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

2016 SEP -2 AM 9:44
BEFORE THE STATE OFFICE
PUBLIC UTILITY COMMISSION
OF
ADMINISTRATIVE HEARINGS

**JEFFREY SHEETS' RESPONSE TO RIO CONCHO'S OBJECTION TO AND MOTION TO
STRIKE PORTIONS OF RATEPAYERS RESPONSE TO RIO CONCHO AVIATION, INC. WATER RATE
INCREASE APPLICATION**

I.

INTRODUCTION

While the Confidential filing to which Rio Concho water company objected was a team effort by Roy Geer, Stephen Grace, and Jeffrey Sheets, this response is authored by Jeffrey Sheets. References in the first person "I" refer to Jeffrey Sheets as the author below.

II.

GENERAL RESPONSE

(Bolded lines are from Rio Concho's objections.)

Rio Concho generally objects to the Response because it is full of speculation and unsupported, unsubstantiated opinions. There is no witness offered to support the testimony and statements contained within the Response. As a result, it is simply hearsay testimony under Rule 801 and 892 of the Texas Rules of Evidence and must be excluded.

Even if the Response can be attributed to a single witness, it remains flawed. If the testimony is by one of the identified fact witnesses, the testifying witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. While we acknowledge that these witnesses may be accomplished and experienced pilots, they are not experts in matters related to water utility ratemaking or even accounting. Consequently, the opinion testimony within the Response on these issues is simply speculation and prohibited from be admitted into the record under Rule 702. Rule 702 states that

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue. Tex. R. Evid. 702.

But when the main substance of the witness testimony is not based on application of the witness' specialized knowledge, skill, experience, training, or education to his familiarity to the [subject matter], then the witness's testimony must be excluded if it goes beyond the facts into the realm of opinion. Any opinion testimony in the Response from a lay witness is limited by Rule 701, which states:

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception; and
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue. Tex. R. Evid. 701.

Although a lay witnesses testimony is not required to have certainty, if the witness is simply speculating or guessing and does not establish a personal perception and knowledge upon which the testimony is based, then the testimony must be excluded. *Bighy v State*, 892 S.W.2d 864, 889 (Tex. Crim. App. 1994). Because none of the possible witnesses for the Reponse have any training, expertise or experience in water utility ratemaking or even in the operation of a water utility business or accounting, the opinion testimony does not fit into either category and should not be allowed into the record

I submit the following from the Texas Rules of Evidence (effective June 14, 2016):

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703.

Rule 701. Opinion Testimony by Lay Witnesses

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

(a) rationally based on the witness's perception; and

(b) helpful to clearly understanding the witness's testimony or to determining a fact in issue.

I object to Rio Concho's request to strike my testimony in all or in part for the following reasons:

- 1) Our confidential filing is relevant in that it has a tendency to make a fact more or less probable than it would without the evidence. In this case, more probable.
- 2) Knowledge of Rio Concho water company financials was gained through Confidentiality agreements administered by the PUC and requested by the PUC Staff. Thus, I gained that personal knowledge of the matter as required by Rule 602 in the course of this rate case. It was only after gaining this knowledge, that I testified.
- 3) As a Lay Witness, I would also point to 701(a) and (b) in that all of the information contained in my testimony is rationally based on my perception of the evidence (a) and is helpful to clearly understand the witness's testimony or to determine a fact in issue as submitted by Rio Concho (b).
- 4) In addition, I have 3 years of experience as a labor union auditor despite not having any formal training in accounting,

III.

SPECIFIC RESPONSES

(Lettered and Bolded lines are from Rio Concho's objections below.)

A. The Response, page 3, lines 2-15.

Rio Concho objects to the statement on the basis of relevance. Tex. R. Evid. 401-402.

"To be relevant, the [evidence] must tend to make the existence of a *material* fact more or less probable than it would otherwise have been." *Edwards v. TEC*, 936 S.W.2d 462, 466-67 (Tex. App. --Fort Worth 1996, no writ) (emphasis added). The testimony offered does not relate to a material fact in this matter, and should be stricken. The history of Rio Concho's filings are irrelevant to this case.

I object and would point to the same Tex. R. Evid 401 as does Rio Concho. "Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.”

