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SOAH DOCKET NO. 473-16-0193.WS
PUC DOCKET NO. 44541

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PUBLIC UTILITY COMMISSION
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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 §
COPRORATION'S SERVICE AREA IN §
ROCKWALL COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

PRELIMINARY ORDER

On March 16, 2015, the city of Heath filed an application to amend its water certificate of convenience and necessity (CCN) No. 12060 and decertify a portion of Forney Lake Water Supply Corporation's service area under water CCN No. 10086, pursuant to Texas Water Code (TWC) § 13.255.¹ Heath requests single certification solely to serve new customers in seven specified tracts of land situated in Heath's city limits.²

On September 16, 2015, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH). Proposed lists of issues were timely filed by Heath and Commission Staff.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.³ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

¹ City of Heath's Application at 1 (Mar. 16, 2015).

² *Id.* at 2, 72.

³ TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2000).

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1. Are the areas for which the city of Heath seeks single certification currently within the service area(s) of a nonprofit water or sewer service corporation, a special utility district under TWC chapter 65, or a fresh water supply district under TWC chapter 53?
2. Did Heath notify, in writing, Forney Lake Water Supply Corporation of Heath's intent to provide service to the areas for which Heath seeks certification? TWC § 13.255(b) and 16 TAC § 24.120(b).
3. If so, did Heath wait more than 180 days after providing Forney Lake with notice before Heath filed its application with the Commission? TWC § 13.255(c) and 16 TAC § 24.120(c).
4. Is Heath's application administratively complete pursuant to 16 TAC § 24.8? In making this determination, the following questions should be addressed:
 - a. Has Heath demonstrated that no retail public utility facilities will be rendered useless or valueless to the utility? TWC § 13.255(c) and 16 TAC § 24.120(c). If not, has Heath included in its application all appraisals required under TWC § 13.255(l) and 16 TAC § 24.120(m)?⁴
 - b. Is Heath requesting the transfer of specified property of a retail public utility? TWC § 13.255(c) and 16 TAC § 24.120(c). If so, has Heath included in its application all appraisals required under TWC § 13.255(l) and 16 TAC § 24.120(m)?
5. Has Heath demonstrated compliance with the Texas Commission on Environmental Quality (TCEQ) minimum requirements for public drinking water systems? TWC § 13.255(m) and 16 TAC § 24.120(n).
6. Has Forney Lake submitted to the Commission a written list with the names and addresses of any lienholders and the amount of Forney Lake's debt, if any? 16 TAC § 24.120(b)(1).

⁴ See Order on Appeal of Order No. 4 (Aug. 24, 2014).

7. If any lienholders exist, has Forney Lake notified them of the decertification process consistent with 16 TAC § 24.120(b)(2)?
8. What is the adequate and just compensation to be paid to the retail public utility for any of its facilities that will be useless or valueless to it or that Heath requests be transferred? TWC §§ 13.255(c), (g), (g-1), and (l) and 16 TAC § 24.120(c), (g), (h), and (m).

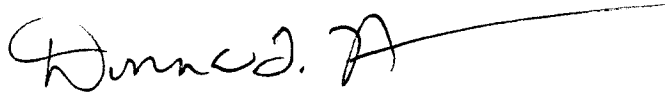
This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under TEX. GOV'T CODE ANN. § 2003.049(e).

II. Effect of Preliminary Order

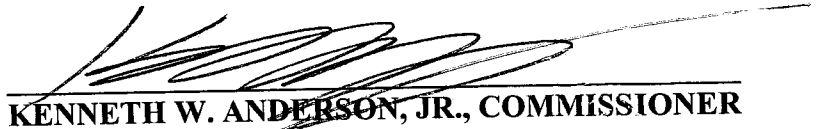
This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the 8th day of October 2015.

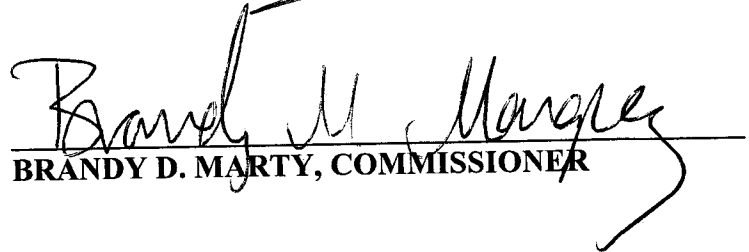
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