

Control Number: 45414



Item Number: 860

Addendum StartPage: 0

**PUC DOCKET NO. 45414
SOAH DOCKET NO. 473-16-4051**

REVIEW OF THE RATES OF	§	
SHARYLAND UTILITIES, L.P.,	§	PUBLIC UTILITY COMMISSION
ESTABLISHMENT OF RATES FOR	§	
SHARYLAND DISTRIBUTION &	§	OF TEXAS
TRANSMISSION SERVICES, L.L.C.,	§	
AND REQUEST FOR GRANT OF A	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY AND TRANSFER OF	§	
CERTIFICATE RIGHTS	§	

PUBLIC UTILITY COMMISSION
FILMS CLERK
2017 SEP 23 PM 3:53

ORDER DISMISSING PROCEEDING

This Order addresses the unanimous stipulation regarding dismissal of Docket No. 45414 (agreement) and the joint motion to dismiss the amended application executed by and among all of the parties to this proceeding. Consistent with the agreement of the parties, the joint motion is granted and the amended application is dismissed.

I. Background

In December 2015, the Commission ordered Sharyland Utilities, L.P. (Sharyland) to file a rate-filing package (application) using calendar year 2015 as a test year. The application was referred to the State Office of Administrative Hearings (SOAH) for a hearing. The Commission subsequently issued a preliminary order and an order requiring Sharyland and Sharyland Distribution & Transmission Services, L.L.C. (SDTS) (collectively, applicants) to file an amended application no later than January 1, 2017. Applicants timely filed the amended application currently pending in this docket. The SOAH administrative law judges subsequently abated this proceeding and canceled the hearing on the merits so that the applicants and parties could engage in settlement negotiations.

Shortly before abatement, Oncor Electric Delivery Company LLC submitted an application in Docket No. 46957, *Application of Oncor Electric Delivery Company LLC for Authority to Change Rates*. The Oncor application was also referred to SOAH for a hearing, but was abated on June 6, 2017, to allow parties in that proceeding to engage in settlement negotiations. As part of the resolution of Docket No. 46957, it was agreed that Oncor and applicants would exchange certain assets and Sharyland retail electric delivery customers would be transitioned to Oncor.

860

On July 21, 2017, Sharyland executed an agreement with Oncor under which, subject to regulatory approvals and other conditions of closing, applicants will transfer to Oncor substantially all property and other assets used by Sharyland to provide retail-electric-delivery service (other than certain excluded assets that Oncor declines to acquire) in the Stanton and McAllen divisions and substantially all property and other assets used in Sharyland's electric transmission and distribution business (other than certain excluded assets) in the Brady and Celeste divisions, and Oncor will transfer to SDTS certain transmission assets. Further, Sharyland will transfer to Oncor the rights under its certificates of convenience and necessity (CCNs) to provide retail service in the geographic area currently certificated to Sharyland and the CCNs will be amended to permit Sharyland to operate and maintain the transmission assets transferred from Oncor. Shortly following closing of the proposed transaction, all of Sharyland's current retail electric delivery customers will be transitioned to Oncor, and thereafter will be served by Oncor and will be charged Oncor's retail electric delivery rates, and Sharyland will serve only as a transmission service provider (proposed transaction).

On August 4, 2017, Sharyland and Oncor initiated a proceeding for Commission approval of the proposed transaction in Docket No. 47469, *Joint Report and Application of Sharyland Utilities, LP, Sharyland Distribution & Transmission Services, LLC and Oncor Electric Delivery Company LLC for Transfer of Facilities, Transfer of Rights Under and Amendment of Certificates of Convenience and Necessity, and for Other Regulatory Approvals*.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

Procedural History

1. On December 30, 2016, applicants filed an amended application for authority to change rates, and request for a certificate of convenience and necessity and transfer of certificate rights.
2. Intervenor status was requested and granted to the following: Office of Public Utility Counsel; Texas Industrial Energy Consumers; St. Lawrence Cotton Growers Association; Cities of Midland, Colorado City, McAllen, and Farmersville; City of Mission; City of Greenville; Targa Pipeline Mid-Continent WestTex, LLC; TXU Energy Retail Company

LLC; Reliant Energy Retail Services, Green Mountain Energy Company, and US Retailers, LLC; Texas Cotton Ginners' Association; Alliance for Retail Markets; and Texas Energy Association for Marketers.

