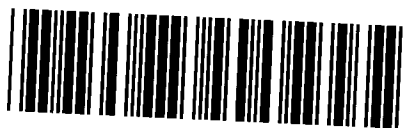




Control Number: 45720



Item Number: 28

Addendum StartPage: 0

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

RECEIVED  
2016 MAY 23 PM 12:35  
PUBLIC UTILITY COMMISSION

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

§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

**PRELIMINARY ORDER**

On March 22, 2016, Rio Concho Aviation, Inc. filed an application for a water rate/tariff change under Texas Water Code §§ 13.1872(c)(2), 13.1871 (TWC). On April 21, 2016, Commission Staff found the application administratively complete and recommended that this matter be referred to the State Office of Administrative Hearings (SOAH) on the Commission's own motion and since more than ten percent of Rio Concho's ratepayers protested the rate change.<sup>1</sup> On April 26, 2016, this docket was referred to SOAH. On May 5, 2016, Commission Staff and Rio Concho each timely filed a list of issues.

Rio Concho states it is a Class C utility.<sup>2</sup> However, Rio Concho is filing under TWC § 13.1872(c)(2), which allows a Class C utility to apply for a rate change under the procedure applicable to a Class B utility. Rio Concho serves approximately 240 water connections in Tarrant County.<sup>3</sup> Rio Concho's application states that the rate change is necessary to cover increased expenses and requests an annual revenue increase of \$29,087.58.<sup>4</sup> Rio Concho states that its last rate increase was in 2014.<sup>5</sup> Under Rio Concho's proposed rates, the

---

<sup>1</sup> Commission Staff's Recommendation on Administrative Completeness and Suspension of Rates and Request for Referral to the State Office of Administrative Hearings at 2-3 (April 21, 2016); 16 Tex. Admin. Code § 24.28(c)(2) (TAC).

<sup>2</sup> Application at 1 (March 20, 2016).

<sup>3</sup> Application at 8, 50.

<sup>4</sup> Application at 50.

<sup>5</sup> Application at 50.

28

cost of 10,000 gallons of water per customer would increase from \$86.00 per month to \$116.45 per month and the charge for 30,000 gallons would increase from \$196.00 per month to \$269.85 per month.<sup>6</sup> Further, under Rio Concho's proposal, the base rate for a residential water customer with a 5/8-inch or 3/4-inch connection would increase from \$31.00 per month to \$39.75 per month.<sup>7</sup> The gallonage charge for each 1,000 gallons over the base volume would increase from \$5.50 to \$7.67.<sup>8</sup> Additionally, the fee to reconnect at a customer's request would increase from \$25.00 to \$50.00 and the returned check fee would increase from \$25.00 to \$38.00.<sup>9</sup>

### **I. Issues to be Addressed**

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>10</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. What is the appropriate methodology to determine just and reasonable rates in this docket?
2. What are the just and reasonable rates for the utility that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory?<sup>11</sup>
3. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public

---

<sup>6</sup> Application at 50.

<sup>7</sup> Application at 52.

<sup>8</sup> Application at 52.

<sup>9</sup> Application at 52.

<sup>10</sup> Tex. Gov't Code Ann. § 2003.049(e) (West 2008 & Supp. 2015).

<sup>11</sup> TWC § 13.182.

in excess of its reasonable and necessary operating expenses while preserving the utility's financial integrity?<sup>12</sup>

4. Are the utility's proposed revisions to its tariffs and rate schedules, if any, appropriate?
5. What is the reasonable and necessary cost of providing service?<sup>13</sup>
6. What adjustments, if any, should be made to the utility's proposed test-year data?<sup>14</sup>
7. What is the appropriate debt-to-equity capital structure of the utility?
8. What is the appropriate overall rate of return, return on equity, and cost of debt for the utility?
9. What are the reasonable and necessary components of the utility's invested capital?<sup>15</sup>
10. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?
11. What is the original cost of the property used and useful in providing water service to the public at the time the property was dedicated to public use?<sup>16</sup> What is the amount, if any, of accumulated depreciation on such property?
12. Is the utility seeking the inclusion of construction work in progress? If so, what is the amount sought and for what facilities? Additionally, has the utility proven that the

---

<sup>12</sup> TWC § 13.183(a); 16 TAC § 24.32(a).

<sup>13</sup> 16 TAC § 24.31.

<sup>14</sup> TWC § 13.185(d)(1); 16 TAC § 24.31(b), (c)(5).

<sup>15</sup> 16 TAC § 24.31(c)(2).

<sup>16</sup> TWC § 13.185(b); 16 TAC § 24.31(c)(2)(A)-(B).

inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed?<sup>17</sup>

13. Does the utility have any debt? If so, what is the cost of that debt?
14. What is the reasonable and necessary working capital allowance for the utility?<sup>18</sup>
15. Does the utility have any water property that was acquired from an affiliate or a developer before September 1, 1976? If so, has such property been included by the utility in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities?<sup>19</sup>
16. Has the utility acquired any water property from an affiliate? If so, do the payments for that property meet the requirements of TWC § 13.185(e)?
17. Has the utility financed any of its plant with developer contributions?<sup>20</sup> What is the amount, if any, of accumulated depreciation on that property?
18. Has the utility included any customer contributions or donations in invested capital?<sup>21</sup>
19. Are the utility's proposed pro forma rate-base and expense adjustments consistent with the requirements of 16 TAC § 24.31?
20. What are the utility's reasonable and necessary operations and maintenance expenses?<sup>22</sup>
21. What are the utility's reasonable and necessary administrative and general expenses?

