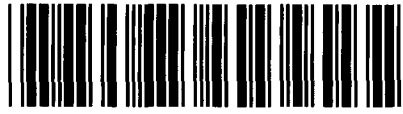




Control Number: 49605



Item Number: 14

Addendum StartPage: 0

DOCKET NO. 49605

RECEIVED

APPLICATION OF CARROLL WATER §  
CO., INC. FOR A PRICE INDEX RATE §  
ADJUSTMENT §

2019 NOV -5 PM 3:06  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER NO. 3  
DENYING MOTION TO DISMISS**

On November 1, 2019, Commission Staff filed a motion to dismiss. Commission Staff asserts that Carroll Water Co., Inc. has too many water connections to qualify as a Class C utility and, therefore, is not entitled to a price index rate adjustment. Commission Staff's motion to dismiss is premised on the assertion that Carroll Water's application should be dismissed under 16 Texas Administrative Code (TAC) § 22.181(d)(6), for failure to prosecute.

The motion to dismiss is denied. There is no evidence that Carroll Water has failed to prosecute its case. It has filed an administratively complete application and responded to inquiries from Commission Staff. Commission Staff complains that Carroll Water has not refuted Staff's assertion that it has more than 500 connections. This does not, however, evidence a failure to prosecute. Rather, it goes to the merits of the application.

The administrative law judge (ALJ) believes Commission Staff's motion would more properly be characterized as a motion for summary decision under 16 TAC § 22.182, because the substance of the motion suggests that Commission Staff is entitled to judgment in its favor as a matter of law. If Commission Staff wishes to file a motion for summary decision, and include any supporting affidavits, materials obtained through discovery, or other evidence, it is free to do so.

Signed at Austin, Texas the 5<sup>th</sup> day of November 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
\_\_\_\_\_  
**HUNTER BURKHALTER**  
**ADMINISTRATIVE LAW JUDGE**