3. On March 29, 2017, SOAH issued Order No. 23, abating this proceeding to allow the parties' time to engage in settlement negotiations.
4. On July 26, 2017, applicants filed an unopposed motion for residential interim rates. The motion described the agreement reached with Oncor and stated the interim rates, effective 45 days after entry of an order approving them, would remain in effect until the earlier of the date Sharyland customers are transitioned to Oncor, or if the proposed transaction does not close, the effective date of Sharyland's new residential retail rates ordered in a rate proceeding.
5. On July 28, 2017, SOAH issued Order No. 27, approving the requested interim rates.
6. On August 4, 2017, applicants filed a joint unanimous motion to admit evidence, remand the proceeding, and dismiss the amended application.
7. The joint unanimous motion included Exhibit A, the agreement regarding dismissal of this docket. The applicants, Commission Staff, and the intervenors are signatories to the agreement.
8. On August 7, 2017, SOAH issued Order No. 28 admitting evidence, remanding the case to the Commission for consideration of the agreement and the parties' request for dismissal of the amended application, and dismissing the case from the SOAH docket.

The Agreement

9. The signatories agreed that under 16 Texas Administrative Code (TAC) §§ 22.181(d)(2) and (d)(11), this proceeding should be dismissed without prejudice on the basis of moot questions or obsolete petitions and good cause shown, with such dismissal contingent upon (1) Commission approval of the joint report and application of applicants and Oncor referenced above; and (2) closing of the proposed transaction.
10. The signatories agreed that applicants will file their next rate case in calendar year 2020, based on a test year ending December 31, 2019.

11. The signatories reserved their rights to address all issues not mooted by the proposed transaction, including the granting and transferring of CCN rights to SDTS and approval of the leases between applicants as tariffs for electric service, in the 2020 rate case.
12. The agreement provides that applicants may continue to request recovery of their rate case expenses in *Review of Rate Case Expenses Incurred by Sharyland Utilities, L.P. Severed from Docket No. 45414*, Docket No. 45979, subject to the right of the parties to oppose the recovery of such expenses on any ground other than the dismissal of this proceeding.

Conditional Dismissal

13. If the proposed transaction closes as anticipated by the parties, the retail electric delivery rates that Sharyland proposed in this proceeding will never take effect.
14. Because Sharyland will no longer serve any retail electric delivery customers after the proposed transaction is consummated, the primary issues in this proceeding will become moot.
15. If litigation of this docket were to continue in the absence of any Sharyland retail electric delivery customers, the result would be a significant waste of judicial and administrative resources.
16. All of the parties to this proceeding support dismissal, consistent with the agreement.

III. Conclusions of Law

1. Sharyland and SDTS are electric utilities as defined in PURA¹ § 31.002(6) and transmission and distribution utilities as defined in PURA § 31.002(19).
2. The Commission has jurisdiction over this matter under PURA §§ 14.001, 32.001, 33.002, 35.004, 36.102, and 36.151.
3. SOAH exercised jurisdiction over this docket under PURA § 14.053 and Texas Government Code § 2003.049.²

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), §§ 59.001-66.017 (West 2007 & Supp. 2017) (PURA).

² Tex. Gov't Code Ann. § 2003.049 (West 2016).

4. Sharyland provided adequate notice of this proceeding in accordance with PURA § 36.103 and 16 TAC §§ 22.51 and 22.55.
5. Dismissal of this proceeding without prejudice under 16 TAC §§ 22.181(d)(2) and (d)(11) is appropriate.

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Consistent with the agreement, Sharyland's amended application is dismissed, without prejudice, on the basis of moot questions or obsolete petitions and good cause shown. This dismissal is contingent on Commission approval of the joint report and application in Docket No. 47469, and the closing of the proposed transaction that is the subject of that docket.
2. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order shall not be regarded as binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.
3. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the 29th day of September 2017.


PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER