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PUBLIC UTILITY COMMISSION
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OPEN MEETING COVER SHEET

COMMISSIONER MEMORANDUM

MEETING DATE: April 27, 2018

DATE DELIVERED: April 26, 2018

AGENDA ITEM NO.: 23

CAPTION: Docket No. 47958 - Petition of the Ridge at Frio River Water Company for Modification of a True-up Provision Approved in Docket No. 43783

ACTION REQUESTED: Discussion and possible action with respect to the Chairman's memo.

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Chairman

Arthur C. D'Andrea
Commissioner




Greg Abbott
Governor

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Executive Director

Public Utility Commission of Texas

TO: Chairman DeAnn T. Walker
Commissioner Arthur C. D'Andrea

All Parties of Record (*via electronic transmission*)

FROM: Petrus Wassdorf 
Commission Advising

RE: *Petition of the Ridge at Frio River Water Company for Modification of a True-up Provision Approved in Docket No. 43783; Docket No. 47958. Proposed Order, April 27, 2018 Open Meeting, Item No. 23.*

DATE: April 26, 2018

Please find enclosed a memorandum regarding questions concerning the proposed order that are proposed by Chairman Walker in the above-referenced docket. No other commissioner will file a memorandum in this docket.

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Public Utility Commission of Texas

Memorandum

TO: Commissioner Arthur C. D'Andrea
FROM: Chairman DeAnn T. Walker *DTW*
DATE: April 26, 2018
RE: Open Meeting of April 27, 2018 – Agenda Item No. 23
Docket No. 47958 – *Petition of the Ridge at Frio River Water Company for Modification of a True-up Provision Approved in Docket No. 43783*

On May 5, 2016, The Ridge at Frio River Water Company (the Ridge) was granted a certificate of convenience and necessity (CCN) by the Commission in Docket No. 43783. *Application of the Ridge at Frio River Water Company, LLC for a Water Certificate of Convenience and Necessity in Real County*. In that docket, the Commission referenced both 16 TAC §§ 24.21 and 24.34 in conclusion of law 4 in which the approval of the tariff was discussed. The order granting the CCN was not specific as to the section of the Commission rules that was used to approve the initial rates for the new service area. In addition, ordering paragraph 3, in which the “true up of the approved rates” was addressed, did not contain a reference to a Commission rule for the basis of the requirement.

The Ridge did not begin service until April 2017; therefore, October 2018 is 18 months from the date operations began. Due to the language of the order, the Ridge filed the initial pleading in this proceeding requesting an extension of time to file a true-up proceeding until December 31, 2018, because the company does not currently have sufficient data to properly submit a true-up proceeding of its rates by October 31, 2018, which is 18 months from the date of operations. However, the Ridge did not request an extension of time to file its rate proceeding. For the reasons stated below, although the order in Docket No. 43783 required a true-up filing within 18 months of operations, I find that the Commission rules require a rate proceeding, including a true-up of the new tariff rates and the historic test year, to be filed within the 18 months.

In granting a new CCN, as was done in Docket No. 43783, 16 TAC § 24.21 is applicable to the approval of the rates and tariff in such a proceeding. Section 24.21(b)(1)(A) states the following: “When applying to obtain or amend a CCN, . . . every utility shall file its proposed tariff with the commission and any regulatory authority with original rate jurisdiction over the utility.” Section 24.21(b)(1)(C) states, in part, the following: “A person who has obtained an approved tariff for the first time and is under the original rate jurisdiction of the commission shall file a rate change application within 18 months from the date service begins in order to revise its tariff to adjust the rates to a historic test year and to true up the new tariff rates to the historic test year.” It is my interpretation that section 24.21 applied to the approval of the rates and tariff for The Ridge in Docket No. 43783, because The Ridge was obtaining its CCN in that proceeding.

As to 16 TAC § 24.34, it is applicable to phased and multi-step rate changes that are established under Texas Water Code §§ 13.187 or 13.1871, which provides for a rate case proceeding. However, the rates and tariff established in Docket No. 43783 were not approved pursuant to Texas Water Code §§ 13.187 or 13.1871 nor were phased or multi-step rates approved in that proceeding. I do not interpret the order of the Commission such that the rates and tariff approved in Docket No. 43783 were done so pursuant to 16 TAC § 24.34. Therefore, the provisions for a true-up proceeding pursuant to this section are not applicable to the rates and tariff established in Docket No. 43783.

Therefore, it is my interpretation of the statute, Commission rules, and the order in Docket No. 43783 that the rates were approved pursuant to 16 TAC § 24.21. Because of this, the Ridge is required to file a rate-change application 18 months after beginning service and include a true-up of the new tariff rates and the historic test year. Based upon this interpretation, I propose adopting the proposed order with the following modifications:

Based on the facts of this case, I would find under 16 TAC § 24.2(6) that there is good cause to grant The Ridge's petition to extend the 18 month filing requirement in 16 TAC § 24.21(b)(1)(C) and extend that deadline to December 31, 2018.

In the parenthetical in the introductory paragraph and throughout the order, the company should be referenced as "The Ridge" instead of "the Water Company."

A finding of fact should be added between the current findings of fact 6 and 7, and all subsequent findings of fact renumbered, to read as follows:

7. Good cause exists to extend the 18 month deadline in 16 TAC § 24.21(b)(1)(C) to December 31, 2018.

In addition the ordering paragraphs should be modified as follows:

1. The Commission grants this petition as provided in this order. ~~The petition is granted.~~
2. A rate-change application proceeding that includes a true-up of the new tariff rates and the historic test year of the rates approved in Docket No. 43783 shall be filed by December 31, 2018, and shall consist of a reconciliation by customer account to true-up the revenues received under the rates approved in Docket No. 43783 with the revenues that would have been received had the rates reflected the actual cost of service that would be approved in a rate case.

Finally, I propose delegating to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.