Rio Concho has produced documents from 2013, 2014, and 2015 for this rate increase. It is also a fact that Rio Concho filed 3 rate increase cases in 2014, 2015, and 2016. Rio Concho amended PUC Form III-3(a) Utility Plant in Service-Reconciliation to Prior Case in their 2016 filing to include 2013 even though year 2013 was included as their test year in their 2014 filing. This was specifically against the instructions on the PUC Form. As a result of Rio Concho’s 2016 filing, they have introduced the 2013 test year, thus, it is relevant per Tex. R. Evid 401.

B. The Response, page 6, lines 6-14.

Rio Concho objects to the statement on the basis of relevance. Tex. R. Evid. 401-402.

"To be relevant, the [evidence] must tend to make the existence of a *material* fact more or less probable than it would otherwise have been." *Edwards v. TEC*, 936 S.W.2d 462, 466-67 (Tex. App. -- Fort Worth 1996, no writ) (emphasis added). The testimony offered does not relate to a material fact in this matter, and should be stricken. The relationship of Rio Concho's request rate increase to the Consumer Price Increase or the rates at other water systems is irrelevant to this case.

Rio Concho’s rate increase request is based on their current revenue not meeting their desired water revenue. However, whereas 9 other water companies in the nearby community have not raised water rates or kept those rate increases below 12%, Rio Concho is requesting a 28.2% increase over their current base rate and a 39.5% increase in their current gallonage charge. Since 2013, the bill for 2,000 gallons of water will increase 65.5% if they are granted their rate request. Comparing CPI to water rate increases, and comparing surrounding communities water rates to Rio Concho’s request is very relevant. Rio Concho pays nothing for its water. The raw material, water, is pumped from a well and none was purchased from any other source.

The PUCT Mission statement is “We protect customers, foster competition, and promote high quality infrastructure.” If the PUCT operated without regard to water rate pricing anywhere within the state of Texas, they would be failing to uphold their mission statement to protect customers. Thus, I submit these contested lines are very much relevant to this rate case, per Tex. R. Evid 401.

C. The Response, page 7, lines 5-8.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. He is not an expert on the rules related to operation of water utilities or the basis for an increase in rates. This opinion testimony on the reason for the increase in rates is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

After digesting Rio Concho's Confidential Filings, I became personally knowledgeable of the matter within those filings. This fulfilled the Tex. R. Evid 602 requirement to possess personal knowledge. Rule 701(a) and (b) allows a Lay Witness to testify in the form of an opinion that is "rationally based on the witness's perception" and "helpful to clearly understanding the witness's testimony or to determining a fact in issue." Thus, I object to the striking of this passage.

D. The Response, page 9, line 9 – page 10, line 8.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. He is not an expert on the rules related to operation of water utilities or the basis for an increase in rates. This opinion testimony on the possible violation of rules is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

I have been unable to find out definitively whether Rio Concho has applied for a waiver to PUC Statute 24.81. Rio Concho, nor their attorney, have responded to my question, and the PUC staff's response has not been definitive either. Thus, I can only assume that no waiver has been granted. If true, then Rio Concho is in violation of PUC Statute 24.81. It does not require a lawyer to be able to read and interpret that PUC Statute. As this has a rather large bearing on this case, I included it in the filing to which Rio Concho objects. I submit this topic meets the requirements of Tex. R. Evid 401, Relevancy, meets the requirements of Tex. R. Evid 602 due to my gained personal knowledge of the PUC Statute 24.81, and meets the requirements of a Lay Witness's statement as specified in Tex. R. Evid 701(a) and (b).

E. The Response, page 10, lines 7-20.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. He is not an expert on the rules related to operation of water utilities or office locations. This opinion testimony on these issues is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

I agree to strike page 10, lines 7-20 without objection.

F. The Response, page 11, lines 9-14.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on these issues is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

This Rio Concho objection falls flat. All three intervenors, including myself, live in hangar homes on the Hicks Airfield. As such, we all possess hangar portions of our buildings, similar to Rio Concho's hangar office. We are all affected by the increase in temperatures (15 to 20 degrees on hot days) inside those metal buildings. To state that we don't have personal knowledge of this heat effect inside a metal building is ludicrous. I can easily testify that I have personal knowledge of the matter, thus meeting Tex. R. Evid 602. Further, I also meet the requirements of Lay Witnesses as specified in Tex. R. Evid 701(a) and (b).

