



Control Number: 45720



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SOAH DOCKET NO. 473-16-3831.WS  
PUC DOCKET NO. 45720

APPLICATION OF RIO CONCHO  
AVIATION, INC. FOR A  
RATE/TARIFF CHANGE

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§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

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FILING CLERK

**STAFF'S SUPPLEMENT TO REQUEST TO POSTPONE HEARING ON THE MERITS**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Staff's Supplement to Request to Postpone Hearing on the Merits.

On April 25, 2016, a Commission Administrative Law Judge (ALJ) issued Order No. 2, suspending the rate change effective date so that the 265-day suspension deadline ends on January 16, 2017.<sup>1</sup>

On October 7, 2016, counsel for Rio Concho's wife contacted Staff via e-mail and asked Staff to file a motion to delay the hearing on the merits because counsel for Rio Concho was in the hospital. Due to the sensitivity of the situation for counsel, and the limited time to request a postponement, Staff filed a request to postpone the hearing on the merits immediately. Staff was not able to communicate with counsel for Rio Concho prior to filing the request to postpone the hearing on the merits, and therefore did not secure an agreement to further extend Rio Concho's effective date to accommodate the postponement.

In later conversations with counsel for Rio Concho, Staff understood that Rio Concho would be willing to file a motion to extend the effective date. On November 16, 2016, Staff spoke with counsel regarding Rio Concho's concern that it be able to keep the January 16, 2017 date as the relate back date for any later approved rate change. Staff and counsel discussed on November 16, 2016 that counsel for Rio Concho would draft, and circulate to parties, a motion to extend the effective date approximately 90 days to allow time for a Commission decision on the proposed rates, but that any rate change would relate back to the January 16, 2017 date. Intervenors were not yet in agreement to the relate back provision. On November 28, 2016, Staff

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<sup>1</sup> Pursuant to Texas Water Code § 13.1871(g) (TWC) and 16 Tex. Admin. Code § 24.26(a)(2) (TAC), the Commission suspended the effective date of Rio Concho Aviation, Inc.'s (Rio Concho's) rate change for 265 days from April 26, 2016 to January 16, 2017.

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followed up with counsel regarding the status of this motion, and was advised that Rio Concho is now unwilling to voluntarily extend the January 16, 2017 effective date.

Without an extension, it will be impracticable for the ALJ to issue a Proposal for Decision (PFD) and the Commission to make a final determination on Rio Concho's proposed rate before the expiration of the suspension period. This matter would have to be considered at the January 12, 2017 open meeting, which would require that the ALJ issue a PFD by December 29, 2016. This would allow the ALJ only 15 business days<sup>2</sup> from the close of the hearing on the merits to receive parties' initial and reply briefs, and draft the PFD. In order to permit time for exceptions to the PFD, the PFD would have to be issued within a week of the hearing. Additionally, it is Staff's understanding that counsel for Rio Concho has ordered a transcript of the hearing that will not be available until two weeks after the close of the hearing. This severely expedited timeline will place an impossible burden on all parties, and on the ALJ.

Staff is available for a telephonic prehearing conference any time this week to address this issue. Staff has conferred with Intervenors, and is authorized to represent that they are also available anytime except the morning of Friday, December 2, 2016. Staff was unable to reach counsel for Rio Concho prior to filing.

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<sup>2</sup> This count does not include December 23, 2016; when the Commission will close at 12:00pm, and December 26, 2016, when the Commission will be closed.

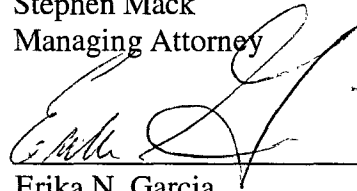
Dated: November 29, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

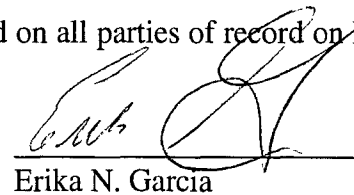
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**SOAH DOCKET NO. 473-16-3831.WS  
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CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 29, 2016 in accordance with 16 TAC § 22.74.



Erika N. Garcia