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State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

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Austin, Texas 78701

VIA FACSIMILE NO. (512) 936-7208

RE: SOAH Docket No. 473-16-3831.WS
PUC Docket No. 45720

Application of Rio Concho Aviation, Inc. for a Rate/Tariff Change

The undersigned Administrative Law Judge (ALJ) has read the exceptions and replies to exceptions to the Proposal for Decision (PFD) in the above-referenced case. The ALJ is not readdressing the arguments made in exceptions that were already addressed in the PFD. However, the ALJ is making certain changes and clarifications to the PFD in response to exceptions and replies. To the extent a party's exceptions are not specifically mentioned in this letter, those exceptions are not adopted because the PFD adequately supports the recommendation.

Applicant Rio Concho Aviation, Inc.'s Exceptions

As stated in the introduction of Rio Concho Aviation, Inc.'s (Rio Concho) exceptions, the exceptions come from Rio Concho's briefing; thus, they have already been addressed in the PFD.¹

¹ Rio Concho Aviation, Inc.'s Exceptions to the Proposal for Decision (Apr. 3, 2017) at 3 ("Much of this exception document come directly from Rio Concho's initial brief and reply brief ...").

Staff's Exceptions

Staff (Staff) of the Public Utility Commission of Texas filed exceptions, which were not addressed in Ratepayers' reply to exceptions. Further, Rio Concho filed no reply to Staff's exceptions.

Staff correctly points out that the Background section of the PFD refers to Rio Concho's proposed rate of \$7.67 per 1,000 gallons as it appears in the original application, but that Rio Concho subsequently twice adjusted the requested volumetric rate—first to \$7.19 in Randal Manus' Direct Testimony,² and second to \$7.05 in Rio Concho's Response to Staff RFI 4-5(f).³ Because this information is not included in the Findings of Fact and does not affect the overall recommendation, the ALJ is clarifying this issue through the exceptions letter, rather than recommending changes in the PFD.

Staff also points to a calculation error in section IV.A.3. of the PFD regarding transportation costs. The ALJs found no justification in the application or record evidence for Rio Concho's \$688 in known and measurable changes to its requested transportation expenses.⁴ Therefore, the chart on page 24 of the PFD should be amended to show "\$0" for known and measurable transportation expenses, resulting in a recommended reduction of \$2,732, rather than \$2,064. These numbers result in the recommended transportation expenses of \$1,239 shown in the table. After making these corrections, Finding of Fact Nos. 16 and 21 should state:

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

Category	Amount
Power expense	\$3,048
Other volume related expense	\$1,620
Total volume related expense	\$4,668
Employee labor	\$41,568
Materials	\$3,515
Contract work	\$11,720
Transportation expense	\$1,239
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

² Rio Concho Ex. RCA-4 at 7.

³ Staff Ex. 13 at RCA000926.

⁴ PFD at 23.

Total non-volume related expenses	\$73,759
Total operating expenses	\$78,427

21. Rio Concho's requested transportation expense included commuting costs, which are unreasonable and unnecessary. Transportation expenses based on reasonable mileage of \$1,239 are reasonable and necessary and should be included in rates.

Due to these corrections, Staff should recalculate the rate design and update Finding of Fact No. 42 using the corrected figures.

Staff also correctly points out that the date the matter was referred to the State Office of Administrative Hearings was April 26, 2016, rather than April 25, 2016, as stated in Finding of Fact No. 9. Therefore, Finding of Fact No. 9 should be modified accordingly.

Finding of Fact No. 22 should be corrected to show that Rio Concho's requested employee benefit expenses are \$13,788, rather than \$14,788.

Finding of Fact No. 39 should be corrected to refer to a "cost of debt" of 5.03%, rather than a "return on debt."

Finally, Staff correctly points to errors in the calculation of rate case expenses in Finding of Fact No. 43, which should be corrected as follows to match the discussion on rate case expenses in the PFD:

43. Through December 6, 2016, Rio Concho incurred rate case expenses in the amount of \$91,658 as follows:

Person/Firm	Amount
Randal Manus	\$2,297
ValueScope, Inc.	\$0
The Carlton Law Firm	\$87,369
Barbie Brunson	\$988
Expenses	\$1,004
Total	\$91,658

The ALJ notes that the "Rate Case Expenses Summary" on page 74 of the PFD leaves out the \$368 of expenses from Barbie Brunson that were disallowed pursuant to the discussion on pages 69-70 of the PFD and that the total amount of disallowed expenses should total \$16,867.

Ratepayers' Exceptions

Ratepayers Steve Grace and Jeff Sheets submitted exceptions that note several errors and clarifications. In its reply to exceptions, Staff stated that it did not oppose Ratepayers' exceptions. Rio Concho filed no replies to Ratepayers' exceptions.

Those exceptions related to the transportation expenses are noted above in the discussion of Staff's exceptions. The ALJ corrects Finding of Fact No. 11 to remove the words "appeared and" from the second sentence to clarify that the people listed were admitted as parties; however, not all the people (namely, Roy R. Geer and Mike Olson) appeared at the prehearing conference.

The ALJ appreciates the remaining clarifications; however, because the errors are not in the Findings of Fact and do not affect the overall recommendations, the ALJ clarifies these issues through this exceptions letter, rather than recommending changes to the PFD. To that end, the ALJ notes that the correct name of the airfield is the "Hicks Airfield," rather than the "Hicks Airfield Fixed Based Operations" and that the Brunsons did not purchase the Airfield itself as noted on page 4 of the PFD. On page 31 of the PFD the ALJ notes that the record reflects the date that Mr. Sheets became aware of the drop box for utility payments was "June 2015,"⁵ which Mr. Sheets states was a mistake and should be corrected to "June 2016" consistent with other testimony in this case. Although the ALJ notes Mr. Sheets's correction, the ALJ recommends no changes and finds that this error in Mr. Sheets's prefiled testimony has no effect on the Findings of Fact or Conclusions of Law. Mr. Sheets also notes that the temperature range of the inside of a hanger noted on page 31 of the PFD should be changed from "113 to 188 degrees" to "113 to 118 degrees" consistent with evidence in the record.⁶

Finally, the Ratepayers note that on page 48 of the PFD the ratepayer confirming that the area around the fuel pumps was paved in 2013 should be ratepayer Roy Geer and the ratepayer stating that the cost of the paving should be assigned to the Brunsons' fuel company should be ratepayer Jeff Sheets. The ALJ disagrees. This information is found in the record at Ratepayers Exhibit RP 19 at page 17 and is not attributed to Mr. Geer or Mr. Sheets.

The PFD, along with this exceptions letter, is ready for consideration by the Commission.

Sincerely,



Holly Vandrovec
Administrative Law Judge

xc: All Parties of Record

⁵ Ratepayers Ex. RP 17 (Testimony of Jeffrey Sheets) at 5.

⁶ Ratepayers Ex. RP 19 at 11.