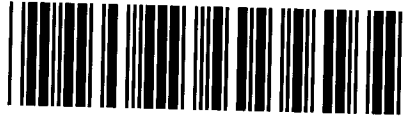




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## MATHEWS &amp; FREELAND, L.L.P.

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August 31, 2005

*Via Fax: (512) 475-4995*Honorable Cassandra J. Church  
Administrative Law Judge  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street  
Austin, Texas 78701RECEIVED  
2004 OCT 28 AM 8:16  
PUBLIC UTILITY COMMISSION  
FILING CLERKRe: In Re: Application of Bexar Metropolitan Water District to Amend Water CCN  
No. 10675 in Bexar County, TCEQ Docket No. 2003-0664-UCR, SOAH Docket  
No. 582-03-3725

Dear Judge Church:

Yesterday, I received a copy of BexarMet's letter to you regarding the nature of the hearing scheduled for tomorrow to address San Antonio Water System's Motion to Intervene in this matter. In the letter, BexarMet states its understanding that the hearing will be based on the pleadings and that no evidence need be offered at the hearing.

Although, SAWS stands ready to prove the factual allegations contained in its motion and reply, SAWS believes that the merits of its request can be determined based on the pleadings to the extent there are no material issues of fact in dispute. SAWS believes that the following material issues of fact, raised in its pleadings, have not been disputed by BexarMet and that no evidentiary hearing is needed to resolve these issues, for purposes of ruling on SAWS' motion:

1. SAWS is a competing provider of water utility services in areas immediately adjacent to the requested area that desires to provide service to the requested area.
2. SAWS is owned by the City of San Antonio.
3. The requested area lies entirely within San Antonio's extraterritorial jurisdiction.
4. BexarMet provided notice of its application to both SAWS and San Antonio as required by Commission rule.
5. SAWS has filed a competing CCN application for the requested area.
6. The Interlocal Operational Agreement, dated September 22, 2000, was not approved or ratified by SAWS' Board of Trustees, its governing body.
7. Bitterblue has requested that SAWS provide it with water utility service within the requested area.
8. Bitterblue has revoked its prior request for service made to BexarMet to provide service within the requested area.
9. BexarMet has experienced problems providing continuous and adequate water service to areas adjacent to the requested area, for which BexarMet currently is certificated,

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Judge Cassandra Church  
August 31, 2005  
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including the Timberwood Park and Stone Oak subdivisions. BexarMet's service problems in these areas increased during the summer of 2005, when BexarMet was forced to reopen an emergency interconnect with SAWS to meet customer demand, and used press releases and "reverse-911" calls to issue advisories to its customers requesting that they reduce water consumption to allow BexarMet to meet demand.

10. The requested area is not currently within BexarMet's district boundaries. BexarMet has taken no steps since the passage of Senate Bill 1494 in 2003 to extend the boundaries of the district to include the requested area. Specifically, BexarMet has not annexed the area pursuant to Section 6 of its enabling legislation.

SAWS' position is that these undisputed issues of fact will be considered as true only for purposes of ruling on SAWS' motion to intervene (hence, a ruling based on the pleadings). SAWS agrees that for purposes of ruling on the substance of BexarMet's application, these facts (to the extent relevant) will have to be established through the normal evidentiary process accompanying the hearing on the merits.

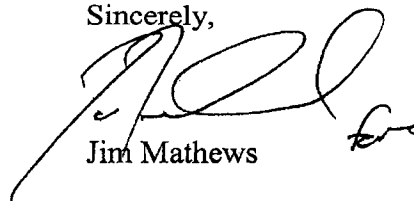
BexarMet, in its response, has raised other factual issues, such as that BexarMet has expended substantial time, resources and attorney's fees in this matter, and that BexarMet is providing service for SAWS in western Bexar County. While SAWS might dispute some of BexarMet's allegations, SAWS believes that these allegations are either immaterial or irrelevant to the issues associated with SAWS' motion to intervene.

The only material issue of disputed fact appears to be whether SAWS contractually agreed not to seek a CCN for the requested area. SAWS' believes that is a contract issue for a district court, rather than an ALJ, to decide. Nevertheless, if you wish to decide the issue, you should be able to as a matter of law based solely on the language of the Interlocal Operational Agreement that SAWS', since no parol evidence regarding the agreement has been alleged.

So long as there is no dispute regarding the material issues of fact set out above, SAWS agrees with BexarMet that no evidentiary hearing will be needed to judge the merits of SAWS' motion to intervene. If BexarMet disputes any of the material issues of fact set out in the list above, however, SAWS requests an evidentiary hearing, with sworn testimony and the opportunity for cross-examination, on all disputed factual issues.

Thank you for your attention to this matter. Please let us know as early as possible whether an evidentiary hearing will be needed so that we can arrange for witnesses to be available. I can be reached by phone if you have any questions.

Sincerely,



Jim Mathews

cc: Service List  
Steve Kosub

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1572.00 San Antonio Water System

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