



Control Number: 44541



Item Number: 93

Addendum StartPage: 0

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

2017 SEP 23 PM 1:13  
FILED  
PUBLIC UTILITY COMMISSION  
FILING CLERK

APPLICATION OF CITY OF HEATH § BEFORE THE STATE OFFICE  
TO AMEND A CERTIFICATE OF § OF  
CONVENIENCE AND NECESSITY § ADMINISTRATIVE HEARINGS  
AND TO DECERTIFY A PORTION OF §  
FORNEY LAKE WATER SUPPLY §  
CORPORATION'S SERVICE AREA IN §  
ROCKWALL COUNT §

**CITY OF HEATH'S STATUS REPORT**

**TO THE HONORABLE JUDGE SARAH G. RAMOS:**

COMES NOW the City of Heath ("Heath") and files this status report as required by Order No. 3, and in support thereof will show the following:

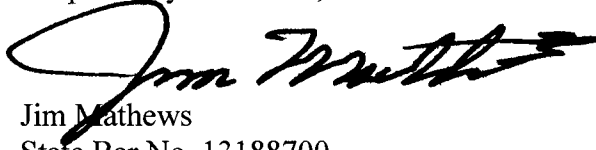
The City of Heath and Forney Lake Water Supply Corporation continue to make progress in memorializing an agreement pursuant to Texas Water Code § 13.255. Forney Lake's agreement on compensation was subject to its ability to reduce its take or pay obligation under its contract with North Texas Municipal Water District ("NTMWD") by an amount commensurate with the number of customers to be transferred to Heath. Following notification from Forney Lake's counsel that NTMWD was agreeable to this reduction if another water provider would accept an assignment of this portion of Forney Lake's take or pay obligation, Heath and its water provider, the City of Rockwall, drafted and executed an agreement that includes Rockwall accepting the assignment of that portion of Forney Lake's take-or-pay obligation to NTMWD associated with the transfer of the 839 Forney Lake customers within Heath's corporate limits.

On November 23, 2016 Heath provided Forney Lake a draft of the Texas Water Code § 13.255(a) agreement concerning the transfer of Forney Lake's CCN, customers, facilities, and easements inside the corporate limits of Heath. On February 24, 2017 Forney Lake provided Heath its first mark-up of the draft agreement. Forney Lake's markup failed to provide the exhibits needed to describe its personal property and easements that are being conveyed as requested by Heath on November 23, 2016. Forney Lake's markup also added a condition precedent to closing on the transaction suggesting that further action to modify its take or pay agreement with NTMWD may be required.

During September, Forney Lake notified Heath that it had executed an agreement with NTMWD concerning the assignment of the portion of the Forney Lake take or pay obligation associated with the customers to be transferred and provided Heath a copy of the Water Code Section 13.255(a) CCN Transfer Agreement signed by Forney Lake's manager. Forney Lake

also provided some, but not all, of the easements that are to be conveyed to Heath. Heath has identified the areas where Forney Lakes has lines that will be conveyed, but no easement has been identified. The parties are working to address the missing easements. Once this is completed, the Water Code Section 13.255(a) CCN transfer agreement will be presented to the Heath City Council.

Respectfully submitted,



Jim Mathews  
State Bar No. 13188700  
Mathews & Freeland, LLP  
8140 N. Mopac Expy., Ste. 2-260  
Austin, Texas 78759  
Telephone (512) 404-7800  
Facsimile (512) 703-2785  
Attorneys for the City of Heath

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this City of Heath's Status Report was served on all parties of record in this proceeding on this 29th day of September, 2017, by hand-delivery, facsimile, electronic mail, and/or First Class Mail.

Arturo Rodriguez, Jr.  
Attorney for Forney Lake WSC  
Russell & Rodriguez, LLP  
1633 Williams Dr., Building 2, Suite 200  
Georgetown, Texas 78632  
866-929-1641 (fax)

A.J. Smullen  
Attorney, Legal Division, Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
512-936-7268 (fax)

  
Jim Mathews