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**P.U.C. Docket No. 45720**

**SOAH DOCKET No. 473-16-3831.WS**

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

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**BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS**

**RATEPAYERS EXCEPTIONS TO PROPOSAL FOR DECISION  
SUBMITTED BY  
STEVE GRACE & JEFF SHEETS**

**ON BEHALF OF RATEPAYERS OF  
RIO CONCHO AVIATION, INC**

### **Introduction**

On March 23, 2017, the Administrative Law Judges (ALJ's) issued a Proposal for Decision (PFD) in this proceeding. The Ratepayers commend the ALJ's and the PUC Staff for their research and conclusions via a logical, well-thought decision. While the Ratepayers support the ALJ's recommendations, the Ratepayers make the following exceptions to the PFD for accuracy and clarity. The Ratepayers recommend the Commission consider the following:

### **Ratepayers Exceptions**

#### **I. INTRODUCTION**

Not addressed.

#### **II. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

Not addressed.

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### III. BACKGROUND

The original first paragraph reads as follows:<sup>1</sup>

“Rio Concho is a privately-owned retail public utility that provides water service to customers located in the Hicks Airfield Fixed Based Operations (Airfield) in Tarrant County, Texas. Barbie Brunson, Rio Concho shareholder and Vice President, testified that she and her husband, Kevin Brunson, Rio Concho President, formed Rio Concho in July 1995, when they purchased the Airfield, fuel farm, water system, and additional hangar lots. The Brunsons, through Rio Concho, provide water service to Airfield hangar and hangar homes and the Brunsons lease tie-down space for aircraft, lease a restaurant building, and sell aviation fuel through automated 24-hour self-serve pumps. According to Ms. Brunson, the other businesses are separate enterprises with separate funds.”

Ratepayer's Exception: In line 2, Fixed Based Operations is not the same as (Airfield). We would strike the words "Fixed Based Operations" resulting in the following sentence: Rio Concho is a privately-owned retail public utility that provides water service to customers located at Hicks Airfield in Tarrant County, Texas.

Ratepayer's Exception: In line 4, "when they purchased the Airfield, fuel farm, water system, and additional hangar lots." Rio Concho, nor the Brunsons, did not purchase the Airfield as written here. They did purchase the Airfield's fuel farm, water system, and additional hangar lots. The ownership of the airfield is comprised of the individual lot owners as represented by the Hicks Airfield Pilots Association, similar to a homeowners association. The sentence should read: when they purchased the Airfield's fuels farm, water system, and additional hangar lots.

### IV. REVENUE REQUIREMENT

#### A. Operations and Maintenance Expenses

##### 1. Ms. Brunson's Salary

Not addressed.

##### 2. Contract Labor

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<sup>1</sup> ALJ's Proposal for Decision, p 4

Not addressed.

### **3. Transportation Expense**

Page 21, first paragraph, last sentence:<sup>2</sup> "He also submitted evidence that there is a bank only 6.9 miles from the Airfield office."

Ratepayer's Exception: The bank is 4.8 miles from the airfield office as noted in the following paragraph in the PFD. The correct item in this paragraph is the US Post Office. The sentence is corrected as follows: He also submitted evidence that there is a US Post Office only 6.9 miles from the Airfield office.<sup>3</sup>

Page 23, first complete paragraph reads as follows:<sup>4</sup>

"Ratepayers also submitted convincing evidence that Ms. Loockerman's calculations failed to take into account a bank branch and post office located much closer to the Airfield. Thus, the ALJs find that Ms. Loockerman's recommended adjustment should be lowered to take into account the closer locations of the bank and post office, as well as the unsupported known and measurable changes. Accordingly, based on the ALJs' calculations, Ms. Loockerman's recommendation as to the proper mileage should be adjusted downward from \$2,863 to \$1,239. The ALJs further find, because there is no justification in the application, or record evidence, for the \$688 in known and measurable changes, Rio Concho's requested transportation expense should be further reduced. Ms. Loockerman's calculations and the ALJs' calculations and recommendations are found below:"

