



Control Number: 43535



Item Number: 56

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014.

43535

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SOAH DOCKET NOS. 582-04-0253 & 582-04-1268
TCEQ DOCKET NOS. 2003-0737-UCR, 2003-0738-UCR, & 2003-1289-UCR

APPLICATION OF THE CITY OF
ROYSE CITY TO AMEND WATER
CCN AND TO OBTAIN SEWER CCN IN
COLLIN, ROCKWALL, AND HUNT
COUNTIES

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BEFORE THE STATE OFFICE

APPLICATION OF VERANDAH
COMMUNITIES, LP TO OBTAIN
SEWER CCN IN HUNT AND
ROCKWALL COUNTIES

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OF

APPLICATION OF PARKER CREEK
ESTATES, L.P. TO OBTAIN A WATER
AND SEWER CCN IN ROCKWALL
COUNTY, TEXAS, APPLICATION NOS.
34297-C AND 34301-C

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ADMINISTRATIVE HEARINGS

APPLICANT CITY OF ROYSE CITY'S MOTION TO REMAND

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW Applicant, the City of Royse City ("Royse City"), and submits this, its *Motion to Remand* Royse City's application to amend Water Certificate of Convenience and Necessity ("CCN") No. 12827, Application No. 34270-C, and Royse City's application to obtain a sewer CCN, Application No. 34277-C, to the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") in accordance with Texas Administrative Code title 30, section 80.101, and in support thereof would respectfully show the following:

I. BACKGROUND

The jurisdictional hearing in these consolidated dockets was held on February 24, 2004. Two of the applications considered as part of these consolidated dockets were filed with the Commission by Royse City: Application No. 34270-C to amend the City's existing Water CCN

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No. 12827; and Application No. 34277-C to obtain a sewer CCN (collectively the "Royse City Applications"). Protestants to the Royse City Applications, as identified at the jurisdictional hearing and in Order No. 3 were: Verandah Communities, LP; the Verandah Fresh Water Supply District ("Verandah FWSD"); Parker Creek Estates, L.P.; and the City of Fate ("Fate"). Mr. Dean Gandy was also named a party to these consolidated dockets, but counsel for Mr. Gandy indicated at the jurisdictional hearing that Mr. Gandy was protesting the CCN applications filed by Verandah Communities, LP and Parker Creek Estates, L.P. and that Mr. Gandy was basically aligned with Royse City in these proceedings.

Pursuant to a letter dated May 18, 2004, Fate filed a letter withdrawing its protest to the Royse City Applications. A copy of Fate's letter is attached to this Motion as Exhibit A. Pursuant to *Notice of Settlement and Withdrawal of Protests*, filed on June 11, 2004, Verandah Communities, LP, Verandah FWSD, and Parker Creek Estates, L.P. withdrew their protests to the Royse City Applications. A copy of this Notice is attached to this Motion as Exhibit B. Royse City is not opposed to these entities' withdrawals from this consolidated docket.

II. ARGUMENT AND AUTHORITIES

Texas Administrative Code title 30, section 80.101 provides:

At the request of the applicant, a judge shall remand an application to the executive director if all timely hearing requests have been withdrawn or denied or, if parties have been named, all parties to a contested case reach a settlement so that no facts or issues remain controverted. After remand, the application shall be uncontested and the applicant is deemed to have agreed to the action of the executive director. The executive director may act on the application or set it for a commission meeting.¹

Section 80.101 requires that the Administrative Law Judge remand an application to the Executive Director of the Commission ("Executive Director"), based on an applicant's request,

¹ 30 TEX. ADMIN. CODE § 80.101 (2004).

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where all timely hearing requests have been withdrawn or where no facts or issues remain controverted.

All named parties who identified themselves as Protestants to the Royse City Applications have filed documents with the Commission and with the Administrative Law Judge withdrawing their protests to the Royse City Applications, and thus withdrawing as Protestants to this proceeding. Royse City hereby requests that the Administrative Law Judge remand the Application to the Executive Director for further action as an uncontested matter. Counsel for Royse City has contacted counsel for Verandah Communities, LP, Verandah FWSD, Parker Creek Estates, L.P., Fatc, Mr. Gandy, the Executive Director, and the Office of Public Interest Counsel of the Commission ("OPIC"), concerning this *Motion to Remand* the Royse City Applications. Royse City has been authorized to represent that the parties do not object to this *Motion to Remand*.