---

<sup>17</sup> TWC § 13.185(b); 16 TAC § 24.31(c)(4).

<sup>18</sup> 16 TAC § 24.31(c)(2)(C).

<sup>19</sup> TWC § 13.185(i).

<sup>20</sup> TWC § 13.185(j), 16 TAC § 24.31(b)(1)(B).

<sup>21</sup> TWC § 13.185(j), 16 TAC § 24.31(c)(2)(B)(v).

<sup>22</sup> 16 TAC § 24.31(b)(1)(A).

22. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?<sup>23</sup>
23. Are any expenses, including but not limited to, executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines, unreasonable, unnecessary, or not in the public interest?<sup>24</sup>
24. If the utility has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to charge that amount? What is the amount of any shortage or surplus for the reserve account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
25. Has the utility made any payments to affiliates?
  - a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary?<sup>25</sup>
  - b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations?<sup>26</sup>

---

<sup>23</sup> 16 TAC § 24.31(b)(1)(F).

<sup>24</sup> TWC § 13.185(h)(3); 16 TAC § 24.31(b)(2)(I).

<sup>25</sup> TWC § 13.185(e).

<sup>26</sup> *Id.*

26. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation?<sup>27</sup>
27. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are such tax savings apportioned equitably between customers and the utility, and are the interests of present and future customers equitably balanced?
28. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes?<sup>28</sup>
29. What is the reasonable and necessary amount for the utility's federal income tax expense?<sup>29</sup>
- a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return?<sup>30</sup>
- b. If so, have income taxes been computed as though a consolidated return had been filed and the utility realized its fair share of the savings resulting from the consolidated return?<sup>31</sup>
- c. If not, has the utility demonstrated that it was reasonable not to consolidate returns?<sup>32</sup>

---

<sup>27</sup> TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).

<sup>28</sup> 16 TAC § 24.31(b)(1)(C).

<sup>29</sup> 16 TAC § 24.31(b)(1)(D); TWC § 13.185(f).

<sup>30</sup> TWC § 13.185(f).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

30. What is the reasonable and necessary amount of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from the utility's rate base?
31. What regulatory assets are appropriately included in the utility's rate base? If such assets are included in rate base, what is the appropriate treatment of such assets?
32. Is the utility seeking rates for both water and sewer service? If so, is each component of cost of service (each allowable expense and all return on invested capital) properly allocated between water and sewer services?
33. What is the appropriate allocation of the revenue requirement among rate classes?
34. What is the appropriate rate design for each rate class?<sup>33</sup>
35. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest?<sup>34</sup> Does that amount include any anticipated expenses to appeal this docket that are just, reasonable, necessary, and in the public interest? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?
36. What are intervening cities' reasonable rate-case expenses?<sup>35</sup>
37. If a refund or surcharge results from this proceeding, how and over what period of time should that be made?<sup>36</sup>

---

<sup>33</sup> 16 TAC § 24.32.

<sup>34</sup> 16 TAC § 24.33.

<sup>35</sup> TWC § 13.084.



38. Has the utility met the requirements for a request for interim relief in the form of interim rates? If so, what are the appropriate levels of the interim rates?<sup>37</sup>
39. What is the appropriate effective date of the rates fixed by the Commission in this proceeding?<sup>38</sup>

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code Annotated § 2003.049(e).

#### **IV. Effect of Preliminary Order**

The Commission's discussion and conclusions in this Order regarding issues that are not to be addressed should be considered dispositive of those matters. Questions, if any, regarding issues that are not to be addressed may be certified to the Commission for clarification if the SOAH ALJ determines that such clarification is necessary. As to all other issues, this Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from the non-dispositive rulings of this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

---

<sup>36</sup> TWC § 13.1871.


<sup>37</sup> 16 TAC § 24.29.

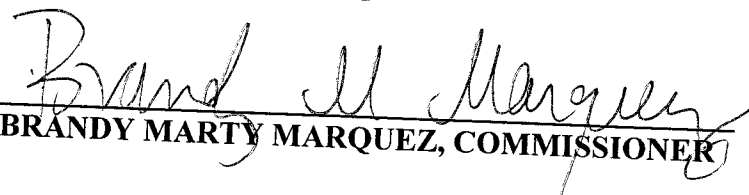
<sup>38</sup> TWC § 13.1871.

SIGNED AT AUSTIN, TEXAS the 23<sup>rd</sup> day of May 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

  
DONNA L. NELSON, CHAIRMAN

  
KENNETH W. ANDERSON, JR., COMMISSIONER

  
BRANDY MARTY MARQUEZ, COMMISSIONER