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DOCKET NO. 52852

APPLICATION OF TERRA	§	PUBLIC UTILITY COMMISSION
SOUTHWEST, INC. AND UNDINE	§	
DEVELOPMENT, LLC FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN DENTON COUNTY	§	

APPLICANT’S RESPONSE TO ORDER NO. 17

In Order No. 17, the Administrative Law Judge (ALJ) suspended the procedural schedule adopted in Order No. 16 and noted that a new procedural schedule would be adopted following review of the briefs filed in response to Order No. 11 in Docket No. 52797. The parties completed the referenced briefing on October 14, 2022.¹

While the Applicant recognizes the general relevance of the briefing in Docket No. 52797 to the subject docket, the Applicant notes an important distinction in the context of Order No. 17. The Applicant in Docket No. 52797 requests a rate phase-in beginning with rate year one of the phase-in. In the subject application, the Applicant requests a rate phase-in beginning with rate year two of the phase-in.² The ALJ states in Order No. 17:

[W]hen the application in this docket was filed on November 16, 2021, the phase two rates were in effect; when the applicants filed the amended application on August 26, 2022, the phase three rates were in effect. Accordingly, the ALJ is of the opinion that under TWC § 13.3011, the rates that can be approved by this proceeding are either the phase two rates or the phase three rates, rather than the phase-in rate structure.

As the ALJ notes, the phase two rates are the rates that were in effect at the time this docket was filed. Accordingly, to the extent the briefing in Docket No. 52797 addresses the rate phase-in beginning with rate year one, that reflects a different scenario than presented in the subject docket.

If the ALJ in Order No. 17 separately raises the question whether a phase-in may be unavailable under any circumstance despite the application of an established “phase-in” tariff, the

¹ Docket Id No.’s 52797-117, 119 and 120.

² Docket Id. No. 52852-66 (Applicant’s Application Amendment), pdf page 13 (“In accordance with HB 1484, rates will change to match those currently affected by the tariff enacted by Docket No. 50017 for CCN 13260, beginning with Rate Year 2 . . .”)

parties' briefing in Docket No. 52797 discusses why the parties consider that to be the logical and necessary interpretation of the statute.

The Applicant respectfully requests the issuance of a new procedural schedule to allow the parties to continue to move this matter forward.

Respectfully submitted,

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CERTIFICATE OF SERVICE

By my signature above, I certify that on the 1st day of November, 2022 the foregoing document was service via first class mail and/or email to all parties of record.