Ratepayer's Exception: Rio Concho claimed the \$688.01 K&M figure was for replacement tires which were not purchased in the 2015 test year but were anticipated to be purchased in the following year.<sup>5</sup>

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<sup>2</sup> ALJ's Proposal for Decision, p 21

<sup>3</sup> Initial Brief of Steve Grace & Jeff Sheets p 8 (Docket 45720-145)

<sup>4</sup> ALJ's Proposal for Decision p 23

<sup>5</sup> Rio Concho Rate Increase Application, I-1 Revenue Requirement Summary

The ALJ's Proposal for Decision included the following:<sup>6</sup>

<b>ALJs' Recommended Transportation Expenses</b>		
	Miles	Dollars
Mileage only allowed		
Route 1-3 times/week	0	
Route 2-2 times/week, 9.6 miles x 52 (bank round trip)	998.4	
Route 3 (no change)	134.4	
Route 4-2 times/month x 12 times 13.8 (post office round trip)	331.2	
Route 5 (no change)	415	
Route 6 (no change)	<u>415</u>	
Total @ .54/mile (IRS rate for 2016)	2,294	<b>\$1,239</b>
Known and measurable		<b>\$668</b>
Requested auto		<b><u>\$(3,971)</u></b>
Recommended reduction		<b>\$2,064</b>

The Ratepayers would point out the first exception as the figure \$688 in the text in the paragraph above (and in Rio Concho's application) and it's reduction by \$20 to the \$668 figure in the table above. We feel it's a typo and the correct figure should be \$688. However, whether the figure is \$668 or the actual \$688 is immaterial if the standard mileage rate is used.

The second exception is that the ALJ's wrote " The ALJs further find, because there is no justification in the application, or record evidence, for the \$688 in known and measurable changes, Rio Concho's requested transportation expense should be further reduced." Thus, the ALJ's disallowed the K&M change of \$688 as a legitimate expense. Yet, in the table above, the \$688 is included as an approved expense. If the requested auto

<sup>6</sup> ALJ's Proposal for Decision p

is \$3971 and the recommended reduction is \$2064, the result is \$1907. The \$1907 figure is found by adding the Total \$1239 plus the K&M change of \$668=\$1907. The Ratepayers believe the \$668 figure should have had parentheses around it and the recommended reduction should have been a combination of \$2064 plus \$668 for a total recommended reduction of \$2732. That leaves the correct figure of 2294 miles x 0.54/mile=\$1239 for transportation expense as shown in the table total line.

The Ratepayers also point to IRS publication 463, Travel, Entertainment, Gift, and Car Expenses<sup>7</sup> which states: "If you use the standard mileage rate for a year, you can't deduct your actual car expense for that year. You can't deduct depreciation, lease payments, maintenance and repairs, gasoline (including gasoline taxes), oil insurance or vehicle registration fees." Since the Ratepayers, PUC Staff, and ALJ's all recommended a standard mileage rate for transportation expenses, this K&M \$688 figure does not apply as the cost of maintenance and repairs are included in the standard mileage rate.

Ratepayer's Conclusion: Transportation expense should be corrected to \$1239, and not \$1907 as found in this table.

## **B. Administrative and General Expenses**

### **1. Employee Benefits**

#### **a. Evidence**

Page 27, first full paragraph reads as follows:<sup>8</sup>

" Ratepayer Mr. Sheets observed that Rio Concho is a two-person corporation and, within that corporation, is a small, not large, water company. According to Mr. Sheets, the "economies of scale simply do not support the extensive benefits that Rio Concho wants to claim and expense to their water customers." Moreover, he noted that most employees of large companies only contribute to their employees' health insurance and retirement and do not pay for life insurance. Similarly, Ratepayer Mr. Grace believes that everyone should have health insurance, but he does not agree that a small water company with one employee should be offered free health insurance to be paid by water customers. "

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<sup>7</sup> IRS Publication 463, p 16

<sup>8</sup> ALJ's Proposal for Decision, p 27

Ratepayer's Exception: The Ratepayers believe the sentence construction of the third sentence is incorrect. The sentence should read: Moreover, he noted "that most employees of large companies today contribute to their health insurance, pay for their own life insurance, and contribute toward their own retirement."<sup>9</sup>

**b. Argument**

Not addressed.

