

**Response from the Public Utility Commission of Texas to the House Committee on Natural Resources regarding Committee Interim Charge #2, State agency authority to regulate regional water supply pricing.**

**Statutes that Grant Wholesale Water Rate Appeal Authority to the Public Utility Commission of Texas**

**Texas Water Code Sec. 12.013. RATE-FIXING POWER.**

- (a) The utility commission shall fix reasonable rates for the furnishing of raw or treated water for any purpose mentioned in Chapter 11 or 12 of this code.
- (b) In this section, "political subdivision" means incorporated cities, towns or villages, counties, river authorities, water districts, and other special purpose districts.
- (c) The utility commission in reviewing and fixing reasonable rates for furnishing water under this section may use any reasonable basis for fixing rates as may be determined by the utility commission to be appropriate under the circumstances of the case being reviewed; provided, however, the utility commission may not fix a rate which a political subdivision may charge for furnishing water which is less than the amount required to meet the debt service and bond coverage requirements of that political subdivision's outstanding debt.
- (d) The utility commission's jurisdiction under this section relating to incorporated cities, towns, or villages shall be limited to water furnished by such city, town, or village to another political subdivision on a wholesale basis.
- (e) The utility commission may establish interim rates and compel continuing service during the pendency of any rate proceeding.
- (f) The utility commission may order a refund or assess additional charges from the date a petition for rate review is received by the utility commission of the difference between the rate actually charged and the rate fixed by the utility commission, plus interest at the statutory rate.

**Texas Water Code Sec. 13.043(f).**

A retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, including an affected county, may appeal to the utility commission a decision of the provider of water or sewer service affecting the amount paid for water or sewer service. An appeal under this subsection must be initiated within 90 days after the date of notice of the decision is received from the provider of water or sewer service by the filing of a petition by the retail public utility.

**Texas Water Code Sec. 13.044.** RATES CHARGED BY MUNICIPALITY TO CERTAIN SPECIAL DISTRICTS.

(a) This section applies to rates charged by a municipality for water or sewer service to a district created pursuant to Article XVI, Section 59, of the Texas Constitution, or to the residents of such district, which district is located within the corporate limits or the extraterritorial jurisdiction of the municipality and the resolution, ordinance, or agreement of the municipality consenting to the creation of the district requires the district to purchase water or sewer service from the municipality.

(b) Notwithstanding the provisions of any resolution, ordinance, or agreement, a district may appeal the rates imposed by the municipality by filing a petition with the utility commission. The utility commission shall hear the appeal de novo and the municipality shall have the burden of proof to establish that the rates are just and reasonable. The utility commission shall fix the rates to be charged by the municipality and the municipality may not increase such rates without the approval of the utility commission.

**Summary of Docket. No. 46662, Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates**

On December 14, 2016, the Cities of Garland, Mesquite, Plano, and Richardson filed a petition to appeal the rates charged by the North Texas Municipal Water District for wholesale water service. The District was created by the Texas Legislature in 1951 and is a conservation and reclamation district under Article XVI, section 59 of the Texas Constitution. The Petitioners along with the cities of Allen, Farmersville, Forney, Frisco, McKinney, Princeton, Rockwall, Royse City, and Wylie constitute the thirteen Member Cities of the District.

The rate the Member Cities pay for wholesale water service is determined using a methodology set forth in a contract that cannot be modified without the unanimous consent of the Member Cities and the District, and the term of the contract is tied to the District's outstanding bond debt and the service life of the plant used to provide wholesale water service. The contract methodology allocates the District's annual revenue requirement among the Member Cities based on each Member City's highest historical water usage, and each Member City must pay for that amount of water even if it does not use the full amount. Because the rate appealed by the Petitioners is set via contract, the PUCT rules and existing case law require that the PUCT find that the rate appealed by the Petitioners adversely affects the public interest before the PUCT may initiate a proceeding to determine the appropriate rate for the District.

A hearing on the merits was held on October 14 through 18, 2018 at the State Office of Administrative Hearings; the Petitioners, the District, the nine non-petitioning Member Cities, and the PUCT Staff participated as parties. A Proposal for Decision was issued on March 15, 2019. The Commission discussed the Proposal for Decision in May 2019, and upon request of the parties, delayed a decision to allow time for settlement discussions. At the open meeting held on February 27, 2020, the PUCT announced its decision that the rate appealed by the Petitioners adversely affected the public interest. On April 17, 2020, the Commissioners directed the parties to retain a mediator and try to come to an agreement on the case. At the open meeting on May 14, 2020, the PUCT allowed more time for settlement discussions, as requested by the petitioners.

## **List of Wholesale Water Rate Appeals received by the Public Utility Commission of Texas**

**Docket No. 42866** - Petition of Travis County Municipal Utility District No. 12 Appealing Change of Wholesale Water Rates Implemented by West Travis County Public Utility Agency, City of Bee Cave, Texas, Hays County, Texas and West Travis County Municipal Utility District No. 5  
**Date filed:** March 6, 2014 (Filed at TCEQ prior to the transfer of authority over the economic regulation of water from TCEQ to PUCT on September 1, 2014)  
**Status:** Petition denied on November 20, 2015.