G. The Response, page 12, lines 3-15.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the use of the office is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

All Rio Concho documents filed in this rate case have been read and reviewed numerous times by the intervenors. Thus, I have gained personal knowledge of this matter as required by Tex. R. Evid 602. Rio Concho testified to their home office being their corporate office which contains books, records, computer, etc required by the PUC Statute. A reader is not required to be an expert to understand the implications of a multi-thousand dollar airport office lease, to whom that lease payment ultimately benefits and who it harms. As stated in Tex. R. Evid 701(a) and (b), this testimony must be allowed to remain.

H. The Response, page 13, line 9-10.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the appropriateness of Ms. Brunson's salary is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Lines 9-10 deal with a Mercer article and a payroll overpayment. The narrative of Rio Concho's objection does not seem to address these two topics. I will address both the objected lines and the narrative. First, the narrative of their objection: Once again, I have studied the Rio Concho documents as submitted via the PUC Confidentiality agreement. Having become knowledgeable of their one employee's weekly pay check as noted in Rio Concho documents and via their Quickbooks register, I now possess personal knowledge of Ms. Brunson's weekly and annual income which meets Tex R. Evid 602. Tex R. Evid 701(a) and (b) allow a Lay Witness to form an opinion if it is rationally based on the witness's perception" and "helpful to clearly understanding the witness's testimony or to determining a fact in issue."

As to the actual line 9-10 content of Rio Concho's objection: The Mercer article, as with many other articles found on the web today, informs and teaches at the same time. That information is the basis for meeting the personal knowledge requirement of Tex R. Evid 602. Having worked in a pilot labor union for over 3 decades, I'm also personally familiar with annual rate increases, so again, personal knowledge gained. As for Tex. R. Evid 701, I feel my opinions do meet the "rationally based on the witness's perception" and "helpful to clearly understanding the witness's testimony or to determining a fact in issue."

As to the reference to the Mercer article, I point to Tex R. Evid 803 (17) Market Reports and Similar Commercial Publications as being an allowable exception to the rule against Hearsay.

I. The Response, page 13, lines 12-22.

Rio Concho objects to the statement on the basis of relevance. Tex. R. Evid. 401-402.

"To be relevant, the [evidence] must tend to make the existence of a *material* fact more or less probable than it would otherwise have been." *Edwards v. TEC*, 936 S.W.2d 462; 466-67 (Tex. App. -- Fort Worth 1996, no writ) (emphasis added). The testimony offered does not relate to a material fact in this matter, and should be stricken. The relationship of Ms. Brunson's salary to the Saginaw employees salaries is irrelevant to this case.

Rio Concho claims that Ms Brunson's salary is irrelevant to the Saginaw employees' salaries. What would Rio Concho's response be if Saginaw paid its employees \$25,000 per year more than Ms. Brunson? Wouldn't Rio Concho point to Saginaw's pay rate along with other higher paid city employees as a justification for an increase in her salary? I doubt they would respond that Saginaw's salaries are irrelevant. We simply do not

live in a vacuum nor does the PUC. My conclusion on lines 21-22 was that I would defer to the PUC Staff for a fair assessment of her salary. I made no attempt to assess a salary on my own.

I submit that it is relevant per Tex. R. Evid 401 and Tex R. Evid 701(a) and (b) allow that rationally based perception to be included.

J. The Response, p 14, lines 11-14.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the trend in health insurance and level of benefit is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

Articles written on the web can be very enlightening. Prior to getting involved in this rate case, I couldn't have quoted the percentage of small companies in Texas offering Health Insurance to employees. After reading the article, I know it's now 26.2%. Stated another way, 3 out of 4 Texas companies with fewer than 50 employees do NOT offer Health Insurance to their employees. Rio Concho is not objecting to the article, they're objecting to the conclusions found in the article (and other similar articles) which discuss the trend in health insurance. I find that obtained knowledge justifies Tex. R. Evid 602 (Personal Knowledge). In addition, I was in a labor union for over 3 decades (and a labor union officer) so I also have a Personal Knowledge having paid increasingly larger premiums for Health Insurance over those 3 decades. Lastly, Tex. R. Evid 701 (a) and (b) allow my rationally based witness' perception.

