



Control Number: 45151



Item Number: 13

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RECEIVED

CITY OF CELINA NOTICE OF
INTENT TO PROVIDE RETAIL WATER
AND SEWER SERVICE TO 494.819-
ACRE AREA DECERTIFIED FROM
MUSTANG SPECIAL UTILITY
DISTRICT IN DENTON COUNTY

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BEFORE THE
2015 DEC -8 PM 3:49

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS

**MUSTANG SUD'S MOTION TO STRIKE CELINA'S RESPONSE TO MUSTANG
SUD'S APPRAISAL**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

NOW COMES, Mustang Special Utility District ("Mustang SUD") and files this Motion to Strike the City of Celina's Response to Mustang SUD's Appraisal.¹

Pursuant to Order No. 2, the City of Celina ("Celina") and Mustang SUD were each required to file their own independent appraisals no later than November 13, 2015. Celina filed its appraisal on November 12, 2015, and Mustang SUD filed its appraisal on November 13, 2015. Mustang SUD filed a response to Celina's appraisal on November 19, 2015, five business days after Celina's appraisal was filed. Celina filed its response to Mustang SUD's appraisal on December 4, 2015, twenty-one days after Mustang SUD filed its appraisal. Because Celina's response was filed after the deadline required for such pleadings by PUC procedural rules, Mustang SUD moves to strike Celina's response.

The PUC's procedural rules require that, unless otherwise provided by statute, PUC rule, or order of the presiding officer, "a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made." 16 Tex. Admin.

¹ The City of Celina's response was a letter signed by Celina's appraiser, Jones-Heroy & Associates, titled "Review of Mustang Special Utility District's Appraisal of the CADG Sutton Fields, LLC Tract Filed in Public Utility Commission (PUC) Docket No. 45151." In PUC's online docket, it is identified as having been filed by Mustang SUD. It was not filed by or on behalf of Mustang SUD.

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Code § 22.78(a). No statute, PUC rule, or order has altered this requirement. Neither Order No. 2 nor any other order issued in this docket addressed the deadline by which the parties could respond to one another's appraisal. Chapter 22 of the PUC's procedural rules addresses a few exceptions to the five-day responsive pleading requirement, but none of those apply here.² Celina's response to Mustang SUD's appraisal is a "responsive pleading" governed by PUC Procedural Rule 22.78(a) and was required to be filed within five business days of Mustang SUD's appraisal.

WHEREFORE, PREMISES CONSIDERED, because Celina's response was untimely filed, Mustang SUD respectfully requests that it be stricken from the record and not considered by the PUC or the PUC's appraiser in this proceeding.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

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ATTORNEYS FOR MUSTANG SPECIAL
UTILITY DISTRICT

² Specifically, 16 Tex. Admin. Code § 22.78(b) allows responses to "complaints filed to initiate a proceeding" within 21 days. However, each party was required to file an appraisal. The appraisals are not complaints initiating a proceeding, and therefore, this rule does not apply here.

CERTIFICATE OF SERVICE

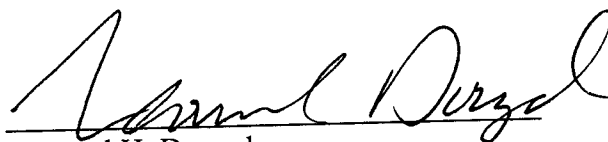
I hereby certify that on the 8th day of December 2015, a true and correct copy of the foregoing document was served on the individuals listed below by hand delivery, email, facsimile or First Class Mail.

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