**Docket No. 43081** - Second Petition of Travis County Municipal Utility District No. 12 Appealing Change of Wholesale Water Rates Implemented by West Travis County Public Utility Agency, City of Bee Cave, Texas Hays County, Texas and West Travis County Municipal Utility District No. 5 Application # 30812-a  
**Date filed:** July 31, 2014 (Filed at TCEQ prior to the transfer of authority over the economic regulation of water from TCEQ to PUC on September 1, 2014)  
**Status:** Petitioner withdrew its petition on September 6, 2018

**Docket No. 43931** - Appeal of M.E.N. Water Supply Corporation, Angus Water Supply Corporation, Chatfield Water Supply Corporation, Corbet Water Supply Corporation, and the City of Kerens for Review of a Decision by the City of Corsicana to Set Wholesale Water Rates  
**Date filed:** December 9, 2014  
**Status:** Petitioner withdrew its petition on August 7, 2020

**Docket No. 44050** - Petition of Nueces County Water Control and Improvement District No. 4 for Review of a Decision by the City of Corpus Christi to Change Wholesale Water Rates  
**Date filed:** December 31, 2014  
**Status:** Petitioner withdrew its petition on March 24, 2015

**Docket No. 44463** - Petition of Blueberry Hills Water Works, LLC Appealing a Decision by the City of Beeville to Change Wholesale Water Rates  
**Date filed:** February 18, 2015  
**Status:** Petitioner withdrew its petition on July 18, 2016

**Docket No. 45711** - Petition by Kempner Water Supply Corporation to Revise Rates for Wholesale Water Service to the City of Lampasas  
**Date filed:** March 9, 2016  
**Status:** Petitioner withdrew its petition on 3/20/2019

**Docket No. 46662** - Petition of the Cities of Garland, Mesquite, Plano and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates  
**Date filed:** December 14, 2016  
**Status:** After a hearing on the merits in Phase I, the PUCT found that the protested rates are adverse to the public interest; the parties are attempting to mediate a settlement on Phase II.

**Docket No. 47742** - Petitions of Fort Belknap Water Supply Corporation, Graham East Water Supply Corporation, the City of Bryson, and the City of Newcastle Appealing the Decision by the City of Graham to Change Wholesale Water Rates

**Date filed:** October 30, 2017

**Status:** Petition denied at Phase I on July 2, 2020

**Docket No. 47814** - Petition of High Point Water Supply Corporation, Talty Special Utility District, and Markout Water Supply Corporation Appealing a Decision by the City of Forney Affecting Wholesale Water Rates and Request for Interim Rates

**Date filed:** November 29, 2017

**Status:** Pending at the State Office of Administrative Hearings; hearing on the merits scheduled for December 16-18, 2020. This case is linked to Docket No. 46662 because the City of Forney is a Member City of NTMWD and the rates it charges to the Petitioners are based on the wholesale rate it pays to NTMWD.

**Docket No. 47862** - Petition of the City of Newcastle Appealing the Decision by the City of Graham to Change Wholesale Water Rates

**Date filed:** December 14, 2017

**Status:** This docket was consolidated with Docket No. 47742, and the petition was denied at Phase I on July 2, 2020.

**Docket No. 47863** - Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing the Decision by North Texas Municipal Water District Affecting 2018 Wholesale Water Rates

**Date filed:** December 15, 2017

**Status:** Pending at the State Office of Administrative Hearings; abated at the request of the parties pending the outcome of Docket No. 46662.

**Docket No. 47920** - Petition of the Beeville Water Supply District Appealing the Decision by the City of Corpus Christi to Change Wholesale Raw Water Rates

**Date filed:** January 3, 2018

**Status:** Petition dismissed at the request of the parties.

**Docket No. 49043** - Petition of the Cities of Garland, Mesquite, Plano and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates

**Date filed:** December 20, 2018

**Status:** Pending at the State Office of Administrative Hearings; abated pending the outcome of Docket No. 46662

**Docket No. 50382** - Petition of the Cities of Garland, Mesquite, Plano and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates

**Date filed:** December 19, 2019

**Status:** Not yet referred to the State Office of Administrative Hearings; abated pending the outcome of Docket No. 46662

**Docket No. 50433** - Petition of the City of Star Harbor Appealing the Decision by the City of Malakoff to Increase Wholesale Sewer Rates

**Date filed:** January 10, 2020

**Status:** Parties mediated an agreement and the petition was dismissed.

**Appeals of wholesale water rates received under Water Code 13.044 that governs rates charged by municipality to certain special districts.**

**Docket No. 42857** - Petition of North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10, and Wells Branch Municipal Utility District from the Ratemaking Actions of the City of Austin and Request for Interim Rates in Williamson and Travis Counties

**Date filed:** April 16, 2013 (Filed at TCEQ prior to the transfer of authority over the economic regulation of water from TCEQ to PUCT on September 1, 2014)

**Status:** Petition granted, and the PUCT set rates

**Docket No. 48836** - Petition of Paloma Lake Municipal Utility District No. 1, Paloma Lake Municipal Utility District No. 2, Vista Oaks Municipal Utility District, Williamson County Municipal Utility District No. 10, and Williamson County Municipal Utility District No. 11 Appealing the Wholesale Water and Wastewater Rates Imposed by the City of Round Rock

**Date filed:** November 12, 2018

**Status:** Remanded to the State Office of Administrative Hearings on August 13, 2020 for a Phase II hearing.