K. The Response, p 15, lines 5-15.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the trend in retirement benefits and level of benefit is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Mr Brunson, at the Hicks water meeting in March 2016, stated that much of the higher water rates had to do with "economies of scale" meaning Hicks only had 240 meters to divide into the expenses. I understand the concept and wish to take it a step further. I think economies of scale have to apply to the salary and benefits offered to these same water companies. Larger companies may offer better pay and better benefits due to

economies of scale than smaller companies. A company the size of Rio Concho (one employee) simply cannot be expected to match the salary nor the benefits of a large water company. I feel this should apply to Rio Concho's retirement benefit, life insurance benefit, health insurance benefit, etc. Indeed, articles on the web confirm my statement based on company size and benefits offered. There is no speculation involved when web based articles confirm those statistics. Having read half a dozen articles on retirement benefits, having seen fellow intervenor Stephen Grace have his Defined Benefit Retirement Plan frozen due to an airline bankruptcy, having friends at other airlines complain that their Defined Benefit Retirement Plan was terminated and given to the PBGC, I feel this retirement benefit topic is one in which I have firsthand knowledge, in addition to having labor union officer experience on this subject. I submit I have Personal Knowledge as required by Tex R. Evid 602 and have an opinion as a Lay Witness based on Tex. R. Evid 701 (a) and (b).

L. The Response, page 15, line 18-page 16, line 2.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the trend in retirement benefits and level of benefit is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

Rio Concho states that I am speculating in my response in regard to their employee's life insurance policy when I state that the face page of the policy indicates it is not a term policy but a whole life policy or one that has a cash value in the future. I direct your attention to paragraphs 3 and 4 of the policy page on page RCA 0000128 since I'm not allowed to quote Confidential Information here. No term policy that I've ever had contained these paragraphs as term policies do not have guaranteed performance, allow withdrawals, nor have guaranteed interest rates.

My objection is: 1) Rio Concho introduced the life insurance policy statement. 2) I read the face page of their evidence. 3) Rio Concho now wants to strike my gained knowledge of what the ratepayers are actually paying for. I submit that Tex R. Evid 602 has been met as Rio Concho presented me with the policy that gave me a personal knowledge of this topic, and Tex R. Evid 701 (a) and (b) has allowed me to form a rationally based opinion as a Lay Witness.

M. The Response, page 16, lines 14-15.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of capital costs is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

Rio Concho is attempting to re-write the instructions on PUC Table III-3(a) Utility Plan in Service. The form states on Line 2 "Plant additions after previous rate case" which for Rio Concho was 2014 with 2013 as their test year. For Rio Concho to now include 2013 on their 2016 rate case application simply doesn't follow the instructions on the PUC Table. My original text was to inform the PUC Staff of this error. The directions on the Form are clear. For Rio Concho to claim this is speculation is nonsense. I have Rio Concho's rate application from 2014 and from 2016. It is easy to compare the two Table III. B. Original Cost & Depreciation schedules from both years. After studying and analyzing the Rio Concho applications, I have gained a personal knowledge as required by Tex. R. Evid 602, and made a statement on lines 14-15 as allowed under Tex. R. Evid 701 (a) and (b).

N. The Response, page 17, line 6-page 18, line 18.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the cost for paving, office equipment and expenses is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Again, Rio Concho has submitted evidence that they want to discard from analysis. Where Rio Concho wants to expense thousands of dollars in 2013 to water company paving, they also submitted a 2013 P&L statement which contradicts that claim. In my submission, Appendix 3, the repaved area is clearly visible. That area is west of the water facilities and surrounds the fuel pumps. I agree that prior to reading and analyzing their document submission, I had no personal knowledge of their Capital Expenditures. It was after reading, analyzing, comparing other documents submitted, and researching receipts that these items surfaced. I submit that per Tex R. Evid 602, I gained personal knowledge after reading these documents. Further, I formed a Lay Witness opinion per Tex. R. Evid 701 (a) and (b) allowing me to challenge the items in this passage.

