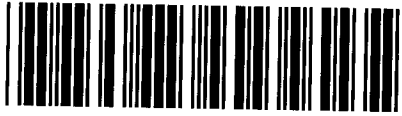




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PUC DOCKET NO. 45151

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PUBLIC UTILITY COMMISSION
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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 §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**THE CITY OF CELINA'S RESPONSE TO MUSTANG SUD'S MOTION TO STRIKE
AND, ALTERNATIVELY, SEEK LEAVE TO FILE COMMENTS**

To the Honorable Administrative Law Judge (ALJ):

The City of Celina (Celina) files this Response to Mustang SUD's Motion to Strike the City of Celina's Response to Mustang SUD's Appraisal. Celina disagrees with Mustang SUD's Motion to Strike and urges the Honorable ALJ to deny that Motion. In the alternative, Celina seeks leave to file the comments. This request for leave to file comments is not intended for delay but that the independent third party appraiser can have all opinions of the professional appraisers involved in this matter presented to him.

Celina believes that the Jones-Heroy filings on December 4, 2015 were more in the nature of comments and not a responsive pleading. As will be discussed below, the compensation process, set out in both statute and rule, is ministerial and the Commission's discretion is limited. In fact, the independent third party appraiser's discretion is also limited to a number between the amount that the two parties determined. See, Section 13.254(g-1)

Mustang correctly describes this docket as being a compensation determination matter. The compensation process is intertwined with the expedited decertification process as retail water or sewer service is prohibited in a decertificated area prior to compensation.

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The compensation determination is set out in Section 13.254(d), (e), (f), (g) and (g-1), *Water Code*. The compensation process differs from most processes involving water at the Public Utility Commission (the Commission). Unlike a Petition for Expedited Release filed pursuant to Section 13.254(a-5) *Water Code*, the Commission's role in the compensation process is more ministerial and not adjudicative. For example, if a single appraiser is agreed upon, that appraiser's determination is binding on the Commission (Section 13.254(f), *Water Code*) and not subject to further argument by the parties or adjudication by the Commission. Similarly, where an independent third party appraiser is required, Section 13.254(g-1), *Water Code*, limits the independent third party appraiser to a range in between the two previous appraisals. The relevant language in Section 13.254(g-1) also seems to bind the Commission to the independent third party appraiser's determination of value ("...the utility commission shall appoint a third appraiser who shall make a determination of the compensation..."). Since the process does not require an adjudicative action by the Commission, there are no pleadings or arguments to the agency—just appraisals by professional appraisers and matters related to the appraisals.

Celina would also point out that the parties are not prohibited from communicating with the independent third party appraiser. Both the Water Code and the Rules of the Commission are silent on whether the three appraisers may communicate with one another, including providing comments. Rather than merely send comments to the independent third party appraiser, Celina opted to be open and to file with the Commission to ensure all parties and/or interested persons were aware.

Consequently, Celina requests that the Honorable Administrative Law Judge deny Mustang SUD's Motion to Strike. As discussed, the comments are not a responsive pleading as this matter is not an adjudicatory action. Further, the parties are not prohibited from communicating with the third party appraiser. Finally, it would seem prudent to include the

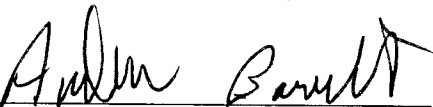
comments to the independent third party appraiser so that he can evaluate all professional thoughts. The independent third party appraiser would be in a position to ignore the comments or give them their due weight. We would request the Honorable Administrative Law judge to allow the independent appraiser that opportunity.

Alternatively, Celina would request for leave to have their comments accepted. Again, the purpose is to present the independent third party with all professional opinions and thoughts.

THEREFORE, the City of Celina prays that the Administrative Law Judge deny Mustang SUD's Motion to Strike or, in the alternative, grant leave to Celina to accept its comments.

Respectfully submitted,

Andy Barrett & Associates, PLLC

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ATTORNEY CITY OF CELINA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all Parties of record as required by PUC Procedural Rules on this 14th day of September, 2015.

Via Email and Certified Mail – Return Receipt Requested

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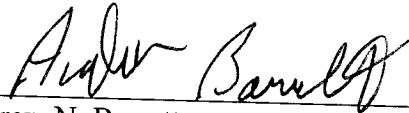
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