

Control Number: 44541



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SOAH DOCKET NO. 473-16-0193.WS
PUC 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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**FORNEY LAKE WATER SUPPLY CORPORATION'S
RESPONSE TO CITY OF HEATH'S MOTION FOR PARTIAL SUMMARY DISPOSITION**

TO THE HONORABLE SARAH G. RAMOS:

COMES NOW Forney Lake Water Supply Corporation ("FLWSC" or "Forney Lake") and files this Response to Heath's Motion for Sanctions.

I. BACKGROUND

The City of Heath ("Heath") seeks a Motion for Partial Summary Disposition. As previously indicated by FLWSC, PUC Rule 22.182 (c) provides as follows:

Response to motion. Any response to a motion for summary decision shall be filed within the time set by the presiding officer. A party opposing the motion shall show, by affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record, that there is a genuine issue of material fact for determination at the hearing, or that summary decision is inappropriate as a matter of law.

There has not been an order that speaks to the response time for dispositive motions. As such, this response is timely filed. However, if Your Honor set a time for filing for which FLWSC is unaware, then it seeks leave to file this response.

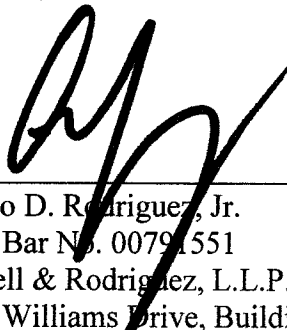
II. RESPONSE

The Motion filed by Heath is another in a long line of Motions to seek relief to which it is not entitled. FLWSC has reviewed the PUC Staff's Response to Heath's Motion for Summary Disposition and agrees with the opinion provided therein regarding Heath's Motion for Summary Disposition

Despite erroneous claims by Heath to contrary, FLWSC asserts in this docket that Heath's application will result in stranded capacity. Such stranded capacity, as asserted by FLWSC in discovery, will render that stranded capacity "useless and valueless." When asked by Heath if FLWSC considered "stranded" to be synonymous with "useless or valueless", FLWSC responded that it did.¹ Thus, the suggestion that FLWSC failed to explain itself is utterly false.

Further, as FLWSC supports the legal reasons behind PUC Staff's Response, the same arguments will not be repeated here. For the same reasons as asserted by PUC Staff, FLWSC asserts that Heath's motion for partial summary disposition be denied.

Sincerely,



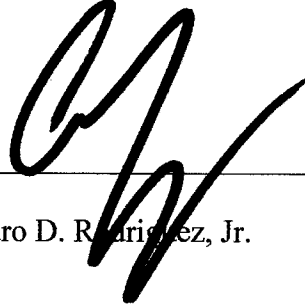
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ATTORNEY FOR FORNEY LAKE WATER
SUPPLY CORPORATION

¹ See FLWSC Exhibit 1, attached hereto.

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January, 2016, a true and correct copy of the foregoing document was served on all parties in accordance with PUC Procedural Rule 22.74.



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PUC 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	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**FORNEY LAKE WATER SUPPLY CORPORATION'S FIRST SUPPLEMENTAL
RESPONSE TO CITY OF HEATH'S SECOND REQUEST FOR INFORMATION**

Comes now Forney Lake Water Supply Corporation ("FLWSC") and files its First Supplemental Response to the City of Heath's Second Request for Information. All parties may treat the answers as if they were filed under oath.

FLWSC files these responses without agreeing to the relevancy of the information sought and without waiving its right to object at the time of hearing to the admissibility of the information provided herein.

FLWSC'S RESPONSES:

HEATH 2-2 Please explain the basis for Forney Lake's response to Heath 2-1.

RESPONSE:

Eddy Daniel, FLWSC's engineer, took the service capacity (number of meters) of the noted facilities and determined the remaining available capacity based on the number of additional meters he believed the facility could provide service to. The percentages noted are the amount of excess capacity that currently exists in the system.

Response prepared by Eddy Daniel; sponsoring witness Eddy Daniel

EXHIBIT 1

HEATH 2-13 In response to HEATH 1-3, Forney Lake states that capacity in its facilities will be "stranded" if single certification is granted.

- a. What does Forney Lake mean by the term "stranded" as used in its response?
- b. Does Forney Lake contend that the term "stranded" is synonymous with "useless or valueless"?

RESPONSE:

- a. See response to RFI 2-13 (b).
- b. In the context of the response, yes.

Response prepared by Eddy Daniel; sponsoring witness Eddy Daniel

HEATH 2-14 Is Forney Lake obligated by contract or otherwise to provide fire flows to the Travis Ranch subdivision located in Kaufman County?

RESPONSE:

The Travis Ranch contract provides as follows:

Forney Lake agrees to maintain and operate facilities that comply with the Fire Flow requirements of any jurisdiction. However, the parties understand that Forney Lake does not provide water directly from its system in sufficient quantities to provide water for fire fighting purposes, a quantity known as "Fire Flow." In accordance with its Tariff, Forney Lake does not guarantee Fire Flow.

Response prepared by Robin Baley; sponsoring witness Robin Baley