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DOCKET NO. 48980

APPLICATION OF FRIO CANON
WATER, LLC FOR AUTHORITY TO
CHANGE RATES

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PUBLIC UTILITY COMMISSION
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Frio Canon Water Company, LLC for authority to change rates. The Commission approves Frio Canon's change in water rates and associated tariff, as modified by this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Frio Canon is a domestic limited liability company registered with the Texas Secretary of State on July 11, 2007, under file number 800842404.
2. Frio Canon owns and operates a public water system under Texas Commission on Environmental Quality identification number 193023.
3. Frio Canon provides water service under certificate of convenience and necessity number 13145 in Real County, to 16 current connections.

Application

4. On December 14, 2018, Frio Canon filed a Class B Rate application for authority to change water rates and revise its associated water tariff and proposed an effective date of January 31, 2019.
5. On March 22, 2019, the administrative law judge (ALJ) filed Order No. 3, finding the application to be administratively complete and suspending the effective date for Frio Canon's requested rates for 265 days or until the issuance of an order setting final rates.
6. On April 10, 2019, Frio Canon filed an amended proposed effective date of June 1, 2019 for the requested rates.
7. In Order No. 6 filed on June 4, 2019, the ALJ suspended the effective date for requested rates by 265 days: from June 1, 2019 to February 21, 2020.

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8. Frio Canon's current metered water rates and those proposed in the application are as follows:

<u>Current Monthly Base-Rate</u> per meter size including 0 gallons		<u>Frio Canon's Proposed Monthly Base-Rate</u> per meter size including 0 gallons	
5/8" or 3/4"	\$35.00	5/8" or 3/4"	\$60.98
1"	\$70.00	1"	\$152.45
1 1/2"	\$140.00	1 1/2"	\$304.90
2"	\$280.00	2"	\$487.84

<u>Current Gallonage Charge</u>		<u>Frio Canon's Proposed Gallonage Charge</u>	
0 to 8,000 gals.	\$2.50 / 1,000 gals.	0 to Total Use	\$6.95 / 1,000 gals.
8,001 to 15,000 gals.	\$3.50 / 1,000 gals.		
>15,001 gals.	\$4.50 / 1,000 gals.		

9. Frio Canon proposes no changes to its tap fees or other miscellaneous fees.
10. The rates proposed by Frio Canon was based on a test year ending December 31, 2017.
11. Frio Canon based its rate analysis on usage by 20 customers, although the actual customer count for the 2017 test year was 16.
12. Frio Canon elected to propose a rate based on a lower revenue requirement than the actual revenue requirements for the utility, and a higher customer count than the utility actually has, in order to minimize rate shock and to provide a more favorable economic environment for the ratepayers.
13. Frio Canon's proposed rates will not provide sufficient revenue to provide a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, over and above its reasonable and necessary operating expenses, and will not preserve Frio Canon's financial integrity.

Commission Staff's Recommended Rates

14. On September 13, 2019, Commission Staff filed its recommendation on final disposition, recommending approval of the following proposed metered water rates for Frio Canon in this docket:

<u>Commission Staff's Recommended</u> <u>Monthly Base-Rate</u> <u>per meter size including 0 gallons</u>		<u>Commission Staff's Recommended</u> <u>Gallage Charge</u>	
5/8" or 3/4"	\$65.20	0 to Total Use	\$6.95 / 1,000 gals.
1"	\$163.00		
1 1/2"	\$326.00		
2"	\$521.60		

15. The rates proposed by Commission Staff were based on a test year ending December 31, 2018, as adjusted.
16. Commission Staff based its rate analysis on usage by 16 customers, the actual customer count during the 2018 test year.
17. Utilizing a 2018 test year, as adjusted, allows the use of Frio Canon's most current information and will allow a more accurate rate to be set.
18. Utilizing a 2018 test year, as adjusted, better supports the financial integrity of the applicant when compared to the 2017 test year proposed by Frio Canon.

Annual Revenue Requirement

19. Commission Staff recommends an annual revenue requirement of \$35,906.

Expenses

20. In its rate analysis, Commission Staff calculated the following expenses: (a) operations and maintenance expenses of \$15,904; (b) depreciation of \$6,052; (c) income taxes of \$2,040; and (d) other taxes of \$98.

Rate Base and Rate of Return

21. In its rate analysis, Commission Staff calculates a rate base of \$167,554, based on: (a) an original cost of plant in service of \$227,631.00; (b) working capital of \$1,977; (c) accumulated depreciation of \$61,554; and (d) a \$500 reduction to account for developer contributions in aid of construction for a customer-paid tap fee.
22. Commission Staff recommends a rate of return for Frio Canon of 7.08%, which results in a reasonable return on equity.
23. With a 7.08% rate of return, Frio Canon's return on invested capital will be \$11,863.00.

Rate Case Expenses

24. Frio Canon has incurred \$9,729 in reasonable and necessary rate case expenses.
25. It is reasonable to allow Frio Canon to recover its rate-case expenses by imposing a surcharge of \$10.13 per connection (based on 16 connections), ending at the earlier of: (a) 60 months; or (b) when the total of \$9,729 has been collected.

