




MEMORANDUM

To: Mayor and Council

From: Greg Meszaros, Director, Austin Water 

Date: June 30, 2015

Subject: Update on Wholesale and River Place Rate Petitions

This memo will provide you general information and status updates for two contested rate cases brought by Austin Water wholesale water and wastewater customers and the outside city customers of the former River Place Municipal Utility District. We wanted the Council to be informed of upcoming events and the possibility of actions later this summer.

Wholesale Rate Petition

Four wholesale water and wastewater customers filed petitions in April 2013 and December 2013 with the Texas Commission on Environmental Quality (TCEQ), with subsequent jurisdiction transferred to the Public Utility Commission (PUC) in September 2014. The petition challenged the 2013 water rates and the 2014 wastewater rates implemented by Austin Water and charged to the four wholesale customers.

The petitions generally alleged that the rates charged to the wholesale customers were not just and reasonable. The City has the burden to show that the rates are just and reasonable. The City retained outside counsel, Webb and Webb, to assist in the City's rate challenge. The proceedings have included the submittal of significant amounts of documents to the parties including written discovery, pre-filed testimony, rate filing package, and factual and expert witness testimony.

The parties did convene several settlement discussion meetings along with a formal settlement mediation in the spring and summer of 2014. These discussions did not result in any settlement agreements.

A hearing before the Administrative Law Judges was conducted in February 2015. Additional filings by the parties have been provided after the hearing such as reply briefs, or "closing arguments". The City is awaiting a proposal for decision of the Administrative Law Judge, scheduled to be issued mid-July. The proposal for decision will be the Administrative Law Judge's recommendation to the PUC for its final decision which, unless a settlement is reached, could be rendered as early as August 14th.

Once a proposal for decision is issued by the Administrative Law Judges, Austin Water will consult with the Law Department and outside counsel to analyze what the effect would be if the proposed decision were to become a final binding PUC decision and what, if any, settlement options are advised. A full briefing on the proposal for decision along with potential settlement options will be presented to the City Council at the soonest opportunity following issuance of the proposal for decision.

River Place Rate Petition

In October 2014, pursuant to the terms of a Strategic Partnership Annexation Agreement between the City and River Place Municipal Utility District, the City assumed ownership and operational responsibilities of the MUD's water and wastewater systems. This agreement delayed annexation an additional 6 years beyond what the City could have annexed under the state law, but included provisions for Austin Water to take over the water and wastewater systems in October 2014 with the customers agreeing to begin paying City of Austin water and wastewater rates at that time.

In December 2014, a portion of the residents of River Place filed a petition with the PUC challenging the City's retail water and wastewater rates effective on October 1, 2014, the rates that were in effect at the time the MUD's customers became Austin Water customers under the annexation agreement. The petition also challenged Austin Water's retail water and wastewater rate increases on November 1, 2014. The petition alleged that there was improper notice of these rate increases given to the residents of River Place and that because the rates were twice the MUD's prior rates, the rates were not just and reasonable.

Several pre-hearing conferences have been conducted by the assigned Administrative Law Judges and a schedule of proceedings has been set. The schedule assumes multiple deadlines for discovery periods, testimony filings, with a hearing in early 2016.

After the most recent pre-hearing conference which resulted in a schedule, the City was approached by the counsel for petitioners who requested a settlement discussion meeting. On May 27th, the parties met for an initial settlement discussion meeting. The petitioners outlined their settlement issues and requests. The City is currently analyzing the petitioner's settlement requests and their impact.

The City would anticipate additional settlement discussion meetings with the petitioners. If settlement terms can be reached, we would anticipate presenting these to Council in Executive Session later this summer.

Cost of Service Rate Studies

As a result of the issues raised during the wholesale rate challenge, Austin Water has determined that it will conduct a new cost of service rate study for wholesale rates and retail rates applicable to outside city customers, and that if recommended by the study, Austin Water will pursue updates to our cost of service allocation within its rate structure.

It is anticipated that Austin Water will conduct a separate wholesale and outside city cost of service rate study that would be the basis for our next wholesale or outside city rate increase. It would generally take about 6-12 months to conduct this study. Austin Water anticipates bringing an item to the Public Utilities Committee and the full City Council late this summer to procure consultant services to assist us in conducting the cost of service rate study for wholesale and outside city customers. These services will likely be in the range of \$100,000 to \$200,000.

After completion of the wholesale and outside city cost of service rate study, we would anticipate starting the retail customer class cost of service rate study. This cost of service rate study will be more comprehensive and will include significant public involvement from all retail customer class representatives. This retail customer cost of service rate study would likely take about 12-18 months to complete. Austin Water last conducted a cost of service rate study in 2008. We have typically completed new cost of service rate studies every 5-7 years, so this timing is in line with past practices. An additional Public Utilities Committee and full City Council action will eventually be needed for this study.

If you have any questions or need additional information please contact me.

cc: Marc Ott, City Manager
Robert Goode P.E., Assistant City Manager
Anne Morgan, Acting City Attorney, Law Department
Clark Cornwell, Asst. City Attorney, Law Department
Maria Sanchez, Asst. City Attorney, Law Department
David Anders, Asst. Director, Austin Water