III. PRAYER


WHEREFORE, PREMISES CONSIDERED, the City of Royse City respectfully requests that the Administrative Law Judge remand Application No. 34270-C to amend the City's existing Water CCN No. 12827 and Application No. 34277-C to obtain a sewer CCN to the Executive Director of the Texas Commission on Environmental Quality in accordance with

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Texas Administrative Code title 30, section 80.101, and for such other and further relief to which it may be entitled.

Respectfully submitted,

RUSSELL, MOORMAN & RODRIGUEZ, L.L.P.
102 West Morrow, Suite 103
Georgetown, Texas 78626
(512) 930-1317
(512) 864-7744 (Fax)


KERRY E. RUSSELL
State Bar No. 17417820

ANGELA K. MOORMAN
State Bar No. 24007700

**ATTORNEYS FOR THE CITY OF ROYSE CITY,
TEXAS**

SOAH DOCKET NOS. 582-04-0253 & 582-04-1268
TCEQ DOCKET NOS. 2003-0737-UCR, 2003-0738-UCR, & 2003-1289-UCR

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of June, 2004, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, Federal Express overnight delivery, or hand delivery to the following:

Mr. Craig R. Bennett Administrative Law Judge State Office of Administrative Hearings 300 West Fifteenth Street Austin, Texas 78701 Telephone: (512) 475-4993 Fax: (512) 936-0730 (512) 475-4994	
Mr. Geoffrey Kirshbaum Texas Commission on Environmental Quality MC-175 P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-0600 Fax: (512) 239-0606	Representing the Executive Director, Texas Commission on Environmental Quality
Mr. Blas Coy Office of the Public Interest Counsel Texas Commission on Environmental Quality MC-103 P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-6363 Fax: (512) 239-6377	Representing the Office of Public Interest Counsel, Texas Commission on Environmental Quality
Mr. Mark H. Zappa Law Offices of Mark Zappa, PC 4833 Spicewood Springs Road #202 Austin, Texas 78759-8436 Telephone: (512) 346-4011 Fax: (512) 346-6847	Representing: <ul style="list-style-type: none">▪ Verandah Communities, LP▪ Verandah Freshwater Supply District▪ Parker Creek Estates, L.P.

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TCEQ DOCKET NOS. 2003-0737-UCR, 2003-0738-UCR, & 2003-1289-UCR

Ms. Susan E. Potts Mr. David Klein Potts & Reilly, L.L.P. Attorneys and Counselors 401 West 15th Street, Suite 850 Austin, Texas 78701-1665 Telephone: (512) 469-7474 Fax: (512) 469-7480	Representing Mr. Dean M. Gandy
Mr. Skip Newsom Attorney 3724 Jefferson Street, Suite 200 Austin, Texas 78731 Telephone: (512) 477-4121 Fax: (512) 477-2860	Representing the City of Fate, Texas
Ms. Amy Cortinas Utility Rates and Services Section Water Utilities Division - MC-153 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Telephone: (512) 239-6960 Fax: (512) 239-6972	Texas Commission on Environmental Quality
Docket Clerk TCEQ Office of Chief Clerk (MC-105) P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Fax: (512) 239-3311	

By:


ANGELA K. MOORMAN

MAY-18-2004 TUE 05:01 PM FISHER & NEWSOM, P.C.

FAX NO. 512 477 2880

P. 04/04

FISHER & NEWSOM, P.C.

ATTORNEYS AT LAW

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(512) 477-4121
FAX (512) 477-2880

Skip Newsom
Board Certified Administrative Law
Texas Board of Legal Specialization

May 18, 2004

Via Telecopy 475-4994

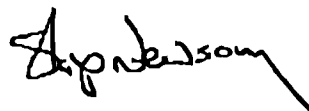
Hon. Craig R. Bennett
Administrative Law Judge
State Office of Administrative Hearings
300 West Fifteenth Street
Austin, Texas 78701

Re: Application of the City of Royse City, Verandah Communities, LP and Parker Creek Estates, L.P. for Water and Sewer CCN, in Collin, Rockwall and Hunt Counties; SOAH Docket Nos. 582-04-0253 & 582-04-1268; TCEQ Docket Nos. 2003-0737-UCR, 2003-0738-UCR & 2003-1289-UCR.

Dear Judge Bennett:

By separate letter of this date, the City of Fate amended its Water and Sewer CCN Amendment Applications in SOAH Docket No. 582-04-2730 to exclude territory sought for certification therein pursuant to that certain Settlement Agreement executed between Royse City and Fate and filed with you on May 12, 2004. Such Settlement Agreement additionally provides for the filing of an amended application by Royse City in the above docket to exclude certain territory originally sought for certification by Royse City. Subject to the filing of Royse City's amended application in this docket pursuant to the Settlement Agreement and to the Executive Director's approval of the amendment filed by Fate on this date in Docket No. 582-04-2730, Fate withdraws its protest to the Application of Royse City, Parker Creek Estates, L.P. and Verandah Communities, L.P. in this docket and asks that it be dismissed as a party hereto.

Yours very truly,



Skip Newsom

SN/ads

cc: Service List

SOAH Dockets Nos. 582-04-0253 & 582-04-1286
TCEQ Dockets Nos. 2003-0737-UCR, 2003-0738-UCR & 2003-1289-UCR

APPLICATION OF THE CITY OF	§	BEFORE THE STATE
ROYSE CITY TO AMEND WATER	§	
CCN AND OBTAIN SEWER CCN	§	
	§	OF
APPLICATION OF VERANDAH	§	
COMMUNITIES, LP TO OBTAIN	§	OFFICE
SEWER CCN	§	
	§	ADMINISTRATIVE
APPLICATION OF PARKER CREEK	§	
ESTATES, LP TO OBTAIN WATER	§	
AND SEWER CCNS	§	HEARINGS

SOAH Docket No. 582-04-2730
TCEQ Docket No. 2003-1491-UCR

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
FATE TO AMEND WATER AND	§	OF ADMINISTRATIVE
SEWER CCNS	§	HEARINGS

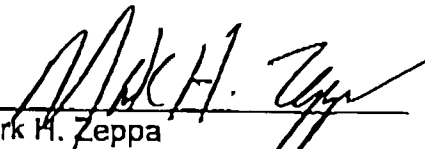
NOTICE OF SETTLEMENT AND WITHDRAWAL OF PROTESTS

TO THE HONORABLE CRAIG BENNETT, ADMINISTRATIVE LAW JUDGE:

COME NOW, Parker Creek Estates, LP, Verandah Communities, LP and Verandah Fresh Water Supply District (collectively hereinafter referred to as the "Huffines Group") and announce that they have negotiated a comprehensive settlement in these dockets and collateral administrative and civil suits. This settlement resolves all disputed issues of fact and law between the Huffines Group and the Cities of Royse City and Fate. The Huffines Group formally withdraws all protests to these cities' respective CCN applications and urges their approval by the TCEQ and SOAH. The Huffines Group supports remanding said

applications to the agency for administrative approval at the earliest possible date.

Respectfully submitted,




Mark H. Zeppa
SBN 22260100
Law Offices of Mark H. Zeppa, PC
4833 Spicewood Springs Rd. #202
Austin, TX 78759-8436
(512) 346-4011, Fax (512) 346-6847

ATTORNEY FOR PARKER CREEK
ESTATES, LP, VERANDAH
COMMUNITIES, LP AND VERANDAH
FRESH WATER SUPPLY DISTRICT

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, certify and affirm that true and correct copies of the foregoing pleading were served on the presiding administrative law judge, the TCEQ Docket Clerk, and all parties of record by facsimile transmission and USPS mail on the 11th and 12th of June 2004.



Mark H. Zeppa

Russell, Moorman & Rodriguez, L.L.P.
102 West Morrow Street, STE 103
Georgetown, Texas 78626
Telephone: (512) 930-1317
Facsimile: (512) 864-7744

TELECOPIER COVER SHEET

June 15, 2004

PLEASE DELIVER THE FOLLOWING PAGES TO:

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CLIENT NUMBER: 390-00

FROM: Angela K. Moorman/Kerry Russell

NUMBER OF PAGES: 9 + cover page

COMMENTS:

RE: City of Roysc City's Motion to Remand

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