**c. ALJs' Recommendation**

Not addressed.

**2. Office Rent Expenses**

**a. Evidence**

Page 31, last paragraph (excerpt) reads as follows:<sup>10</sup>

" Ratepayer Mr. Sheets first became a customer of Rio Concho in June or July of 2014. He testified that he briefly noticed Rio Concho building an office sometime in 2014. However, he was unaware that Rio Concho had opened an office at the Airfield, could not recall any notice of an Airfield office, and has never seen the Airfield office open. There are no posted business hours, and he first became aware that a drop box for utility payments was in place in June 2015. He also indicated that the office is inside a metal building and oppressive heat builds up inside. On a summer day, if it is 98 degrees outside, the inside of a hangar might be 113 to 188 degrees. "

The first correction is on line 6 above, changing the year 2015 to 2016. The sentence should read: There are no posted business hours, and he first became aware that a drop box for utility payments was in place in June 2016.<sup>11</sup> Mr Sheets did mis-state the year in his Prefiled testimony and would ask the Commission to accept

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<sup>9</sup> Prefiled Testimony of Jeffrey Sheets, p 15 (Docket 45720-61)

<sup>10</sup> ALJ's Proposal for Decision, p 31

<sup>11</sup> Prefiled Testimony of Jeffrey Sheets p 5 (Docket 45720-61)

this correction to 2016 as also evidenced in Roy Geer's Testimony<sup>12</sup>, Stephen's Grace's testimony<sup>13</sup>, and Barbie Brunson's testimony<sup>14</sup>, in which she testified that drop box notice was provided in Jun 2016 water invoices.

The second correction is in the last sentence above, changing 188 to 118. The sentence should read: On a summer day, if it is 98 degrees outside, the inside of a hangar might be 113 to 118 degrees.<sup>15</sup>

**b. Argument**

Not addressed.

**c. ALJs' Recommendation**

Not addressed.

**4. Professional Services Expense**

Not addressed.

**5. Office Supplies and Expenses**

Not addressed.

**6. Miscellaneous Expenses**

- a. Clothing**
- b. Retail Memberships**
- c. Travel Expenses**
- d. Cell Phone Expenses**
- e. Audi Connect Expenses**

Not addressed.

**C. Affiliate Transactions**

Not addressed

**D. Depreciation**

**1. Audi Q5**

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<sup>12</sup> Prefiled Testimony of Roy Geer p 3 (Docket 45720-63)

<sup>13</sup> Prefiled Testimony of Stephen Grace p 5 (Docket 45720-62)

<sup>14</sup> Rio Concho Aviation's Response to Ratepayer First RFI p 6 (Docket 45720-106)

<sup>15</sup> Ratepayers Response to Rio Concho Aviation Water Rate Increase Application p 11 (Docket 45720-64)



Not addressed.

**2. Paving**

Page 47-48, first paragraph is as follows:<sup>16</sup>

"Ratepayer Mr. Grace testified that there are almost yearly paving projects around the Airfield. He indicated he has worked with the Hicks Airport Pilots Association paving committee in the past and is aware of most paving issues and projects. According to Mr. Grace, the only paving performed anywhere near the water utility property was a resurfacing and painting project around the fuel pumps and helicopter landing area. He noted that the \$6,000 expense for paving in 2013 was not for water system use, nor was it included in Rio Concho's last rate case in 2014. He stated it should not be included in this case. Ratepayer Mr. Sheets confirmed that, in 2013, the area around the fuel pumps, a separate business owned by the Brunsons, was paved. He testified that this cost should be assigned to the Brunsons' fuel company, not Rio Concho."

Correction to the last 2 sentences. They should read as follows:

Ratepayer Mr Roy Geer<sup>17</sup> confirmed that, in 2013, the area around the fuel pumps, a separate business owned by the Brunsons, was paved. Ratepayer Mr Sheets<sup>18</sup> testified that this cost should be assigned to the Brunsons' fuel company not Rio Concho.

