SOAH DOCKET NO. 582-11-1468
TCEQ DOCKET NO. 2010-1841-UCR

APPLICATION OF SJWTX, INC. DBA CANYON LAKE WATER SERVICE COMPANY TO CHANGE WATER RATES; CCN NO. 10692 IN COMAL AND BLANCO COUNTIES	§ § § § § § §	**BEFORE THE STATE OFFICE** **OF** **ADMINISTRATIVE HEARINGS**

THE EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Comes now the Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) and files these exceptions to the Proposal for Decision.

INTRODUCTION

The Executive Director (ED) still maintains that its position taken in closing arguments is the best result in this rate case. However, the proposal for decision (PFD) is well-reasoned and nearly all the differences between the PFD and the ED's position in closing arguments are the result of different, yet equally reasonable, deductions drawn from the same legal precedent and evidence. Therefore the substantive exceptions will be limited to two areas (detailed below). Additionally, theses exceptions include suggested corrections of math and typographical errors, the information requested in the PFD (final calculations of federal income tax, the resulting revenue requirement and rate design), and the impact of those calculations on the 51% rule and the settlement rule (found in Rule 291.28).

While most of the differences between the ED's position in closing arguments and the PFD do not rise to the level of requiring exceptions, there are two areas where the ED will present exceptions: (1) The Commission should apply a negative acquisition adjustment because without it Canyon Lake Water Service Company (CLWSC) will have

a rate base that includes cost free capital and there is no good cause to have the ratepayers give the utility over $4,000,000 in its rate base that it never invested and that the customers may have already paid for once; and (2) the possible implication from the PFD that a utility can choose to charge the customers for as many attorneys as it wants in depositions and trials with all of them charging hundreds of dollars per hour, and that the utility's decision is immune from review. It is patently unfair to allow the utility to have no limit to what it can spend on a rate case when the customers have no choice but to pay for as many attorneys as the utility wants to use to advocate its position for the higher rates.

Attached to these exceptions are four sets of rate designs.[1] The need to offer four alternatives is twofold. First, the PFD did not remove the cost free capital from rate base and the ED wants the Commission to have the option of removing cost free capital from the rate base. Second, the PFD's proposed rate design did not include tiered rates and the ED wants the Commission to have the option of using a tiered gallonage in the rate design.

The following topics will be discussed below:

1. **Cost free capital should be removed from the rate base**
2. **The order should not be interpreted to allow a utility to charge its customers for as many attorneys as it wants to use.**
3. **Suggested corrections of possible miscalculations in the PFD**
4. **The amount of Federal Income Tax to be included in CLWSC's revenue requirement and the resulting rate design**
5. **The application of the settlement rule and the 51% rule based on the proposed final rate design**
6. **The surcharge for rate case expense and refunds**
7. **Proposed Revisions to the findings of Fact and Conclusions of Law**
8. **Conclusion**

While the PFD gives a full factual background for the case, the ED would emphasize these key facts: the Applicant in this case bought the assets of the Water Supply Corporation for $26.5 million (plus some questionable and non-quantifiable

[1] The four rate designs are included in Attachments B and C. Attachment B does not have an acquisition adjustment and attachment C does. The first page of each of these attachments reflects the rate without tiers and the second page of each attachment reflect the rate with tiers.

values[2]). The net book value of those assets at the time of that purchase was $31.2 million.[3] Therefore, if the utility is allowed to collect return on anything more than 26.5 million for these assets, the customers are paying the utility a return on dollars it never invested.

1- COST FREE CAPITAL SHOULD BE REMOVED FROM RATE BASE

The ED and CEWR both maintain that CLWSC has cost free capital in its proposed rate base, but for different reasons. CEWR finds cost free capital in contributions to construction that were made while the customers operated the WSC and which were not deducted from rate base in the application. The ED finds cost free capital in the aggregate sale because the utility paid less than the net book value of the assets when the utility purchased the WSC.

The ALJs also agreed that their PFD leaves cost free capital in rate base. Specifically, page 54 of the PFD recites: "Furthermore the ALJs recognize that since they have declined to include a negative acquisition adjustment in the rate base, CIAC and cost free capital are included in CLWSC's invested capital."

Cost free capital is normally excluded from rate base pursuant to 30 TAC § 291.31(c)(3)(A)(5). The reasoning behind this exclusion is that while a utility is allowed to get a reasonable return on capital, the law does not favor the customers of a utility to fund a windfall profit to the utility by paying it a return on an investment it never made. *See, Bluefield Waterworks & Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679, 692-693 (1923) (discussing that a while a utility must be allowed enough of a return to attract capital, it is not authorized to recover windfall profits).[4]Furthermore, the underlying principle of all rate-making is to establish a rate that is fair and equitable to the utility and its customers. This "gold standard" for rate making was enunciated by the Legislature in Section 13.001 of the Texas Water Code,

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[2] Specifically, CLWSC maintains that it agreed not to file a new rate case for two years and that it generally anticipated that there would be a need for extensive capital infusion.

[3] The exact amounts are listed in the Sales Transfer Merger Document, CLWSC Exhibit 3.

[4] "A public utility... has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures."

entitled, "Legislative Policy and Purpose." Specifically, TWC 13.001(c) provides as follows: "The purpose of this chapter is to establish a comprehensive regulatory system that is adequate to the task of regulating retail public utilities to assure rates, operations, and services that are **just and reasonable to the consumers and to the retail public utilities**" (emphasis added).

It would not be just and reasonable to allow the utility to charge its customers a rate that includes a windfall by giving it a return on an investment it never made, and there is nothing unfair about denying the utility a return on an investment it did not make -- especially when there is no accountability in the form of invoices or financial records substantiating cash flows for that original cost. On the other hand, it is very unfair to make the customers pay rates that give the utility a windfall.[5] In this case it is particularly unfair because the customers already paid for many of the assets that they transferred to the utility with contributions for construction, did not recover the full net book value of the assets transferred at the time of the sale, and now are being required to give the utility a return on assets that the customers already paid for and for which they for which they did not recover in the sale. The customers already paid for many assets once when they were owned by the WSC and then, in effect, gave those assets they already paid for to the utility in the sale, and now are being called on to pay the utility a return on these same assets.

The ED's approach of using a negative acquisition adjustment to exclude cost free capital from rate base also differs from CEWR's approach because the ED still allows the utility to recover annual depreciation on the full net book value of the transferred assets without consideration that the utility paid less than full net book value in the transfer. This is because the rules regarding customer contributions to construction provide that customer contributions are not to be included in rate base and also are not to be allowed

[5] The concept that a utility should not make a return on an investment it never made is echoed in CLWSC's pre-filed testimony. Specifically, Mr. Loy testified that "Developer CIAC is excluded from rate base for the purpose of calculating return because the utility has not made investment upon which it should earn a return with respect to those plant assets. However, the depreciation expense related to Developer CIAC plant assets is specifically allowed per TCEQ rules, so these assets are included in the utility's rate base for this limited purpose." Pre-filed Testimony of Charles E. Loy, p. 13 l. 15 – 20. Incidentally, this is exactly the same approach used by the ED in the acquisition adjustment.

annual deprecation.[6] The Commission's past practice on setting rates when a system is purchased for less than net book value is sparse, but the *Technology Hydraulics* case[7] illustrates that if a utility pays less than net book value for an a set of assets, the utility can only get a return on what was paid, but that the utility would not have its annual depreciation decreased by such a negative acquisition adjustment to rate base.

On page 54 of the PFD, the ALJs contend that there is good cause to include the cost free capital in spite of the prohibition of 291.31(c)(3) because the aggregate CIAC numbers available could not be matched with specific assets and because non-IOUs and IOUs use different accounting conventions, which makes the records unreliable to use for remove individual, contributed assets from rate base. While one might maintain that this is good cause for allowing the utility to collect a return on assets that the utility never paid for, but instead were paid for by the customers, no good cause is given in the PFD to allow the utility to collect a return on the net book value of the assets purchased from the WSC even though the price paid was much lower. In other words, under the

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[6] Developer contributions are not treated the same way. A utility cannot get a return on developer contributions, but can get annual depreciation on developer contributions.

[7] *In the Matter of Technology Hydraulics, Inc.*, Docket No. 30089-R. A copy of the order in this case was admitted as ED-DL-23. A copy of that order is included with this filing and is labeled Attachment A. This case decided that negative acquisition adjustments do not change annual depreciation, but do change rate base. The key parts of the order are Conclusion of Law 10 and Finding of Fact 15. Conclusion of law number 10 states "Pursuant to Section 13.185(j) of the Texas Water Code, a negative acquisition adjustment cannot be applied to reduce a utility's depreciation expense on currently used, depreciable property owned by a utility." This conclusion relates to depreciation expense, not to adjustments to rate base. This is clarified in finding of fact 15 in *Technology Hydraulics*. In fact, the ED is exactly following *Technology Hydraulics* because the ED recommends no adjustment to depreciation expense due to the Acquisition adjustment. The ED is only using the negative acquisition adjustment to decrease rate base in order to keep the utility from including cost free capital in rate base. As in *Technology Hydraulics*, the ED is not using the negative acquisition adjustment to affect annual depreciation expense.

Even more important, if one turns to page 14 of ED-DL-23 and looks at finding of fact 16(g), *Technology Hydraulics* found that a negative acquisition adjustment would be applied; although it did not use the words "negative acquisition adjustment," the effect is functionally identical. That finding recites thusly: **"It is appropriate to consider the difference between the Utility's purchase price and net book value at the time of the sale in determining return on equity because pre-purchase equity was received at basically no cost and assigning a return on this portion of the Utility's equity under traditional considerations would result in an excessive and unreasonable allowance for associated risk."** (Emphasis added).

This is exactly the approach the ED is using in the present case. Therefore, *Technology Hydraulics* gives direct support for how the ED treated annual depreciation expense and rate base when a negative acquisition adjustment is involved.

PFD, the utility is allowed to include cost free capital in rate base without any good cause for excluding it.

The reasoning of the PFD is clear when it concludes that "the *Technology Hydraulics* case and 291.31(c)(3)(a)(v) seem to provide a regulatory basis for such an adjustment to rate base."[8] However, the ALJ's declined to use the negative acquisition adjustment because "TCEQ rules are silent on the use of a negative acquisition adjustment and the ALJ's could find no case that has used the adjustment as the ED proposes to do here."[9]

However, on the same page the PFD pointed out that: (1) the rules do not allow cost free capital and; (2) the *Technology Hydraulics* case specifically stated that the difference between net book value and purchase price should be excluded from rate base. Therefore, it appears that the TCEQ rules and past decisions actually do provide a legal basis and a precedent for exactly what the ED proposes to do in this case. In short, there is a rule stating that cost free capital is to be excluded from rate base and a decision that held a utility should get a return on purchase price rather than net book value when the purchase price (amount invested) is lower than that net book value.

Another possible basis for the PFD to decline to make the negative acquisition adjustment is that the term "negative acquisition adjustment" was not used in the *Technology Hydraulics* case and that there was some confusion because the rules spelled out what should happen in the event that a utility needs a positive acquisition adjustment, but do not set out details for how to treat negative acquisition adjustments. Neither of these arguments is persuasive either. The fact that the *Technology Hydraulics* case did not use the words "negative acquisition adjustment" is immaterial because the key to its decision was that the net book value exceeded the purchase price and that it would be unfair to allow the utility to get a windfall return on anything more than purchase price.

Similarly, the fact that procedures for a positive acquisition adjustment are outlined in the rules while those for a negative adjustment are not is also immaterial.

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[8] PFD at p. 48
[9] PFD at p. 48

Discussion of the policy reasons and law for allowing a negative acquisition adjustment in this case have been discussed above and can be summarized as follows: The utility paid less than the book value of the assets it received. An acquisition adjustment is, in broad terms, the difference between the purchase price and the net book value of the assets purchased. The purchase price is established by the STM (CLWSC Ex. 3) which reveals that the utility paid $26,497,000 for the assets of the WSC.[10] The net book value of the assets purchased, which was based on audited financial statements of the WSC, was $31,221,457. This is the value that the ED used as a starting factor in its calculation (described above) to determine the value of the assets purchased for the purposes of the amortized depreciation expense. However the ED does not support allowing the utility to make a return for these assets at the same value. To do so would allow the utility to collect a return on millions of dollars more than it invested which would violate the prohibition against allowing a return on cost free capital, and that of a reasonable return on investment. Acquisition Adjustments are defined in 30 TAC §291.3(1).

1) Acquisition adjustment--
   A. The difference between:
      i. the lesser of the purchase price paid by an acquiring utility or the current depreciated replacement cost of the plant, property, and equipment comparable in size, quantity, and quality to that being acquired, excluding customer contributed property; and
      ii. the original cost of the plant, property, and equipment being acquired, excluding customer contributed property, less accumulated depreciation.

