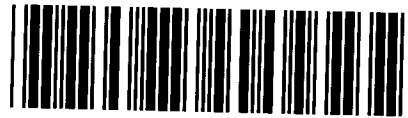




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DOCKET NO. 44541

**APPLICATION OF CITY OF HEATH
TO AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY
AND TO DECERTIFY A PORTION OF
FORNEY LAKE WATER SUPPLY
CORPORATION'S SERVICE AREA IN
ROCKWALL COUNTY**

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PUBLIC UTILITY COMMISSION
2015 JUN 10 PM 3:18
OF TEXAS
FILING CLERK

**ORDER NO. 4
DEEMING APPLICATION DEFICIENT;
ESTABLISHING DEADLINES**

I. Background

On May 20, 2015, Public Utility Commission of Texas (Commission) Staff, Forney Lake Water Supply Company (Forney Lake) and the City of Heath (Heath) (collectively, the Parties) filed two joint pleadings; one a response to Order No. 2 in this proceeding, recommending that this application be deemed sufficient for further review, so long as a joint proposed procedural schedule in the second pleading is adopted. The joint proposed procedural schedule contemplates a hearing on the merits regarding whether any of Forney Lake's property will be rendered useless and valueless as a result of the partial decertification contemplated in Heath's application.

Commission Staff recommends the application be deemed sufficient, but only if the proposed procedural schedule is adopted, which contemplates waiver of the 90-day compensation determination deadline found in Tex. Water Code § 13.255(g-1) (TWC) and 16 Tex. Admin. Code § 24.120(h) (TAC). Given the 90-day time table, Commission Staff believes the appraisals should be filed before the application is declared administratively complete.

II. Analysis

This application was brought pursuant to TWC § 13.255, titled "Single Certification in Incorporated or Annexed Areas." Subsection (c) contemplates one final Commission order and, for an application like Heath's, requires the Commission to grant single certification to the requesting municipality, make a determination whether any property of the affected retail public utility is rendered useless and valueless to the retail public utility, and if yes, make a determination of adequate and just compensation to the retail public utility. Further TWC § 13.255(g-1) requires that the total compensation to be paid to the retail public utility be

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**APPLICATION OF CITY OF HEATH §
TO AMEND A CERTIFICATE OF §
CONVENIENCE AND NECESSITY §
AND TO DECERTIFY A PORTION OF §
FORNEY LAKE WATER SUPPLY §
CORPORATION'S SERVICE AREA IN §
ROCKWALL COUNTY §**

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determined not later than the 90th calendar day after the date on which the utility commission determines the municipality's application is administratively complete.

Therefore here, Heath's application must include information necessary for the Commission to be able to issue one order granting single certification to Heath (including approval of the requested certificate amendments), making a determination whether any of Forney Lake's property will be rendered useless and valueless to Forney Lake, and if yes, making a determination of adequate and just compensation to Forney Lake.

III. Ruling

For the stated reasons, Heath's application is deemed deficient and the application cannot be declared administratively complete until the appraisals are submitted. Therefore, absent an agreement by the parties that no Forney Lake property is rendered useless and valueless to Forney Lake, the parties should proceed under the process in TWC § 13.255(l). The hearing required by TWC § 13.255(b) will be addressed at a later date. On or before **July 6, 2015**, Heath shall notify the Commission that it has reached agreement with Forney Lake regarding an independent appraiser or that there is an impasse. Additional deadlines will be established in future orders.

SIGNED AT AUSTIN, TEXAS on the 10th day of June 2015.

PUBLIC UTILITY COMMISSION OF TEXAS


SUSAN E. GOODSON

ADMINISTRATIVE LAW JUDGE