

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.

Subchapter B. RATES AND TARIFFS.

§24.44. Rate-case Expenses.

- (a) **Recovery of rate-case expenses.** A utility may recover rate-case expenses, including attorney fees, incurred as a result of filing a rate-change application pursuant to TWC §13.187 or TWC §13.1871, only if the expenses are reasonable and necessary.
- (b) **Requirements for claiming recovery of or reimbursement for rate-case expenses.** A utility requesting recovery of its rate-case expenses has the burden to prove the reasonableness of such rate-case expenses by a preponderance of the evidence. A utility seeking recovery of rate-case expenses must submit information that sufficiently details and itemizes all rate-case expenses, including, but not limited to, evidence verified by testimony or affidavit, showing:
- (1) the nature, extent, and difficulty of the work done by the attorney or other professional in the rate case;
 - (2) the time and labor expended by the attorney or other professional;
 - (3) the fees or other consideration paid to the attorney or other professional for the services rendered;
 - (4) the expenses incurred for lodging, meals and beverages, transportation, or other services or materials;
 - (5) the nature and scope of the rate case, including:
 - (A) the size of the utility and number and type of consumers served;
 - (B) the amount of money or value of property or interest at stake;
 - (C) the novelty or complexity of the issues addressed;
 - (D) the amount and complexity of discovery;
 - (E) the occurrence and length of a hearing; and
 - (6) the specific issue or issues in the rate case and the amount of rate-case expenses reasonably associated with each issue.
- (c) **Criteria for review and determination of reasonableness.** In determining the reasonableness of the rate-case expenses, the commission must consider the relevant factors listed in subsection (b) of this section and any other factor shown to be relevant to the specific case. The commission must decide whether and the extent to which the evidence shows that:
- (1) the fees paid, tasks performed, or time spent on a task were extreme or excessive;
 - (2) the expenses incurred for lodging, meals and beverages, transportation, or other services or materials were extreme or excessive;
 - (3) there was duplication of services or testimony;
 - (4) the utility's proposal on an issue in the rate case had no reasonable basis in law, policy, or fact and was not warranted by any reasonable argument for the extension, modification, or reversal of commission precedent;
 - (5) rate-case expenses as a whole were disproportionate, excessive, or unwarranted in relation to the nature and scope of the rate case addressed by the evidence pursuant to subsection (b)(5) of this section; or
 - (6) the utility failed to comply with the requirements for providing sufficient information pursuant to subsection (b) of this section.
- (d) **Unamortized rate-case expenses.** Unamortized rate-case expenses may not be a component of invested capital for calculation of rate-of-return purposes.
- (e) **Calculation of allowed or disallowed rate-case expenses.**
- (1) Based on the factors and criteria in subsections (b) and (c) of this section, the commission must allow recovery of rate-case expenses equal to the amount shown in the evidentiary record to have been actually and reasonably incurred by the requesting utility. The commission must disallow

recovery of rate-case expenses equal to the amount shown to have been not reasonably incurred under the criteria in subsection (c) of this section. A disallowance may be based on cost estimates in lieu of actual costs if reasonably accurate and supported by the evidence.

- (2) A disallowance pursuant to subsection (c)(5) of this section may be calculated as a proportion of a utility's requested rate-case expenses using the following ratio or an appropriate methodology:
 - (A) the amount of the increase in revenue requirement requested by the utility that was denied, to
 - (B) the total amount of the increase in revenue requirement requested in a proceeding by the utility.
- (3) If the evidence presented pursuant to subsection (b)(6) of this section does not enable the commission to determine the appropriate disallowance of rate-case expenses reasonably associated with an issue with certainty and specificity, then the commission may disallow or deny recovery of a proportion of a utility's requested rate-case expenses using the following ratio or an appropriate methodology:
 - (A) the amount of the increase in revenue requirement requested by the utility in the rate case related to the issues not reasonably supported by evidence of certainty and specificity, to
 - (B) the total amount of the increase in revenue requirement requested in a proceeding by the utility.