Section 291.31(d) of title 30 of the Texas Administrative Code allows for the inclusion of positive acquisition adjustments provided the utility can prove a list of prerequisites. Those requirements are fairly onerous.[11] CLWSC contends that, because

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[10] CLWSC Ex. 3, p. 5 of 22 Bates 001031. Tr. p. 130 l. 20 – p. 131 l. 6

[11] (1) For utility plant, property, and equipment acquired by a utility from another retail public utility as a sale, merger, etc. of utility service area for which an application for approval of sale has been filed with the commission on or after September 1, 1997, and that sale application closed thereafter, a positive acquisition adjustment will be allowed to the extent that the acquiring utility proves that:

(A) the property is used and useful in providing water or sewer service at the time of the acquisition or as a result of the acquisition;

(B) reasonable, prudent, and timely investments will be made if required to bring the system into compliance with all applicable rules and regulations;

(C) as a result of the sale, merger, etc.:

there is no similar list of necessary showings for a negative acquisition adjustment, that none is allowed. That position is incorrect. When a utility is seeking a positive acquisition adjustment it is attempting to impose what would appear on its face to be an unreasonable cost on its customers. Therefore, it only makes sense to require the utility to make a clear showing that it is reasonable to charge the customers for a positive acquisition adjustment. On the other hand, a negative acquisition adjustment is not an additional burden on the customers. The only showing necessary for a negative acquisition adjustment is that the utility has records showing that it paid less for a utility than the value of the assets it obtained, and an order by the Commission. In fact, the PUC has noted this exact reasoning. Specifically, the examiner's report in one case included the following discussion:

(i) the customers of the system being acquired will receive higher quality or more reliable water or sewer service or that the acquisition was necessary so that customers of the acquiring utility's other systems could receive higher quality or more reliable water or sewer service;

(ii) regionalization of retail public utilities (meaning a pooling of financial, managerial, or technical resources that achieve economies of scale or efficiencies of service) was achieved; or

(iii) the acquiring system will become financially stable and technically sound as a result of the acquisition, or the system being acquired that is not financially stable and technically sound will become a part of a financially stable and technically sound utility;

(D) any and all transactions between the buyer and the seller entered into as a part or condition of the sale are fully disclosed to the executive director and were conducted at arm's length;

(E) the actual purchase price is reasonable in consideration of the condition of the plant, property, and equipment being acquired; the impact on customer rates if the acquisition adjustment is granted; the benefits to the customers; and the amount of contributions in aid of construction in the system being acquired;

(F) in a single or multi-stage sale, the owner of the acquired retail public utility and the final acquiring utility are not affiliated. A multi-stage sale is where a stock transaction is followed by a transfer of assets in what is essentially a single sales transaction. A positive acquisition adjustment is allowed only in those cases where the multi-stage transaction was fully disclosed to the executive director in the application for approval of the initial stock sale. Any multi-stage sale occurring between September 1, 1997 and February 4, 1999 is exempt from the requirement for executive director notification at the time of the approval of the initial sale, but must provide such notification by April 5, 1999; and

(G) the rates charged by the acquiring utility to its preacquisition customers will not increase unreasonably because of the acquisition.

(2) The amount of the acquisition adjustment approved by the regulatory authority must be amortized using a straight line method over a period equal to the weighted average remaining useful life of the acquired plant, property, and equipment, at an interest rate equal to the rate of return determined under subsection (c) of this section. The acquisition adjustment may be treated as a surcharge and may be recovered using non-system-wide rates.

(3) The authorization for and the amount of an acquisition adjustment can only be determined as a part of a rate change application.

(4) The acquisition adjustment can only be included in rates as a part of a rate change application.

> "As was noted in Section III (B)(2), allowance of an acquisition adjustment is dependent upon two requirements being met. First, the purchase price must be reasonable. Second, specific and offsetting benefits to the ratepayers must be shown. Such a test is of little use when dealing with a **negative acquisition** adjustment. A "bargain" purchase is almost inherently at a reasonable price. While it is conceivable that a purchase price, while below book value, could still be above fair market value, such circumstances do not indicate an acquisition adjustment is improper, but only that a larger one is required. That is not the case here. The second prong of the test is a balancing one: the cost to ratepayers of the acquisition adjustment must be offset by specific benefits already received. With a **negative acquisition** adjustment, there are no costs to the ratepayers which need be offset. Indeed, failure to grant the adjustment would provide a windfall to the company...."[12]

The ED recognizes that negative acquisition adjustments have rarely been addressed by order of the TCEQ or its predecessors in rate cases in the past. The ED believes that in some cases, negative acquisition adjustments should not be ordered for ratemaking purposes. However, in this case, due to the CIAC issues, original cost issues, cost free capital issues, and the issue of the sale between a non-utility, customer-owned WSC and a utility, the negative acquisition adjustment should be used to represent cost free capital. The ED also believes that nothing in the Water Code or rules prohibits the Commission from adjusting the invested capital for cost free capital associated with a sale. Generally accepted accounting principles deemed the appropriate "original cost" at the time of the sale was that reflected by the WSC's audited financial statements. This is how CLWSC recorded the assets and produced the acquisition adjustment in its general ledger and financial statements. SJW's financial statements are also audited and reflect this treatment after the purchase. SJW is not a small "mom and pop" investor owned utility without resources. The ED believes that ignoring cost free capital, represented by

[12] Application of Alexa Enterprises, Inc. D/B/A Engel Utility Company for a Rate Increase, 10 Tex. P.U.C. Bull. 119, 1984 WL 274025 (TX PUC)

the acquisition adjustment, in this case is a windfall to CLWSC that should not be given.

Furthermore, it is consistent with the principle of setting fair rates that a utility should not be able to make its customers pay a return on a good deal that the utility obtained. The customers should not fund the utility's windfall -- especially, in this case, where the customers are the same group of people who sold the WSC assets at less than its book value. To allow the utility to get a return on the net book value of assets it acquired at a lower price would allow the utility to get a return on cost free capital because the difference between the net book value and the purchase price is an investment the utility never made. Therefore, there is legal support under 30 TAC §291.31 (c)(3)(A)(v) for applying the negative acquisition adjustment that is quantified in CLWSC's books.[13]

The PFD shows a reluctance to break new ground by actually using the words "negative acquisition adjustment" when reducing rate base by the difference between the price paid and net book value, and such caution is prudent. The ED concedes that the Commission has had few opportunities to directly address how and when to apply a negative acquisition adjustment. The ED contends that this is a very good case for a negative acquisition adjustment because of the fact that the current customers are the same people who already paid for the assets once, and to make them pay a second time in addition to a return on assets they purchased is inequitable.

There also is no force to another unspecified possibility for "good cause" to include cost free capital in rate base; namely, that the utility should be rewarded for upgrading the systems it purchased to give incentives for such upgrades. The ED readily admits that the utility did upgrade these systems, solved a disinfectant by-product problem, and is successfully getting the systems off of ground water reliance. However, the utility already has listed all of its investments to make those improvements and they are all in the rate base. Additionally, even though the utility only paid $26.5 million dollars for the

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[13] (A) Miscellaneous items. Certain items that include, but are not limited to, the following:
(i) accumulated reserve for deferred federal income taxes;
(ii) unamortized investment tax credit to the extent allowed by the Internal Revenue Code;
(iii) contingency and/or property insurance reserves;
(iv) contributions in aid of construction; and
(v) other sources of cost-free capital, as determined by the commission.

purchased assets, the ED's recommendation and the PFD both allow the utility to collect annual depreciation for these assets at the net book value of $31.2 million. In other words, the utility will be recovering approximately 4.7 million dollars more than it actually paid for these items. This is consistent with the decision in *Technology Hydraulics*, which decided that a negative acquisition adjustment would not be applied to annual depreciation expense, but would be used to decrease rate base. The ED contends that allowing the utility to collect more in annual depreciation than it actually spent adequately compensates the utility for taking the risk and upgrading the systems. The customers are already paying a rate that makes them pay a second time for the assets through depreciation expense. It is unfair to also make the customers give the utility a return on this phantom investment that the customers actually gave to the utility after those same customers purchased those assets with contributions.

CONCLUSION AND RECAP OF THE ED'S POSITION ON REMOVING COST-FREE CAPITAL FROM RATE BASE

Texas law states that "...the commission may not prescribe any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public."[14] In this case, three estimates of original cost for older assets were put forth by the different parties. CEWR's estimate includes deductions for CIAC. It is clear, as the PFD relates, that customer contributions in aid of construction exist for the assets purchased from the water supply corporation. The records were incomplete for many of the assets CLWSC purchased from the WSC including assets that may have been purchased with CIAC. The utility made no estimate for these contributions made, even though it did see fit to include estimations for plant in service that also had inadequate documentation. The ED has relied on the books and records of SJWTX d/b/a CLWSC to determine the original cost of plant and equipment. The ED's calculations allow depreciation to be recovered on that part of plant in service that exceeds the dollars invested by SJWTX, due to a discounted purchase price paid to the water supply

[14] TWC § 13.184(a)

corporation for its assets, resulting in a negative acquisition adjustment, in accordance with the Texas Water Code.

The ED contends that ignoring the acquisition adjustment, in this case, for rate making purposes would fly in the face of Texas Water Code Section 13.184(a) as well as the rule disallowing cost free capital, and would prescribe a rate that would yield more than a fair return on invested capital. The ED believes that if cost free capital is not removed from the rate base, the return dollars allowed in this case will be excessive. Because "invested capital" begins with original cost in Texas, adjustments to the net plant due to dollars invested by the utility (or not invested by the utility) must be made to get to a reasonable invested capital number. The ED has demonstrated the result of not adjusting net invested capital in closing arguments with the following chart. The chart reflects equity on the balance sheet versus "net invested capital" calculations for rate making purposes in Texas. When reviewing a reasonable and necessary return, the TCEQ must look at the net invested capital, the rate of return, and also the resulting dollars produced when compared to actual dollars invested as reflected on the balance sheet of an entity.

Chart 1-Comparison of Return on Balance Sheet Equity (ED closing arguments, footnotes omitted)

	A	B	C	D		E	F
1	Capitalization	Shareholder Equity	Long term Debt (6.5%)	Total Capitalization		Return on Stockholder Equity per Balance Sheet)	Return on Rate Base Equity recommended
2	Per Balance Sheet	$11,469,287	$15,971,401	$27,440,688			
		Return Dollars	Interest Expense	Equity Return Dollars (A-B)			

3	CLWSC Return Dollars or Interest Expense	$ 3,597,686	$1,038,141	$2,559,727 (B-C)		22.3%	12%
4	Executive Director Return Dollars or Interest Expense	$2,161,660	$1,038,141	$1,123,519 (B-C)		9.80%	9.88%

The above chart illustrates the "real world" returns that will be generated by the utility under its proposed rate of return and the ED's proposed rates at trial. "Rate base," in the regulatory sense, is a number generated by policy considerations and is used only to calculate rates. The books of the utility reflect the actual flow of dollars through the utility. It should be noted that the ED has not objected to the higher 10.88% rate of return on equity in the PFD. This would further increase the return dollars estimated in the chart under the ED's recommendation.

The negative acquisition adjustment exists as a part of the accounting records of this utility, whether it is included for ratemaking purposes or not. It was born in the recording of the discounted purchase price of the water supply corporation on the books and records of Canyon Lake in accordance with generally accepted accounting principles and rate accounting. The TCEQ must determine whether or not it is a good representation of cost free capital. The ED believes it is.

The TCEQ prescribes forms of accounting for water utilities in Texas. 30 TAC §291.72-74 give general guidance to utilities in this area. Accounting records provide written evidence on the performance of a utility, and give historical information on profit, actual return on investment, and assets, and thus, the utilities in Texas are "held accountable" for their use of the dollars collected from the customers. In this case, the TCEQ must still tell SJWTX d/b/a CLWSC how to account for the acquisition adjustments now and in the future; The ED recommends that CLWSC be ordered to amortize the net acquisition adjustment as of the end of the test year as CLWSC has

done in the past and carry it on its books as such, but separate future purchases without amortization or rate treatment until a future rate case addresses them; Debi Loockerman's supplemental testimony included the following statement: "I recommend that sub accounts be kept for each future purchase or sales transaction and that those purchases be reviewed in conjunction with TCEQ rules and regulations for treatment of any future acquisition adjustments in future cases. The ED recommends they be treated separately from the net acquisition adjustment in this case because if netting is allowed in the future, positive acquisition adjustments would reduce the bargain purchase currently being considered in conjunction with the sale of the WSC assets." The ED continues to recommend that after the current rate case, any sales or purchases be recorded per GAAP and NARUC conventions, the acquisition adjustments to be carried on the books and reviewed in the future for rate treatment and proper amortization.

The ED's position, as reflected in the testimony of Debi Loockerman, CPA, is that sub accounts be kept for each future purchase or sales transaction and that those purchases be reviewed in conjunction with TCEQ rules and regulations for treatment of any future acquisition adjustments in future cases and that they be treated separately from the net acquisition adjustment in this case because if netting is allowed in the future, positive acquisition adjustments would reduce the bargain purchase currently being considered in conjunction with the sale of the WSC assets.[15] Because the ED recommends reduction of net invested capital for cost free capital in the amount of the net acquisition adjustment, future positive acquisition adjustments would reduce the net acquisition adjustment (if combined), and therefore, lower the reduction of cost free capital as an offset to rate base until it disappeared without meeting the regulatory requirements for positive acquisition adjustments.

The bottom line is this: TCEQ rules do not allow a utility to include cost-free capital in rate base unless there is good cause to allow the utility to make the customers give it a return on an investment the utility never made. No such good cause has been demonstrated to justify making the customers pay the utility a return that includes cost-

[15] Such an approach would allow positive acquisition adjustments without meeting the requirements at 30 TWC §291.31(d).

free capital that those same customers already paid for. Additionally, in order to remain consistent with the approach used in *Technology Hydraulics*, the ED's recommendation still allows the utility to include in rates depreciation expense for assets the customers already paid for and which the utility did not pay for.

The ALJs were understandably reluctant to connect these dots (cost free capital, unreasonably high return, and *Technology Hydraulics*) and take a policy position that has not been clearly stated by the Commission. The PFD makes it clear that the ALJs realize that the refusal to make adjustments for the acquisition and CIAC puts cost free capital in rate base. The decision regarding whether a utility can get a return on cost free capital because negative acquisition adjustments won't be recognized in Texas is clearly now in the hands of the Commission. The specific facts of this case showing that the cost free capital was acquired by the utility from the very people who originally bought the assets and who will pay the rates makes one of the clearest cases imaginable for allowing a negative acquisition adjustment. Therefore, if the Commission does not require a negative acquisition adjustment, the policy of the Commission will be clear that a negative acquisition adjustment will not be made even if it results in the utility including cost free capital in rate base. The ED maintains that the adjustment is required by law and policy.

2- THE ORDER SHOULD NOT BE INTERPRETED TO ALLOW A UTILITY TO CHARGE ITS CUSTOMERS FOR AS MANY ATTORNEYS AS IT WANTS TO USE

The ED agrees with the PFD's analysis of the rate case expense issue and is grateful for its clear explanation of an issue that has created confusion in the past. Excessive rate case expenses have been a central concern of Texas ratepayers and the focus of much legislative inquiry. Rate case expenses in a utility case should be treated differently than how attorneys' fees are awarded in cases involving deceptive trade practices and the like. The ratepayers who are being called upon to reimburse the expenses are not people who have done some wrong to someone seeking recompense. The customers have to participate in the rate case if they want to have input on the rates they will pay for their water, and if they do not participate, they still have to pay the rate

case expense surcharge. The utility should only be entitled to collect rate case expenses that are necessary to obtain adequate representation to preserve its financial integrity rather than to collect as much as it spends. If utilities are guaranteed to collect every cent they spend, there is no incentive to put a limit on the amount they will spend. The PFD's acknowledgment of these policies is central to solving the problems customers have perceived and legislators are investigating.

However, one portion of the PFD could be read to authorize a utility to bring as many attorneys as it wants to depositions and trial, have them all bill at rates of hundreds of dollars per hour and have the customers pay for all of it with no review. The sentence of the PFD that could be misinterpreted was a response to the ED's position that CLWSC should only recover the fees for one attorney at each deposition rather than multiple attorneys and that the trial could have been handled by two of the most experienced rate case attorneys in Texas without including charges for yet a third attorney. The ED cited the Georgia Pacific case as support for making such a reduction. Specifically, the following excerpt explains how such reductions can be made.

> Although hours claimed or spent on a case should not be the sole basis for determining a fee... they are necessary ingredient to be considered. The trial judge should weigh the hours claimed against his own knowledge, experience, and expertise of time required to complete similar activities. If more than one attorney is involved, the possibility of duplication of effort along with the proper utilization of time should be scrutinized. The time of two or three lawyers in a courtroom or conference when one would do, may obviously be discounted. It is appropriate to distinguish between legal work, in a strict sense, and investigation, clerical work, compilation of facts and statistics and other work which can often be accomplished by non-lawyers, but which a lawyer may do because he has no other help available. Such non-legal work may command a lesser rate. Its dollar value is not enhanced just because a lawyer does it.[16]

[16] *Georgia Highway*, 488 F. 2d at 717 (emphasis added)

The ED has no problem with the ALJs having a different opinion as to the number of attorneys necessary for deposition or trial. While the ED still is of the opinion that one attorney is plenty for a deposition and two experienced attorneys for trial, the ED can support the ALJs differing opinion as reasonable. However, the language in the PFD that the "ALJs will not second guess attorney strategy or preparation"[17] could be read to mean that the utility can bring an unlimited number of attorneys and consultants to a deposition or trial with no review possible of these decisions. This would leave the utility with no incentive to limit spending because, in the end, the customers will pay for all of it, and the more the utility spends, the more likely it will get a higher rate. The bill for extraordinary overkill to ensure high rates will all be paid for by the customers who, ironically, will eventually pay those higher rates that were obtained by attorneys and consultants those same customers paid for. The ED recommends that it be made clear that allowing a utility to make its customers pay for three attorneys for every day at trial and multiple attorneys to attend depositions is limited to the specific complicating facts of this case.

As will be shown below, the utility did not obtain at least half of the amount of revenue that it asked for; therefore, no rate case expenses should be awarded. The reasoning for this rule has been explained by the Commission in the preamble to the adoption of the rule. More explanation of the application of this rule will be given below, but reference to the preamble is appropriate here because it explains why the PFD correctly analyzed how rate case expenses should be treated. In promulgating rules specifically relating to rate case expenses the Commission has written the following:

> "Additionally, the commission adopts the addition of 291.28(7) – (9) to establish criteria by which the commission can determine the amount of reasonable and just rate case expense recovery allowed a utility based upon concerns about rate case expenses expressed by utility customers. Utility customers have expressed concern over the possibility that utilities may have an incentive to overreach in their applications if utilities believe that the customers will ultimately bear all rate case expenses. The purpose of this

[17] PFD at p. 112

> rule change is to set out clearly certain instances when, as a matter of law, rate case expenses will be considered unreasonable, unnecessary, and against the public interest. In particular, two rules are adopted where rate case expenses will be disallowed as a matter of law [Sections 291.28(8), the 51% rule – and section 291.28(9), the settlement rule].... Section 291.28(7) was also added to make clear that all rate case expenses will be evaluated to see if they are reasonable, necessary, and in the public interest on a case-by-case basis. Therefore, even if the criteria outlined in the new 291.28(8) or (9) are not met, the commission may still disallow all or a portion of rate case expenses in its discretion if they are not found to be reasonable, necessary, and in the public interest."[18]

3- SUGGESTED CORRECTIONS OF POSSIBLE MISCALCULATIONS IN THE PFD

The ED agrees with the ALJ's recommendation that the "known and measurable" bad debt expense proposed by CLWSC of $47,736 should be removed from the cost of service as reflected on page 74 of the proposal for decision. However, the ALJ's calculations for the category of office expense on page 75 of the PFD did not reflect this reduction.[19] It would appear that this was a clerical error. Therefore, the ED's rate designs attached to these exceptions have removed bad debt from the cost of service. Specifically, the ED has removed $47,736 from office expense, resulting in an equal reduction to the operations and maintenance expense with flow through changes to working capital, federal income taxes, and the reduction in rate base for accumulated deferred federal income tax. If the ED has incorrectly identified this as a clerical error in the PFD, the ED can revise its calculation in short order.

[18] 31 Tex. Reg. 8107 (September 22, 2006)

[19] The effect of making this correction on the total revenue requirement is detailed in attachment E and the rate designs (Attachments B and C)

4- THE AMOUNT OF FEDERAL INCOME TAX TO BE INCLUDED IN CLWSC'S REVENUE REQUIREMENT AND THE RESULTING RATE DESIGN.

After determining the amount of return that would be generated under the PFD, the ED, in accordance with the ALJ's request, has determined that the amount of federal income tax to include in the revenue requirement would be $709,845 without an acquisition adjustment and $572,600 with an acquisition adjustment. When the amount without the acquisition adjustment is added to the rest of the ALJs calculations the rate design attached hereto as attachment B results. The ALJs PFD did not clarify whether the ALJs wanted a tiered rate or a flat rate on all gallonage usage. Page 1 of attachment B does not include a tiered rate. Page 2 of attachment B does include a tiered rate. In order to encourage conservation, the ED recommends the tiered rate be used.

Because the ED vigorously advocates that the utility's rate base be decreased by the cost free capital represented by a negative acquisition adjustment, the ED also has added Attachment C, which represents rate designs that include all of the PFDs calculation, but also include a negative acquisition adjustment. Page 1 of attachment C does not include a tiered rate and page 2 of attachment C does.

5- THE APPLICATION OF THE SETTLEMENT RULE AND THE 51% RULE BASED ON THE PROPOSED FINAL RATE DESIGN

These exceptions also include attachment D, which graphically shows the application of the 51% rule. The 51% rule is found in 30 TAC §291.28(8). It provides as follows: "A utility may not recover any rate case expenses if the increase in revenue generated by the just and reasonable rates determined by the commission after a contested case hearing is less than 51% of the increase in revenue that would have been generated by the utilities proposed rate." This rule is designed to deter overreaching in rate case applications and to use rate case expense expectations as a method of obtaining a favorable settlement.

Attachment D outlines the calculations needed to determine whether the 51% rule is met. The exhibit illustrates the revenue generated by the previous rates is

$6,917,243. The revenue generated by CLWSC's proposed rates is $11,568,442. Therefore, the increase in revenue that would be generated by the utility's proposed rates is $4,651,199. This is the denominator in calculating the 51% rule. The numerator would be the increase in revenue that would be generated by the "just and reasonable rates as determined by the commission." If the resulting ratio is less than 51%, the applicant may not recover any rate case expense. At this time, the final commission decision on the rates is unknown. However, as illustrated in Attachment D, CLWSC cannot meet the requirements of the 51% rule under the PFD. If the PFD's revenue requirement is approved by the Commission, the utility will only generate 48.7% of the revenue that would have been generated by the proposed rates. If the cost free capital is removed from rate base, as the ED advocates, then the utility would generate 40.2% of the revenue that would have been generated by the proposed rates. As indicated in the preamble to the rule adoption, the 51% rule was meant to deter the perceived practice of overreaching in applications and then using the specter of large rate case expenses to obtain a favorable settlement. In particular, if a utility could not justify at least half of what it asked for, it is determined as a matter of law that all rate case expenses are not in the public interest. While it may appear draconian, the practice of overreaching and over-litigating cases is at least equally drastic in the rates that the ordinary people have to pay in order to obtain water – a necessity of life. The passage of the rule should have sent a clear message to the regulated community to avoid over-reaching in applications. In order to put teeth into that rule, it must be applied when it is invoked.

Therefore, the ED recommends that the Commission not award any rate case expenses in this case. In the event that the 51% rule is somehow found not to be applicable to this case, the ED recommends that the utility collect the amount determined in the PFD to be reasonable, necessary, and in the public interest. However, the order should make it clear that the allowance of two attorneys at every deposition and three attorneys at trial should be limited to the complicated facts of this case and not stand for the proposition that a utility may use as many attorneys as it wants whenever it wants without any review by the regulatory authority. The amount should be recovered from the customers over the next two years. The accounting for recovery of

rate case expense should be subject to the restriction and requirements outlined in the PFD.

The Settlement Rule is found in 30 TAC §291.28(8). It provides as follows: "A utility may not recover any rate case expenses incurred after the date of a written settlement offer by all ratepayer parties if the revenue generated by the just and reasonable rate determined by the commission after a contested case hearing is less than or equal to the revenue that would have been generated by the rate contained in the written settlement offer." Exhibit ED-9 (admitted at trial) reveals that a settlement offer was made on 7/21/11 for a 20% increase in the revenue requirement. A 20% increase would lead to the generation of $8,300,692 in annual revenue. Because both the PFD and the ED recommendations would generate more revenue than that amount, the settlement rule has no application. Furthermore, if the revenue generated by the final commission ordered rates generated less than what the settlement offer would generate, then the 51% rule would already have blocked the recovery of any rate case expenses. However, should further calculations be necessary under the settlement rule, the ED's staff is ready to provide any assistance necessary.

6- THE SURCHARGE FOR RATE CASE EXPENSE AND REFUNDS

Because the utility did not meet the requirements of the 51% rule, there will be no surcharge for rate case expenses. However, refunds should be ordered because the rate being charged by the utility is greater than the final approved rates. Calculating the amount of refunds in a rate case is nearly impossible because each customer is entitled to a refund of the difference between what they paid under the proposed or interim rates and the final rates ordered by the Commission. The ED does not have access to what each customer paid and the number would change with each individual account, primarily because each customer will use a different amount of gallons. Additionally, each customer may have consumed gallons in different tiers. Moreover, some customers will have moved in or out during the pendency of the case. A remand makes the

calculation no easier because after the remand, more bills will be issued and therefore more uncertainty will be created by differing gallonage usage and people connecting and disconnecting service during the remand.

The most appropriate way to order refunds is to order the utility to calculate and make the refunds to each customer. The utility is the only entity with access to the data necessary to calculate refunds. However, the ED can make its best estimate of what refunds should be by making the gallonage tiers match exactly with those charged during the pendency of the case. This limits the difference between the price billed during the pendency of the case and the final approved rates to the base rate and eliminates the difficulty with different gallonage usages. However, a problem would still exist because some of the current customers may have been connected during the pendency of the case and some may have disconnected during the pendency of the case. This approach will only work if the tiered rates are used because of the impossibility to account for different gallonage usages at different tiers. If it is assumed that all the customers at the end of the test year were customers during the entire pendency of the case and will remain customers until all refunds are made, then the difference between the monthly base rate charged by the utility for a standard residential meter[20] and the final approved rates would reflect the amount of overcharges accurately. Under the PFD with the same tiers for gallonage as the interim and initial phase one proposed rate, the base rate goes down from $41.68 to $40.02, resulting in refunds to the customers of $1.66 per month for each month that the utility collected the proposed or interim rate. Under the PFD with the acquisition adjustment and with the same tiers for gallonage as the interim and initial phase one proposed rate, the base rate for the standard residential meter goes down from $41.68 to $36.89, resulting in refunds to the customers of $4.79 per month for each month that the utility collected the proposed or interim. These numbers are reflected on the second pages of attachments B and C. The differences for the other meter sizes can also easily be derived from comparing those

[20] $41.68 was the phase one rate and the interim rate. The customers began paying this higher rate on October 27, 2010 for Canyon Lake Shores, North Point, Rust Ranch, Stallion Springs, Summit North, and Triple Peak – the Glenwood customers began paying the proposed rate on 11/27/10. They will continue paying this higher rate until the final commission rate is ordered).

attachments with the interim rates found in Order No. 2.[21] Because the customers will continue paying the interim rates until the final commission order is entered, the exact amount of the refunds cannot be calculated.

Because the calculation of exact refund amounts depends on information uniquely available to the utility, the ED recommends that the refunds be ordered to be calculated by the utility and if such refunds are not made, the utility would be subject to an enforcement action.

7- PROPOSED REVISIONS TO THE FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact may need adjustment.

Number 68. This finding of fact lists the items to be included in rate base. As listed in the PFD it does not include a negative acquisition adjustment to remove cost free capital. Findings of Fact 59 and 60 make it clear that cost free capital is in rate base. Therefore, the ED recommends taking the cost free capital out with a negative acquisition adjustment. The ED used the amount that CLWSC carried on its books as the appropriate negative acquisition adjustment amount. Therefore, the ED recommends that finding of fact 68 be changed to include a negative acquisition adjustment. Additionally, even without the negative acquisition adjustment, the bad debt reduction clerical error would change the rate base determination without the acquisition adjustment. Therefore, this finding of fact should be changed to read thusly:

[21] The interim rates were the same as the phase one proposed rates.

Rate Base with Acquisition Adjustment

Item	Amount
Original Cost	$64,206,901
Accumulated Depreciation	<$11,248,825>
Net Book Value	$52,958,076
Working Cash Allowance	$619,759
Material and Supplies	$361,235
Prepayments	$4,900
ADFIT	<$286,300>
Developer CIAC	<$14,812,965>
Advances	<$772,550>
Cost Free Capital (Acquisition Adjustments)	<4,014,207>
Total Rate Base (Total Invested Capital)	**$34,057,948**

Rate Base without Acquisition Adjustment

Item	Amount
Original Cost	$64,206,901
Accumulated Depreciation	<$11,248,825>
Net Book Value	$52,958,076
Working Cash Allowance	$619,759
Material and Supplies	$361,235
Prepayments	$4,900
ADFIT	<$354,922>
Developer CIAC	<$14,812,965>
Advances	<$772,550>
Cost Free Capital (Acquisition Adjustments)	<$0>
Total Rate Base (Total Invested Capital)	**$38,003,533**

Number 89. Because of the clerical error regarding bad debt expense, the finding of fact relates the wrong amount for office expenses. That number should be changed to $284,392.

Number 90. This finding of fact did not subtract the bad debt from office expenses even though finding of fact 82 relates that the alleged know and measureable bad debt expense should be excluded. The finding should be updated to reflect the information in this chart:

Category	Amount
Salaries	$1,084,930.55
Contract Services	$289,988
Purchased Water	$1,141,619
Chemicals and Treatment	$91,100
Utilities	$459,763
Repairs and Maintenance	$996,704
Office Expenses	$284,392
Accounting and Legal	$84,359
Insurance	$311,422
Miscellaneous	$213,798
Total	**$4,958,076**

Number 93. The ALJs requested the ED to calculate federal income taxes and fill in the blank. This finding of fact should read as follows: CLWSC's reasonable and necessary annual federal income taxes total if rate base is decreased by $572,600 the acquisition adjustment or $709,845 if an acquisition adjustment is not applied .

Number 107. This finding of fact should be changed to accommodate the negative acquisition adjustment to rate base. The finding is correct insofar as it relates to annual depreciation, but it should not be read to apply to how negative acquisition adjustments

occur to rate base. Because CLWSC's acquisition account includes positive and negative acquisition adjustments, effects in rate base cannot be made simply on the accounting books of the utility. Positive Acquisition adjustments to rate base are only allowed if the Commission considers and approves such under the criteria outlined in 291.31(d) . Therefore, CLWSC may amortize the balance of the Acquisition Account below the line for purchases made prior to 3/31/10(the end of the test year considered in this application). CLWSC must treat future purchases in accordance with TCEQ rules and not award itself a positive acquisition adjustment without consideration of the regulatory approvals necessary. Finding of fact 107 should read as follows: CLWSC's proposal to maintain its negative acquisition amounts on its books, amortize the amounts over time, and omit those amounts from ratemaking calculations is reasonable insofar as it applies to annual depreciation/amortization expense. However, the negative acquisition adjustment is needed to remove cost free capital from rate base.

Number 110. This finding of fact needs to be revised because it maintains that the $3.2 million dollars represent an amount paid to Bexar Met for a CCN. The record reveals that much of this account is actually CLWSC's own attorneys' fees for obtaining the transfer and under this finding of fact, it is possible that the attorneys fee would be included in rate base, earn a return, and be depreciated. This is improper and a result that should be avoided. Additionally, Bulverde was also involved in the transaction and it is unclear whether the payments went to Bulverde or Bexar Met. Therefore this finding of fact should be changed to read as follows: CLWSC's audited books include approximately 3.2 million in costs that represent an amount paid in the transaction with Bexar Met and Bulverde to acquire a large CCN area.

Number 115. Because the rates charged by the utility under the interim and proposed phase one rates both exceed the final recommendation of the PFD and the PFD with the acquisition adjustment, refunds relate to the first date that CLWSC began charging new rates rather than the date that the phase two rates were originally scheduled. Therefore this finding of fact should be deleted, and the following findings substituted therfor:

- The utility began charging its phase one rates on 10/27/10 for all subdivisions other than Glenwood, which was subject to the increased rate on 11/27/10.

- The customers are entitled to refunds for all amounts collected in excess of what would have been due under the Commission's final approved rates.

- Calculation of the specific refunds to each customer depends on billing details that change every month until the final order is entered.

- Only the utility has access to the information necessary to calculate the specific refund amount to each customer.

These finding are not numbered above because the numbering of all findings will change if these revisions are adopted. Additionally, if the Commission would rather have the order include exact amounts, the ED can calculate those amounts in less than an hour using the base rate differences discussed above.

Number 134. This finding of fact needs to reflect the amount of increased revenues that will be generated by the commission's final approved rates. The number will be different than that in the PFD if the negative acquisition adjustment is used. Attachment D lists the annual revenue increases under both scenarios. If the acquisition adjustment is not applied, the finding of fact should read as follows: CLWSC's just and reasonable rates as determined by the Commission will generate $9,180,677 in annual revenue. If the acquisition adjustment is applied then the finding should read thusly: CLWSC's just and reasonable rates as determined by the Commission will generate $8,788,550 in annual revenue.

Number 135. Without the acquisition adjustment, this finding should read as follows: CLWSC's just and reasonable rates as determined by the Commission after this

contested case hearing will increase its annual revenue by $2,263,434. With the Acquisition adjustment the finding of fact should read thusly: CLWSC's just and reasonable rates as determined by the Commission after this contested case hearing will increase its annual revenue by $1,871,307.

Number 136. Without the acquisition adjustment this finding of fact should read as follows: $2,263,434 is 48.7% of $4,651,199. With the acquisition adjustment this finding of fact should read as follows: $1,871,307 is 40.2% of $4,651,199.

Number 137. The answer to this request for filling in the blank is the same under either scenario. This finding of fact should be this: CLWSC's new rates generate less than 51% of the increase in revenue that would have been generated by CLWSC's proposed rate.

Number 140. This finding of fact is unnecessary because the settlement rule isn't in play. However, if the finding is to be completed then the blank would be filled with $9,180,677 if the acquisition adjustment is not use to remove cost free capital and would be $8,788,550 of the cost free capital represented by the acquisition adjustment is removed.

Number 141. Because the 51% rule was not met, this finding of fact is unnecessary. If the utility were allowed to collect its rate case expenses, then the correct surcharge would be $856,742 divided by the number of connections (9,068) divided by 24 months. Specifically, the finding of fact would read as follows: IF the 51% Rule and the Settlement Rule are met, it is reasonable and appropriate for CLWSC to recover it reasonable and necessary and "in the public interest" rate case expenses as a surcharge of $3.94 per connection per month for approximately 24 months.

Those are the findings of fact that need to be revised. Her are the revisions the ED recommends for the Conclusions of Law.

Conclusion of Law 20. In order to accommodate the negative acquisition adjustment and remove cost free capital, this finding need to be limited to CIAC and should be reworded as follows: Based on the findings of fact and conclusions of law, there is good cause to include CIAC in CLWSC's rate base regarding pre-acquisition assets without sufficient documentation as to original costs.

Between Conclusion of Law 20 and 21, the ED recommends adding the following findings:

- Based on the findings of fact and conclusions of law there is no good cause to exclude cost free capital represented by the difference between the purchase price of for the WSC and the net book value of the transferred assets at the time of the purchase.

- The difference between the net book value and purchase price for the assets of the WSC is a negative acquisition adjustment to be taken out of rate base. The best estimate of that adjustment is found in the acquisition accounting found in CLWSC's books. That amount is $4,014,207.

- Rate base should be reduced by $4,104,207 to remove cost free capital.

Conclusion of Law 27. The ALJs requested that the ED fill in the blank. The blank should be filled with the words "less than"

Conclusion of Law 29. This should be reworded to read thusly: Based on the findings of fact and conclusions of law, the settlement rule was not invoked because the Commission's final ordered rate would generate more revenue than the settlement offer.

In addition to the above recommendations for revising the findings of fact and conclusions of law, the ED also recommends that the ordering paragraphs of the proposed order be revises.

Ordering paragraphs 2 and 3 should be reworded as follows to accommodate the fact that CLWSC is entitled to no rate case expenses and to allow for the most accurate method of making refunds.

Ordering Paragraph 2 should read thusly: CLWSC is entitled to no rate case expense surcharge.
Ordering paragraph 3 should read thusly: CLWSC will calculate the difference between what each customer paid under its proposed rates and interim rates and the final rate as determined by the commission and shall refund that amount to each customer over the same number of months that the customer paid the interim or proposed rates.

8- CONCLUSION

The ED agrees with much of the analysis of the PFD, but does lodge two exceptions: (1) the negative acquisition adjustment is necessary to remove cost free capital from rate base; and (2) the PFD should be clarified to indicate that the allowance of a multitude of attorneys to charge for the same trial or deposition is limited to the complicated facts of this case, and that the utility's decision to employ a large number of attorneys can be reviewed to see if the use of many attorneys is reasonable, necessary, and in the public interest. The utility should not be awarded any rate case expenses because it did not meet the requirements of the 51% rule.

WHERFORE, PREMISES CONSIDERED, the ED respectfully requests that the Commission adopt the PFD with the two above-mentioned exceptions and issue an order reflecting those exceptions and ordering that the utility recover no rate case expenses.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Zak Covar, Executive Director

Robert Martinez, Director
Environmental Law Division

By: Brian D. MacLeod

Brian MacLeod, Staff Attorney
State Bar No. 12783500
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-0750
(512) 239-0606 (Fax)

ATTORNEY FOR
THE EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2013, a true and correct copy of the foregoing document was sent by email, first class mail, or electronic filing to the persons on the mailing list.

Brian D. MacLeod

Brian MacLeod

Mailing List
CLWSC Rate Application
SOAH DOCKET NO. 582-11-1468,
TCEQ DOCKET NO. 2010-1841-UCR

The Honorable Kerrie Jo Qualtrough
and Penny Wilcov
Administrative Law Judges
State Office of Administrative Hearings
300 West 15th Street, Suite 502
Austin, Texas 78701
(512) 322-2061 (FAX)

Docket Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk
PO Box 13087
Austin, TX 78711-3087
Electronically filed

Mark H. Zeppa
Attorney for Canyon Lake
4833 Spicewood Springs Road, Ste. 202
(512) 346-6847 (FAX)
Austin, TX 78759
markzeppa@austin.rr.com
Fax, email, and first class mail

Paul M. Terrill III
Co-Counsel for Canyon Lake
810 West 10th Street
Austin, Texas 78701,
TEL: (512) 474-9100
FAX: (512) 474-9888
pterrill@terill-law.com
Fax, email, and first class mail

Scott Humphrey
Office of Public Interest Counsel
TCEQ, MC 103
P.O. Box 13087
Austin, Texas 78711-3087
(512) 239-6377 (FAX)
scott.humphrey@tceq.texas.gov
email

Shari Heino
Attorney for CERW
327 Congress Avenue, Suite 300
Austin, TX 78701
(512) 703-2785 (FAX)
sheino01@gmail.com
email

Joe Freeland
Attorney for CERW
327 Congress Avenue, Suite 300
Austin, TX 78701
(512) 703-2785 (FAX)
jfreeland@mandf.com
Fax, email, and first class mail

Doug Miller
State Representative District 73
387 W. Mill St.
New Braunfels, TX 78130

ATTACHMENT A

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

ccn/no# /~~30089R~~/CO
20544

AN ORDER setting retail sewer rates for
Technology Hydraulics, Inc.;
Docket No. 30089-R

On June 29, 1994, the Texas Natural Resource Conservation Commission (Commission) considered the application of Technology Hydraulics, Inc. (THI or the Utility) for a sewer rate increase pursuant to Chapter 13 of the Texas Water Code. The application was presented to the Commission by Leslie Craven, Attorney, a Commission Hearings Examiner, who reviewed the record of the adjudicative public hearing conducted by Elizabeth Bourbon, Attorney, a Commission Hearings Examiner, concerning the application on January 11, 12, 13 and 14, 1994.

