

DOCKET NO. \_\_\_\_\_

RULEMAKING PETITION OF	§	BEFORE THE TEXAS
QUADVEST, INC., SJWTX, INC.,	§	COMMISSION ON
SOUTHERN UTILITIES COMPANY	§	ENVIRONMENTAL
AND SOUTHWEST WATER COMPANY	§	QUALITY

**ORIGINAL PETITION FOR RULEMAKING**

COME NOW, Quadvest, Inc., SJWTX, Inc., Southern Utilities Company, and SouthWest Water Company (Petitioners) on behalf of themselves and similarly situated investor-owned utilities (IOUs) and file their rulemaking petition with the Texas Commission on Environmental Quality (TCEQ) seeking to amend 30 TAC §291.31(c)(2).

**1. Petitioners**

Each of the petitioners is a retail public utility and/or the parent of a retail public utility subject to the original ratemaking jurisdiction of the TCEQ pursuant to Texas Water Code Chapter 13. Each utility has independent standing to bring this petition.

**2. Legal Authority**

This petition is brought pursuant to Texas Water Code §§ 5.103 and 13.003 and Texas Government Code § 2001.021.

**3. Current Rule**

30 TAC §291.31(c)(2) currently states:

(2) Invested capital, also referred to as rate base. The rate of return is applied to the rate base. Components to be included in determining the rate base are as follows:

(A) original cost, less accumulated depreciation, of utility plant, property, and equipment used by and useful to the utility in providing service:

(i) original cost is the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it was dedicated to public use, whether by the utility that is the present owner or by a predecessor;

(ii) reserve for depreciation is the accumulation of recognized allocations of original cost, representing recovery of initial investment, over the estimated useful life of the asset. Depreciation must be computed on a straight line basis over the expected useful life of the item or facility;

(iii) the original cost of plant, property, and equipment acquired from an affiliated interest may not be included in invested capital except as provided in TWC, § 13.185(e);

(iv) utility property funded by explicit customer agreements or customer contributions in aid of construction such as surcharges may not be included in original cost or invested capital; and

(B) working capital allowance to be composed of, but not limited to, the following:

#### **4. Proposed Rule**

30 TAC §291.31(c)(2) is proposed to state:

(2) Invested capital, also referred to as rate base. The rate of return is applied to the rate base. Components to be included in determining the rate base are as follows:

(A) original cost, less accumulated depreciation, of utility plant, property, and equipment used by and useful to the utility in providing service:

(i) original cost is the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it was dedicated to public use, whether by the utility that is the present owner or by a predecessor;

(ii) reserve for depreciation is the accumulation of recognized allocations of original cost, representing recovery of initial investment, over the estimated useful life of the asset. Depreciation must be computed on a straight line basis over the expected useful life of the item or facility;

(iii) the original cost of plant, property, and equipment acquired from an affiliated interest may not be included in invested capital except as provided in TWC, '13.185(e);

(iv) utility property funded by explicit customer agreements or customer contributions in aid of construction such as surcharges may not be included in original cost or invested capital; and

(B) original cost, less net salvage and accumulated depreciation at date of retirement, of depreciable utility plant, property and equipment retired by the utility; and

(BC) working capital allowance to be composed of, but not limited to, the following:

## 5. Reason for Rule Change

Senate Bill 2306 (Acts of the 81<sup>st</sup> Legislature, Reg. Sess.) amended Texas Water Code

§13.131(c). It now reads:

(c) The commission shall fix proper and adequate rates and methods of depreciation, amortization, or depletion of the several classes of property of each utility and shall require every utility to carry a proper and adequate depreciation account in accordance with those rates and methods and with any other rules the commission prescribes. Rules adopted under this subsection must require the book cost less net salvage of depreciable utility plant retired to be charged in its entirety to the accumulated depreciation account in a manner consistent with accounting treatment of regulated electric and gas utilities in this state. Those rates, methods, and accounts shall be utilized uniformly and consistently throughout the rate-setting and appeal proceedings.

The proposed rule change will result in depreciation practices for investor-owned water and sewer utilities which are “consistent with accounting treatment of regulated electric and gas utilities in this state.” The proposed change will also bring current TCEQ

depreciation practice into compliance with its own rules under 30 TAC §291.72. The impetus behind SB 2306 was to be abundantly clear about the accounting for the retirement of depreciable utility plant. Companies were filing applications that properly accounted for retirements using NARUC methodology<sup>1</sup>. TCEQ staff objected and proposed an alternative methodology of simply expensing the undepreciated balance of retired plant.

SB 2306 in no way interferes with or limits the Commission's authority to exclude from cost of service any expense it finds unreasonable or not in the public interest. §291.31(b)(2)(I). What SB 2306 does is to give clear direction concerning the accounting for the retirement of depreciable utility plant.

The Commission has authority and opportunity to review retirements of depreciable utility plant as part of the rate case process. In adopting rates, the Commission can still make a finding that any item of retired depreciable utility plant is not prudently included in cost of service and is not in the public interest and exclude such item from cost of service under §291.31(b)(2)(I)

The proposed rule simply makes it clear when determining a utilities' cost of service the calculation of invested capital includes the "original cost, less net salvage and accumulated

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<sup>1</sup> As directed by the TCEQ system of accounts for publicly traded companies with complex stock issues, several companies filed rate change applications in which plant, including early retirements of, was accounted for using the NARUC methodology in which book cost less net salvage of depreciable utility plant that is retired is charged in its entirety to accumulated depreciation.

depreciation at date of retirement, of depreciable utility plant, property and equipment retired by the utility.”

**6. Prayer**

For the reasons stated above, the Petitioners request the TCEQ to initiate a rulemaking proceeding and amend 30 TAC §291.31 in the manner shown above.

Respectfully submitted,

By: 

Mark H. Zeppa  
State Bar No. 22260100  
Law Offices of Mark H. Zeppa, PC  
4833 Spicewood Springs Road #202  
Austin, Texas 78759-8435  
(512) 346-4011, Fax (512) 346-6847

ATTORNEY FOR PETITIONERS

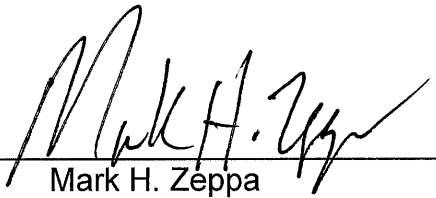
CERTIFICATE OF SERVICE

I, Mark Zeppa, attorney for the petitioners, certify that an original and 11 copies of the foregoing pleading was served on the TCEQ Chief Clerk on October 30, 2009. Courtesy copies were served on:

Doug Holcomb, PE, Manager  
Utilities & Districts Section  
Texas Commission on Environmental Quality  
P O Box 13087, MC 153  
Austin, Texas 78711-3087

Todd Galiga, Sr. Attorney  
Environmental Law Division  
Texas Commission on Environmental Quality  
P O Box 13087, MC 173  
Austin, Texas 78711-3087

Blas Coy, Jr., Public Interest Counsel  
Texas Commission on Environmental Quality  
P O Box 13087, MC 103  
Austin, Texas 78711-3087

  
Mark H. Zeppa