O. The Response, page 18, line 19-page 19, line 6.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the cost for the local office is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

The facts as submitted by Rio Concho documents show two offices, the expenses of furnishing both offices, the costs of remodeling the claimed airport office, and the purchase of office equipment that has no relationship to a water company. Prior to reviewing and analyzing these documents, I had no personal knowledge of these expenses. However, after the reviewing and analyzing of Rio Concho's documents, I became personally knowledgeable of their expenses. Thus, I meet the Tex. R. Evid 602 requirement. I also meet Tex R. Evid 701 (a) and (b) after having formed a Lay Witness opinion based on rational perception of Rio Concho's financial transactions.

P. The Response, page 20, line 1 – page 22, line 5.

Rio Concho objects to the statement on the basis of relevance. Tex. R. Evid. 401-402. "To be relevant, the [evidence] must tend to make the existence of a *material* fact more or less probable than it would otherwise have been." *Edwards v. TEC*, 936 S.W.2d 462, 466-67 (Tex. App. -- Fort Worth 1996, no writ) (emphasis added). The testimony offered does not relate to a material fact in this matter, and should be stricken. The treatment of costs under IRS regulations is irrelevant to this case. In addition, Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the IRS regulations is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

I have researched, filed, and have become personally knowledgeable on IRS Publications 535 Business Expenses; and IRS Publication 463, Travel, Entertainment, Gift, and Car Expenses via my world-wide travel, first in the US Air Force, and later my airline, for well over 36 years. For Rio Concho to state that I'm not personally knowledgeable is inaccurate. That personal knowledge qualifies me under Tex. R. Evid 602. To analyze what Rio Concho is attempting has allowed me to form a Lay Witness rational opinion and helps to clearly understand my testimony which are the requirements of Tex. R. Evid 701 (a) and (b).

Q. The Response, page 22, line 21 – page 23, line 21.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge.

Tex. R. Evid. 602. This opinion testimony on the treatment of the appropriateness of expenses for water utility operation is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

My analogy: Attorney Carlton hires Worker A to cut his lawn. Worker A acknowledges that cutting the lawn is part of his responsibilities. Worker A, then hires Worker B to actually cut the lawn. Both Worker A and Worker B then bill Attorney Carlton for the cutting of the lawn. That's what I would call a double expense. That is occurring at Rio Concho. Rio Concho's sole employee testified as to her duties and responsibilities. She then hires her children to accomplish some of those items and expenses that cost to her water customers. That is a double expense. Rio Concho objects to my testimony as speculation, however, Rio Concho records as submitted by them, prove without a doubt that this double expensing is on-going. Prior to reviewing those records, I would not have had any personal knowledge of this situation. After reviewing the records, I do have a personal knowledge of the facts. As such, this fits the Tex. R. Evid 602 requirement. In addition, the forming of a rational opinion and stating that opinion is helpful to clearly understand the witness's testimony per Tex. R. Evid 701 (a) and (b).

R. The Response, page 24, lines 8-11

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the appropriateness of expenses for water utility operation is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

Rio Concho submitted the P&L statements for 2013, 2014, and 2015. Meter reading expenses are contained in those documents. Rio Concho's meter reading expenses were relatively flat when comparing 2013 with 2015 on an annual basis. However, one of the reasons Rio Concho claims they need a water rate increase is meter reading expenses are going up. Remember that the meter readers are the Rio Concho children and one other child. A fact, based on Rio Concho filing, is Rio Concho is raising water meter reading fees by 69% between 2015 and 2016. This expense goes directly into the Rio Concho children's allowance. Fully, 59.4% of the meter reading fees in 2015 went to the family's children. Meter reading is a job description of Ms Brunson, as stated by Rio Concho numerous times in their filings. Thus, the water customers are getting double expensed.

Again, I had no personal knowledge of this situation prior to reviewing and analyzing the Rio Concho documents, but after having done so, I did become personally knowledgeable as required in Tex. R. Evid 602. Further, I developed a rational opinion based on Tex. R. Evid 701 (a) and (b).

S. The Response, page 24, lines 19-21.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the appropriateness of expenses for water utility operation is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

The Rio Concho documents show a payment to Randy Munson for “emergency...” in their Quickbooks register. Since Rio Concho testified that Kevin Brunson was their go-to-guy for all emergencies, and pay him an annual salary to be available 24/7, I view this payment to Mr Munson as a double expense. Again, I had no personal knowledge of this situation prior to reviewing and analyzing the Rio Concho documents, but after having done so, I did become personally knowledgeable as required in Tex. R. Evid 602. Further, I developed a rational opinion based on Tex. R. Evid 701 (a) and (b).