The following were designated as parties to the proceeding: the applicant, THI; the Executive Director and Public Interest Counsel of the Commission; and protestants, Roy Gafford, the Balcones Village/Spicewood Homeowners Association, Frank Ditmore, James Brown, Richard Fogg, Robert Phelps, Daniel Pratt, the Balcones Place Neighborhood Association, and the Balcones Country Club.

After considering the Hearings Examiner's Proposal for Decision (PFD) and the evidence and arguments presented, the Texas Natural Resource Conservation Commission makes the following Findings of Fact and Conclusions of Law:

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Attachment A

FINDINGS OF FACT

1. On June 30, 1993, THI applied to the Texas Water Commission, predecessor agency to the Texas Natural Resource Conservation Commission, for an increase in retail sewer rates for all customers, with a proposed effective date of July 31, 1993.
2. The applicant serves six hundred ten residential customers, one commercial customer, one school, and one church inside the extraterritorial jurisdiction of the City of Austin, in northwest Travis County, Texas.
3. The applicant requested an increase in annual revenues over test-year revenues of $353,859 or 94.7 percent.
4. The applicant mailed notice of the proposed rate change to its ratepayers and affected persons on June 30, 1993.
5. Upon request of the Executive Director and protests by over 10 percent of its customers, the matter was set for hearing.
6. At least ten days prior to the preliminary hearing on October 8, 1993, notice of the public hearing was provided to affected ratepayers and to the parties.
7. Public evidentiary hearings on Docket No. 30089-R were held on January 11, 12, 13 and 14, 1994 in Austin, Texas.
8. The test year used in this rate proceeding was the twelve-month period ending August 31, 1992.
9. The rates in effect prior to the proposed change by the applicant were:

Minimum Flat Rate	
Single Family Residential	$ 50.68
Duplex (per side)	$ 50.68
Condominium (each unit)	$ 35.48

Triplex (each unit)	$ 35.48
School	$364.90
Church	$ 55.75
Country Club	$451.05
Tap fee	$450.00
Oversize meter	Actual cost
Reconnect fee	
Nonpayment	$ 25.00
Other reasons	Actual cost
Return check fee	$ 10.00
Late penalty	$2.00 or 5%
Customer deposit	$ 50.00

The applicant proposed the following rate structure with no change in fee structure:

Minimum Flat Rate	
Single Family Residential	$ 98.98
Duplex (per side)	$ 98.98
Condominium (each unit)	$ 69.08
Triplex (each unit)	$ 69.08
School	$710.00
Church	$108.75
Country Club	$878.25

10. On August 18, 1993, the Texas Water Commission set interim rates in this proceeding with no change in fee structure as follows:

Minimum Flat Rate	
Single Family	$ 73.64
Duplex (per side)	$ 73.64
Condominium (per unit)	$ 51.55
Triplex (per unit)	$ 51.55
School	$530.21
Church	$ 81.00
Country Club	$655.40

11. Northwest Travis County Municipal Utility District No. 2 (MUD No. 2) shares ownership and operation responsibilities with THI for the Pickfair and Jolly Hollow holding ponds, transfer facilities, and irrigation equipment necessary for the disposal of the treated effluent. Ownership of the shared facilities lies 51 percent with THI and 49 percent with

MUD No.2. Operation, maintenance, and administrative costs related to the shared facilities are based on each entity's most recent historical quarterly flow volumes of effluent disposed of through the system. For the test year 65 percent of these costs are allocable to THI, and 35 percent to MUD No. 2. Other costs related to improvements, additions, or replacements of the shared facilities are generally allocated on the basis of the 51/49 ownership split.

12. The Utility established reasonable and necessary operation and maintenance expenses of $266,916.

a. The Utility should be allowed the full amount of salary associated with its president, Mr. Ted Leslie.

(1) Mr. Leslie spends at least a minimum of forty hours per week performing work for the Utility.

(2) Work related to Mr. Leslie's other personal enterprises is done in addition to the full time Mr. Leslie spends performing management services for THI.

b. The Utility should be allowed the full amount of affiliated charges for administrative and financial services provided by its parent, T/H Holding Company.

(1) Charges for administrative and financial work from THI's affiliate, T/H Holding Company, are lower than charges for similar work performed by unaffiliated companies that perform such services for other utilities.

(2) T/H Holding Company does not charge any other entity, affiliated or not, less than what it charges THI for this work.

(3) Costs for these services are lower since they have been performed by the parent than they were when performed under contract with an unaffiliated private operator, Eco Resources.

(4) No inefficiencies or duplication of effort or costs occurs as a result of the administrative work performed for THI being carried out in the Houston office of its parent.

c. The Utility established reasonable and necessary purchase water and chemicals and treatment expenses of $7098.

d. The Utility established reasonable and necessary utilities expenses of $42,603.

(1) After adjustments for out-of-test-year expenses, the Utility's test-year expense for utilities was $43,001.

(2) Late payment charges and interest in the amount of $398 were inappropriately charged to the customers and should be deducted from the Utility's requested total. Customers making late payments are already charged a late fee and customers who pay on time should not be charged with payment of the Utility's late fees.

(3) Reimbursements for electricity charges received by THI from MUD No. 2 are appropriately accounted for as "Other Revenue" not as a specific offset to utilities expenses. Such reimbursements are not made when payment for electricity is due, and this lag should be considered in the calculation of working cash allowance.

e. The Utility established reasonable and necessary repairs and maintenance expenses of $56,801.

(1) Maintenance expenses of $11,700 for the Utility's bioremediation program were reasonably and necessarily incurred. These costs are not associated with the costs of the initial remedial cleanup of the Pickfair Pond. At a substantial cost savings, the bioremediation program has greatly enhanced and improved the holding capacity of the Pickfair Pond and contributed to the reduction or elimination of associated offensive odors. Without an ongoing program solids would again accumulate in the holding ponds.

(2) Reasonable and necessary expenses of $33,884 associated with a major line break were incurred with an appropriate amortization period of three years.

(3) The Utility incurred no repair or maintenance expenses associated with the installation of

irrigation control covers to improve the performance of the controls at low temperatures. Costs for these improvements are properly capitalized over the expected ten-year useful life of these covers.

(4) Reasonable and necessary sludge hauling expenses of $16,435 have been established as an operational expense, not a repair or maintenance expense, and should be removed and separately classified.

f. The Utility established reasonable office expenses of $9951.

(1) THI initially requested $5036 but adjusted this amount, adding $5440, for a total of $10,476. These further changes were found and presented for review of all parties prior to the start of the hearing on the merits.

(2) Costs associated with out-of-test-year telephone expenses in the amount of $525 have been eliminated.

g. The Utility established reasonable professional fees of $8904 which consists of $4200 in test-year accounting fees and $4704 which represents one year's amortization of costs associated with the Utility's participation in an ongoing regulatory proceeding.

(1) Of the $4750 in professional fees for accounting services $550 should be reclassified as rate case

expense and deducted from professional expenses which leaves $4200 in reasonable accounting fees.

(2) The amount of $23,519 in requested professional fees are associated with the Utility's participation in a staff-initiated permit proceeding. The amount of the charges themselves is reasonable, and the possible impact on future utility rates caused by the requirements under consideration in the permit proceeding has necessitated the Utility's participation in that proceeding. Amortization of these expenses for the period of the new permit term of five years is appropriate.

h. The Utility established reasonable and necessary insurance expenses of $5381 which includes a reclassification of $228 to interest expenses.

i. The Utility established reasonable and necessary rate case expenses of $14,736, representing $2.00 per customer per month amortized over a three-year period.

(1) The Utility requests approximately a 100 percent rate increase which includes rate case expenses of $137,208, or approximately 30 percent of the total requested increase.

(2) The Utility should realize that its rate case expenses must bear a reasonable relation to the revenue requirement and size of the Utility.

(3) Some major portion of these expenses arose due to the size of the Utility's requested increase which triggered substantive and active opposition and from the lack of accuracy in the information and accounting figures provided in its application which necessitated repeated revisions by the Utility throughout the hearing.

(4) A three-year amortization is reasonable in that it has been three years since the Utility's last rate case.

j. A figure of $9152 for federal income tax is reasonable and just, and is supported by the record. Normalizing federal income taxes is an appropriate method, as proposed by the staff, where the record shows the Commission approved revenue requirement will cause THI to incur tax expenses.

k. The Utility established reasonable and necessary expenses of $1696 for franchise taxes.

l. The Utility established reasonable and necessary ad valorem tax expenses of $9961.

13. Based upon the foregoing subparagraphs and uncontested expenses requested by the Utility, the following is a recapitulation of the Utility's operations and maintenance

expenses for the test year, adjusted for known and measurable changes.

Operations and Maintenance

Salaries/contract labor	$104,400
Purchased water	$ 165
Chemicals and treatment	$ 6,933
Utilities	$ 42,603
Repairs and Maintenance	$ 56,801
Office expenses	$ 9,951
Professional fees	$ 8,904
Insurance	$ 5,381
Rate case expenses	$ 14,736
Sludge hauling expenses	$ 16,435
Total Operations and Maintenance	$266,309

14. The Utility established plant in service of $1,676,470.

a. STPs 1 and 2 are no longer used and useful in providing service to the Utility's customers. The Utility's permit specifically requires that these units cease operations when the new treatment facility, STP 4, is operational. STP 4 was fully operational in June 1993. STPs 1 and 2 are not currently serving the Utility's customers in any capacity and are in questionable shape to provide any other form of useful service.

b. Costs associated with the addition of irrigation control covers are appropriately classified as capital additions with a ten-year life. The original cost of these items has been reduced by MUD No. 2's contribution of $2123.

c. The effluent lines, holding pond, and miscellaneous improvements associated with STP 3 are assets used solely by THI and costs are not shared with MUD No. 2. They

should be allowed in plant in service as items that are 100 percent used and useful to the Utility.

d. Costs for six items labeled "Austin White Lime, Bencas, Cedar Park Elect., Torres Truck, Tetco, and Psenick Const." which are associated with the Utility's costs for the Pickfair dam and holding pond, have already been included on the Utility's books at 51 percent and do not require a further reduction to reflect the fact they are shared facilities.

e. Sixty-nine percent of the Utility's irrigation system should be included in the cost of service determined for this docket. Sixty-nine percent of the Utility's irrigation system was found to be used and useful in the Utility's prior rate case, Docket No. 8332-R, based on a determination of the acreage that would be needed for irrigation if the Pickfair holding pond had been properly maintained. Since that 1990 case, the Utility has been called into a permit amendment proceeding in which questions have arisen regarding the adequacy of the acreage available for irrigation to meet new permit standards. Because the matter is still unresolved, the final outcome is uncertain, and the Utility is still operating under its current permit, it is premature to reassess the determination of what percentage of the irrigation system is used and useful that was established in Docket No. 8332-R.

f. Costs of constructing STP 4 should be included in plant in service as a depreciable asset. STP 4 is a treatment facility which has been providing service to the Utility's customers since June 1993 and which will continue to provide service to these customers throughout the period in which the new rates will be in effect. There is no construction work in progress associated with this plant. Failure to include STP 4 as a depreciable asset in rate base denies the Utility an opportunity to earn depreciation on this primary piece of its utility plant.

g. The Utility should not be allowed to include $105,912 in engineering fees associated with STP 4 in rate base because these costs were originally incurred in anticipation of construction of a completely new facility. Ultimately, the Utility did not build a new facility but, instead, purchased and redesigned a treatment facility from Williamson County MUD No. 3. Substantial redesign occurred, but it has not been shown what, if any, of the original design was used and necessary for the construction of STP 4.

15. It is inappropriate to apply a negative acquisition adjustment to reduce the Utility's depreciation expense.

a. Acquisition adjustments are sometimes used to offset the differences between the purchaser's price and the net book value of utility property used and useful in

providing service shown on the seller's books. If allowed, a negative acquisition adjustment would be amortized over the remaining useful life of the system purchased, and is netted against depreciation expenses.

b. Section 13.185(j) of the Texas Water Code addresses the treatment of depreciation expense in a rate proceeding. The language in this statute does not provide an exception for a negative acquisition adjustment which would reduce the Utility's depreciation expense.