**3. Television and Related Items**

Not addressed.

**4. Office Equipment**

Not addressed.

**E. Taxes**

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<sup>16</sup> ALJ's Proposal for Decision p 18

<sup>17</sup> Prefiled Testimony & Exhibits of Roy Geer p 3 (Docket 45720-63)

<sup>18</sup> Initial Brief of Steve Grace & Jeff Sheets p 14 (Docket 45720-145)

Not addressed.

**F. Return on Invested Capital**

Not addressed.

**V. RATE OF RETURN**

Not addressed.

**VI. RATE DESIGN**

Not addressed.

**VII. RATE CASE EXPENSES**

Not addressed.

**VIII. CONCLUSION**

Not addressed.

**IX. FINDINGS OF FACT**

Page 76 Item 11 reads as follows:<sup>19</sup>

" On June 17, 2016, Administrative Law Judge (ALJ) Lilo D. Pomerleau convened a prehearing conference in Austin, Texas. The following appeared and were admitted as the parties in this case: Rio Concho; Stephen Grace, Jeff Sheets, Roy R. Geer, and Mike Olson (Ratepayers); and Commission Staff."

Ratepayer's Exception: The 4 named individuals for the Ratepayers were admitted as parties in this case. However, only two of the four appeared in Austin at the prehearing conference in Austin on June 17, 2016. The two in attendance were Stephen Grace and Jeff Sheets.<sup>20</sup>

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<sup>19</sup> ALJ's Proposal for Decision p 76

<sup>20</sup> SOAH order No. 4 p 1

Page 77, item 16 shows the following table<sup>21</sup> with the Transportation expense corrections added to the right side:

1. The following expenses are reasonable and necessary to provide service to the ratepayers:

Category	Amount	Corrected Amt
Power expense	\$3,048	
Other volume related expense	\$1,620	
<b>Total volume related expense</b>	<b>\$4,668</b>	
Employee labor	\$41,568	
Materials	\$3,515	
Contract work	\$11,720	
Transportation expense	\$1,907	<b>\$1,239</b>
Employee pensions and benefits	\$0	
Office rentals	\$0	
Office supplies and expenses	\$7,417	
Professional services	\$1,512	
Insurance	\$2,446	
Regulatory expense	\$595	
Miscellaneous expense	\$3,747	
<b>Total non-volume related expenses</b>	<b>\$74,427</b>	<b>\$73,759</b>
<b>Total operating expenses</b>	<b>\$79,095</b>	<b>\$78,427</b>

As noted earlier in this document on pages 3-4-5, Transportation expense should be \$1239 and not \$1907 as shown above, an error of \$668 for K&M expense. When that correction is made, Total non-volume related expenses is also reduced to \$73,759 (\$74,427-\$668) and Total Operating Expenses are also reduced to \$78,427 (\$79,095-\$668).

<sup>21</sup> ALJ's Proposal for Decision p 77

Page 77, item 21 reads as follows:<sup>22</sup>

" Rio Concho's requested transportation expenses included commuting costs, which are unreasonable and unnecessary. Transportation expenses based on reasonable mileage of \$1,907 are reasonable and necessary and should be included in rates."

Ratepayer's Exception: Due to the correction in Transportation Expenses discussed earlier in this document on pages 3-4-5, this \$1907 figure should be reduced to \$1239.

Lastly, In addition to these exceptions, the Ratepayers request that the ALJ's or their staff recalculate the base rate and gallonage rate proposed due to the corrections in Transportation expenses contained within this document.

## **X. CONCLUSIONS OF LAW**

not addressed.

## **XI. ORDERING PARAGRAPHS**

Not addressed.

## **Conclusion**

For all the arguments discussed above and in all of the Ratepayers brief's, the Ratepayers respectfully take exception to the PFD and request that any final order in this proceeding be revised consistent with these exceptions.

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<sup>22</sup> ALJ's Proposal for Decision p 77