T. The Response, page 25, lines 9-12.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the appropriateness of expenses for water utility operation is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Ms. Brunson testified that Kevin Brunson is paid a fixed monthly income every month x 12 months. My investigation showed that to not be true. Rio Concho’s Quickbook records show several dozen payments to Kevin Brunson over the course of 2015. Only two months had the fixed monthly income that Ms Brunson testified that he received. No records were submitted detailing how many water emergencies were handled by Kevin Brunson.

I had no personal knowledge of this situation prior to reviewing and analyzing the Rio Concho documents, but after having done so, I did become personally knowledgeable as required in Tex. R. Evid 602. Further, I developed a rational opinion based on Tex. R. Evid 701 (a) and (b).

U. The Response, page 25, lines 14-17

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the appropriateness of expenses for water utility operation is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

I have no objection to the striking of lines 14-17.

V. The Response, page 26, lines 6-9

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the vehicle expense is simply speculation and prohibited -from being admitted into the record under either Rule 701 or Rule 702.

I have no objection to the striking of lines 6-9.

W. The Response, page 27, lines 1-11.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the use of the property by the utility is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

All of the intervenors, to include myself, can distinguish between a fuel pump and a water tank. Google maps evidence in Appendix 3 of this protested filing, show exactly the location of the water facilities on 171 Aviator Dr, the location of the restaurant, fuel pumps and parking. There is no speculation involved. Further, the ability to use a tape measure to generously measure the square footage contained within the water facility area does not require any specialized training. While I had no knowledge of how Rio Concho was measuring and assigning HAPA assessments prior to reading their filings, I became personally knowledgeable after having read and analyzed those Rio Concho documents. Thus, I meet the requirement of Tex R. Evid 602, and have testified as to my opinion as specified in 701 (a) and (b).

X. The Response, page 27, lines 13-20.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the treatment of the use of the property by the utility is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Rio Concho testified that “The water utility only pays for the property that it actually uses.” Yet, when I measured the property it uses at 171 Aviator Dr, Rio Concho objected. All of the intervenors, to include myself, can distinguish between a fuel pump and a water tank. Google maps evidence in Appendix 3 of this protested filing, show exactly the location of the water facilities on 171 Aviator Dr, the location of the restaurant, fuel pumps and parking. There is no speculation involved. Further, the ability to use a tape measure to generously measure the square footage contained within the water facility area does not require any specialized training. While I had no knowledge of how Rio Concho was measuring and assigning Tarrant and Denton counties’ taxes prior to reading their filings, I became personally knowledgeable after having read and analyzed those Rio Concho documents. Thus, I meet the requirement of Tex R. Evid 602, and have testified as to my opinion as specified in 701 (a) and (b).

Y. The Response, page 28, lines 16-17.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the need for the service is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Rio Concho submitted documents expensing this item as found in their Confidential documents. While I had no knowledge of this expense prior to reading and analyzing their submission, I now have personal knowledge of the expense and how it is used. This meets the Tex. R. Evid 602 requirement. It is from this knowledge that I formed an opinion as a water customer and testified as specified in Tex. R. Evid 701 (a) and (b).

Z. The Response, page 30, lines 11-15.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the accuracy of the utility's financial information is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702

I have no objection to the striking of lines 11-15.

AA. The Response, page 31, lines 7 and 13.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the appropriateness of an expense is simply

speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

This is an odd objection as it only addresses 2 lines (7 and 13), whereas the other objections had multiple lines asking to be struck. I must assume, based on the sentence construction within that paragraph, that Rio Concho means 7-13 and not 7 and 13. I will address 7-13 in its entirety.

I object to the striking of lines 7-13. Rio Concho introduced the evidence, which enlightened me and gave me the personal knowledge required by Tex. R. Evid. 602 to address this topic. Whereas the PUC staff asked for specific expenses by category, Rio Concho mostly complied. This evidence, and the few receipts assigned to the evidence, leads me to the conclusion that paying the membership fees is not reducing the water customer costs but instead driving those costs higher. I formed a rational opinion to which I testified, thus meeting the specifics in Tex. R. Evid 701 (a) and (b).