16. The Utility should be allowed a rate of return of 9.7833 percent.

a. The Utility should be allowed a return on pre-acquisition equity of 7.69 percent. This percentage reflects the bond yield averages for public utility bonds with Baa ratings as published in Moody's Bond Survey from November 1993.

b. The Utility should be allowed a return on post-acquisition or traditional equity of the 7.69 percent plus four basis points to represent the increased risk of ownership of a small privately held utility for a total of 11.69 percent.

c. The distinctions made between pre- and post-acquisition equity reflects that pre-purchase invested capital carries no invested funds risk, other than normal operational risk.

d. Post-purchase equity is funded through recourse debt and actual dollars invested. Recourse debt in this case is

a $750,000 Small Business Administration (SBA) loan which is funded through the personal guarantee and liability of the owner. It, therefore, is more appropriately considered to be equity capital than debt.

e. The cost of debt to the Utility is 10 percent

f. The composite of the weighted percentage of the two equity rates and the cost of debt yields an overall rate of return of 9.7833 percent.

g. It is appropriate to consider the difference between the Utility's purchase price and net book value at time of sale in determining return on equity because pre-purchase equity was received at basically no cost and assigning a return on this portion of the Utility's equity under traditional considerations would result in an excessive and unreasonable allowance for associated risk.

17. The invested capital of the Utility is:

Invested Capital

Plant in Service	$1,676,470
Accumulated Depreciation	$ 291,239
Net Plant	$1,385,231
Working Cash Allowance (1/8 O&M)	$ 33,288
Total Invested Capital	$1,418,519

18. The reasonable and necessary annual revenue requirement of the Utility for the test year (adjusted for known and measurable changes, including the Findings of Fact above) is as follows:

Revenue Requirement

Operations and Maintenance	$266,309
Depreciation and Amortization	$ 63,736
Total Other Taxes	$ 11,657
Federal Income Taxes	$ 9,152
Return	$138,778
Revenue Requirement	$489,632
Other Revenues	$ 16,175
Base Rate Revenue Requirement	$473,457

19. The number of customers served by the Utility is six hundred ten residential, one commercial, one church, and one school. It is reasonable to base rate design on living unit equivalents based on the values of the chart outline in Finding of Fact No. 20.

20. A flat rate, rather than a volumetric rate, was approved by the Commission in the previous docket, and conditions have not changed to warrant a switch to a volumetric rate at this time.

21. The appropriate rate design for the Utility is as follows:

Rate Design Calculations

Type of Connect.	No. of Connect.	LUE Factor	Total LUE's	Rate for Class	Revenues Generated
Residential	478	1.0	478	$ 65.60	$376,310
Duplexes	46	1.0	46	$ 65.60	$ 36,214
Condos	83	0.7	58.1	$ 45.92	$ 45,740
Triplexes	3	0.7	2.1	$ 45.92	$ 1,653
School	1	7.2	7.2	$472,36	$ 5,668
Church	1	1.1	1.1	$ 72.17	$ 866
Country Club	1	8.9	8.9	$583.88	$ 7,007
Totals	613		601.4		$473,457

$$\text{Rate for 1 LUE} = \frac{\text{Cost of Service}}{12 \times \text{Total LUE's}} \quad \text{or} \quad \frac{\$473,457}{7216.8} = \$65.60$$

22. It is reasonable to establish the following fees and charges as requested by the Utility:

Tap Fee	$450.00
Oversize Meter	Actual cost
Reconnect Fee	
Nonpayment	$ 25.00
Other reasons	Actual cost
Return CheckFee	$ 10.00
Late Penalty	$2.00 or 5%
Customer Deposit	$ 50.00

23. The effective date of the new rates is July 31, 1993.

24. The Commission issued interim rates effective July 31, 1993. Therefore, THI's proposed rates would be automatically approved 335 days later, on July 1, 1994, unless the Commission issued its final determination by that date. Section 13.187(c) Texas Water Code. Here, THI did not explain in brief or at the public meeting of June 29, 1994, THI's position whether a Commission oral or written order subject to a motion for rehearing would satisfy the final determination deadline found in Section 13.187(c) Texas Water Code. The Commission should declare this Order is immediately final and appealable to avoid confusion and possible litigation concerning whether THI's proposed rates are automatically approved.

CONCLUSIONS OF LAW

1. Technology Hydraulics, Inc. is a public utility as defined in Section 13.002(23) of the Texas Water Code.

2. The public hearing on Technology Hydraulics, Inc.'s proposed sewer rate increase was held under the authority of Chapter 13

of the Texas Water Code, and the Commission's substantive rules.

3. Proper notice of the application was given by Technology Hydraulics, Inc. as required by Section 13.187 of the Texas Water Code and Section 291 of the Texas Administrative Code.

4. The Texas Natural Resource Conservation Commission has jurisdiction to consider the application for a rate increase filed by the applicant.

5. The revenue requirement described in Finding of Fact No. 18 is based on reasonable and necessary operating expenses of Technology Hydraulics, Inc. as required by Sections 13.183 and 13.185 of the Texas Water Code.

6. The invested capital set out in Finding of Fact No. 17 is based on the original cost of property used by and useful to the Utility in providing service, less depreciation, in accordance with Section 13.185 of the Texas Water Code.

7. The rate of return set out in Finding of Fact No. 16 is reasonable and will not yield more than a fair return on the invested capital used and useful in rendering service to the public and was fixed in consideration of the financial stability of Technology Hydraulics, Inc., its efforts and achievements in the conservation of resources, the quality of its services, the efficiency of its operations and the quality of management, in accordance with Sections 13.183 and 13.184 of the Texas Water Code.

8. The rates and fees set forth in Findings of Fact Nos. 21 and 22 are just and reasonable, not unreasonably preferential, prejudicial or discriminatory and sufficient, equitable and consistent in application to each class of consumer as required by Section 13.182 of the Texas Water Code.

9. The expenses requested by Technology Hydraulics, Inc. and excluded by the Commission were excluded pursuant to the authority of the Texas Natural Resource Conservation Commission under Section 13.184 of the Texas Water Code.

10. Pursuant to Section 13.185(j) of the Texas Water Code, a negative acquisition adjustment cannot be applied to reduce a utility's depreciation expense on the currently used, depreciable utility property owned by the utility.

11. Pursuant to Texas Government Code Section 2001.144(b), the Commission finds that an imminent peril to the public welfare exists, and accordingly, finds that this Order requires immediate finality on the date it is issued. This finding will ensure that THI does not attempt to automatically put into effect THI's proposed rates pursuant to Section 13.187(c) of the Texas Water Code. Rates approved herein are just and reasonable, not THI's proposed rates which are unreasonably high.

12. This Order constitutes the Commission's final determination on the rates under Section 13.187(c) of the Texas Water Code. Therefore, THI's proposed rates will not automatically go into effect. The Order would be the final determination on the

rates with or without the preceeding conclusion of law concerning whether there exists an imminent peril to the public welfare.

WHEREAS Chairman John Hall and Commissioners Pam Reed and Peggy Garner vote unanimously to issue this Order;

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION THAT:

1. The application of Technology Hydraulics, Inc. for a sewer rate increase be granted to the extent set forth in Findings of Fact Nos. 20 and 21.
2. Technology Hydraulics, Inc. refund the amount of charges to its ratepayers, incurred during the period when interim rates were in effect, that were higher than the rates found to be just and reasonable in this proceeding. The effective date of the new rates is July 31, 1993.
3. Technology Hydraulics, Inc. file a tariff reflecting the rates approved by the Commission within ten days of the date of this Order.
4. Technology Hydraulics, Inc. notify customers by mail of the final rate structure within 30 days of the date of this Order.
5. This Order is final and effective on the date it is issued.
6. The Chief Clerk of the Commission forward a copy of this Order to all parties.
7. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any

portion shall not affect the validity of the remaining portions of the Order.

Issue date: June 30, 1994

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION

John Hall, Chairman

ATTEST:

Gloria A. Vasquez, Chief Clerk

TEXAS WATER COMMISSION

IN THE MATTER OF THE APPLICATION OF TECHNOLOGY/ HYDRAULICS, INC.; DOCKET NO. 30089-R	§ § § §	BEFORE THE TEXAS WATER COMMISSION

ORDER

On the 18th day of August, 1993, the Texas Water Commission considered the "Executive Director's Request for Interim Rates." Having heard the evidence and argument of the parties, the Texas Water Commission ("Commission") hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Technology/Hydraulics, Inc. ("Utility") provides retail wastewater utility service to customers in Travis County, Texas. The Utility is an investor owned utility and is not within the corporate limits of any municipality having original ratemaking jurisdiction.

2. On June 30, 1993, the Utility filed an application to increase retail wastewater utility rates to its customers. The Utility provided notice of the proposed rate change to its customers on or about June 30, 1993.

3. The Executive Director filed a Request for Interim Rates with the Commission pursuant to §187(c) of the Code and 31 Texas Administrative Code ("TAC") §291.29 claiming the subject rates are not cost based, and are unreasonable, preferential, prejudicial, and discriminatory.

4. The following interim water rates and fees, are just and reasonable and sufficient to allow the Utility to recover its costs of providing water utility service pending further action by the Commission or the setting of final rates in this proceeding:

	PREVIOUS RATES	UTILITY'S PROPOSED RATES	STAFF'S RECOMMENDED RATES
Minimum Flat Rate			
Single Family Residence	$ 50.68	$ 98.68	$ 73.64
Duplex (per side)	50.68	98.68	73.64
Condominium (each unit)	35.48	69.08	51.55
Triplex (each unit)	35.48	69.08	51.55
School	364.90	710.50	530.21
Church	55.75	108.55	81.00
Country Club	451.05	878.25	655.40
Miscellaneous Fees			
Tap Fee	450.00	450.00	450.00
Overside meter	Actual Cost	Actual Cost	Actual Cost
Reconnect Fee (Non-payment)	25.00	25.00	25.00
Reconnect Fee (Other Reason)	Actual Cost	Actual Cost	Actual Cost
Return Check Fee	10.00	10.00	10.00
Late Penalty	2.00 or 5%	2.00 or 5%	Per TWC Rules
Customer Deposit	50.00	50.00	50.00

Tap Fee is limited to the average of the utility's actual costs for materials and labor for standard residential connections.

5. The effective date of the interim rates should be July 31, 1993.

6. If the final rates set for the Utility in these proceedings are lower than the interim rates established, the Utility should be required to refund or credit the difference between the interim rates and the final rates to customers who paid the interim rates over a time period which is the same as the time period during which the interim rates were charged, beginning with the effective date of the final rates. In addition, if the final rates set in this proceeding are higher than the interim rates established, the Utility should be allowed to charge a monthly surcharge to recover the difference between the interim rates and the final rates, over the same period of time that the interim rates were charged, beginning with the effective date of the final rates.

CONCLUSIONS OF LAW

1. The Utility is a public utility under §13.002(23) and §13.187 of the Texas Water Code.

2. The Commission has jurisdiction to set interim rates for Utility customers pursuant to §13.187(c) of the Texas Water Code.

3. The interim rates set forth in Finding of Fact No. 4 are just, reasonable, and sufficient to allow the Utility to recover its costs of providing water utility service pending further action by the Commission or the setting of final rates in this proceeding.

4. The imposition of the requirements set forth in Finding of Fact No. 6 is authorized pursuant to Section 13.187(c) of the Texas Water Code and 31 Texas Administrative Code (TAC) §291.29.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS WATER COMMISSION THAT:

1. The interim rates set forth in Finding of Fact No. 4 be approved and the Utility be permitted to charge only those rates to its customers pending further action by the Commission or the setting of final rates in this proceeding. The interim rates are effective July 31, 1993.

2. If the final rates set for the Utility in this proceeding are lower than the interim rates established, the Utility shall be required to refund or credit the difference between the interim rates and the final rates to customers who paid the interim rates over a time period which is the same as the time period during which the interim rates were charged, beginning with the effective date of the final rates. In addition, if the final rates set in this proceeding are higher than the interim rates established, the Utility shall be allowed to charge a monthly surcharge to recover the difference between the interim rates and the final rates, over the same period of time that the interim rates were charged, beginning with the effective date of the final rates.

3. The Chief Clerk of the Commission shall forward a copy of this Order to all parties.

4. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of this Order.