Tariff

26. On September 13, 2019, Commission Staff filed the proposed tariff as an attachment to its final recommendation.

Notice of Application

27. On April 10, 2019, Frio Canon filed a copy of the notice of proposed rate changes to be mailed to all of its ratepayers.
28. On May 22, 2019, Frio Canon filed the affidavit of David L. Dalglish, officer for Frio Canon, attesting that the notice of proposed rate changes was sent to all Frio Canon ratepayers and affected persons on April 12, 2019.
29. In Order No. 6 filed on June 4, 2019, the ALJ found the notice provided to be sufficient.

Ratepayer Protests

30. Roy Kircher, a Frio Canon ratepayer, filed a protest in this docket on December 31, 2018. Mr. Kircher filed additional protests on March 25 and April 17, 2019.
31. No other ratepayers of Frio Canon filed a protest.
32. Frio Canon has 16 ratepayers.

33. Less than 10% of Frio Canon's ratepayers filed a protest.

Evidentiary Record

34. On October 11, 2019, Frio Canon and Commission Staff filed a joint motion to admit evidence.
35. In Order No. 7 filed on November 4, 2019, the ALJ admitted into the record: (a) Frio Canon's application for a Class B rate change, filed on December 14, 2018; (b) Frio Canon's supplementation filed on February 13, 2019; (c) the notice of proposed rate change, filed on April 10, 2019; (d) the revised affidavit of David Dalglish, officer for Frio Canon, attesting that revised notice was mailed to each customer or affected party on or about April 12, 2019, filed on May 22, 2019; (e) Frio Canon's response to Commission Staff's first request for information (RFI) and requested discovery, filed on June 14, 2019; (f) Frio Canon's first supplemental response to Commission Staff's first RFI, filed on July 8, 2019; (g) Frio Canon's second supplemental response to Commission Staff's first RFI, filed on July 11, 2019; (h) Frio Canon's response to Commission Staff's request for admission and second RFI, filed on August 16, 2019; (i) Frio Canon's supplemental discovery responses, filed on August 27, 2019; (j) Frio Canon's supplemental discovery responses, filed on September 6, 2019; and (k) Commission Staff's recommendation on final disposition, including the attached memorandum and tariff, filed on September 13, 2019.

Informal Disposition

36. More than 15 days have passed since completion of the notice provided in this docket.
37. Frio Canon and Commission Staff are the only parties to this proceeding.
38. No party requested a hearing and no hearing is necessary.
39. Commission Staff recommended approval of the application, provided the Notice of Approval adopts Commission Staff's recommended rates.
40. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over the application under TWC §§ 13.041, 13.181 through 13.185, 13.1871 and 13.1872.¹
2. Frio Canon is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(59) and a public utility as defined in TWC § 13.002(23) and 16 TAC § 24.3(51).
3. The Commission has authority to suspend the effective date of Frio Canon's proposed rates for 265 days beyond the proposed effective date under TWC § 13.1871(g) and 16 TAC § 24.26.
4. Frio Canon is a Class C Utility, as defined by TWC § 13.002(4-c) and 16 TAC § 24.3(17).
5. Frio Canon filed its application under TWC § 13.1871; as a result, TWC § 13.1872(c)(2) requires it to be subject to all requirements applicable to Class B utilities filing an application under TWC § 13.1871.
6. Frio Canon gave proper notice of the application in accordance with TWC § 13.1871 and 16 TAC § 24.27.
7. The 10% threshold in TWC § 13.1871(i) to require a hearing on the application was not met.
8. This docket was processed in accordance with the requirements of the TWC, the Administrative Procedure Act,² and Commission rules.
9. The rate structure and revenue requirement proposed by Frio Canon do not comply with TWC §§ 13.182 and 13.183.
10. The rate structure and revenue requirement proposed by Commission Staff and adopted in this Notice of Approval comply with TWC §§ 13.182 and 13.183.

¹ All cites to the Texas Water Code in this Notice of Approval are to the version of the statutes in effect prior to September 1, 2019, which apply to this application because it was filed prior to that date.

² Tex. Gov't Code ch. 2001.

11. The overall revenues that will be generated by the rates authorized in this Notice of Approval will allow Frio Canon a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, over and above its reasonable and necessary operating expenses, and preserve Frio Canon's financial integrity in accordance with TWC § 13.183.
12. An overall rate of return of 7.08% will not yield Frio Canon more than a fair return on the invested capital used and useful in rendering service in accordance with TWC § 13.184.
13. The rates recommended by Commission Staff and approved in this Notice of Approval: (a) are just and reasonable; (b) are not unreasonably discriminatory, preferential, or prejudicial; and (c) otherwise comply with TWC §§ 13.181 through 13.192 and 16 TAC §§ 24.25 through 24.44, and Commission policy.
14. The application does not constitute a major rate proceeding as defined by 16 TAC § 22.2(27).
15. The requirements for informal disposition in 16 TAC § 22.35 have been met.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the changes in Frio Canon's water rates as modified by Commission Staff's recommendation and this Notice of Approval.
2. The Commission approves the tariff attached to the Commission Staff's final recommendation, filed on September 13, 2019, with the condition that Commission Staff must revise the tariff to specify that the rate case expense surcharge will commence on January 1, 2020.
3. The rates approved in this Notice of Approval are effective January 1, 2020.
4. Commission Staff must file a clean copy of the tariff, as revised in accordance with Ordering Paragraph number two, with Central Records to be marked *Approved* and kept in the Commission tariff book.

5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted in this herein.

Signed at Austin, Texas the 25th day of November 2019.



CHRISTOPHER OAKLEY
ADMINISTRATIVE LAW JUDGE

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