BB. The Response, page 32, lines 4-7.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the classification of an expense is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Rio Concho Confidential documents show a date change regarding this purchase so as to include it in test year 2015. Those are the facts as shown in 3 different pages in their filing. Rio Concho has produced no other document to dispute their submission. I now have personal knowledge of the expense and the dates involved. This meets the Tex. R. Evid 602 requirement. It is from this knowledge that I formed a rational opinion as a water customer and testified as specified in Tex. R. Evid 701 (a) and (b).

CC. The Response, page 32, lines 11 and 13-19.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the appropriateness of an expense is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

I have no objection to striking line 11. I do object to striking lines 13-19. Rio Concho submitted documents expensing this item as found in their Confidential documents. While I had no knowledge of this expense prior

to reading and analyzing their submission, I now have personal knowledge of the expense and how it is used. This meets the Tex. R. Evid 602 requirement. It is from this knowledge that I formed an opinion as a water customer and testified as specified in Tex. R. Evid 701 (a) and (b).

DD. The Response, page 33, lines 11-15.

Rio Concho objects to the response because it is simple speculation. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. Tex. R. Evid. 602. This opinion testimony on the appropriateness of an expense is simply speculation and prohibited from being admitted into the record under either Rule 701 or Rule 702.

Though the course of reading and analyzing Rio Concho's confidential documents, I have gained a broader understanding of the water company's finances. That personal knowledge allows me to fulfill the requirements of Tex. R. Evid. 602. It is from this knowledge that I formed a rational opinion as a water customer and testified as specified in Tex. R. Evid. 701 (a) and (b).

EE. The Response, page 36, Attachment 1.

Rio Concho objects to the document on the basis of relevance. Tex. R. Evid. 401-402.

"To be relevant, the [evidence] must tend to make the existence of a *material* fact more or less probable than it would otherwise have been." *Edwards v. TEC*, 936 S.W.2d 462, 466-67 (Tex. App. -- Fort Worth 1996, no writ) (emphasis added). The document offered does not relate to a material fact in this matter, and should be stricken. The rates of other utilities are irrelevant to this case.

Rio Concho's rate increase is based on their current revenue not meeting their desired water revenue. However, whereas 9 other water companies in the nearby community have not raised water rates or kept those rate increases below 12%, Rio Concho is requesting a 28.2% increase over their current base rate and a 39.5% increase in their current gallonage charge. Since 2013, the bill for 2,000 gallons of water will increase 65.5% if they are granted their rate request. Comparing surrounding community's water to Rio Concho's request is very relevant. Rio Concho pays nothing for its water. The raw material, water, is pumped from a well and none was purchased from any other source.

The PUCT Mission statement is "We protect customers, foster competition, and promote high quality infrastructure." If the PUCT operated without regard to water rate standards anywhere within the state of

Texas, they would be failing to uphold their mission statement to protect customers. Thus, I submit these contested lines are very much relevant to this rate case, per Tex. R. Evid 401.

FF. The Response, page 37, Attachment 2.

Rio Concho objects to the document on the basis of relevance. Tex. R. Evid. 401-402.

"To be relevant, the [evidence] must tend to make the existence of a material fact more or less probable than it would otherwise have been." Edwards v. TEC, 936 S.W.2d 462, 466-67 (Tex. App. -- Fort Worth 1996, no writ) (emphasis added). The document offered does not relate to a material fact in this matter, and should be stricken. The pay of a Saginaw maintenance worker is irrelevant to this case

Rio Concho claims that Ms. Brunson's salary is irrelevant to the Saginaw employees' salaries. What would Rio Concho's response be if Saginaw paid its employees \$25,000 per year more than Ms Brunson? Wouldn't they point to Saginaw's pay rate along with other higher paid city employees as a justification for an increase in Ms Brunson's salary? I doubt they would respond that Saginaw's salaries are irrelevant in that case. We simply do not live in a vacuum nor does the PUC. Rio Concho forgets that they produced 26 pages of job description and comparable salary information in Docket 45720-47. Since they introduced the salary information prior to my testimony, I submit that for these very reasons, it is relevant per Tex. R. Evid 401.