Issued date: AUG 19 1993

TEXAS WATER COMMISSION

John Hall

John Hall, Chairman

ATTEST:

Gloria A. Vasquez

Gloria A. Vasquez, Chief Clerk

ATTACHMENT B
PAGE 1

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
UTILITY: Canyon Lake Water Service Company
DOCKET NO. 36803-R

Exhibit ED-KA-5 Revised Per ALJ Recommendation

REVENUE REQUIREMENT
COST OF SERVICE ITEM

	Item Cost	%	Fixed	%	Variable
SALARIES	$1,084,931	50	$542,465	50	$542,465
CONTRACT SERVICES	$289,988	90	$260,989	10	$28,999
PURCHASED SERVICE	$1,141,619	0	$0	100	$1,141,619
CHEMICALS AND TREATMENT	$91,100	0	$0	100	$91,100
UTILITIES	$459,763	0	$0	100	$459,763
REPAIRS AND MAINTENANCE	$996,704	50	$498,352	50	$498,352
OFFICE EXPENSE	$284,392	50	$142,196	50	$142,196
ACCOUNTING & LEGAL	$84,359	100	$84,359	0	$0
INSURANCE	$311,422	100	$311,422	0	$0
RATE CASE EXPENSE	$0	100	$0	0	$0
MISCELLANEOUS	$213,798	50	$106,899	50	$106,899
DEPRECIATION	$1,897,872	100	$1,897,872	0	$0
TAXES OTHER THAN INCOME	$284,037	50	$142,019	50	$142,019
SUB-TOTAL (LESS FIT & RETURN)	$7,139,984		$3,986,573		$3,153,412
% OF TOTAL (FIXED + VARIABLE)		0.56		0.44	
FEDERAL INCOME TAXES**	$709,845		$396,338		$313,507
RETURN**	$2,455,011		$1,370,743		$1,084,268
LESS OTHER REVENUES	-$1,124,163		-$627,671		-$496,492
TOTAL	$9,180,677		$5,125,983		$4,054,694

APPLICANT'S REQUESTED RATES		
Minimum bill: (includes 0 gallon)		
	5/8 x 3/4"	$ 41.68
	3/4"	$ 62.50
	1"	$ 104.16
	1-1/2"	$ 208.31
	2"	$ 333.30
	3"	$ 624.93
	4"	$ 1,249.85
	6"	$ 2,083.08
Gallonage rate:		
	$4.55	/1,000 gallons
Rev. Reqested:		$11,603,435

RATE CALCULATION

Calculating a flat rate? N

GALLONAGE CHARGE
Variable Cost/Test Year Gallons/1,000 ==========> $4.40 /TH.GAL.

MINIMUM BILL
Fixed Cost/12/Connection Equivalents ==========> $40.96 /MO.
$40.96 /MO. incl. min. gallons

STAFF'S PROPOSED RATE		
USE ->	$4.55	/TH.GAL.
YIELDS ->	$43.87	/MO.
	43.87	/MO. incl. min. gallons
ANNUAL REVENUE GENERATED:		$9,180,677

REVENUE GENERATED SUMMARY:

Minimum Bill

Connection Size		No. of Connections	Min. Bill	Including Gals	Rev./Month			Rev./Year
5/8"x 3/4"		8489	43.87	$43.87	$372,444			$4,469,330
3/4"		217	65.81	65.81	14,281			171,371
1"		267	109.68	109.68	29,286			351,429
1-1/2"		37	219.37	219.37	8,117			97,400
2"		41	350.99	350.99	14,391			172,687
3"		9	658.11	658.11	5,923			71,075
4"		4	1096.84	1096.84	4,387			52,648
6"		4	2193.69	2193.69	8,775			105,297
				TOTAL MINIMUM CHARGES=>				$5,491,237
		GALLONAGE CHARGES=>		810,866	@	$4.55	/1,000 GAL	3,689,440
	TOTAL REVENUE GENERATED=>							$9,180,677

Attachment B p. 1

ATTACHMENT B
PAGE 2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
UTILITY: Canyon Lake Water Service Company
DOCKET NO. 36803-R

Exhibit ED-KA-9 Revised Per ALJ Recommendation

Page 21 of 42 of the Attacment 2

	Block 1	Block 2	Block 3	Block 4	
	0-2,000 gallons	2,001-10,000 gallons	10,001-25,000 gallons	25,001 gallons and above	
Gallons billed	17,366,167	273,012,600	114,440,500	64,575,400	
	161,948,197	8,323,300	4,091,100	1,374,100	
	5,463,500	24,276,800	13,165,300	9,014,100	
	10,241,200	91,700	99,500	127,800	
	14,592,800	5,536,400	2,822,000	1,407,100	
	12,026,700	524,000	318,200	210,600	
	29,260,300				
	9,594,000				
	7,618,800				
	9,205,600				
	24,000				
	3,386,300				
	228,300				
	222,299				
	3,800				
	6,248,000				
	2,800				
	20,000				
	2,400				
Total Gallons in each Tier	287,455,163	311,764,800	134,936,600	76,709,100	810,865,663

Total Gallons Billed (000)	287,455	311,765	134,937	76,709		
Proposed Rates	$4.55	$4.97	$5.66	$7.18		
Revenue Collected with Proposed Rates	$1,307,921	$1,549,471	$763,741	$550,771	$4,171,905	Total Collected
Staff Recommended Rates	$ 4.55	$ 4.97	$ 5.66	$ 7.18		
Revenue Collected with Staff Proposed Rates	$ 1,307,921	$ 1,549,471	$ 763,741	$ 550,771	$ 4,171,905	Total Collected

Staff calculated Variable Costs Revenue		$ 4,054,694	As per Exhibit ED-KA-5
Difference		$ (117,211)	
Staff Total Revenue Requirment		$ 9,180,677	
Total Variable Costs Revenue used in rate design		$ 3,961,557	
Staff calculated Fixed Costs Revenue		$ 5,125,983	As per Exhibit ED-KA-5
Total Fixed Costs Revenue used in rate design		$ 5,008,772	
Staff Recommended Base Rate		$ 40.02	

Attachment B p. 2

ATTACHMENT B
PAGE 3

Attachment B p. 3

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *Proposal For Decision-ALJ adjusts*

Utility Name: Canyon Lake Water Service Company

Docket Number: 36803-R *version: 20070403*

11:59 AM

Exhibit ED-DL-5, page 1 of 3 **REVISED** 20-Dec-12

SCHEDULE I - REVENUE REQUIREMENT

	TEST PERIOD PER COMPANY (a)	COMPANY ADJUST (b)	COMPANY TEST YEAR (c)=(a)+(b)	ADJUST (d)	STAFF TEST YEAR (e)=(c)+(d)
Operations and Maintenance	$5,455,364	$64,982	$5,520,346	-$562,270	$4,958,076
Depreciation and Amortization	$1,281,314	$893,486	$2,174,800	-$248,447	$1,897,872
Other Taxes	$226,137	$88,110	$314,247	-$30,210	$284,037
Federal Income Taxes		$1,120,337	$1,120,337	-$410,492	$709,845
Return		$3,597,868	$3,597,868	-$1,142,857	$2,455,011
Revenue Requirement	$6,962,815	$5,764,783	$12,727,598	-$2,394,277	$10,304,840
Other Revenues	-$866,465	-$150,696	-$1,124,163	$0	-$1,124,163
Base Rate Revenue	$6,096,350	$5,614,087	$11,603,435	-$2,394,277	$9,180,677
Revenue Requirement Deficiency		$5,463,391		-$2,394,277	$3,069,114

ATTACHMENT B
PAGE 4

Attachment B 4

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *Revised for PFD-ALJ Adjusts*

Utility Name: Canyon Lake Water Service Company

Docket Number: 36803-R *version: 20070403*

'est Period: From: 4/1/2009 To: 3/31/2010 11:59 AM

Exhibit ED-DL-5, page 2 of 3 **REVISED** 20-Dec-12

SCHEDULE I(a) - OPERATIONS & MAINTENANCE

	TEST PERIOD PER COMPANY (a)	COMPANY ADJUST (b)	COMPANY TEST YEAR (c)=(a)+(b)	(d)	PFD TEST YEAR (e)=(c)+(d)
SALARIES	1,408,208	82,636	1,490,844	-405,913	1,084,931
CONTRACT SERVICES	294,867	-4,879	289,988		289,988
PURCHASED WATER	1,089,747	-4,019	1,085,728	55,891	1,141,619
CHEMICALS AND TREATMENT	76,203	11,165	87,368	3,732	91,100
UTILITIES	459,763	-22,517	437,246	22,517	459,763
REPAIRS AND MAINTENANCE	995,004	1,700	996,704		996,704
OFFICE EXPENSE	283,065	47,993	331,058	-46,666	284,392
ACCOUNTING AND LEGAL	84,359	0	84,359	0	84,359
INSURANCE	386,176	-11,004	375,172	-63,750	311,422
RATE CASE EXPENSE	44,169	13,081	57,250	-57,250	0
MISCELLANEOUS	333,803	-49,174	284,629	-70,831	213,798
TOTAL	**5,455,364**	**64,982**	**5,520,346**	**-562,270**	**4,958,076**

***

SCHEDULE I(b) - OTHER TAXES

	TEST YEAR PER COMPANY (a)	COMPANY ADJUST (b)	COMPANY TEST YEAR (c)=(a)+(b)	STAFF ADJUST (d)	STAFF TEST YEAR (e)=(c)+(d)
PROPERTY AND FRANCHISE TAXES	91,320	81,069	172,389	-30,210	142,179
PAYROLL TAXES	134,817	7,041	141,858	0	141,858
OTHER TAXES-MISC	0	0	0		0
NON-REVENUE RELATED	226,137	88,110	314,247	-30,210	284,037
TWC ASSESSMENT			0		0
REVENUE RELATED TAXES	0	0	0		0
TOTAL OTHER TAXES	226,137	88,110	314,247	-30,210	284,037

LE I(c) - FEDERAL INCOME TAXES

REVENUE REQUIREMENT	10,304,840
LESS:	
OPERATIONS AND MAINTENANCE	-4,958,076
EPRECIATION AND AMORTIZATION	-1,897,872
OTHER TAXES	-284,037
INTEREST EXPENSE	-1,136,728
TAXABLE INCOME	2,028,128
TAXES @ FACTOR :	0.35
SUB-TOTAL	709,845
LESS:	
SURTAX EXEMPTION :	0
FEDERAL INCOME TAXES	709,845

ATTACHMENT B
PAGE 5

Attachment B p. 5

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *Response to PFD-ALJ adjust*

Utility Name: Canyon Lake Water Service Com

Docket Number: 36803-R *version: 20070403*

Exhibit ED-DL-5, page 3 of 3

11:59 AM

REVISED 20-Dec-12

SCHEDULE I(d) - WEIGHTED COST OF CAPITAL

PAYEE	PRINCIPAL AS OF	INTEREST RATE	PERCENTAGE	WEIGHTED AVERAGE	
Series A Notes	$15,000,000.00	6.27%	38.77%	2.43%	
BMET	$971,401.00	6.50%	2.51%	0.16%	
Notes payable-intercompany	$11,250,000.00	2.25%	29.08%	0.65%	
			0.00%	0.00%	
			0.00%	0.00%	
			0.00%	0.00%	
			0.00%	0.00%	
Adjust to ALJ ROR			0.00%	-0.01%	(Per ALJ-round)
EQUITY	$11,469,287.00	10.88%	29.64%	3.23%	
TOTAL	**$38,690,688.00**		**100.00%**	**6.4600%**	

SCHEDULE I(e) - INVESTED CAPITAL & RETURN

	COMPANY AMOUNT (a)	ALJ Adjust (b)=(c)-(a)	ALJ AMOUNT (c)
PLANT IN SERVICE	68,294,995	-4,088,094	64,206,901
ACCUMULATED DEPRECIATION	12,282,546	-1,033,721	11,248,825
NET PLANT	56,012,449	-3,054,373	52,958,076
WORKING CASH ALLOWANCE	$690,043	-70,284	619,759
MATERIALS AND SUPPLIES	$361,235	0	$361,235
PREPAYMENTS	$4,900	0	$4,900
ACCUMULATED DEFERRED FEDERAL INCOME TAX		-354,922	-$354,922
D-CIAC	-$14,812,965	0	-$14,812,965
ADVANCES AND COST FREE CAPITAL (ACQUISITION ADJ)	-$772,550	0	-772,550
TOTAL INVESTED CAPITAL	41,483,112	-3,479,579	38,003,533
RATE OF RETURN	8.67%	-2.21%	6.46%
RETURN	3,597,868	-1,142,857	2,455,011

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ATTACHMENT C
PAGE 1

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
UTILITY: Canyon Lake Water Service Company
DOCKET NO. 36803-R

Exhibit ED-KA-5 Revised Per ALJ Recommendation with Acquisition Adjustment

REVENUE REQUIREMENT
COST OF SERVICE ITEM

	Item Cost	%	Fixed	%	Variable
SALARIES	$1,084,931	50	$542,465	50	$542,465
CONTRACT SERVICES	$289,988	90	$260,989	10	$28,999
PURCHASED SERVICE	$1,141,619	0	$0	100	$1,141,619
CHEMICALS AND TREATMENT	$91,100	0	$0	100	$91,100
UTILITIES	$459,763	0	$0	100	$459,763
REPAIRS AND MAINTENANCE	$996,704	50	$498,352	50	$498,352
OFFICE EXPENSE	$284,392	50	$142,196	50	$142,196
ACCOUNTING & LEGAL	$84,359	100	$84,359	0	$0
INSURANCE	$311,422	100	$311,422	0	$0
RATE CASE EXPENSE	$0	100	$0	0	$0
MISCELLANEOUS	$213,798	50	$106,899	50	$106,899
DEPRECIATION	$1,897,872	100	$1,897,872	0	$0
TAXES OTHER THAN INCOME	$284,037	50	$142,019	50	$142,019
SUB-TOTAL (LESS FIT & RETURN)	$7,139,984		$3,986,573		$3,153,412
% OF TOTAL (FIXED + VARIABLE)		0.56		0.44	
FEDERAL INCOME TAXES**	$572,600		$319,708		$252,892
RETURN**	$2,200,128		$1,228,430		$971,698
LESS OTHER REVENUES	-$1,124,163		-$627,671		-$496,492
TOTAL	**$8,788,550**		**$4,907,041**		**$3,881,509**

APPLICANT'S REQUESTED RATES		
Minimum bill: (includes 0 gallon)		
	5/8 x 3/4"	$ 41.68
	3/4"	$ 62.50
	1"	$ 104.16
	1-1/2"	$ 208.31
	2"	$ 333.30
	3"	$ 624.93
	4"	$ 1,249.85
	6"	$ 2,083.08
Gallonage rate:		
	$4.55	/1,000 gallons
Rev. Reqested:		$11,603,435

RATE CALCULATION

Calculating a flat rate? N

GALLONAGE CHARGE
Variable Cost/Test Year Gallons/1,000 ==========> $4.21 /TH.GAL.

MINIMUM BILL
Fixed Cost/12/Connection Equivalents ==========> $39.21 /MO.
$39.21 /MO. incl. min. gallons

STAFF'S PROPOSED RATE		
USE ->	$4.55	/TH.GAL.
YIELDS ->	$40.74	/MO.
	40.74	/MO. incl. min. gallons
ANNUAL REVENUE GENERATED:		$8,788,550

REVENUE GENERATED SUMMARY:

Minimum Bill

Connection Size		No. of Connections	Min. Bill	Including Gals	Rev./Month			Rev./Year
5/8"x 3/4"		8489	40.74	$40.74	$345,848			$4,150,176
3/4"		217	61.11	61.11	13,261			159,133
1"		267	101.85	101.85	27,194			326,333
1-1/2"		37	203.70	203.70	7,537			90,444
2"		41	325.93	325.93	13,363			160,355
3"		9	611.11	611.11	5,500			66,000
4"		4	1018.52	1018.52	4,074			48,889
6"		4	2037.04	2037.04	8,148			97,778
				TOTAL MINIMUM CHARGES=>				**$5,099,109**
		GALLONAGE CHARGES=>		810,866	@	$4.55	/1,000 GAL	3,689,440
	TOTAL REVENUE GENERATED=>							**$8,788,550**

Attachment C p. 1

ATTACHMENT C
PAGE 2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
UTILITY: Canyon Lake Water Service Company
DOCKET NO. 36803-R

it ED-KA-9 Revised Per ALJ Recommendation with Acquisition Adjustment

Page 21 of 42 of the Attacment 2

	Block 1	Block 2	Block 3	Block 4	
	0-2,000 gallons	2,001-10,000 gallons	10,001-25,000 gallons	25,001 gallons and above	
Gallons billed	17,366,167	273,012,600	114,440,500	64,575,400	
	161,948,197	8,323,300	4,091,100	1,374,100	
	5,463,500	24,276,800	13,165,300	9,014,100	
	10,241,200	91,700	99,500	127,800	
	14,592,800	5,536,400	2,822,000	1,407,100	
	12,026,700	524,000	318,200	210,600	
	29,260,300				
	9,594,000				
	7,618,800				
	9,205,600				
	24,000				
	3,386,300				
	228,300				
	222,299				
	3,800				
	6,248,000				
	2,800				
	20,000				
	2,400				
Total Gallons in each Tier	287,455,163	311,764,800	134,936,600	76,709,100	810,865,663

Total Gallons Billed (000)	287,455	311,765	134,937	76,709		
Proposed Rates	$4.55	$4.97	$5.66	$7.18		
Revenue Collected with Proposed Rates	$1,307,921	$1,549,471	$763,741	$550,771	$4,171,905	Total Collected
Staff Recommended Rates	$ 4.55	$ 4.97	$ 5.66	$ 7.18		
Revenue Collected with Staff Proposed Rates	$ 1,307,921	$ 1,549,471	$ 763,741	$ 550,771	$ 4,171,905	Total Collected

Staff calculated Variable Costs Revenue		$ 3,881,509	As per Exhibit ED-KA-5
Difference		$ (290,396)	
Staff Total Revenue Requirment		$ 8,788,550	
Total Variable Costs Revenue used in rate design		$ 3,961,557	
Staff calculated Fixed Costs Revenue		$ 4,907,041	As per Exhibit ED-KA-5
Total Fixed Costs Revenue used in rate design		$ 4,616,645	
Staff Recommended Base Rate		$ 36.89	

Attachment C p. 2

ATTACHMENT C
PAGE 3

Attachment C p 3

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *Proposal for Decision-with Aquis Adj*

Utility Name: Canyon Lake Water Service Company

Docket Number: 36803-R *version: 20070403*

12:04 PM

Exhibit ED-DL-5, page 1 of 3 **REVISED** 20-Dec-12

SCHEDULE I - REVENUE REQUIREMENT **(PFD)**

	TEST PERIOD PER COMPANY (a)	COMPANY ADJUST (b)	COMPANY TEST YEAR (c)=(a)+(b)	ADJUST (d)	ED Test Year (e)=(c)+(d)
Operations and Maintenance	$5,455,364	$64,982	$5,520,346	-$562,270	$4,958,076
Depreciation and Amortization	$1,281,314	$893,486	$2,174,800	-$248,447	$1,897,872
Other Taxes	$226,137	$88,110	$314,247	-$30,210	$284,037
Federal Income Taxes		$1,120,337	$1,120,337	-$547,737	$572,600
Return		$3,597,868	$3,597,868	-$1,397,740	$2,200,128
Revenue Requirement	$6,962,815	$5,764,783	$12,727,598	-$2,786,404	$9,912,713
Other Revenues	-$866,465	-$150,696	-$1,124,163	$0	-$1,124,163
Base Rate Revenue	$6,096,350	$5,614,087	$11,603,435	-$2,786,404	$8,788,550
Revenue Requirement Deficiency		$5,463,391		-$2,786,404	$2,676,987

ATTACHMENT C
PAGE 4

Attachment C p. 4

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *PROPOSAL FOR DECISION-less Aquis Adjust*

Utility Name: Canyon Lake Water Service Company

Docket Number: 36803-R *version: 20070403*

Test Period: **From:** 4/1/2009 **To:** 3/31/2010 12:03 PM

Exhibit ED-DL-5, page 2 of 3 **REVISED** 20-Dec-12

SCHEDULE I(a) - OPERATIONS & MAINTENANCE

	TEST PERIOD PER COMPANY (a)	COMPANY ADJUST (b)	COMPANY TEST YEAR (c)=(a)+(b)	(d)	PFD TEST YEAR (e)=(c)+(d)
SALARIES	1,408,208	82,636	1,490,844	-405,913	1,084,931
CONTRACT SERVICES	294,867	-4,879	289,988		289,988
PURCHASED WATER	1,089,747	-4,019	1,085,728	55,891	1,141,619
CHEMICALS AND TREATMENT	76,203	11,165	87,368	3,732	91,100
UTILITIES	459,763	-22,517	437,246	22,517	459,763
REPAIRS AND MAINTENANCE	995,004	1,700	996,704		996,704
OFFICE EXPENSE	283,065	47,993	331,058	-46,666	284,392
ACCOUNTING AND LEGAL	84,359	0	84,359	0	84,359
INSURANCE	386,176	-11,004	375,172	-63,750	311,422
RATE CASE EXPENSE	44,169	13,081	57,250	-57,250	0
MISCELLANEOUS	333,803	-49,174	284,629	-70,831	213,798
TOTAL	**5,455,364**	**64,982**	**5,520,346**	**-562,270**	**4,958,076**

***

SCHEDULE I(b) - OTHER TAXES

	TEST YEAR PER COMPANY (a)	COMPANY ADJUST (b)	COMPANY TEST YEAR (c)=(a)+(b)	STAFF ADJUST (d)	STAFF TEST YEAR (e)=(c)+(d)
PROPERTY AND FRANCHISE TAXES	91,320	81,069	172,389	-30,210	142,179
PAYROLL TAXES	134,817	7,041	141,858	0	141,858
OTHER TAXES-MISC	0	0	0		0
NON-REVENUE RELATED	226,137	88,110	314,247	-30,210	284,037
TWC ASSESSMENT			0		0
REVENUE RELATED TAXES	0	0	0		0
TOTAL OTHER TAXES	226,137	88,110	314,247	-30,210	284,037

LE I(c) - FEDERAL INCOME TAXES

REVENUE REQUIREMENT	9,912,713
LESS:	
OPERATIONS AND MAINTENANCE	-4,958,076
EPRECIATION AND AMORTIZATION	-1,897,872
OTHER TAXES	-284,037
INTEREST EXPENSE	-1,136,728
TAXABLE INCOME	1,636,001
TAXES @ FACTOR :	0.35
SUB-TOTAL	572,600
LESS:	
SURTAX EXEMPTION :	0
FEDERAL INCOME TAXES	572,600

ATTACHMENT C
PAGE 5

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY *Proposal for Decision-Less Aquis Adjustment*

Utility Name: Canyon Lake Water Service Com

Docket Number: 36803-R *version: 20070403*

Exhibit ED-DL-5, page 3 of 3

12:02 PM

REVISED 20-Dec-12

Proposal for decision less AA

SCHEDULE I(d) - WEIGHTED COST OF CAPITAL

PAYEE	PRINCIPAL AS OF	INTEREST RATE	PERCENTAGE	WEIGHTED AVERAGE	
Series A Notes	$15,000,000.00	6.27%	38.77%	2.43%	
BMET	$971,401.00	6.50%	2.51%	0.16%	
Notes payable-intercompany	$11,250,000.00	2.25%	29.08%	0.65%	
			0.00%	0.00%	
			0.00%	0.00%	
			0.00%	0.00%	
			0.00%	0.00%	
Adjust to ALJ ROR			0.00%	-0.01%	(rounding to matc
EQUITY	$11,469,287.00	10.88%	29.64%	3.23%	
TOTAL	**$38,690,688.00**		**100.00%**	**6.4600%**	

SCHEDULE I(e) - INVESTED CAPITAL & RETURN

	COMPANY AMOUNT (a)	Adjust (b)=(c)-(a)	ED AMOUNT (c)
PLANT IN SERVICE	68,294,995	-4,088,094	64,206,901
ACCUMULATED DEPRECIATION	12,282,546	-1,033,721	11,248,825
NET PLANT	56,012,449	-3,054,373	52,958,076
WORKING CASH ALLOWANCE	$690,043	-70,284	619,759
MATERIALS AND SUPPLIES	$361,235	0	$361,235
CUSTOMERS DEPOSITS	$4,900	0	$4,900
ACCUMULATED DEFERRED FEDERAL INCOME TAX		-286,300	-$286,300
D-CIAC	-$14,812,965	0	-$14,812,965
ADVANCES AND COST FREE CAPITAL (ACQUISITION ADJ)	-$772,550	-4,014,207	-4,786,757
TOTAL INVESTED CAPITAL	41,483,112	-7,425,164	34,057,948
RATE OF RETURN	8.67%	-2.21%	6.46%
RETURN	3,597,868	-1,397,740	2,200,128

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Attachment C p.5

ATTACHMENT D

ATTACHMENT D

CLWSC, SOAH Docket 582-11-1468

Exceptions to the Proposal for Decision

Generic Formula for 51% test of rate case expense under §291.28

Revenue generated by the just and reasonable rate determined by the Commission:

	ALJ Rec	ED Rec
1. Revenue generated by new rates (A):	$ 9,180,677	$8,788,550
Revenues generated by previous rates(B):	$ 6,917,243	6,917,243
Difference C or (A-B)	$ 2,263,434	$1,871,307

2. Revenue generated by proposed rates):	$11,568,442
Revenues generated by previous rates:	6,917,243 B
Difference E or (D-B)	$ 4,651,199

3. ED: $C divided by $E times 100 equals P% $1,871,307/4,651,199=40.2% (Staff)
   ALJ: $C divided by $E times 100 equals P% $2,263,434/4,651,199=48.7% (ALJ)

4. Compare P% to 51%. If P% is less than 51%, utility pays its own rate case expense. If F% is greater than or equal to 51%, then reasonable and necessary rate case expenses are paid by the customers.
5. D times 51% equals F. The revenue increase from the previous rates must exceed this number to meet the 51% rule.
6. Consider any settlement offers to meet §291.28(9)

Attachment D

ATTACHMENT E

ATTACHMENT E

CLWSC, SOAH Docket 582-11-1468

Exceptions to the Proposal for Decision

Reconciliation of ED adjusts to ALJ

Purchased Water	55,891	Normalization
Chemicals	3,732	Normalization
Utilitities	22,517	Normalization
Office	1,070	Normalization
Total Normalization	$83,210	(Removal)
Total Staff Adjust	$562,270	(Column (d)-Op & Maint) (ED-DL-5, page 2 of 3 (PFD))
	$645,480	Total ALJ's adjustments (page 74- PFD)

Page 75, ALJ's PFD, Corrected Chart:

Category	ALJ's Recommendations
Office Expense	284,392**
Accounting and Legal	84,359
Insurance	311,422
Rate Case Expense	0
Miscellaneous	213,798

**284,392 results from adding the normalization reversal of $1070 and subtracting the reduction due to bad debts of $47,736.

Attachment E