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SOAH DOCKET NO. 473-16-3809.WS
PUC DOCKET NO. 43041

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APPLICATION OF THE CITY OF §
DORCHESTER TO AMEND A §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN GRAYSON §
COUNTY (37917-C) §

BEFORE THE STATE OFFICE
ADMINISTRATIVE HEARINGS

**REQUEST TO WITHDRAW APPLICATION
AND MOTION FOR DISMISSAL WITHOUT PREJUDICE**

NOW COMES the City of Dorchester, Texas (Dorchester), in the above styled and numbered docket pursuant to the Public Utility Commission's Procedural Rules (PUC Rules) 16 TEX. ADMIN. CODE § 22.181(d)(10) and (g)(1) and (g)(5), and hereby files its Request to Withdraw its Application and Motion for Dismissal Without Prejudice. As grounds for said Request and Motion, Dorchester shows the following:

I. Procedural History

Dorchester filed an Application to Amend a Certificate of Convenience and Necessity in Grayson County on September 18, 2014. The Administrative Law Judge (ALJ) issued orders granting the intervention of the City of Howe on June 21, 2016, and of Walton Texas, LP on July 27, 2016. On January 12, 2017, Dorchester filed additional information with the Public Utility Commission's (PUC) staff regarding its maps. Additional information regarding the maps was provided to the PUC Staff on April 10, 2017 and May 3, 2017. On March 28, 2017 and July 11, 2017, Dorchester also responded to additional requests for information from the PUC staff. Most recently, on October 11, 2017, the ALJ entered SOAH Order No. 21 granting the parties' Agreed Motion to Abate the hearing until November 13, 2017 so that Dorchester and PUC Staff could work together to address mapping questions.

II. Request

Since the October 11, 2017 Order, Dorchester has conferred with PUC Staff regarding the status of the application. PUC Staff seeks additional information regarding the plans and specifications for the infrastructure to be built. The plans and specifications requested are currently not available and will not be available until the developer is ready to develop the property within the requested area. Accordingly, Dorchester hereby requests to withdraw its application, and requests that the ALJ dismiss this case without prejudice so Dorchester can refile its application when the plans and specifications in question are available.

PUC Rule § 22.181(a) provides that the Presiding Officer on the motion of any party may recommend that the commission dismiss, with or without prejudice, any proceeding for any reason specified in this section. PUC Rule § 22.181(d)(10) provides for the withdrawal of an application consistent with subsection (g) of § 22.181. PUC Rule § 22.181(g)(1) provides that a party that initiated a proceeding may withdraw its application without prejudice to refiling at any time before that party has presented its direct case. Because this case has been abated pursuant to SOAH Order No. 21, no party's direct case has been filed. PUC Rule § 22.181(g)(5) directs the presiding officer to issue an order of dismissal with or without prejudice to refiling the same upon a request to withdraw. No proposal for decision is required. 16 TEX. ADMIN. CODE § 22.181(f)(2).

III. Conference

The undersigned counsel of record for the City of Dorchester has conferred with counsel of record for the PUC Staff, Walton Texas, LP, and the City of Howe, and there are no objections to this motion.

IV. Prayer

WHEREFORE, PREMISES CONSIDERED the City of Dorchester prays that the Administrative Law Judge, as presiding officer, upon the withdrawal by Dorchester of its application in this matter, issue an Order of Dismissal Without Prejudice pursuant to 16 TEX. ADMIN. CODE § 22.181(g)(5), and for such other and further relief to which the City may be entitled.

Respectfully submitted,

Emily W. Rogers
State Bar No. 24002863
erogers@bickerstaff.com

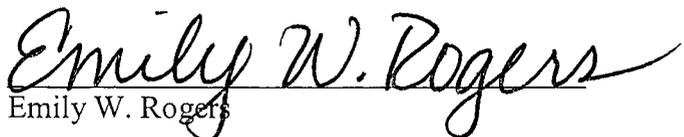
Kimberly Grinnan
State Bar No. 24086651
kgrinnan@bickerstaff.com

Bickerstaff Heath Delgado Acosta LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
Telephone: (512) 472-8021
Facsimile: (512) 320-5638

BY: 
Emily W. Rogers

CERTIFICATE OF SERVICE

I hereby certify by my signature below that on the 13th day of November, 2017, a true and correct copy of the above and foregoing document was forwarded via hand delivery, facsimile, U.S. mail or electronic mail to all parties of record.


Emily W. Rogers