during the time that rates based on the cash needs method were in effect.

(d) **New customer classes**. A utility may request the addition of a new customer class or classes as provided by this subsection.

(1) **Application.** An application for new customer classes under this section must include:

(A) a cost-of-service and rate design study for each new proposed customer class.

(B) a definition for each proposed new customer class;

(C) demonstration that the characteristics of each proposed new customer class are sufficiently different from the characteristics of all existing and other proposed new customer classes for different rate treatment;

(D) a request for service from a customer in each proposed new customer class; and

(E) if the utility wants to extend the 18-month deadline to file a comprehensive rate case under paragraph (3) of this subsection, documentation that the revenues to be recovered from each new customer class will be less than ten percent of the utility's total annual revenue.

(2) **Rates for new customer classes.**

(A) The rates for each new customer class must be based on cost-of-service and rate design studies.

(B) On the effective date of the rates for each new customer class, common costs assigned to and recovered from the new customer classes must be removed from the rates of existing customer classes.

(3) **Rate case requirement.**

(A) A utility that has received commission approval for the creation of a new customer class or classes under this subsection must file a comprehensive rate case by filing a statement of intent under TWC §13.187, 13.1871, 13.18715, or 13.1872 not later than 18 months from the date service begins to the new customer class or classes unless the utility has submitted documentation under subparagraph (1)(E) of this subsection demonstrating that each new customer class represents less than ten percent of the utility's total annual revenue required.

(B) If the utility demonstrates to the commission that each new customer class represents less than ten percent of the utility's total annual revenue by submitting documentation under subparagraph (1)(E) of this subsection, a comprehensive rate case is not required until the earlier of six months following the date on which the revenues of any of the new the customer classes equals or exceeds ten percent of the utility's total annual revenue or five years following the date service to the new customer class or classes begins. The utility must, as an attachment to its annual report filed under §24.129 (relating to Water and Sewer Utilities Annual Reports), annually update its demonstration to show that the revenues of each new customer class remain less than ten percent of the utility's total annual revenue. A utility must continue to update its demonstration annually until the commission adopts a final order in a comprehensive rate case for that utility or the utility is no longer eligible to delay filing a comprehensive rate case under this paragraph.

(C) If a utility fails to provide an annual update that shows the annual revenue of each new customer class remains less than ten percent of the utility's total annual revenue, the utility must file a comprehensive rate case within the earlier of six months from the date its annual report was due under §24.129(a) or five years from the date service to the new customer class or classes began.

§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.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility of Texas that existing §24.75 is repealed. It is further ordered that §24.75, relating to Alternative Ratemaking Methodologies, and §24.76, Relating to System Improvement Charge, are hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the _____ day of November 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER