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APPLICATION OF THE CITY OF	§	
CIBOLO FOR SINGLE	§	BEFORE THE STATE OFFICE
CERTIFICATION IN	§	
INCORPORATED AREA AND TO	§	
DECERTIFY PORTIONS OF GREEN	§	
VALLEY SPECIAL UTILITY	§	OF
DISTRICT'S SEWER CERTIFICATE	§	
OF CONVENIENCE AND	§	
NECESSITY IN GUADALUPE	§	ADMINISTRATIVE HEARINGS
COUNTY	§	

**CITY OF CIBOLO'S OBJECTIONS TO GREEN VALLEY SPECIAL UTILITY
DISTRICT'S THIRD REQUESTS FOR INFORMATION**

COMES NOW the City of Cibolo (the "*City*"), by and through its attorneys of record, and files these Objections ("*Objections*") to Green Valley Special Utility District's ("*GVSUD*") Third Requests for Information ("*RFI*") to the City, and would respectfully show as follows:

I. PROCEDURAL HISTORY

GVSUD served its Third RFIs to the City on December 1, 2016. Pursuant to 16 Texas Administrative Code ("*TAC*") §§ 22.144(d) and 22.4(a), objections are due within ten calendar days of the City's receipt of the RFI; these Objections are timely filed.

Counsel for the City negotiated diligently and in good faith with GVSUD, which resulted in an agreement for GVSUD to revise certain requests. However, the parties were unable to reach an agreement regarding the RFIs described below, necessitating the filing of these Objections. To the extent GVSUD has agreed to the RFIs, those revisions are reflected herein in bold/underline. The City will continue to negotiate with GVSUD on this and future RFIs, if any, and to the extent that any agreement is subsequently reached, the City will withdraw such applicable Objections.

II. SPECIFIC OBJECTIONS

GVSUD 3-4 Please provide a copy of all water and wastewater CCN compensation reports filed since 2005 by Jack Stowe and/or NewGen Strategies and Solutions, LLC relating to Texas Water Code § 13.254 or § 13.255, and provide the identity of the Commission or TCEQ dockets in which such CCN compensation reports were filed.

Objection: After consultation with the counsel for GVSUD, it is the City's understanding from said counsel that GVSUD intended to capture all compensation reports since the statutory changes to Texas Water Code ("*TWC*") §§ 13.254 and 13.255 in 2005 to evaluate the consistency in compensation reports filed by Jack Stowe and his current employer, NewGen Strategies. Counsel insisted that reports by NewGen be included in the request.

Relevance. The City objects to GVSUD 3-4 on the grounds that it seeks information from NewGen Strategies that is irrelevant to the issues to be determined in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence, as required by the Texas Rules of Civil Procedure ("TRCP") 192.3(a). Compensation reports filed by other employees of NewGen who are not Jack Stowe and the positions taken therein cannot be imputed on Jack Stowe. Therefore, such compensation reports are irrelevant to this proceeding.

Overbroad. Additionally, this discovery request is overbroad in that it could have been more narrowly tailored to avoid including tenuous information.¹ This request seeks every compensation report filed by Jack Stowe over an almost 12-year period, which is well before the City filed its Application in this docket and well before the transition to a bifurcated process that separates the determination on what property is rendered useless and valueless from the determination of compensation—the primary focus of compensation reports—for such property. Moreover, the clarification that the request is referring to compensation reports filed pursuant to TWC §§ 13.254 and 13.255 is not a limitation on the scope of the request; the City is not aware

¹ *In re CSX Corporation*, 124 S.W.3d 149, 153 (Tex. 2003).

of any other provisions under which compensation reports must be filed. Thus, the revisions to this request are not, in reality, a limitation on the scope of the request. The City asserts that a period of five years would not be overbroad. But even a five-year period would exceed the period of time since jurisdiction over CCNs transitioned from the Texas Commission on Environmental Quality to the Commission.

GVSUD 3-7 Does the City contend that the Commission has jurisdiction under Texas Water Code Chapter 26 to decide whether to approve a Texas Pollutant Discharge Elimination System permit based on the concept of regionalization or otherwise issues?

Objection: After consultation with the counsel for GVSUD, it is the City's understanding from said counsel that, although GVSUD was specifically concerned about the City's stance on the Commission's jurisdiction to decide whether to grant a Texas Pollutant Discharge Elimination System ("TPDES") permit based on regionalization, it still intends to seek information on whether the City contends the Commission has jurisdiction to make a TPDES permit determination on any other portion of TWC Chapter 26.

Overbroad. The City objects to GVSUD 3-7 on the grounds that it is still overbroad. TWC Chapter 26 contains a multitude of issues that may relate to a TPDES permit decision in any number of ways given that the chapter is the extensive regulation of water quality control and the administration thereof.

Relevance. The City also objects to GVSUD 3-7 in that TWC Chapter 26 contains the majority of water quality regulation in the state, most of which is irrelevant to a determination in this proceeding, *i.e.*, whether any property of GVSUD is rendered useless and valueless by the decertification sought by the City. For example, Chapter 26 includes provisions on poultry operations, storage tanks, oil and gas waste disposal, and groundwater management.

The position on the Commission's authority over such matters is irrelevant to the issues to be determined in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence, as required by 192.3(a).

GVSUD 3-11 Please provide all resolutions and ordinances of the City regarding water and/or wastewater service from January 1, 2013 to present.

Objection: Counsel for GVSUD indicated during consultation that this request would not be revised and at least a portion of this request is to obtain information that is to be considered during the second phase of this proceeding only.

Relevance. The City objects to GVSUD 3-11 on the grounds that it seeks information that is irrelevant to the issues to be determined in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence during this phase of the proceeding, as required by TRCP 192.3(a). As clarified by the ALJ's Order No. 7, the first phase of this case exclusively concerns the following issues:

9. What property, if any, will be rendered useless or valueless to GVSUD by the decertification sought by Cibolo in this proceeding? TWC § 13.255(c); and
11. Are the existing appraisals limited to valuing the property that has been determined to have been rendered useless or valueless by decertification? (collectively, the "Referred Issues")

The relevant inquiry for discovery purposes during this phase of the proceeding is, thus, whether GVSUD has any such property. First, City ordinances generally—whether relating to water or wastewater service—are irrelevant to making a determination on *GVSUD's* property interests, especially since it is well established that GVSUD has no infrastructure within the City's limits. Second, matters relating to water are not relevant at this phase of the proceeding.

The City's provision of water service is only relevant in considering Issue 5 relating to the compliance with the Texas Commission on Environmental Quality's public drinking water rules, which is an issue exclusive to the second phase of this proceeding.

GVSUD 3-14 Please identify and describe any voting and/or economic interest the City has in CCMA and provide all documents regarding such interest.

Objection: After consultation with the counsel for GVSUD, it is the City's understanding from said counsel that GVSUD intended "economic interest" to include any information that demonstrates the City's stake in CCMA's designation as the sole regional provider of wastewater in this area.

Relevance. The City objects to GVSUD 3-14 on the grounds that it seeks information that is irrelevant to the Referred Issues in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence during this phase of the proceeding, as required by TRCP 192.3(a). This proceeding is limited to the Referred Issues pertaining to whether GVSUD has any property that will be rendered useless or valueless by decertification, and whether the appraisals are consistent with such alleged property, if any. The City's interest in another entity is irrelevant for purposes of making such a determination.

GVSUD 3-17 For each tract that Cibolo seeks to decertify in the Application, please identify and provide all documents that Cibolo contends establishes that Cibolo has annexed the tract.

Objection:- It is the City's understanding that counsel for GVSUD indicated during consultation that this request would not be revised and this request is to obtain information that is to be considered during the second phase of this proceeding only.

Relevance. The City objects to GVSUD 3-17 on the grounds that it seeks information that is irrelevant to the Referred Issues in this proceeding and is not reasonably calculated to lead

to the discovery of admissible evidence during this phase of the proceeding, as required by TRCP 192.3(a). Again, this proceeding is limited to the Referred Issues pertaining to whether GVSUD has any property that will be rendered useless or valueless by decertification and whether the appraisals are consistent with such alleged property, if any. The City's annexation of property is irrelevant for making such a determination.

GVSUD 3-20 Please provide any annexation agreements for tracts located within the "City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN" area as identified in the Application, Attachment A map.

Objection: It is the City's understanding that counsel for GVSUD indicated during consultation that this request would not be revised and this request is to obtain information that is to be considered during the second phase of this proceeding only.

Relevance. The City objects to GVSUD 3-20 on the grounds that it seeks information that is irrelevant to the Referred Issues and is not reasonably calculated to lead to the discovery of admissible evidence during this phase of the proceeding, as required by TRCP 192.3(a). Again, this proceeding is limited to the Referred Issues pertaining to whether GVSUD has any property that will be rendered useless or valueless by decertification and whether the appraisals are consistent with such alleged property, if any. The City's annexation of property is irrelevant for making such a determination.

GVSUD 3-21 Please provide a means of matching each annexation agreement or proof of annexation document with each tract included in the "City of Cibolo Requested Decertification from GVSUD Sanitary Sewer CCN" area as identified in the Application, Attachment A map.

Objection: It is the City's understanding that counsel for GVSUD indicated during consultation that this request would not be revised and this request is to obtain information that is to be considered during the second phase of this proceeding only.

Relevance. The City objects to GVSUD 3-21 on the grounds that it seeks information that is irrelevant to the issues to be determined in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence during this phase of the proceeding, as required by TRCP 192.3(a). Again, this proceeding is limited to the Referred Issues pertaining to whether GVSUD has property that will be rendered useless or valueless by decertification and whether the appraisals are consistent with such alleged property, if any. The City's annexation of property is irrelevant for making such a determination.

III. CERTIFICATE OF CONFERENCE

On December 5, 2016, the parties participated in a conference call to discuss these discovery matters. The City was represented by David J. Klein and Ashleigh Acevedo, and GVSUD was represented by Geoffrey Kirshbaum and Shan Rutherford. Negotiations were conducted diligently and in good faith; however, no agreement was reached on the City's objections regarding the issues raised herein.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, the City of Cibolo requests that these Objections be sustained and the City be relieved from responding to Green Valley Special Utility District's Third Requests for Information discussed hereinabove. The City also requests any other relief to which it may show itself justly entitled.

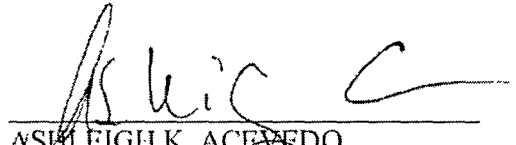
Respectfully submitted,

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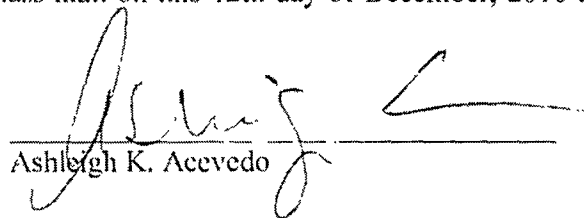
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ATTORNEYS FOR CITY OF CIBOLO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 12th day of December, 2016 to the parties of record.


Ashleigh K. Acevedo